Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Education and Inspections Act 2006

2006 CHAPTER 40

An Act to make provision about primary, secondary and further education and about training; to make provision about food or drink provided on school premises or in connection with the provision of education or childcare; to provide for the establishment of an Office for Standards in Education, Children's Services and Skills and the appointment of Her Majesty's Chief Inspector of Education, Children's Services and Skills and make provision about the functions of that Office and that Chief Inspector; to provide for the amendment of references to local education authorities and children's services authorities; to amend section 29 of the Leasehold Reform Act 1967 in relation to university bodies; and for connected purposes. [8th November 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

EDUCATION FUNCTIONS OF LOCAL AUTHORITIES

1 Duties in relation to high standards and the fulfilment of potential

For section 13A of EA 1996 substitute—

"**13A Duty to promote high standards and the fulfilment of potential**

(1) A local education authority shall ensure that their functions relating to the provision of education to which this section applies are (so far as they are capable of being so exercised) exercised by the authority with a view to—
  (a) promoting high standards,
  (b) in the case of a local education authority in England, ensuring fair access to educational opportunity, and

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(c) promoting the fulfilment by every child concerned of his educational potential.

(2) This section applies to education for—

(a) children of compulsory school age (whether at school or otherwise); and

(b) children under or over that age who are registered as pupils at schools maintained by the authority,

and in subsection (1) "functions" means functions of whatever nature.

(3) In this section "child" means a person under the age of 20."

Commencement Information

I1 S. 1 in force at 25.5.2007 for E. by S.I. 2007/935, **art. 6(a)**

I2 S. 1 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

2 Duties in relation to diversity and choice

In section 14 of EA 1996 (functions of local education authorities in relation to the provision of primary and secondary education) after subsection (3) insert—

"(3A) A local education authority in England shall exercise their functions under this section with a view to—

(a) securing diversity in the provision of schools, and

(b) increasing opportunities for parental choice."

Commencement Information

I3 S. 2 in force at 25.5.2007 by S.I. 2007/935, **art. 7(a)**

3 Duty to consider parental representations

After section 14 of EA 1996 insert—

"14A Duty of local education authority to consider parental representations

(1) Where a local education authority in England receive any representation from a parent of a qualifying child as to the exercise by the authority of their functions under section 14, the authority shall—

(a) consider the representation and what action (if any) to take in response to it, and

(b) within a reasonable time provide the parent with a statement setting out—

(i) any action which the authority propose to take in response to the representation, or

(ii) where the authority are of the opinion that no such action is necessary, their reasons for being of that opinion.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(2) In subsection (1) "qualifying child", in relation to a local education authority, means any child in the authority's area who is of or under compulsory school age.

(3) Subsection (1) does not apply in relation to any representation which—

(a) appears to the local education authority to be frivolous or vexatious, or

(b) is the same as, or similar to, a representation previously received by the authority from the same person.

(4) In exercising their functions under this section, a local education authority must have regard to any guidance given from time to time by the Secretary of State."

Commencement Information

I4 S. 3 in force at 25.5.2007 by S.I. 2007/935, **art. 7(a)**

4 Duty to identify children not receiving education

(1) In Chapter 2 of Part 6 of EA 1996 (school attendance) before the cross-heading preceding section 437 insert—

"Children not receiving suitable education

436A **Duty to make arrangements to identify children not receiving education**

(1) A local education authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but—

(a) are not registered pupils at a school, and

(b) are not receiving suitable education otherwise than at a school.

(2) In exercising their functions under this section a local education authority must have regard to any guidance given from time to time by the Secretary of State.

(3) In this Chapter, "suitable education", in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have."

(2) In section 437 of EA 1996, in subsection (8) omit the definition of "suitable education".

(3) In section 580 of EA 1996 (index) for the entry in the second column which relates to the expression "suitable education (in Chapter 2 of Part 6)" substitute " section 436A(3) ".

Commencement Information

I5 S. 4 in force at 27.2.2007 for E. by S.I. 2006/3400, **art. 6(a)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

5 School improvement partners

(1) A local education authority in England must appoint, in relation to each maintained school which they maintain, a person (to be known as a school improvement partner) to provide advice to the governing body and head teacher of the school with a view to improving standards at the school.

(2) A person may not be appointed as, or remain, a school improvement partner unless he is for the time being accredited for the purposes of this section—

(a) by the Secretary of State, or

(b) by a person authorised by the Secretary of State to accredit persons for those purposes.

(3) Regulations may prescribe other requirements to be met by local education authorities in connection with the appointment of school improvement partners.

(4) Regulations may confer functions in relation to school improvement partners on local education authorities or on the governing bodies of maintained schools.

(5) Regulations may provide that in prescribed circumstances a person employed or engaged by a local education authority before the commencement of this section is to be taken to have been appointed by them as a school improvement partner.

(6) In this section—

"maintain", in relation to a maintained school, has the same meaning as in SSFA 1998;

"maintained school" means—

(a) a community, foundation or voluntary school, or

(b) a community or foundation special school;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State.

Modifications etc. (not altering text)

C1 S. 5 applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 22**

Commencement Information

I6 S. 5 in force at 8.2.2007 for specified purposes by S.I. 2006/3400, art. 5, **Sch.**

I7 S. 5 in force at 1.4.2007 for specified purposes by S.I. 2007/935, art. 5(a), **Sch.**

I8 S. 5 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, art. 4(a), **Sch.**

I9 S. 5 in force at 1.1.2008 for specified purposes by S.I. 2007/3074, art. 2, **Sch. Pt. 1**

I10 S. 5 in force at 1.4.2008 for specified purposes by S.I. 2007/3074, art. 3, Sch. Pts. 2A, **2B**

6 Functions in respect of youth work, recreation etc

(1) Before section 508 of EA 1996 (functions of LEA in respect of facilities for recreation and social and physical training), and immediately after the cross-heading which precedes that section, insert—

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"507A **LEAs in England: functions in respect of recreational and training facilities for children under 13**

(1) A local education authority in England must secure that the facilities for primary and secondary education provided for their area include adequate facilities for recreation and social and physical training for children who have not attained the age of 13.

(2) For the purposes of subsection (1) a local education authority may—

(a) establish, maintain and manage, or assist the establishment, maintenance and management of—

(i) camps, holiday classes, playing fields, play centres, and

(ii) other places, including playgrounds, gymnasiums and swimming baths not appropriated to any school or other educational institution,

at which facilities for recreation and social and physical training are available for persons receiving primary or secondary education;

(b) organise games, expeditions and other activities for such persons; and

(c) defray, or contribute towards, the expenses of such games, expeditions and other activities.

(3) When making arrangements for the provision of facilities or the organisation of activities in the exercise of their powers under subsection (2), a local education authority must, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

507B **LEAs in England: functions in respect of leisure-time activities etc for persons aged 13 to 19 and certain persons aged 20 to 24**

(1) A local education authority in England must, so far as reasonably practicable, secure for qualifying young persons in the authority's area access to—

(a) sufficient educational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities; and

(b) sufficient recreational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities.

(2) "Qualifying young persons", for the purposes of this section, are—

(a) persons who have attained the age of 13 but not the age of 20; and

(b) persons who have attained the age of 20 but not the age of 25 and have a learning difficulty (within the meaning of section 13(5)(a) and (6) of the Learning and Skills Act 2000).

(3) For the purposes of subsection (1)(a)—

(a) "sufficient educational leisure-time activities" which are for the improvement of the well-being of qualifying young persons in the authority's area must include sufficient educational leisure-time activities which are for the improvement of their personal and social development, and

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(b) "sufficient facilities for such activities" must include sufficient facilities for educational leisure-time activities which are for the improvement of the personal and social development of qualifying young persons in the authority's area.

(4) References in the remaining provisions of this section to "positive leisure-time activities" are references to any activities falling within paragraph (a) or (b) of subsection (1).

(5) For the purposes of subsection (1) a local education authority may—

(a) provide facilities for positive leisure-time activities;

(b) assist others in the provision of such facilities;

(c) make arrangements for facilitating access for qualifying young persons to such facilities;

(d) organise positive leisure-time activities;

(e) assist others in the organisation of such activities;

(f) make arrangements for facilitating access for qualifying young persons to such activities;

(g) enter into agreements or make arrangements with any person in connection with anything done or proposed to be done under any of paragraphs (a) to (f);

(h) take any other action which the authority think appropriate.

(6) For the purposes of subsection (5)—

(a) the provision mentioned in paragraph (a) may include establishing, maintaining and managing places at which facilities for positive leisure-time activities are provided;

(b) the assistance mentioned in paragraphs (b) and (e) may include the provision of financial assistance;

(c) the arrangements mentioned in paragraphs (c) and (f) may include the provision of transport, of financial assistance or of information to any person.

(7) Before taking any action for the purposes of subsection (1) ("the proposed action"), a local education authority must—

(a) consider whether it is expedient for the proposed action to be taken by another person, and

(b) where the authority consider that it is so expedient, take all reasonable steps to enter into an agreement or make arrangements with such a person for that purpose.

(8) For the purposes of subsection (7)(a) a local education authority must consult such persons as the authority think appropriate as to whether it is expedient for the proposed action to be taken by another person.

(9) In exercising their functions under this section a local education authority must—

(a) take steps to ascertain the views of qualifying young persons in the authority's area about—

(i) positive leisure-time activities, and facilities for such activities, in the authority's area;

(ii) the need for any additional such activities and facilities; and

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(iii) access to such activities and facilities; and

(b) secure that the views of qualifying young persons in the authority's area are taken into account.

