



Education Act 2005

2005 CHAPTER 18

PART 4

MISCELLANEOUS

Information

108 Supply of information: education maintenance allowances

- (1) This subsection applies to information which—
- (a) is held for the purposes of functions relating to tax or tax credits—
 - (i) by the Commissioners of Inland Revenue, or
 - (ii) by a person providing services to the Commissioners of Inland Revenue, in connection with the provision of those services, or
 - (b) is held for the purposes of functions relating to social security—
 - (i) by the Secretary of State or a Northern Ireland department, or
 - (ii) by a person providing services to the Secretary of State or such a department, in connection with the provision of those services.
- (2) Information to which subsection (1) applies may be supplied to a person falling within subsection (3) for use for purposes relating to eligibility for education maintenance allowances.
- (3) The following persons fall within this subsection—
- (a) the Secretary of State,
 - ^{F1}(b)
 - ^{F2}(ba)
 - (c) the Assembly,
 - (d) a Northern Ireland department,
 - (e) the Scottish Ministers, and
 - (f) any person providing services to [^{F3}a person within paragraphs (a) to (e)].

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- (4) Information received by virtue of subsection or this subsection (2) by a person other than the Scottish Ministers may be supplied to a person falling within subsection (5) for use for purposes relating to eligibility for education maintenance allowances.
- (5) The following persons fall within this subsection—
- (a) the Assembly,
 - (b) a Northern Ireland department,
 - (c) the Scottish Ministers,
 - (d) any person by whom functions in relation to education maintenance allowances falling within subsection (8)(a) are exercisable by virtue of section 14 or 17 of the 2002 Act,
 - (e) any person by whom functions under regulations under section 181 of the 2002 Act are exercisable by virtue of section 183 or 184 of that Act, and
 - (f) any person providing services to the Assembly or a Northern Ireland department.
- (6) A person other than the Scottish Ministers may, in making any request for the supply to him of information by virtue of subsection (2) or (4), supply to any person who holds, or is to be supplied with, the information—
- (a) the name, address and date of birth of any person to whom the request relates (“the student”),
 - (b) the name, address and date of birth of—
 - (i) any parent of the student, or
 - (ii) any other person whose financial circumstances are relevant to the student's eligibility for an education maintenance allowance, and
 - (c) any other information (whether relating to the student, any parent of his or any person falling within paragraph (b)(ii)) which is required for the purpose of determining the student's eligibility for an education maintenance allowance.
- (7) This section does not limit the circumstances in which information may be supplied apart from this section.
- (8) In this section and section 109 “education maintenance allowance” means—
- (a) financial assistance under section 14 of the 2002 Act paid to or in respect of a person who is over compulsory school age in connection with his undertaking any course of education or training,
 - (b) an allowance under section 181 of the 2002 Act,
 - (c) an award under Article 51(1)(b) of the Education and Libraries (Northern Ireland) Order 1986 (No. 594/NI 3) paid to or in respect of a person who is over compulsory school age (within the meaning of that Order) in connection with his undertaking any course of education or training,
 - (d) an allowance under section 73(f) of the Education (Scotland) Act 1980 (c. 44) paid to or in respect of a relevant person attending a course of education, other than higher education, or
 - (e) financial assistance provided under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 (c. 37).
- (9) In subsection (8)(d)—
- “higher education” has the same meaning as in Part 2 of the Further and Higher Education (Scotland) Act 1992;
- “relevant person” means a person who—

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- (a) is deemed to have attained the age of 16 years under section 33 of the Education (Scotland) Act 1980, and
- (b) has not, on the first day of the term of the course of education, attained the age of 20 years.

Annotations:

Amendments (Textual)

- F1** S. 108(3)(b)
omitted (26.5.2015) by virtue of
Deregulation Act 2015 (c. 20)
 - ›
 - s. 115(3)(g)
 - ›
 - Sch. 14 para. 49**
- F2** S. 108(3)(ba) omitted (1.4.2012) by virtue of
Education Act 2011 (c. 21)
 - ›
 - s. 82(3)
 - ›
 - Sch. 16 para. 28**
 - ›
 - S.I. 2012/924
 - ›
 - art. 2
- F3** Words in s. 108(3)(f) substituted (1.4.2010) by
Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)
 - ›
 - s. 269(4)
 - ›
 - Sch. 6 para. 57(c)**
 - ›
 - S.I. 2010/303
 - ›
 - art. 3
 - ›
 - Sch. 2

109 Unauthorised disclosure of information received under section 108

- (1) A person (“X”) who discloses information which he has received by virtue of subsection (2) or (4) of section 108 and which relates to a particular person commits an offence unless the information is disclosed—
- (a) in accordance with subsection (4) of that section,
 - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for education maintenance allowances,
 - (c) in accordance with an enactment or an order of a court,
 - (d) for the purpose of instituting, or otherwise for the purposes of, civil or criminal proceedings, or
 - (e) with consent given by or on behalf of the person to whom the information relates.

