



Education Act 2002

2002 CHAPTER 32

PART 1

PROVISION FOR NEW LEGAL FRAMEWORKS

CHAPTER 1

POWERS TO FACILITATE INNOVATION

1 Purpose and interpretation of Chapter 1

- (1) The purpose of this Chapter is to facilitate the implementation by qualifying bodies of innovative projects that may—
 - (a) in the opinion of the Secretary of State, contribute to the raising of [^{F1}educational standards] in England, or
 - (b) in the opinion of the National Assembly for Wales, contribute to the raising of [^{F2}educational standards] in Wales.
- (2) In forming an opinion as to whether a project may contribute to the raising of [^{F3}educational standards] in England or Wales, the Secretary of State or the National Assembly for Wales shall—
 - (a) have regard to the need for the curriculum for any school [^{F4}in England] affected by the project to be a balanced and broadly based curriculum which promotes the spiritual, moral, cultural, mental and physical development of children and of society, [^{F5}and]
 - [^{F6}(aa) have regard to the need for the curriculum for pupils of compulsory school age, or below that age, at any maintained school affected by the project that is maintained by a local authority in Wales—
 - (i) to enable pupils to develop in the ways described in the four purposes set out in section 2(1) of the Curriculum and Assessment (Wales) Act 2021,
 - (ii) to provide for appropriate progression,

Changes to legislation: Education Act 2002, Chapter 1 is up to date with all changes known to be in force on or before 22 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

- (iii) to be suitable for pupils of differing ages, abilities and aptitudes, and
 - (iv) to be broad and balanced,
 - (ab) have regard to the need for—
 - (i) the curriculum for pupils above compulsory school age at any maintained school affected by the project that is maintained by a local authority in Wales, and
 - (ii) the curriculum for pupils of any age at any other school in Wales affected by the project, to be a balanced and broadly based curriculum which promotes the spiritual, moral, cultural, mental and physical development of those pupils and of society, and]
 - (b) consider the likely effect of the project on all the [^{F7}pupils or students] who may be affected by it.
- (3) In this Chapter—
- “the Chief Inspector” means—
 - (a) in relation to England, [^{F8}Her Majesty's Chief Inspector of Education, Children's Services and Skills] , and
 - (b) in relation to Wales, Her Majesty's Chief Inspector of Education and Training in Wales;
 - “children” means persons under the age of nineteen;
 - “education legislation” means—
 - (a) the Education Acts (as defined by section 578 of the Education Act 1996 (c. 56)),
 - (b) the Learning and Skills Act 2000 (c. 21), and
 - (c) any subordinate legislation made under any of those Acts;
 - [^{F9}“maintained school” means—
 - (a) a community, foundation or voluntary school,
 - (b) a community or foundation special school, or
 - (c) a maintained nursery school;]
 - [^{F10}“qualifying body” means—
 - (a) a [^{F11}local authority],
 - (b) an Education Action Forum,
 - (c) a qualifying foundation,
 - (d) the governing body of a maintained school,
 - (e) the head teacher of a maintained school,
 - (f) the proprietor of an Academy, a city technology college or a city college for the technology of the arts,
 - (g) the proprietor of any special school that is not maintained by a [^{F11}local authority] but is for the time being approved by the Secretary of State ^{F12}... under section 342 of the Education Act 1996, or
 - (h) the governing body of an institution within the further education sector;]
 - [^{F13}“qualifying foundation” means the foundation, as defined by subsection (3)(a) of section 21 of the School Standards and Framework Act 1998, of any foundation or foundation special school that for the purposes of that section has a foundation established otherwise than under that Act;]
 - ... ^{F14}
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

Changes to legislation: Education Act 2002, Chapter 1 is up to date with all changes known to be in force on or before 22 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