(10) A local education authority in England must—

(a) publicise information about positive leisure-time activities, and facilities for such activities, in the authority's area, and

(b) keep the information publicised under paragraph (a) up to date.

(11) A local education authority may charge in respect of anything provided by the authority under this section where the provision is to a qualifying young person (whether or not in the authority's area).

(12) In exercising their functions under this section a local education authority must have regard to any guidance given from time to time by the Secretary of State.

(13) In this section—

"recreation" includes physical training (and "recreational" is to be construed accordingly);

"sufficient", in relation to activities or facilities, means sufficient having regard to quantity;

"well-being", in relation to a person, means his well-being so far as relating to—

(a) physical and mental health and emotional well-being;

(b) protection from harm and neglect;

(c) education, training and recreation;

(d) the contribution made by him to society;

(e) social and economic well-being."

(2) Schedule 1 contains amendments related to the provision made by subsection (1).

Commencement Information

I11 S. 6 in force at 8.1.2007, see s. 188(2)

PART 2

ESTABLISHMENT, DISCONTINUANCE OR ALTERATION OF SCHOOLS

Establishment of new schools

7 Invitation for proposals for establishment of new schools

(1) A local education authority in England may publish a notice under this section inviting proposals from persons other than local education authorities for the establishment of any new school falling within subsection (2).

(2) The schools falling within this subsection are—

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(a) a foundation, voluntary or foundation special school, other than one providing education suitable only to the requirements of persons above compulsory school age, or
(b) an Academy.

(3) A notice under this section must—
(a) identify a possible site for the school,
(b) state whether or not the proposed school is to be a special school,
(c) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
(d) specify such other matters as may be prescribed, and
(e) be published in the prescribed manner.

(4) Proposals made pursuant to a notice under this section must—
(a) contain the prescribed information, and
(b) be submitted to the local education authority before the date specified in the notice.

(5) After the date specified in a notice published by a local education authority under this section, the authority—
(a) must publish under this section any proposals submitted pursuant to the notice in accordance with subsection (4), and
(b) may publish under this section—
(i) proposals of their own for the establishment of a foundation school or a foundation special school, or
(ii) if section 8 permits them to do so, proposals of their own for the establishment of a community or community special school.

(6) Regulations may prescribe—
(a) the time within which proposals under this section must be published,
(b) the manner in which they must be published, and
(c) the information which proposals within subsection (5)(b) must contain.

(7) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

Modifications etc. (not altering text)
C2 S. 7 modified (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 7 Pt. 1**

Commencement Information
I12 S. 7 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

8 Proposals under section 7 relating to community or community special schools

(1) A local education authority may by virtue of subsection (5)(b)(ii) of section 7 publish proposals under that section for the establishment of a community or community special school—
(a) only if at a prescribed time prescribed conditions are met in relation to the authority, and

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(b) except where further prescribed conditions are also met in relation to the authority at that time, only with the consent of the Secretary of State.

(2) The conditions prescribed for the purposes of subsection (1)(a) or (b) must include conditions relating to the standards achieved by the authority in performing the functions to which Chapter 4 of Part 8 (inspection and review of local authorities in England) applies.

(3) The other conditions that may be prescribed for those purposes are conditions relating to either or both of the following—

(a) the standards of performance achieved by any relevant school, and

(b) the extent of diversity among relevant schools.

(4) The matters to which the Secretary of State is to have regard in determining whether to give consent under subsection (1)(b) include prescribed matters.

(5) The power by virtue of subsection (2) or (3)(a) to prescribe standards includes power to prescribe them by reference to the opinion of the Chief Inspector or by reference to any rating awarded by the Chief Inspector following an inspection or review under any enactment.

(6) In this section—

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

"maintained school" does not include a maintained nursery school;

"relevant school", in relation to a local education authority, means a maintained school maintained by the authority or an Academy, city technology college or city college for the technology of the arts in the area of the authority.

Commencement Information

I13 S. 8 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

9 Consultation and publicity in relation to notice and proposals under section 7

(1) Before publishing a notice under section 7, the local education authority must consult such persons as appear to the authority to be appropriate; and in discharging their duty under this subsection the authority must have regard to any guidance given from time to time by the Secretary of State.

(2) Regulations may require the local education authority to take prescribed steps for the purpose of promoting public awareness of any proposals published by them under section 7.

Commencement Information

I14 S. 9 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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10 Publication of proposals with consent of Secretary of State

(1) A local education authority in England may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 7)—

(a) a new community or community special school, or

(b) a new foundation or foundation special school, other than one providing education suitable only to the requirements of persons above compulsory school age.

(2) Any persons ("proposers") may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 7) a new foundation, voluntary or foundation special school in England other than—

(a) one providing education suitable only to the requirements of persons above compulsory school age, or

(b) one in relation to which proposals fall to be published under section 11 by virtue of subsection (2)(b) or (c) of that section.

(3) Proposals under this section must—

(a) contain such information, and

(b) be published in such manner,

as may be prescribed.

(4) Before publishing any proposals under this section, the local education authority or proposers (as the case may be) must consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority or proposers must have regard to any guidance given from time to time by the Secretary of State.

(5) Where any proposals are published under subsection (2), the proposers must submit the proposals in accordance with regulations to the local education authority who it is proposed should maintain the school.

(6) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

Modifications etc. (not altering text)

C3 S. 10 modified (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 7 Pt. 2**

Commencement Information

I15 S. 10 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

11 Publication of proposals to establish maintained schools: special cases

(1) Where a local education authority in England propose to establish—

(a) a new maintained nursery school, or

(b) a new foundation or foundation special school providing education suitable only to the requirements of persons above compulsory school age,

the authority must publish their proposals under this section.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Where any persons ("proposers") propose to establish a new foundation, voluntary or foundation special school in England which—
   (a) is to provide education suitable only to the requirements of persons above compulsory school age,
   (b) is to replace an independent school that is not an Academy, a city technology college or a city college for the technology of the arts, or
   (c) in the case of a new foundation special school, is to replace a non-maintained special school,

   they must publish their proposals under this section.

(3) A new foundation, voluntary or foundation special school is not to be regarded for the purposes of subsection (2)(b) as replacing an independent school unless—
   (a) the independent school has been registered under Chapter 1 of Part 10 of EA 2002 (regulation of independent schools) for a continuous period of at least two years ending with the date of the publication of the proposals under this section, and
   (b) it is proposed that the independent school should continue in existence but should then close as an independent school immediately before the proposals are implemented.

(4) A new foundation special school is not to be regarded for the purposes of subsection (2)(c) as replacing a non-maintained special school unless—
   (a) the non-maintained special school has been approved under section 342 of EA 1996 (approval of non-maintained special schools) for a continuous period of at least two years ending with the date of the publication of the proposals, and
   (b) it is proposed that the non-maintained special school should continue in existence but should then close as a non-maintained special school immediately before the proposals are implemented.

(5) Proposals under this section must—
   (a) contain such information, and
   (b) be published in such manner,

   as may be prescribed.

(6) Before publishing any proposals under this section, the authority or proposers (as the case may be) must consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority or proposers must have regard to any guidance given from time to time by the Secretary of State.

(7) Where any proposals are published under subsection (2), the proposers must submit the proposals in accordance with regulations to the local education authority who it is proposed should maintain the school.

(8) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals under this section.

(9) In this section "non-maintained special school" means a school which is approved by the Secretary of State under section 342 of EA 1996.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Modifications etc. (not altering text)

C4 S. 11 modified (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 7 Pt. 2**

Commencement Information

I16 S. 11 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

12 Establishment of school as federated school

(1) Proposals under—

(a) section 7, 10 or 11, or

(b) section 113A of the Learning and Skills Act 2000 (c. 21),

for the establishment of a new school in England may relate to the establishment of the school as a federated school.

(2) In this section "federated school" has the meaning given by section 24(2) of EA 2002.

Commencement Information

I17 S. 12 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

13 Schools established outside area of relevant LEA

Regulations may modify the provisions of sections 7 to 12 and Schedule 2 in their application to cases where—

(a) in the case of proposals published under section 7, the school is proposed to be established in an area in England other than that of the local education authority who published the notice under that section, or

(b) in the case of proposals published under section 10 or 11, the school is proposed to be established in an area in England other than that of the local education authority who it is proposed should maintain the school.

Modifications etc. (not altering text)

C5 S. 13 modified (E.) (11.3.2009) by The Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009 (S.I. 2009/276), regs. 1(1), **3(4)** (with reg. 1(2))

Commencement Information

I18 S. 13 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

14 LEA in England not to establish school in Wales

No proposals may be published under this Part or any other enactment for the establishment of a school in Wales which is proposed to be maintained by a local education authority in England.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I19 S. 14 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

Discontinuance of schools

15 Proposals for discontinuance of schools maintained by local education authority

(1) Where a local education authority in England propose to discontinue—
- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school,

the authority must publish their proposals under this section.

(2) Where the governing body of—
- (a) a foundation or voluntary school in England, or
- (b) a foundation special school in England,

propose to discontinue the school, the governing body must publish their proposals under this section.

(3) Proposals under this section must—
- (a) contain such information, and
- (b) be published in such manner,

as may be prescribed.

(4) The matters to which the relevant body must have regard in formulating any proposals under this section in relation to a rural primary school include—
- (a) the likely effect of the discontinuance of the school on the local community,
- (b) the availability, and likely cost to the local education authority, of transport to other schools,
- (c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase, and
- (d) any alternatives to the discontinuance of the school;

and in considering these matters the relevant body must have regard to any guidance given from time to time by the Secretary of State.

