



Education Act 2002

2002 CHAPTER 32

PART 9

CHILDCARE AND NURSERY EDUCATION

Nursery education

153 Powers of [F¹local authority] in respect of funded nursery education

- (1) This section applies where a [F¹local authority][F² in Wales], in pursuance of the duty imposed on them by section 118 of the School Standards and Framework Act 1998 (c. 31) (duty of [F¹local authority] as respects availability of nursery education), makes arrangements with a person (other than the governing body of a maintained school) for the provision by that person of nursery education in consideration of financial assistance provided by the authority under the arrangements.
- (2) The [F¹local authority]—
 - (a) must, in making the arrangements, have regard to any guidance given from time to time by F³... the National Assembly for Wales, as to provision to be made in such arrangements in respect of the requirements to be met by the provider of the nursery education, and
 - [F⁴(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and]
 - (b) must exercise their functions with a view to securing that the provider meets any requirements imposed on him by the arrangements.
- (3) Subject to any guidance given under subsection (2)(a), the requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the [F¹local authority] under the arrangements.
- (4) In this section—

Changes to legislation: Education Act 2002, Cross Heading: Nursery education is up to date with all changes known to be in force on or before 11 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

“maintained school” means a community, foundation or voluntary school, a community^{F5}... special school or a maintained nursery school;

“nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

Textual Amendments

- F1** 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\(2\)](#)
- F2** Words in s. 153(1) inserted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 41\(a\)](#); [S.I. 2008/2261](#), [art. 2](#) (with [Sch. 1](#))
- F3** Words in s. 153(2)(a) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 41\(b\)](#), [Sch. 3 Pt. 2](#); [S.I. 2008/2261](#), [art. 2](#) (with [Sch. 1](#))
- F4** S. 153(2)(ab) inserted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 9\(2\)](#); [S.I. 2021/373](#), [art. 8\(j\)\(xxi\)](#)
- F5** Words in s. 153(4) omitted (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 21\(8\)](#); [S.I. 2013/1800](#), [art. 3\(j\)](#)

Commencement Information

- I1** S. 153 in force at 1.4.2003 except in relation to W. by [S.I. 2003/124](#), [art. 4](#)

^{F6}154 Establishment or alteration of maintained nursery schools

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Textual Amendments

- F6** S. 154 omitted (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 21\(9\)](#); [S.I. 2013/1800](#), [art. 3\(j\)](#)

155 Inspection of nursery education

Schedule 14 (which makes provision about the inspection of nursery education) shall have effect.

Commencement Information

- I2** S. 155 partly in force; s. 155 not in force at Royal Assent, see s. 216; s. 155 in force for certain purposes for E. at 2.9.2002 by [S.I. 2002/2002](#), [art. 4](#); s. 155 in force for certain further purposes for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I3** S. 155 in force at 1.9.2004 for W. by [S.I. 2004/1728](#), [art. 5](#), [Sch. Pt. 2](#)

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

- (1) In section 6(1) of the Education Act 1996 (c. 56) (meaning of “nursery school”), after “used” there is inserted “wholly or”.
- (2) For section 2(1) of that Act there is substituted—

Changes to legislation: Education Act 2002, Cross Heading: Nursery education is up to date with all changes known to be in force on or before 11 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](#)

“(1) In this Act “primary education” means—

- (a) full-time or part-time education suitable to the requirements of children who have attained the age of two but are under compulsory school age;
- (b) full-time education suitable to the requirements of junior pupils of compulsory school age who have not attained the age of 10 years and six months; and
- (c) full-time education suitable to the requirements of junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with junior pupils within paragraph (b).”

Commencement Information

- I4** S. 156 not in force at Royal Assent, see s. 216; s. 156 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I5** S. 156 in force at 31.3.2004 for W. by [S.I. 2004/912](#), [art. 4](#), [Sch. Pt. 1](#)

Changes to legislation:

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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](#)