



# Nationality, Immigration and Asylum Act 2002

## 2002 CHAPTER 41

### PART 2

#### ACCOMMODATION CENTRES

##### *General*

#### **36 Education: general**

- (1) For the purposes of section 13 of the Education Act 1996 (c. 56) (general responsibility of local education authority) a resident of an accommodation centre shall not be treated as part of the population of a local education authority's area.
- (2) A child who is a resident of an accommodation centre may not be admitted to a maintained school or a maintained nursery (subject to section 37).
- (3) But subsection (2) does not prevent a child's admission to a school which is—
  - (a) a community special school or a foundation special school, and
  - (b) named in a statement in respect of the child under section 324 of the Education Act 1996 (c. 56) (special educational needs).
- (4) In subsections (2) and (3)—
  - (a) "maintained school" means a maintained school within the meaning of section 20(7) of the School Standards and Framework Act 1998 (c. 31) (definition), and
  - (b) "maintained nursery" means a facility for nursery education, within the meaning of section 117 of that Act, provided by a local education authority.
- (5) The following shall not apply in relation to a child who is a resident of an accommodation centre (subject to section 37)—
  - (a) section 86(1) and (2) of the School Standards and Framework Act 1998 (parental preference),

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*Status: This is the original version (as it was originally enacted).*

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- (b) section 94 of that Act (appeal),
  - (c) section 19 of the Education Act 1996 (education out of school),
  - (d) section 316(2) and (3) of that Act (child with special educational needs to be educated in mainstream school), and
  - (e) paragraphs 3 and 8 of Schedule 27 to that Act (special education needs: making of statement: parental preference).
- (6) The power of the Special Educational Needs Tribunal under section 326(3) of the Education Act 1996 (appeal against content of statement) is subject to subsection (2) above.
- (7) A person exercising a function under this Act or the Education Act 1996 shall (subject to section 37) secure that a child who is a resident of an accommodation centre and who has special educational needs shall be educated by way of facilities provided under section 29(1)(f) of this Act unless that is incompatible with—
  - (a) his receiving the special educational provision which his learning difficulty calls for,
  - (b) the provision of efficient education for other children who are residents of the centre, or
  - (c) the efficient use of resources.
- (8) A person may rely on subsection (7)(b) only where there is no action—
  - (a) which could reasonably be taken by that person or by another person who exercises functions, or could exercise functions, in respect of the accommodation centre concerned, and
  - (b) as a result of which subsection (7)(b) would not apply.
- (9) An accommodation centre is not a school within the meaning of section 4 of the Education Act 1996 (definition); but—
  - (a) the School Inspections Act 1996 (c. 57) shall apply to educational facilities provided at an accommodation centre as if the centre were a school (for which purpose a reference to the appropriate authority shall be taken as a reference to the person (or persons) responsible for the provision of education at the accommodation centre),
  - (b) section 329A of the Education Act 1996 (review or assessment of educational needs at request of responsible body) shall have effect as if—
    - (i) an accommodation centre were a relevant school for the purposes of that section,
    - (ii) a child for whom education is provided at an accommodation centre under section 29(1)(f) were a registered pupil at the centre, and
    - (iii) a reference in section 329A to the responsible body in relation to an accommodation centre were a reference to any person providing education at the centre under section 29(1)(f), and
  - (c) section 140 of the Learning and Skills Act 2000 (c. 21) (learning difficulties: assessment of post-16 needs) shall have effect as if an accommodation centre were a school.
- (10) Subsections (1), (2) and (5) shall not apply in relation to an accommodation centre if education is not provided for children who are residents of the centre under section 29(1)(f).

- (11) An expression used in this section and in the Education Act 1996 (c. 56) shall have the same meaning in this section as in that Act.