(5) Where any proposals are published under subsection (2), the persons making the proposals must submit the proposals in accordance with regulations to the local education authority.

(6) Schedule 2 has effect in relation to the consideration, approval and implementation of proposals published under this section.

(7) In this section—
- (a) "the relevant body" means the local education authority mentioned in subsection (1) or the governing body mentioned in subsection (2) (as the case may be);
- (b) "rural primary school" means a primary school designated as such for the purposes of this section by an order made by the Secretary of State.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(8) In this Part any reference to a local education authority—
- (a) discontinuing a school, or
- (b) implementing proposals to discontinue a school (whether published by the authority or the governing body),

is a reference to the authority ceasing to maintain the school.

Commencement Information
I20 S. 15 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

16 Consultation in relation to proposals under section 15

(1) Before publishing any proposals under section 15 which relate to a school which is a rural primary school or a community or foundation special school, the relevant body must consult—
- (a) the registered parents of registered pupils at the school,
- (b) in the case of the rural primary school—
  - (i) the local education authority (where they are not the relevant body),
  - (ii) where the local education authority are a county council, any district council for the area in which the school is situated, and
  - (iii) any parish council for the area in which the school is situated,
- (c) in the case of a community or foundation special school, any local education authority which maintain a statement under section 324 of EA 1996 (statement of special educational needs) in respect of a registered pupil at the school, and
- (d) such other persons as appear to the relevant body to be appropriate.

(2) Before publishing any other proposals under section 15, the relevant body must consult such persons as appear to them to be appropriate.

(3) In discharging their duty under subsection (1) or (2) the relevant body must have regard to any guidance given from time to time by the Secretary of State.

(4) In this section "the relevant body" and "rural primary school" have the same meaning as in section 15.

Commencement Information
I21 S. 16 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

17 Direction requiring discontinuance of community or foundation special school

(1) The Secretary of State may, if he considers it expedient to do so in the interests of the health, safety or welfare of pupils at a community or foundation special school in England, give a direction to the local education authority by whom the school is maintained requiring the school to be discontinued on a date specified in the direction.

(2) A direction under subsection (1) may require the local education authority to notify any persons or class of persons specified in the direction.

(3) Before giving a direction under subsection (1), the Secretary of State must consult—

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(a) the local education authority,
(b) any other local education authority who would in his opinion be affected by the discontinuance of the school,
(c) in the case of a foundation special school which has a foundation, the person who appoints the foundation governors, and
(d) such other persons as the Secretary of State considers appropriate.

(4) On giving a direction under subsection (1), the Secretary of State must give notice in writing of the direction to the governing body of the school and its head teacher.

(5) Where a local education authority are given a direction under subsection (1), they must discontinue the school in question on the date specified in the direction; and nothing in section 15 or 28 applies to any such discontinuance of the school under this section.

Modifications etc. (not altering text)

C6 S. 17 modified (E.) (11.3.2009) by The Local Government (Structural Changes) (Further Transitional and Supplementary Provision and Miscellaneous Amendments) Regulations 2009 (S.I. 2009/276), regs. 1(1), **3(4)** (with reg. 1(2))

Commencement Information

I22 S. 17 in force at 25.5.2007 by S.I. 2007/935, **art. 7(b)**

Alterations to schools

18 Alterations that may be made under section 19

(1) Regulations may prescribe alterations to maintained schools that may be implemented in pursuance of proposals published under section 19.

(2) The prescribed alterations must include any alteration that involves one or more of the following—
(a) in the case of a school falling within any of the categories set out in section 20(1) of SSFA 1998, any change in the category within which the school falls (other than a change prevented by subsection (4)(c) to (f) of this section),
(b) the acquisition by a foundation or foundation special school of a foundation established otherwise than under SSFA 1998, and
(c) in the case of a school whose instrument of government does not provide for a majority of the governing body to be foundation governors, any change in the instrument of government which results in the majority of governors being foundation governors.

(3) The prescribed alterations may include other alterations of any nature (other than those prevented by subsection (4)).

(4) None of the following alterations may be made to a maintained school—
(a) any change in the religious character of the school;
(b) any change whereby the school would acquire or lose a religious character;
(c) any change of category from foundation or voluntary school to community school;

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(d) any change of category from foundation special school to community special school;

(e) any change of category from mainstream school to community or foundation special school or from community or foundation special school to mainstream school;

(f) any change from maintained nursery school to any other kind of maintained school, or from any other kind of maintained school to maintained nursery school.

(5) In subsection (4)(e) "mainstream school" means community, foundation or voluntary school.

Commencement Information

I23 S. 18(1)-(3) in force at 1.4.2007 by S.I. 2007/935, **art. 5(b)**

I24 S. 18(4)(5) in force at 25.5.2007 by S.I. 2007/935, **art. 7(c)**

19 Publication of proposals for alteration of school

(1) Where—

(a) the local education authority propose to make a prescribed alteration to a maintained school, and

(b) the prescribed alteration is one that under subsection (2) is capable of being proposed by a local education authority,

the authority must publish their proposals under this section.

(2) A prescribed alteration is capable of being proposed by a local education authority if—

(a) in the case of a community school, a community special school or a maintained nursery school, it is an alteration designated by regulations under this subsection as one capable of being proposed by the local education authority,

(b) in the case of a foundation or voluntary school, it consists of any one or more of the following—

(i) an enlargement of the premises,

(ii) an increase in the number of pupils in any relevant age group,

(iii) the establishment or discontinuance of educational provision for pupils with special educational needs, and

(iv) the establishment of educational provision suitable to the requirements of pupils over compulsory school age, and

(c) in the case of a foundation special school, it consists of any one or more of the following—

(i) an enlargement of the premises,

(ii) an increase in the number of pupils for whom the school is organised to make provision, and

(iii) a change in the type of special educational needs for which the school is organised to make provision.

(3) Where—

(a) the governing body of a maintained school propose to make a prescribed alteration to the school, and

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(b) in the case of a community school, a community special school or a maintained nursery school, the prescribed alteration is designated by regulations under this subsection as one capable of being proposed by the governing body,

the governing body must publish their proposals under this section.

(4) If at any time the governing body of a voluntary aided school are unable or unwilling to carry out their obligations under Schedule 3 to SSFA 1998 (funding of foundation, voluntary and foundation special schools), they must publish proposals under this section for the school to become either a voluntary controlled school or a foundation school, as the governing body may determine.

(5) This section has effect subject to section 20.

(6) In this section—

"prescribed alteration", in relation to a maintained school, means an alteration prescribed under section 18;

"relevant age group" has the same meaning as in SSFA 1998.

Commencement Information

I25 S. 19 in force at 25.5.2007 by S.I. 2007/935, **art. 7(d)**

20 Restriction on power of governing body to publish foundation proposals

(1) The governing body of a school specified in the first column of the Table below may not publish proposals under section 19 for a prescribed alteration of a kind specified in the second column, except with the consent of—

(a) the trustees of the school, and

(b) the person or persons by whom the foundation governors are appointed.

TABLE

School	*Prescribed alteration*
1. A foundation school which, immediately before the commencement date, was a foundation school having a foundation.	A relevant change in the instrument of government.
2. A voluntary school.	A change of category from voluntary controlled school or voluntary aided school to foundation school.
3. A foundation school which, having been a voluntary school immediately before the commencement date, changed category to foundation school on or after that date.	A relevant change in the instrument of government.

(2) For the purposes of this section, a "relevant change" in the instrument of government of a school is a change which results in the majority of governors being foundation governors.

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(3) In this section—

"the commencement date" means the day on which this Part comes into force, otherwise than merely for the purpose of enabling orders or regulations to be made;

"prescribed alteration", in relation to a maintained school, means an alteration prescribed under section 18.

Commencement Information

I26 S. 20 in force at 25.5.2007 by S.I. 2007/935, **art. 7(d)**

21 Proposals under section 19: procedure

(1) Regulations may make provision about the publication and determination of proposals under section 19 ("proposals").

(2) The provision that may be made includes provision—

(a) about the information to be included in, or provided in relation to, the proposals;

(b) about consultation on the proposals;

(c) about the manner in which proposals are to be published under section 19;

(d) for the making of objections to or comments on the proposals;

(e) requiring the proposals to be considered with related proposals published under section 19 or any other enactment;

(f) for the consideration and determination of the proposals by a prescribed person (who may be the person who published the proposals);

(g) for the referral of proposals to the adjudicator in prescribed cases for consideration and determination by him (instead of by a person prescribed by virtue of paragraph (f));

(h) for the referral of proposals to the adjudicator, at the request of a prescribed person, after their initial determination by a person other than the adjudicator;

(i) for the approval of proposals with or without modification;

(j) for the making in prescribed cases of a conditional approval;

(k) for the withdrawal of proposals;

(l) as to the manner in which, and time within which, anything required or authorised by the regulations must be done.

(3) The regulations may confer functions on the local education authority, on any other local education authority affected by the proposals, on the governing body of the school concerned and on the adjudicator.

(4) Regulations made by virtue of subsection (2)(g) may enable the Secretary of State by direction to require proposals to be referred to the adjudicator.

(5) In relation to any proposals for a school to cease to be an establishment which admits pupils of one sex only, regulations under this section may enable the local education authority or the adjudicator to make a transitional exemption order for the purposes of section 27 of the Sex Discrimination Act 1975 (c. 65) (exception for single-sex establishments turning co-educational), and to vary or revoke any order so made.

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(6) The regulations may require any person exercising functions under the regulations to have regard to any guidance given from time to time by the Secretary of State.