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (3) A person guilty of an offence under subsection is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
 - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (4) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) The reference in subsection (1)(c) to an enactment includes a reference to an enactment comprised in, or in an instrument made under—
 - (a) an Act of the Scottish Parliament, or
 - (b) any Northern Ireland legislation as defined in section 24(5) of the Interpretation Act 1978 (c. 30).

110 Supply of information: free school lunches etc.

- (1) This subsection applies to information held for the purposes of functions relating to tax credits—
 - (a) by the Commissioners of Inland Revenue, or
 - (b) by a person providing services to them, in connection with the provision of those services.
- (2) This subsection applies to information held for the purposes of functions relating to social security—
 - (a) by the Secretary of State, or
 - (b) by a person providing services to him, in connection with the provision of those services.
- (3) Information to which subsection (1) or (2) applies may be supplied—
 - (a) to the Secretary of State, or any person providing services to him, or
 - (b) to the Assembly, or any person providing services to the Assembly,
 for use for the purpose of determining eligibility for free school lunches and milk.
- (4) Information to which subsection (2) applies may be supplied to a [^{F4}local authority] for use for that purpose.
- (5) Information received by virtue of subsection (3) may be supplied—
 - (a) to another person to whom it could have been supplied under that subsection, or
 - (b) to a [^{F4}local authority],
 for use for that purpose.

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

- (6) The references in subsections (4) and (5)(b) to a [^{F4}local authority] include references to any person exercising on behalf of such an authority functions relating to eligibility for free school lunches and milk.
- (7) For the purposes of this section, a person is eligible for free school lunches and milk if school lunches and milk are required to be provided for him, on request, free of charge—
- (a) in accordance with section 512ZB(2) and (3) of the Education Act 1996 (c. 56),
 - (b) in accordance with regulations under section 342 of that Act (non-maintained special schools), or
 - (c) in accordance with [^{F5}Academy arrangements].
- (8) In this section, “school lunch” has the same meaning as in section 512 of the Education Act 1996.
- (9) This section does not limit the circumstances in which information may be supplied apart from this section.

Annotations:

Amendments (Textual)

F4 Words in Act substituted (5.5.2010) by
[The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#)

,

[Sch. 2 para. 13\(2\)](#)

F5 Words in
s. 110(7)(c)
substituted (29.7.2010) by
[Academies Act 2010 \(c. 32\)](#)

,

s. 19(2)

,

[Sch. 2 para. 18](#)

;

[S.I. 2010/1937](#)

,

[art. 2](#)

,

[Sch. 1](#)

111 Unauthorised disclosure of information received under section 110

- (1) A person (“X”) who discloses information which he has received by virtue of any of subsections (3) to (5) of section 110 and which relates to a particular person commits an offence unless the information is disclosed—
- (a) in the case of information received by virtue of subsection (3) of that section, in accordance with subsection (5) of that section,
 - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for free school lunches and milk,

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

- (c) in accordance with an enactment or an order of a court, or
 - (d) with consent given by or on behalf of the person to whom the information relates.
- (2) In subsection (1)(b), “eligibility for free school lunches and milk” is to be read in accordance with section 110(7).
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (4) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (5) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4)(b) to 12 months is to be read as a reference to 6 months.

112 Power to provide that function of determining eligibility remains with ^{F4}local authority]

In section 512A of the Education Act 1996 (c. 56) (transfer of functions under section 512 of that Act to governing bodies), in subsection (4), for paragraph (b) substitute—

- “(b) if the duty corresponds to the one mentioned in subsection (2)(b) or (c)—
- (i) the order may provide that, notwithstanding the other provisions of the order, the function of determining whether pupils at the school fall within section 512ZB(4) is to be exercisable by the ^{F4}local authority], and
 - (ii) section 533(3) shall not apply to school lunches or milk provided by the governing body in pursuance of the order.”

Annotations:

Amendments (Textual)

- F4** Words in Act substituted (5.5.2010) by
[The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#)
,
[Sch. 2 para. 13\(2\)](#)

113 Information about the school workforce: introductory

- (1) Subsections (2) and (3) apply for the purposes of section 114.
- (2) “Qualifying worker” means any person who—
- (a) is employed at, or otherwise engaged to work at, a school,

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

- (b) does not fall within paragraph (a) but provides, or assists in the provision of, education under a contract of employment or for services where the other party to the contract is—
- ^{F6}(i) a local authority, or
 - (ii) a person exercising a function relating to the provision of education on behalf of such an authority, or
- (c) provides education at a further education institution^{F7} or a 16 to 19 Academy].
- (3) “Qualifying trainee” means a person (other than a qualifying worker as defined in subsection (2)) for whom training as a member of the school workforce is being provided.
- (4) In this section—
- “contract of employment” has the meaning given by section 230(2) of the Employment Rights Act 1996 (c. 18);
 - “further education institution” means an institution which is—
 - (a) an institution (other than a school) which provides further education, or
 - (b) an institution within the further education sector;
 - “member of the school workforce” has the same meaning as in Part 3.