Textual Amendments

- F1** Words in s. 1(1)(a) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(2\)](#)
- F2** Words in s. 1(1)(b) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(2\)](#)
- F3** Words in s. 1(2) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(3\)\(a\)](#)
- F4** Words in s. 1(2)(a) inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), [Sch. 2 para. 6\(2\)\(a\)](#)
- F5** Word in s. 1(2) omitted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by virtue of [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), [Sch. 2 para. 6\(2\)\(b\)](#)
- F6** S. 1(2)(aa)(ab) inserted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), [Sch. 2 para. 6\(2\)\(c\)](#)
- F7** Words in s. 1(2)(b) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(3\)\(b\)](#)
- F8** Words in s. 1(3) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 71](#); [S.I. 2007/935](#), art. 5(gg)
- F9** Words in s. 1(3) inserted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(4\)\(a\)](#)
- F10** Words in s. 1(3) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(4\)\(b\)](#)
- F11** 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\(2\)](#)
- F12** Words in s. 1(3) omitted (1.9.2021) by virtue of [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/861\)](#), regs. 1, [5\(2\)](#)
- F13** Words in s. 1(3) inserted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(4\)\(c\)](#)
- F14** Words in s. 1(3) repealed (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), [Sch. 16 para. 1\(4\)\(d\)](#), [Sch. 18 Pt. 1](#)

Commencement Information

- I1** S. 1 partly in force; s. 1 not in force at Royal Assent, see s. 216; s. 1 in force (except for the words "(b) a maintained nursery school" in the list of qualifying schools in s. 1(3)) for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [Sch.](#))
- I2** S. 1 in force at 1.9.2003 so far as not already in force except in relation to W. by [S.I. 2003/1667](#), [art. 4](#)
- I3** S. 1 in force at 27.2.2015 for W. by [S.I. 2015/381](#), [art. 2](#)

2 Power to suspend statutory requirements etc.

- (1) On the application of one or more qualifying bodies ("the applicant"), the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may for the purpose of this Chapter by order make provision—
- conferring on the applicant exemption from any requirement imposed by education legislation;
 - relaxing any such requirement in its application to the applicant;

Changes to legislation: Education Act 2002, Chapter 1 is up to date with all changes known to be in force on or before 22 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

- (c) enabling the applicant to exercise any function conferred by education legislation on any other qualifying body (either concurrently with or in place of that other body);
- (d) making such modifications of any provision of education legislation, in its application to the applicant or any other qualifying body, as are in the opinion of the Secretary of State or the Assembly consequential on any provision made by virtue of any of paragraphs (a) to (c).

[^{F15}(1A) Where the applicant is or includes a qualifying foundation, references in paragraphs (a) to (d) of subsection (1) to the applicant (so far as they would otherwise be read as references to the qualifying foundation) are to be read as references to the governing bodies of all or any of the foundation or foundation special schools in respect of which the applicant is the foundation.]

- (2) An order under this section shall have effect during a period specified in the order which, subject to section 3(2), must not exceed three years.
- (3) Before making an order under this section, the Secretary of State or the National Assembly shall, if he or it considers it appropriate to do so, consult the Chief Inspector.
- (4) No order under this section which relates to sections 119 to 129 may be made by the National Assembly for Wales without the consent of the Secretary of State.
- (5) The Secretary of State or the National Assembly for Wales shall refuse an application for an order under this section if it appears to the Secretary of State or the Assembly that the proposed order would be likely to have a detrimental effect on the education of ^{F16}—
 - (a) in relation to England, children with special educational needs, or
 - (b) in relation to Wales, persons under 25 with special educational needs.]
- (6) The Secretary of State or the National Assembly for Wales may from time to time give guidance as to the matters which the Secretary of State or the Assembly will take into account in determining whether to grant applications for orders under this section.

^{F17}(7)

^{F17}(8)

^{F18}(9)

Textual Amendments

- F15** S. 2(1A) inserted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 2(2)**
- F16** S. 2(5)(a)(b) substituted for words (1.9.2021) by [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/861\)](#), regs. 1, **5(3)**
- F17** S. 2(7)(8) repealed (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 2(3), Sch. 18 Pt. 1**
- F18** S. 2(9) repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), s. 33, **Sch.** (with s. 30(2)-(5))

Commencement Information

- I4** S. 2 partly in force; s. 2 not in force at Royal Assent, see s. 216; s. 2 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4, Sch.](#))

Changes to legislation: Education Act 2002, Chapter 1 is up to date with all changes known to be in force on or before 22 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