Commencement Information

I27 S. 21 in force at 1.4.2007 by S.I. 2007/935, **art. 5(c)**

22 Right of governing body to determine own foundation proposals

(1) Subsection (3) applies to proposals which are published under section 19 by the governing body of a community, voluntary controlled or community special school and relate only to—

(a) a change of category from community or voluntary controlled school to foundation school, without the acquisition of a foundation or a relevant change in the instrument of government, or

(b) a change of category from community special school to foundation special school, without the acquisition of a foundation.

(2) For the purposes of this section a "relevant change" in the instrument of government of a school is a change which results in the majority of governors being foundation governors.

(3) In relation to proposals to which this subsection applies, regulations under section 21—

(a) must provide for the proposals to be determined by the governing body, and

(b) may not make any provision under subsection (2)(g) or (h) of that section enabling the proposals to be referred to the adjudicator.

(4) Subsection (5) applies to—

(a) proposals which are published under section 19 by the governing body of a community or voluntary controlled school and relate only to a change of category from community or voluntary controlled school to foundation school, together with the acquisition of a foundation or a relevant change in the instrument of government (or both),

(b) proposals which are published under that section by the governing body of a community special school and relate only to a change of category from community special school to foundation special school, together with the acquisition of a foundation or together with both the acquisition of a foundation and a relevant change in the instrument of government, and

(c) proposals which are published under that section by the governing body of a foundation or foundation special school and relate only to the acquisition of a foundation or a relevant change in the instrument of government (or both).

(5) In relation to proposals to which this subsection applies, regulations under section 21—

(a) must provide for the proposals to be determined by the governing body unless the local education authority exercise the right conferred on them by regulations made by virtue of section 23(1), and

(b) may not make any provision under subsection (2)(g) or (h) of section 21 enabling a person other than the local education authority to require the proposals to be referred to the adjudicator.

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Commencement Information
I28 S. 22 in force at 1.4.2007 by S.I. 2007/935, **art. 5(c)**

23 Rights of interested bodies in relation to proposals under section 21

(1) Any regulations under section 21 which enable any proposals falling within subsection (2) which are published by the governing body of the school to which they relate to be determined by the governing body must include provision by virtue of subsection (2)(g) of that section enabling the local education authority to require the proposals to be referred to the adjudicator.

(2) Proposals fall within this section if the proposed alteration would result in a community, voluntary controlled or foundation school or community or foundation special school becoming either or both of the following—
- (a) a foundation or foundation special school having a foundation established otherwise than under SSFA 1998;
- (b) a foundation or foundation special school whose instrument of government provides for the majority of governors to be foundation governors.

(3) Regulations under section 21 may restrict the matters to which a local education authority may have regard in deciding whether to require proposals to be referred to the adjudicator in accordance with provision included in the regulations by virtue of subsection (1).

(4) If regulations under section 21 provide for any proposals, other than proposals to which section 22(3) or (5) applies, to be determined by a person other than the adjudicator, the regulations must include provision by virtue of section 21(2)(h) enabling each of the following persons to require the proposals to be referred to the adjudicator after their initial determination by the other person—
- (a) the Diocesan Board of Education for any diocese of the Church of England any part of which is comprised in the area of the authority,
- (b) the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the authority, and
- (c) where the proposals relate to the provision of education for persons aged 14 or over, the Learning and Skills Council for England.

(5) If regulations under section 21 provide for any proposals published by a local education authority in relation to a foundation or voluntary school or a foundation special school to be determined by the local education authority, the regulations must include provision by virtue of subsection (2)(h) of that section enabling each of the following persons to require the proposals to be referred to the adjudicator after their initial determination by the authority—
- (a) the governing body of the school, and
- (b) the trustees of the school.

(6) In this section "proposals" means proposals under section 19.

Commencement Information
I29 S. 23 in force at 1.4.2007 by S.I. 2007/935, **art. 5(c)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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24 Proposals under section 19: implementation

(1) Regulations may make provision in connection with the implementation of—

(a) proposals under section 19 which have been approved in accordance with regulations under section 21, or

(b) proposals under section 19 in respect of which approval in accordance with those regulations is not required, and which the person making the proposals has determined to implement.

(2) Regulations under this section may, in particular—

(a) enable a prescribed person to determine in prescribed cases that proposals are not to be implemented or are to be implemented with modifications,

(b) enable prescribed matters relating to the implementation of proposals to be referred to the adjudicator in prescribed cases, and

(c) make provision about the manner in which, and time within which, anything required or authorised by the regulations must be done.

(3) Regulations under this section relating to an alteration falling within subsection (2)(a), (b) or (c) of section 18 may include provision with respect to—

(a) the revision or replacement of the school's instrument of government and the reconstitution of its governing body,

(b) the transfer of property, rights and liabilities (including such a transfer to or from a foundation body or trustees),

(c) the transfer of staff, and

(d) any transitional matters.

(4) Regulations made under this section by virtue of subsection (3)(b) in relation to an alteration falling within section 18(2)(a) may, in particular, make provision with respect to—

(a) restricting the disposal by a local authority of land which is used or held for the purposes of a school in relation to which proposals to change category are, or may be, published under section 19, as from—

(i) the date of publication of such proposals, or

(ii) such other time as may be prescribed,

(b) restricting the taking of action by virtue of which any such land would cease to be so used or held to any extent,

(c) the consequences of any contravention of any such restriction as is mentioned in paragraph (a) or (b), and

(d) conferring on any prescribed body such functions as may be prescribed with respect to any such contravention.

(5) Regulations made under this section by virtue of subsection (3)(b) in relation to an alteration falling within section 18(2)(a) may also make provision with respect to—

(a) the division and apportionment of property, rights and liabilities any part of which fall to be transferred by or under the regulations where the property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or for the purposes of one or more schools and for other purposes,

(b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer,

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(c) identifying and defining the property, rights and liabilities which fall to be transferred,
(d) requiring prescribed persons to enter into agreements and execute instruments,
(e) the resolution of disputes relating to a transfer,
(f) the construction of agreements,
(g) the position of third parties affected by a transfer,
(h) the production or delivery of documents, or the provision of information, by a prescribed person to another prescribed person, and
(i) enabling a certificate issued by a prescribed person to be conclusive evidence as to whether or not any property, rights or liabilities were transferred by virtue of the regulations.

(6) Regulations under this section may require any prescribed person, in exercising functions under the regulations, to have regard to any guidance given from time to time by the Secretary of State.

(7) Regulations under this section may, in particular, make provision corresponding to that made by, or that which may be made by regulations under, any provision of paragraphs 21 to 31 of Schedule 2 (implementation of proposals for establishment or discontinuance).

(8) A school's change of category in pursuance of proposals published under section 19 is not to be taken as authorising any change in the religious character of the school, or the acquisition or loss of religious character.

Commencement Information
I30 S. 24 in force at 1.4.2007 by S.I. 2007/935, **art. 5(c)**

Removal of foundation or reduction in foundation governors

25 Proposals for removal of foundation or reduction in foundation governors

(1) This section applies to any foundation or foundation special school having a foundation if either or both of the following conditions is met.

(2) Condition A is that the school was established (whether or not as a foundation or foundation special school) in pursuance of proposals falling to be implemented under Schedule 2.

(3) Condition B is that the school acquired its foundation in pursuance of proposals falling to be implemented under regulations under section 24.

(4) The governing body of any foundation or foundation special school to which this section applies may at any time publish proposals under this section for either or both of the following alterations to the school—
(a) the removal of the foundation, or
(b) the alteration of the instrument of government in such a way that foundation governors will cease to constitute the majority of governors.

(5) A prescribed proportion of the governors of a foundation or foundation special school to which this section applies may in the prescribed manner require the governing body

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of the school to publish proposals under this section for either or both of the alterations mentioned in subsection (4).

(6) Subsection (5) does not require the governing body of a foundation or foundation special school to publish proposals under this section—

(a) at any time within a prescribed period beginning with the date on which—

(i) proposals for the establishment of the school were implemented under Schedule 2, or

(ii) proposals for the acquisition of a foundation, for a relevant change in the instrument of government or for a change of category to foundation school or foundation special school were implemented under regulations under section 24, or

(b) at any time within a prescribed period beginning with the date on which previous proposals published under this section in pursuance of a requirement under subsection (5) were rejected by the governing body in accordance with regulations under section 26.

(7) In subsection (6)(a)(ii) "relevant change", in relation to the instrument of government of a school, is to be read in accordance with section 22(2).

(8) In this section "foundation" means a foundation established otherwise than under SSFA 1998.

Commencement Information

I31 S. 25(1)-(4)(8) in force at 25.5.2007 by S.I. 2007/935, **art. 7(e)**

I32 S. 25(5)-(7) in force at 1.4.2007 by S.I. 2007/935, **art. 5(d)**

26 Proposals under section 25: procedure

(1) Regulations may make provision about the publication and determination of proposals under section 25.

(2) The provision that may be made includes provision—

(a) about the information to be included in, or provided in relation to, the proposals;

(b) about consultation on the proposals;

(c) about the manner in which proposals are to be published under section 25;

(d) for the making of objections to or comments on the proposals;

(e) for the withdrawal of proposals in prescribed cases;

(f) for the consideration of the proposals by the governing body;

(g) enabling the governing body to approve or reject the proposals;

(h) enabling the governing body to reject any proposals published in pursuance of a requirement under section 25(5) ("required proposals") only by a decision made with the support of a prescribed proportion of the governors;

(i) for the approval of required proposals given in the prescribed manner by a prescribed proportion of the governors to be treated as approval by the governing body;

(j) for the approval of proposals either without modifications or in prescribed cases with modifications of a prescribed kind;

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(k) as to the manner in which, and time within which, anything authorised or required by the regulations must be done.