^{F8}(5)

Annotations:

Amendments (Textual)

- F6** S. 113(2)(b)(i) 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. 13(5)(a)
- F7** Words in
s. 113(2)(c)
inserted (1.4.2012) by
[Education Act 2011 \(c. 21\)](#)
,
s. 82(3)
,
Sch. 13 para. 15(3)
;
[S.I. 2012/924](#)
,
[art. 2](#)
- F8** S. 113(5) repealed (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. 13(5)(b)
,

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

3 Pt. 1

114 Supply of information about school workforce

- (1) Regulations may authorise or require—
 - (a) the proprietor of a school,
 - [^{F9}(b) a local authority,]
 - (c) any prescribed person,
 to supply to the relevant person (as defined by subsection (2)) prescribed information relating to persons who are or have been qualifying workers or qualifying trainees, for use by the relevant person for a qualifying purpose.
- (2) In subsection (1) “the relevant person” means one or more of the following—
 - (a) the Secretary of State,
 - (b) the Assembly, or
 - (c) any prescribed person.
- (3) Regulations may authorise the Secretary of State or the Assembly to supply to the other or to any prescribed person, for use for a qualifying purpose, prescribed information relating to persons who are or have been qualifying workers or qualifying trainees.
- (4) A person may not be prescribed for the purposes of subsection (1)(c), (2)(c) or (3) unless—
 - (a) in the case of subsection (1)(c) or (2)(c), he appears to the person making the regulations to be exercising functions of a public nature, or
 - (b) in the case of subsection (3), he appears to the person making the regulations to be exercising such functions or carrying out research which relates to education or training and may be expected to be of public benefit.
- (5) For the purposes of this section, information is supplied to a person for use for a qualifying purpose if it is supplied to him for use for—
 - (a) evaluation, planning, research or statistical purposes, or
 - (b) any other prescribed purpose.
- (6) Regulations may authorise a person falling within subsection (7) to supply to any prescribed person (“the recipient”) any information relating to persons who are or have been qualifying workers or qualifying trainees which—
 - (a) has been lawfully held by the recipient, or
 - (b) is information which another person was, or could have been, required (whether by virtue of regulations under this section or otherwise) to supply to the recipient.
- (7) The following persons fall within this subsection—
 - (a) the Secretary of State,
 - (b) the Assembly, and
 - (c) any prescribed person.
- (8) Regulations may—
 - (a) prohibit any person to whom information is supplied by virtue of this section from further disclosing the information otherwise than in prescribed circumstances,^{F10} ...

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

- (b) [^{F11}in relation to England,] provide that section 497 of the Education Act 1996 (c. 56) (default powers of Secretary of State or Assembly) is, in relation to the duties imposed by virtue of this section, to have effect as if—
- ^{F12}(i)
- (ii) any reference to a body to which that section applies included a reference to a prescribed person; [^{F13}and
- (c) in relation to Wales, provide that Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) is to have effect as if—
- (i) references to a local authority included a reference to a prescribed person,
- (ii) duties imposed by virtue of this section were education functions,
- (iii) the only relevant ground for intervention were ground 1 in section 21, and
- (iv) sections 24 to 27 did not apply.]
- (9) This section does not limit the circumstances in which information is authorised or required to be supplied apart from this section.
- (10) In this section—
- “prescribed” means prescribed by regulations;
- “regulations” means—
- (a) in relation to England, regulations made by the Secretary of State, and
- (b) in relation to Wales, regulations made by the Assembly.

Annotations:

Amendments (Textual)

F9 S. 114(1)(b) 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. 13(6)(a)

F10 Word in
 s. 114(8)(a)
 omitted (20.2.2014) by virtue of
[School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#)

,
 s. 100(4)

,

Sch. 5 para. 8(3)(a)

;
[S.I. 2014/178](#)

,
 art. 2(f)

(with
 art. 3

)

F11 Words in

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information. (See end of Document for details)

s. 114(8)(b)
inserted (20.2.2014) by
School Standards and Organisation (Wales) Act 2013 (anaw 1)

,
s. 100(4)

,
Sch. 5 para. 8(3)(b)

;
S.I. 2014/178

,
art. 2(f)
(with
art. 3
)

F12 S. 114(8)(b)(i) repealed (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. 13(6)(b)

,
3 Pt. 1

F13 S. 114(8)(c)
and word inserted (20.2.2014) by
School Standards and Organisation (Wales) Act 2013 (anaw 1)

,
s. 100(4)

,
Sch. 5 para. 8(3)(c)

;
S.I. 2014/178

,
art. 2(f)
(with
art. 3
)

Changes to legislation:

There are currently no known outstanding effects for the Education Act 2005, Cross Heading: Information.