I5 S. 2 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

3 Variation or revocation of orders under section 2

- (1) The power conferred on the Secretary of State and the National Assembly for Wales by section 2 includes—
- (a) power by a further order made under that section on an application made for the purposes of that section by one or more qualifying bodies, to amend any order previously made under that section so as to extend—
 - (i) the requirements or functions in relation to which the order applies,
 - (ii) the qualifying bodies to which it applies, or
 - (iii) subject to subsection (2), the period during which it has effect, and
 - (b) power by a further order under that section, which may be made without any application from a qualifying body, to revoke any order previously made under that section.
- (2) An order made under section 2 by virtue of subsection (1)(a)(iii) of this section may, on one occasion only, extend the period for which a previous order under that section has effect by a period of not more than three years from the end of the period originally specified in the previous order.

Commencement Information

- I6** S. 3 partly in force; s. 3 not in force at Royal Assent, see s. 216; s. 3 in force for E. at 1.10.2002 by S.I. 2002/2439, **art. 3** (with transitional provisions and savings in **art. 4, Sch.**)
- I7** S. 3 in force at 27.2.2015 for W. by S.I. 2015/381, **art. 2**

4 Applications for orders under section 2

- (1) An application for the purposes of section 2 [^{F19}(“an application for an order”)] must be in such form, and contain such information, as may be required by the Secretary of State or, as the case may be, the National Assembly for Wales.
- [^{F20}(1A) No application for an order may be made by the head teacher of a maintained school without the consent of the governing body of the school.]
- (2) Before making [^{F21}an application for an order] , the qualifying body shall—
- (a) in the case of an Education Action Forum, consult each [^{F11}local authority] by whom any participating school, as defined by section 10(6)(b) of the School Standards and Framework Act 1998 (c. 31), is maintained,
 - [^{F22}(aa) in the case of a qualifying foundation, consult the governing body of each foundation or foundation special school to which the application relates and the [^{F11}local authority] who maintain the school,]
 - [^{F23}(b) in the case of the governing body of a maintained school, consult—
 - (i) the [^{F11}local authority] who maintain the school, and
 - (ii) where the school is a foundation school with a qualifying foundation, that foundation, and]
 - (c) in any case, consult such persons (or other persons) as appear to the qualifying body to be appropriate, having regard to any guidance given from time to time

Changes to legislation: *Education Act 2002, Chapter 1 is up to date with all changes known to be in force on or before 22 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*

by the Secretary of State or, as the case may be, the National Assembly for Wales.

- (3) The Secretary or State or the National Assembly for Wales may with the consent of the applicant include in an order under section 2 provisions different from those requested in the application.

Textual Amendments

- F11** 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)**
- F19** Words in s. 4(1) inserted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 3(2)**
- F20** S. 4(1A) inserted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 3(3)**
- F21** Words in s. 4(2) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 3(4)(a)**
- F22** S. 4(2)(aa) inserted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 3(4)(b)**
- F23** S. 4(2)(b) substituted (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(1), **Sch. 16 para. 3(4)(c)**

Commencement Information

- I8** S. 4 partly in force; s. 4 not in force at Royal Assent, see s. 216; s. 4 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4, Sch.](#))
- I9** S. 4 in force at 27.2.2015 for W. by [S.I. 2015/381](#), **art. 2**

5 Annual report

- (1) Where the Secretary of State has made any order under section 2 in any academic year, he shall—
- (a) prepare a report on all the orders made by him under that section in that academic year, and
 - (b) lay a copy of the report before each House of Parliament.
- (2) Where the National Assembly for Wales has made any order under section 2 in any academic year, the Assembly shall prepare and publish a report on all the orders made by the Assembly under that section in that academic year.
- (3) In this section “academic year” means a period beginning with 1st August and ending with the next 31st July.

Commencement Information

- I10** S. 5 partly in force; s. 5 not in force at Royal Assent, see s. 216; s. 5 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4, Sch.](#))
- I11** S. 5 in force at 27.2.2015 for W. by [S.I. 2015/381](#), **art. 2**

Changes to legislation:

Education Act 2002, Chapter 1 is up to date with all changes known to be in force on or before 22 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.

[View outstanding changes](#)

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](#)