(3) Regulations under this section may in prescribed cases—

(a) require the governing body to ensure that matters relating to—

(i) any transfer which may be required by virtue of subsection (2)(b) of section 27, or

(ii) any payment which might be required by virtue of subsection (4) or (5) of that section,

are agreed or determined before the proposals are published, and

(b) enable or require any such matter to be referred to the adjudicator for determination before the proposals are published.

(4) Regulations under this section may require any prescribed person, in exercising functions under the regulations, to have regard to any guidance given from time to time by the Secretary of State.

Commencement Information

I33 S. 26 in force at 1.4.2007 by S.I. 2007/935, **art. 5(e)**

27 Proposals under section 25: implementation

(1) Regulations may make provision in connection with the implementation of proposals under section 25 which have been approved in accordance with regulations under section 26.

(2) Regulations under this section may, in particular—

(a) make provision for the revision or replacement of the school's instrument of government and the reconstitution of its governing body;

(b) make provision for the transfer of property, rights and liabilities;

(c) make provision about the manner in which, and time within which, anything required or authorised by the regulations must be done.

(3) Regulations made by virtue of subsection (2)(b) may make provision about any of the matters mentioned in section 24(5)(a) to (i).

(4) Where—

(a) any land forming part of the school premises ("the excluded land") is not transferred to the governing body, and

(b) the governing body, a local education authority or a prescribed person has incurred capital expenditure in relation to the excluded land or in relation to other land the proceeds of the disposal of which were used to acquire or enhance the value of the excluded land,

regulations under this section may authorise or require the foundation to pay any part of the value of the excluded land to the governing body, the local education authority or a prescribed person.

(5) Where—

(a) any land forming part of the school premises ("the transferred land") is transferred to the governing body, and

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(b) the foundation has incurred capital expenditure in relation to the transferred land or in relation to other land the proceeds of the disposal of which were used to acquire or enhance the value of the transferred land,

regulations under this section may authorise or require the governing body to pay any part of the value of the transferred land to the foundation.

(6) Regulations under this section may require any prescribed person, in exercising functions under the regulations, to have regard to any guidance given from time to time by the Secretary of State.

(7) The implementation of proposals under section 25 is not to be taken as authorising any change in the religious character of the school or the loss of religious character.

(8) In this section "foundation" means a foundation established otherwise than under SSFA 1998.

Commencement Information

I34 S. 27(1)-(6)(8) in force at 1.4.2007 by S.I. 2007/935, **art. 5(f)**

I35 S. 27(7) in force at 25.5.2007 by S.I. 2007/935, **art. 7(f)**

General

28 Restriction on establishment, alteration or discontinuance of schools

(1) Except in pursuance of proposals falling to be implemented under this Part or Schedule 7 or 7A to the Learning and Skills Act 2000 (c. 21)—

(a) no maintained school may be established or discontinued;

(b) no prescribed alteration may be made to a maintained school.

(2) In subsection (1)(b) "prescribed alteration", in relation to a maintained school, means an alteration prescribed under section 18.

(3) Subsection (1) has effect subject to—

(a) sections 17(5) and 68(4) (which relate to powers of the Secretary of State to require a maintained school to be discontinued), and

(b) section 30(9) of SSFA 1998 (notice by governing body to discontinue foundation or voluntary school).

(4) Except in pursuance of proposals falling to be implemented under section 27, no alteration falling within section 25(4)(a) or (b) may be made to a foundation or foundation special school.

Commencement Information

I36 S. 28 in force at 25.5.2007 by S.I. 2007/935, **art. 7(g)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

29 Abolition of school organisation committees

Section 24 of, and Schedule 4 to, SSFA 1998 (which require local education authorities in England to establish a school organisation committee for their area) cease to have effect.

Commencement Information
I37 S. 29 in force at 25.5.2007 by S.I. 2007/935, **art. 7(g)**

30 Amendments relating to school organisation

Schedule 3 contains amendments relating to school organisation.

Commencement Information
I38 S. 30 in force at 25.5.2007 by S.I. 2007/935, **art. 7(g)**

31 Transitional provisions

(1) The Secretary of State may by regulations make such transitional provision as he considers appropriate in connection with the commencement of this Part.

(2) Regulations under this section may, in particular, make provision with respect to—
- (a) the determination or implementation of proposals made under the previous enactments,
- (b) references made to school organisation committees or adjudicators under the previous enactments.

(3) This section does not limit the powers conferred by section 183.

(4) In this section "the previous enactments" means—
- (a) sections 28, 28A, 29, 31 and 35 of, and Schedules 6 and 8 to, SSFA 1998 (establishment, alteration, discontinuance or change of category of schools) so far as applying to England, and
- (b) sections 66 and 67 of, and Schedules 10 and 11 to, EA 2005.

Commencement Information
I39 S. 31 in force at 1.4.2007 by S.I. 2007/935, **art. 5(g)**

32 Interpretation of Part 2

(1) In this Part, except where the contrary intention appears—

"adjudicator" is to be read in accordance with section 25(3) of SSFA 1998;

"discontinue", in relation to a maintained school, is to be read in accordance with section 15(8);

"foundation", in relation to a foundation or voluntary school, has (subject to sections 25(8) and 27(8)) the meaning given by section 21(3) of SSFA 1998;

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"local education authority", in relation to a school maintained (or proposed to be maintained) by a local education authority, means that authority;

"maintain", in relation to a maintained school, has the same meaning as in SSFA 1998;

"maintained school" means any of the following schools in England—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school, or

(c) a maintained nursery school;

"prescribed" means prescribed by regulations;

"regulations" means regulations made under this Part by the Secretary of State.

(2) For the purposes of this Part, a foundation or voluntary school has a religious character if it is designated by order under section 69(3) of SSFA 1998 as a school having such a character.

Commencement Information

I40 S. 32 in force at 1.4.2007 by S.I. 2007/935, **art. 5(g)**

PART 3

FURTHER PROVISIONS ABOUT MAINTAINED SCHOOLS

Foundation, voluntary and foundation special schools

33 Requirements as to foundations

(1) After section 23 of SSFA 1998 insert—

"**23A Foundation and foundation special schools: requirements as to foundations**

(1) This section applies to any foundation or foundation special school having a foundation if any one or more of the following conditions is met.

(2) Condition A is that the school was established as a foundation or foundation special school in pursuance of proposals falling to be implemented under Schedule 2 to the Education and Inspections Act 2006.

(3) Condition B is that the school—

(a) acquired its foundation, or

(b) became a school whose instrument of government provides for the majority of governors to be foundation governors,

in pursuance of proposals falling to be implemented under regulations under section 24 of that Act.

(4) Condition C is that the school changed category from voluntary aided school to foundation school in pursuance of proposals falling to be implemented under regulations under section 24 of that Act and has an instrument

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of government providing for the majority of governors to be foundation governors.

(5) No institution may act as the foundation of a school to which this section applies unless—
  (a) it is a body corporate of a prescribed description,
  (b) it is a charity (whether by virtue of section 23(3) or otherwise), and
  (c) it has as its purpose, or one of its purposes, the advancement of the education of pupils at the school or schools in respect of which it acts as the foundation.

(6) The foundation of a school to which this section applies shall, in carrying out its functions in relation to the school, promote community cohesion.

(7) Where any members of the foundation are to be local authorities or persons appointed by local authorities, the proportion of voting rights exercisable by such members must not exceed 20 per cent. of the total voting rights exercisable by members.

(8) Where any of the charity trustees in relation to the foundation are to be appointed by local authorities—
  (a) the proportion of the charity trustees who are appointed by local authorities must not exceed 20 per cent. of the total number of charity trustees, and
  (b) the voting rights exercisable by the charity trustees who are appointed by local authorities must not exceed 20 per cent. of the total voting rights exercisable by charity trustees.

(9) Regulations may disqualify persons from acting as charity trustee in relation to a school to which this section applies.

(10) In this section and section 23B—

"charity" has the same meaning as in the Charities Act 1993;

"charity trustee", in relation to a school to which this section applies, means any individual who is for the purposes of the Charities Act 1993 a charity trustee in relation to the school's foundation;

"foundation" means a foundation established otherwise than under this Act;

"institution" has the same meaning as in the Charities Act 1993;

"purpose" includes object.

23B Powers of Secretary of State in relation to charity trustees of foundations

(1) Regulations may make provision enabling the Secretary of State in prescribed cases by direction—
  (a) to remove any charity trustee of a school to which section 23A applies, even though the person is not disqualified by virtue of subsection (9) of that section;
  (b) to appoint a person to be a charity trustee of such a school (whether in place of a trustee removed by him under paragraph (a) or otherwise).

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(2) Regulations under subsection (1) may make provision as to the effect of a direction given by the Secretary of State under the regulations, and may in particular provide for any such direction to have the same effect as an order of the Charity Commission for England and Wales under section 18 of the Charities Act 1993 for the removal or appointment of a charity trustee.

(3) Nothing in this section affects the powers of the Charity Commission for England and Wales under any enactment."

(2) In relation to any time before the commencement of section 1A(1) of the Charities Act 1993 (c. 10) (which provides for the establishment of the Charity Commission for England and Wales as a body corporate), any reference in section 23B of SSFA 1998 (as inserted by subsection (1) of this section) to the Charity Commission for England and Wales is to be read as a reference to the Charity Commissioners for England and Wales.

