



Education Act 2002

2002 CHAPTER 32

PART 1

PROVISION FOR NEW LEGAL FRAMEWORKS

CHAPTER 3

POWERS TO FORM COMPANIES ETC

12 Limits on powers conferred by section 11

- (1) The governing body of a maintained school may not exercise any power conferred by any of subsections (1) to (4) of section 11 except—
 - (a) with the consent of the [^{F1}local authority], and
 - (b) at a time when the school has a delegated budget (within the meaning of Part 2 of the School Standards and Framework Act 1998 (c. 31)).
- (2) A governing body—
 - (a) may not exercise any of those powers in relation to a company unless the company satisfies any applicable requirements of regulations under subsection (3), and
 - (b) may not, by virtue of section 11, remain a member of a company at any time when the company fails to satisfy any such requirements.
- (3) Regulations—
 - (a) shall provide that, except in such cases as may be prescribed, the company must be prohibited by its constitution from admitting to its membership any person who is not of a prescribed description, and
 - (b) may impose requirements with respect to—
 - (i) the constitution of the company, and
 - (ii) any other matter connected with the company's affairs.

Changes to legislation: Education Act 2002, Section 12 is up to date with all changes known to be in force on or before 23 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

- (4) Without prejudice to the generality of paragraph (b) of subsection (3), regulations under that paragraph may require that the company be prohibited by its constitution from borrowing money, except with the consent of a prescribed person.
- (5) Regulations shall—
- (a) provide that where one or more governing bodies have invested in a company by virtue of section 11, a [^{F1}local authority] shall be designated as the supervising authority for the company,
 - (b) specify the persons by whom and the manner in which the power of designation is, or is in specified circumstances, exercisable,
 - (c) make provision about the duties of a [^{F1}local authority] who are for the time being designated as the supervising authority for a company.
- (6) Regulations may also—
- (a) require that where a [^{F1}local authority] are for the time being designated as the supervising authority for a company the company shall provide prescribed information relating to its financial affairs to them at such times and in such manner as may be prescribed,
 - (b) provide that in prescribed circumstances a [^{F1}local authority] who are for the time being so designated may direct any participating governing body to cease to be a member of the company or to take any other prescribed action in relation to the company, and
 - (c) prescribe the procedure for making such a direction.
- (7) In subsection (6)(b) “participating governing body”, in relation to a company, means any governing body of a maintained school who are a member of the company.
- (8) Regulations may restrict the circumstances in which a [^{F1}local authority] may refuse to give any consent applied for under subsection (1).

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)**

Commencement Information

- I1** S. 12 partly in force; s. 12 not in force at Royal Assent, see s. 216; s. 12 in force for E. at 20.1.2003 by [S.I. 2002/2952](#), **art. 2** (with savings and transitional provisions in [Sch.](#))
- I2** S. 12 in force at 20.1.2003 except in relation to W. by [S.I. 2002/2952](#), **art. 2**

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](#)