



Education Act 2002

2002 CHAPTER 32

PART 10

INDEPENDENT SCHOOLS

CHAPTER 1

REGULATION OF INDEPENDENT SCHOOLS

Enforcement of standards after registration

165 Failure to meet standards

- (1) This section applies where, taking into account—
 - (a) a report under section ^{F1}... 163 in respect of a registered school, or
 - (b) any other evidence in respect of a registered school,the registration authority is satisfied that any one or more of the independent school standards is or are not being met in relation to the school.
- (2) If the registration authority considers that there is a risk of serious harm to the welfare of pupils at the school, the authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (3) Where the registration authority does not make a determination under subsection (2), it shall serve a notice on the proprietor of the school—
 - (a) identifying the standard or standards in question, and
 - (b) requiring the proprietor to submit an action plan to the authority before the date specified in the notice (or such later date as the authority may specify after service of the notice).
- (4) For the purposes of this section, an action plan is a plan specifying—
 - (a) the steps that will be taken to meet a standard or standards, and

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- (b) the time by which each step will be taken.
- (5) Where an action plan is submitted in accordance with subsection (3) the registration authority may—
- (a) reject it, or
 - (b) approve it, with or without modifications.
- (6) Where an action plan is required under subsection (3) but is not submitted in accordance with that subsection, or is so submitted but rejected, the registration authority may—
- (a) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine, or
 - (b) make an order under subsection (8).
- (7) Where an action plan has been approved under subsection (5), but any step specified in the plan is not taken by the date specified in the plan (whether as originally approved or as varied under paragraph (a)), the registration authority may—
- (a) substitute a later date for the taking of that step,
 - (b) make an order under subsection (8), or
 - (c) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (8) An order under this subsection is an order requiring the proprietor of the school to do one or more of the following no later than such date after the appeal period as may be specified in the order—
- (a) to cease using any part of the school premises for all purposes or purposes specified in the order;
 - (b) to close any part of the school’s operation;
 - (c) to cease to admit any new pupils, or new pupils of a description specified in the order.
- (9) If the proprietor of a school fails to comply with an order under subsection (8)—
- (a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and
 - (b) the registration authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (10) Where the proprietor of a school in respect of which an order is made under subsection (8) applies to the registration authority for the order to be varied or revoked, the authority shall—
- (a) vary or revoke the order as requested in the application, if it is satisfied that it is appropriate to do so because of any change of circumstance, and
 - (b) in any other case, refuse to do so.
- (11) The variation or revocation of an order under subsection (10) shall take effect as from the date on which the proprietor of the school is notified of it.
- (12) Where the registration authority has made a determination under this section to remove a school from the register on a particular date and no appeal is made against the determination under section 166, the authority shall remove the school from the register on that date.

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- (13) For the purposes of this Chapter, the “appeal period” in relation to a determination or order is the period within which an appeal against it may be made under section 166.

Textual Amendments

- F1** Words in s. 165(1)(a) repealed (5.1.2015) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 21, **Sch. 2** (with s. 139); S.I. 2014/3364, art. 2(z)(aa) (with art. 4)

Modifications etc. (not altering text)

- C1** S. 165 restricted (19.11.2003) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (No.2) (Wales) Regulations 2003 (S.I. 2003/2959), regs. 1(1), **8(1)**

Commencement Information

- I1** S. 165 in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4** (with Sch. para. 6)
I2 S. 165 in force at 1.1.2004 for W. by S.I. 2003/2961, art. 6, **Sch. Pt. III**

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](#)