Commencement Information

I41 S. 33 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(h)**

I42 S. 33 in force at 25.5.2007 in so far as not already in force by S.I. 2007/935, **art. 7(h)**

34 Parent councils for certain foundation or foundation special schools

After section 23 of EA 2002 insert—

"**23A Parent councils**

(1) A school is for the purposes of this section a "qualifying school" if—
- (a) it is a foundation or foundation special school in England,
- (b) it has a foundation established otherwise than under the School Standards and Framework Act 1998, and
- (c) the instrument of government for the school provides that the majority of governors are to be foundation governors.

(2) The governing body of any qualifying school must establish in accordance with regulations a body to be known as a parent council.

(3) The purpose of a parent council is to advise the governing body on matters relating to the conduct of the school and the exercise by the governing body of their powers under section 27.

(4) Regulations may make provision as to—
- (a) the person or persons by whom, and the manner in which, members of a parent council are to be elected or appointed,
- (b) eligibility for election or appointment,
- (c) the duration of membership, and
- (d) meetings and proceedings of a parent council.

(5) Regulations—
- (a) must require the majority of members of a parent council to be parent members, and

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(b) may enable a person who is not the parent of a registered pupil to be a member of a parent council if appointed in accordance with the regulations by the parent members.

(6) Regulations may confer functions relating to parent councils on the governing bodies of qualifying schools.

(7) The governing body of a qualifying school must, in exercising their functions under this section with respect to the school's parent council, have regard to any guidance given from time to time by the Secretary of State.

(8) The reference in subsection (1)(b) to a foundation is to be read in accordance with section 21 of the School Standards and Framework Act 1998.

(9) In this section "parent member", in relation to a parent council, means a member of the council who is the parent of a registered pupil at the school."

Commencement Information

I43 S. 34 in force at 25.5.2007 by S.I. 2007/935, **art. 7(i)**

35 Funding of voluntary aided schools: meaning of "capital expenditure"

(1) Part 2 of Schedule 3 to SSFA 1998 (funding of voluntary aided schools) is amended as follows.

(2) In paragraph 3, as it applies in relation to England, omit sub-paragraph (3) (the definition of "capital expenditure" for the purposes of the Schedule).

(3) After paragraph 9 insert—

9A "**Meaning of "capital expenditure"**

(1) This paragraph applies for the purposes of this Schedule as it applies in relation to England.

(2) Subject to sub-paragraphs (3) and (4), references in this Schedule to capital expenditure, in relation to an appropriate body or the promoters, in the case of a voluntary aided school, are references to—

(a) expenditure of the body or, as the case may be, the promoters which falls to be capitalised in accordance with proper accounting practices, or

(b) expenditure which would fall to be so capitalised were it to be incurred by the body or, as the case may be, the promoters.

(3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this Schedule as being, or as not being, capital expenditure in relation to—

(a) any appropriate body, or any prescribed class or description of appropriate body;

(b) any promoters, or any prescribed class or description of promoters.

(4) The Secretary of State may by direction provide that, in the case of a particular voluntary aided school—

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(a) expenditure of a particular appropriate body which is expenditure of a particular class or description;

(b) expenditure of particular promoters which is expenditure of a particular class or description,

is to be treated for the purposes of this Schedule as being, or as not being, capital expenditure in relation to that body, or as the case may be, those promoters.

(5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.

(6) In this paragraph an "appropriate body", in the case of a voluntary aided school, means—

(a) the governing body of the school, or

(b) a relevant body in relation to the school (within the meaning of paragraph 5).

9B (1) For the purposes of paragraph 9A, "proper accounting practices", in relation to an appropriate body or the promoters, in the case of a voluntary aided school, means those accounting practices—

(a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the appropriate body, or as the case may be, the promoters, or

(b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.

(2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.

(3) In this paragraph an "appropriate body", in the case of a voluntary aided school, has the same meaning as in paragraph 9A."

Commencement Information

I44 S. 35 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(i)**

I45 S. 35 in force at 25.5.2007 in so far as not already in force by S.I. 2007/935, **art. 7(j)**

36 Disposals and changes of use of land

Schedule 4 contains amendments of—

(a) Schedule 22 to SSFA 1998 (disposals of land by foundation, voluntary or foundation special schools and disposals on discontinuance), and

(b) section 77 of that Act (control of disposals or changes of use of school playing fields in relation to England),

and amendments which are consequential to those amendments.

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Commencement Information

I46 S. 36 in force at 25.5.2007 by S.I. 2007/935, **art. 7(k)**

37 Staff at foundation or voluntary schools with religious character

(1) In section 58 of SSFA 1998 (appointment and dismissal of certain teachers at schools with a religious character), omit subsection (4) (which prevents the head teacher of a foundation or voluntary controlled school being a reserved teacher).

(2) In section 60 of SSFA 1998 (staff at foundation or voluntary school with religious character)—

(a) in subsection (4), after "(whether foundation or voluntary controlled)" insert " in a case where the head teacher is not to be a reserved teacher ", and

(b) in subsection (6), after "voluntary aided school" insert " in Wales ".

Commencement Information

I47 S. 37 in force at 1.9.2008 for E. by S.I. 2008/1971, **art. 2(a)** (with art. 3)

I48 S. 37(1)(2)(a) in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

General duties of governing body

38 General duties of governing body of maintained school

(1) In section 21 of EA 2002 (general responsibility for conduct of school) after subsection (4) insert—

"(5) The governing body of a maintained school shall, in discharging their functions relating to the conduct of the school—

(a) promote the well-being of pupils at the school, and

(b) in the case of a school in England, promote community cohesion.

(6) The governing body of a maintained school shall, in discharging those functions, have regard to any relevant children and young people's plan.

(7) In discharging those functions, the governing body of a maintained school in England shall also have regard to any views expressed by parents of registered pupils.

(8) In this section "well-being"—

(a) in relation to a pupils at a school in England, means their well-being so far as relating to the matters mentioned in section 10(2) of the Children Act 2004, and

(b) in relation to pupils at a school in Wales, means their well-being so far as relating to the matters mentioned in section 25(2) of that Act.

(9) In this section "relevant children and young people's plan" means—

(a) in relation to a school in England—

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(i) any plan published by the local education authority under section 17 of the Children Act 2004 (children and young people's plans: England), or

(ii) in a case where the local education authority are not required by regulations under that section to prepare and publish a plan, any plan which is published by the authority and sets out their strategy for discharging their functions in relation to children and relevant young persons within the meaning of that section, and

(b) in relation to a school in Wales—

(i) any plan published by the local education authority under section 26 of the Children Act 2004 (children and young people's plans: Wales), or

(ii) in a case where the local education authority are not required by regulations under that section to prepare and publish a plan, any plan which is published by the authority and sets out their strategy for discharging their functions in relation to children and relevant young persons within the meaning of that section."

(2) In section 28 of that Act (limit on power to provide community facilities etc.), after subsection (4) insert—

"(4A) In exercising the power under section 27(1), the governing body of a maintained school shall have regard to any relevant children and young people's plan.

(4B) In subsection (4A) "relevant children and young people's plan" has the meaning given by section 21(9).

(4C) In exercising the power under section 27(1), the governing body of a maintained school in England shall also have regard to any views expressed by parents of registered pupils in circumstances where subsection (4)(a)(iii) does not apply."

Commencement Information

I49 S. 38 in force at 1.9.2008 for W. by S.I. 2008/1429, art. 3(3), **Sch. Pt. 3**

I50 S. 38(1) in force at 25.5.2007 for specified purposes for E. by S.I. 2007/1271, **art. 2**

I51 S. 38(1) in force at 1.9.2007 for E. in force in so far as not already in force by S.I. 2007/1801, **art. 3(a)**

I52 S. 38(2) in force at 25.5.2007 for E. by S.I. 2007/1271, **art. 3**

School admissions

39 General restriction on selection by ability

(1) No admission arrangements for a community, foundation or voluntary school may make provision for selection by ability unless—

(a) they make provision for one of the permitted forms of such selection mentioned in section 99(2) of SSFA 1998, or

(b) the school is a grammar school.

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(2) For the purposes of subsection (1) a school's admission arrangements make provision for selection by ability if they make provision for all or any of the pupils who are to be admitted to the school in any relevant age group to be so admitted by reference to ability.

(3) In this section—

"ability" means either general ability or ability in any particular subject or subjects;

"admission arrangements" has the meaning given by section 88(2) of SSFA 1998;

"grammar school" has the meaning given by section 104(7) of SSFA 1998;

"relevant age group" has the meaning given by section 142(1) of SSFA 1998.

(4) In section 99 of SSFA 1998—

(a) omit subsection (1) (which is re-enacted as subsection (1) of this section), and

(b) in subsection (2) after "are" insert " for the purposes of section 39(1) of the Education and Inspections Act 2006 ".

Commencement Information

I53 S. 39 in force at 27.2.2007 for E. by S.I. 2006/3400, **art. 6(b)**

I54 S. 39 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

40 Code for school admissions

(1) Section 84 of SSFA 1998 (code of practice) is amended in accordance with subsections (2) to (7).

(2) In subsection (1)—

(a) for "a code of practice containing such practical guidance" substitute " a code for school admissions containing such provision ", and

(b) after paragraph (b) insert—

"(ba) admission forums,".

(3) In subsection (2), for the words from "include" to "other matters" substitute " impose requirements, and may include guidelines setting out aims, objectives and other matters, ".

(4) In subsection (3), for "to have regard to" substitute " to act in accordance with ".

(5) In subsection (5), omit "of practice" (in each place where it occurs).

(6) In subsection (6), after the definitions of "admission arrangements" and "the admission authority" insert—

""admission forum" means a forum established under section 85A, including a joint admission forum established in pursuance of regulations under subsection (3)(c) of that section;".

(7) In the heading, and in the italic cross-heading immediately before section 84, for "of practice" substitute " for school admissions ".

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(8) In section 85 of SSFA 1998 (making and approval of code of practice)—
- (a) in subsection (1) omit "of practice", and
- (b) for the heading substitute " Making and approval of code for school admissions ".

(9) In relation to a code for school admissions issued under section 84(1) of SSFA 1998 after the passing of this Act, the requirement to consult which is imposed by section 85(2) of SSFA 1998 may be satisfied by consultation undertaken before the passing of this Act, even though the code takes account (to any extent) of any provision made by this Act.

Commencement Information

I55 S. 40 in force at 12.12.2006 for E. by S.I. 2006/2990, **art. 2(a)** (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2)

I56 S. 40 in force at 1.9.2008 for W. by S.I. 2008/1429, art. 3(3), **Sch. Pt. 3** (with art. 4)

41 Role of admission forums

(1) Chapter 1 of Part 3 of SSFA 1998 (admission arrangements) is amended as follows.

(2) In section 85A (admission forums), in subsection (1)—
- (a) omit the "and" at the end of paragraph (a), and
- (b) at the end of paragraph (b) insert ", and
- (c) in the case of an admission forum for the area of a local education authority in England, exercising any other functions that may be imposed on the forum by or under this Chapter."

(3) After subsection (1) of that section insert—

"(1A) An admission forum for the area of a local education authority in England may prepare and publish reports on such matters connected with the admission of pupils to maintained schools in that area as may be prescribed.

(1B) For the purposes of the preparation of a report under subsection (1A), an admission forum may request any of the following bodies to provide the forum with any information held by them which falls within a prescribed description and is specified by the forum in its request—
- (a) the local education authority which established the forum;
- (b) any local education authority in England for an area which adjoins the area of the authority mentioned in paragraph (a);
- (c) the governing body of any maintained school in the area for which the forum is established.

(1C) A body mentioned in any of paragraphs (a) to (c) of subsection (1B) must comply with a request made by an admission forum in pursuance of that subsection."

(4) In subsection (3) of that section—
- (a) omit the "and" at the end of paragraph (b), and
- (b) after that paragraph insert—

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"(ba) as to the preparation and publication of reports under subsection (1A), and".

(5) After subsection (3) of that section insert—

"(3A) Regulations under subsection (3)(c) may, in relation to England, modify any provision of this Chapter in its application to a joint admission forum."

(6) After subsection (5) of that section insert—

"(5A) Regulations may make provision with respect to the expenses of an admission forum for the area of a local education authority in England.

(5B) Except as provided by regulations under subsection (5A), the expenses of an admission forum for the area of a local education authority in England are to be defrayed by the local education authority by whom the forum was established."

(7) In section 89 (procedure for determining admission arrangements) for subsection (10) substitute—

"(10) In this section, "the appropriate bodies", in relation to an admission authority, means—

(a) the bodies or persons whom they were required to consult under subsection (2), or would but for subsection (2A) have been required to consult, and

(b) in the case of an admission authority for a maintained school in England, the admission forum for the area of the local education authority in which the school is situated."

(8) In section 90 (reference of objections to adjudicator or Secretary of State)—

(a) in subsection (1) for paragraph (b) substitute—

"(b) an appropriate body wishes to make an objection about those arrangements, and", and

(b) after subsection (10) insert—

"(11) In this section, "appropriate body" means, in relation to the admission arrangements determined by an admission authority—

(a) any body or person whom the admission authority were required to consult under subsection (2) of section 89, or would but for subsection (2A) of that section have been required to consult, and

(b) in the case of admission arrangements determined by an admission authority for a maintained school in England, the admission forum for the area of the local education authority in which the school is situated."

Commencement Information

I57 S. 41 in force at 27.2.2007 by S.I. 2006/3400, **art. 7(a)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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42 Support for parental preferences

In section 86 of SSFA 1998 (parental preferences) after subsection (1) insert—

"(1A) A local education authority in England shall provide advice and assistance to parents of children in the area of the authority in connection with the preferences expressed or to be expressed by them in accordance with the arrangements made under subsection (1)."

Commencement Information

I58 S. 42 in force at 27.2.2007 by S.I. 2006/3400, **art. 7(b)**

43 Duty of governing body to implement decisions relating to admissions

(1) In section 88 of SSFA 1998 (admission authorities and admission arrangements), after subsection (1) insert—

"(1A) Where the admission authority for a community or voluntary controlled school is the local education authority, it is the duty of the governing body to implement any decision relating to the admission of pupils to the school which is taken by or on behalf of the admission authority.

(1B) Subsection (1A) does not affect—

(a) any right of appeal which the governing body may have by virtue of arrangements made in pursuance of section 95(2) (appeals in relation to children to whom section 87(2) applies, other than looked after children in England),

(b) any right to refer the matter to the adjudicator which the governing body may have by virtue of section 95A(3) (references to the adjudicator in relation to looked after children in England to whom section 87(2) applies), or

(c) the application of section 101(2A) or section 109(2)."

(2) In section 86(2) of SSFA 1998 (duty to comply with parental preference) for "a local education authority and the governing body of a maintained school" substitute " the admission authority for a maintained school ".

(3) In section 89C of SSFA 1998 (co-ordinated schemes for admission arrangements)—

(a) in subsection (3) for "by virtue of this section" substitute " by virtue of section 89B ", and

(b) after subsection (3) insert—

"(3A) Where any decision as to whether a child is to be granted or refused admission to a maintained school is (by virtue of regulations under subsection (3)) made by the local education authority although they are not the admission authority, the governing body of the school must implement the decision."

(4) In section 94(1) of SSFA 1998 (responsibility of local authority to make appeal arrangements) in paragraph (b) for the words from the beginning to "the authority" substitute " in a case where the governing body of a community or voluntary controlled school maintained by the authority are the admission authority ".

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Commencement Information

I59 S. 43 in force at 8.1.2007 for E. by S.I. 2006/3400, **art. 2(a)**

I60 S. 43 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

44 Prohibition on interviews

After section 88 of SSFA 1998 insert—

"88A Prohibition on interviews

(1) No admission arrangements for a maintained school may require or authorise any interview with an applicant for admission to the school or his parents, where the interview is to be taken into account (to any extent) in determining whether the applicant is to be admitted to the school.

(2) If the maintained school is one at which boarding accommodation is provided for pupils, subsection (1) does not apply in relation to any interview intended to assess the suitability of an applicant for a boarding place.

(3) Where the admission arrangements for a maintained school make provision for a permitted form of selection by aptitude, subsection (1) does not prevent the arrangements from requiring or authorising any audition or other oral or practical test to be carried out in relation to an applicant solely for the purpose of ascertaining the applicant's aptitude in accordance with the arrangements.

(4) In this section, "permitted form of selection by aptitude" is to be read in accordance with section 99(4)."

Commencement Information

I61 S. 44 in force at 27.2.2007 for E. by S.I. 2006/3400, **art. 6(c)**

I62 S. 44 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

45 Admission arrangements for schools with religious character: consultation and objections

In section 89 of SSFA 1998 (procedure for determining admission arrangements) in subsection (2)—

(a) omit the "and" at the end of paragraph (c), and

(b) after paragraph (d) insert "and

(e) in the case of a foundation or voluntary school which has a religious character for the purposes of Part 2, such body or person representing the religion or religious denomination in question as may be prescribed."

Commencement Information

I63 S. 45 in force at 8.1.2007 for E. by S.I. 2006/3400, **art. 2(b)**

I64 S. 45 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

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[F1]46 Restrictions on alteration of admission arrangements

. . . . . .

Textual Amendments

F1 S. 46 repealed (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2008/3077, art. 4(h)(vii)

Commencement Information

I65 S. 46 in force at 27.2.2007 by S.I. 2006/3400, **art. 7(c)**

47 Objections to admission arrangements

(1) Section 90 of SSFA 1998 (reference of objections to adjudicator or Secretary of State) is amended as follows.

(2) After subsection (5) insert—

"(5A) Where the adjudicator or the Secretary of State is required by virtue of subsection (3)(a) or (b) or (5)(c) to decide whether to uphold an objection to admission arrangements, he may consider whether it would be appropriate for changes to be made to any aspect of the admission arrangements, whether or not he would be required to do so for the purpose of determining the objection.

(5B) In the case of any objection referred to him under this section, the adjudicator or the Secretary of State (as the case may be) must publish a report containing the following—

(a) his decision on the objection,

(b) any decision he has made on whether it would be appropriate for changes to be made to the admission arrangements, whether in the light of his decision on the objection or otherwise,

(c) if, in relation to a maintained school in England, he considers that any change required ought not to be protected under section 90A for the number of school years prescribed under section 90A(2), that section 90A is not to apply to that change or that the change will be protected only for such lesser number of school years as he may specify, and

(d) his reasons for the decisions mentioned in paragraphs (a) to (c).

(5C) Where the adjudicator or the Secretary of State (as the case may be) decides that it would be appropriate for changes to be made to the admission arrangements, his decision may specify the modifications that are to be made to the arrangements."

(3) Subsections (6) and (7) are omitted.

(4) For subsection (8) substitute—

"(8) The decisions of the adjudicator or the Secretary of State mentioned in subsection (5B)(a) and (b) shall, in relation to the admission arrangements in question, be binding on the admission authority and on all persons by whom an objection may be made under subsection (1) or (2); and, if the adjudicator or the Secretary of State has decided that it would be appropriate for changes

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to be made to the admission arrangements, those arrangements shall forthwith be revised by the admission authority in such a way as to give effect to the decision."

(5) In subsection (9)—

[F2](a) . . . . . .

(b) in paragraph (c) for "any matters required to be published under subsection (7) are" substitute " a report required to be published under subsection (5B) is ".

(6) Omit subsection (10) (which has the effect of requiring certain cases to be referred by the adjudicator to the Secretary of State).

Textual Amendments

F2 S. 47(5)(a) repealed (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2008/3077, art. 4(h)(vii)

Commencement Information

I66 S. 47 in force at 27.2.2007 for E. by S.I. 2006/3400, **art. 6(d)**

I67 S. 47 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

48 Looked after children to whom section 87(2) of SSFA 1998 applies

(1) In section 95 of SSFA 1998 (appeals relating to children to whom section 87(2) applies) after subsection (2) insert—

"(2A) Subsection (2) does not apply in relation to a decision made by or on behalf of a local education authority in England to admit to a school a child who is looked after by a local authority in England (provision for references to the adjudicator in relation to such a decision being made by section 95A)."

(2) After that section insert—

"**95A References relating to looked after children to whom section 87(2) applies**

(1) This section applies where—

(a) a local education authority in England are the admission authority for a community or voluntary controlled school, and

(b) a decision is made by or on behalf of the authority to admit to the school a child who, at the time when the decision is made, is looked after by a local authority in England and to whom (at that time) section 87(2) applies.

(2) The local education authority must give notice of the decision to the governing body of the school.

(3) The governing body of the school may, within the period of seven days beginning with the day on which they are notified of the decision, refer the matter to the adjudicator.

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(4) A reference under subsection (3) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.

(5) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (4)—
  (a) the decision to admit the child to the school shall cease to have effect, but
  (b) the adjudicator may determine that another maintained school in England is to be required to admit the child.

(6) A determination under subsection (5)(b) may only be made with the agreement of the local authority who look after the child.

(7) A determination under subsection (5)(b) may not be made if—
  (a) the child is permanently excluded from the other school, or
  (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.

(8) If the adjudicator determines under subsection (5)(b) that another school is to be required to admit the child—
  (a) the admission authority for the school shall admit the child to the school, and
  (b) if the admission authority are not the governing body of the school, the admission authority shall give notice in writing to the governing body and head teacher of the school of the adjudicator's decision.

(9) Regulations may make provision—
  (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under this section;
  (b) requiring an admission authority for a maintained school to provide information which—
    (i) falls within a prescribed description, and
    (ii) is requested by the adjudicator for the purposes of any such determination.”

Commencement Information
I68 S. 48 in force at 8.1.2007 by S.I. 2006/3400, **art. 3(a)**

49 Procedure for giving directions under section 96 of SSFA 1998

In section 97 of SSFA 1998 (procedure for giving directions under section 96)—
  (a) in subsection (2)(b)—
    (i) for “the Secretary of State” (in both places where it occurs) substitute “ the appropriate authority ”, and
    (ii) for “his determination” substitute “ its determination ”,

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(b) in subsection (3), for "the Secretary of State" substitute " the appropriate authority ",

(c) in subsection (4)—

(i) for "the Secretary of State" substitute " the appropriate authority ",

(ii) for "if he does so" substitute " if it does so ", and

(iii) in paragraph (a)(ii) for "the Secretary of State's" substitute " the appropriate authority's ",

(d) in subsection (5) for "The Secretary of State" substitute " The appropriate authority ", and

(e) after subsection (6) insert—

"(6A) In this section, "the appropriate authority" means—

(a) in relation to a local education authority in England, the adjudicator, and

(b) in relation to a local education authority in Wales, the Assembly."

Commencement Information

I69 S. 49 in force at 8.1.2007 by S.I. 2006/3400, **art. 3(b)**

50 Direction to admit looked after child to specified school

(1) After section 97 of SSFA 1998 insert—

"97A Direction to admit looked after child to specified school

(1) A local authority in England may, in relation to a child looked after by them, give a direction under this section to the admission authority for any school in England other than a school for which the local authority are the admission authority.

(2) A direction under this section shall not specify a school from which the child is permanently excluded.

(3) Where a school is specified in a direction under this section, the admission authority shall admit the child to the school.

(4) Subsection (3) does not affect any power to exclude from a school a pupil who is already a registered pupil there.

97B Procedure for giving direction under section 97A

(1) Before deciding to give a direction under section 97A, the local authority shall consult the admission authority for the school they propose to specify in the direction.

(2) The admission authority for the school shall, within the period of seven days beginning with the day on which they are consulted as mentioned in subsection (1), inform the local authority whether they are willing to admit the child to the school without being directed to do so by the authority.

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(3) Where the local authority decide to give a direction under section 97A specifying a school—

(a) they shall, before doing so, serve a notice in writing of their decision on—

(i) the admission authority for the school,

(ii) if the school is a community or voluntary controlled school and the governing body of the school are not the admission authority, the governing body of the school,

(iii) if the school is maintained by a local education authority who are not the authority proposing to give the direction and are not the admission authority, the local education authority who maintain the school, and

(iv) the head teacher of the school, and

(b) they shall not give the direction until the period for referring the matter to the adjudicator under subsection (4) has expired and, if it is so referred, until the adjudicator has made such determinations under this section as it appears to him to be appropriate to make in connection with the reference.

(4) The following persons—

(a) the admission authority on whom a notice is served under subsection (3)(a)(i), and

(b) in the case of a notice relating to a child to whom (at the time of service of the notice) section 87(2) applies, the governing body of a community or voluntary controlled school on whom the notice is served under subsection (3)(a)(ii),

may, within the period of seven days beginning with the day on which the notice was served, refer the matter to the adjudicator and, if they do so, shall inform the local authority.

(5) A reference under subsection (4) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.

(6) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (5)—

(a) the local authority may not give a direction under section 97A that the school admit the child, but

(b) the adjudicator may determine that another school in England is to be required to admit the child.

(7) A determination under subsection (6)(b) may only be made with the agreement of the local authority who look after the child.

(8) A determination under subsection (6)(b) may not be made if—

(a) the child is permanently excluded from the other school, or

(b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.

(9) If the adjudicator determines under subsection (6)(b) that another school is to be required to admit the child, then—

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(a) if the local authority referred to in subsection (1) are the admission authority for that school they shall—

(i) admit the child to the school, and

(ii) give notice in writing to the governing body and head teacher of the school of the adjudicator's decision, and

(b) in any other case, the local authority shall specify that school in their direction under section 97A.

(10) A direction under section 97A shall be given by notice in writing and a copy of the notice shall be given by the local authority to the head teacher of the school."

(2) In section 84 of SSFA 1998, after subsection (6) (which defines terms used in Chapter 1 of Part 3 of that Act) insert—

"(7) In this Chapter, references to a child who is looked after by a local authority are to be read in accordance with section 22(1) of the Children Act 1989."

[F3](3) . . . . . .

(4) In section 143 of SSFA 1998 (index) after the entry relating to "child (in Chapter 1 of Part 3 but not in sections 96 and 97)" insert—

"child looked after by a local authority (in Chapter 1 of Part 3)	section 84(7)."

Textual Amendments

F3 S. 50(3) repealed (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2008/3077, art. 4(h)(vii)

Commencement Information

I70 S. 50 in force at 8.1.2007 by S.I. 2006/3400, **art. 3(c)**

51 Directions to admit child to specified school: supplementary provisions

(1) In section 94 of SSFA 1998 (appeal arrangements: general), in subsection (1)(a) after "section 96" insert " or 97A ".

(2) In section 96 of SSFA 1998 (direction to admit child to specified school)—

(a) in subsection (3) for "the Secretary of State" substitute " the appropriate authority (within the meaning of section 97) ", and

(b) in subsection (8) for "section 97" substitute " sections 97 to 97C ".

(3) After section 97B of SSFA 1998 (inserted by section 50) insert—

"**97C Determinations under section 97 or 97B: supplemental**

Regulations may make provision in relation to England—

(a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under section 97 or 97B;

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(b) requiring an admission authority for a school to provide information which—

(i) falls within a prescribed description, and

(ii) is requested by the adjudicator for the purposes of any such determination."

Commencement Information

I71 S. 51 in force at 8.1.2007 by S.I. 2006/3400, **art. 3(d)**

52 Power of Assembly to make regulations about looked after children

(1) After section 97C of SSFA 1998 (inserted by section 51) insert—

"Looked after children in Wales

97D Power of Assembly to make regulations about admission of looked after children

(1) The Assembly may by regulations make provision about the admission of children looked after by local authorities in Wales ("looked after children") to maintained schools in Wales.

(2) Regulations under subsection (1) may include provision requiring the admission authorities for such schools—

(a) to include in their admission arrangements such provision relating to the admission of looked after children as may be prescribed, which may in particular include provision for securing that, subject to prescribed exceptions, such children are to be offered admission in preference to other children;

(b) to admit looked after children in prescribed circumstances, subject to prescribed exceptions.

(3) Regulations under subsection (1) may provide that any of the preceding provisions of this Chapter—

(a) shall not apply in relation to looked after children;

(b) shall apply in relation to such children with prescribed modifications."

[F4](2) . . . . . .

Textual Amendments

F4 S. 52(2) repealed (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2008/3077, art. 4(h)(vii)

Commencement Information

I72 S. 52 in force at 8.1.2007, see s. 188(2)

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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53 Schools with pre-1998 arrangements for selection by ability or aptitude

(1) Section 100 of SSFA 1998 (permitted selection: pre-existing arrangements) is amended as follows.

(2) In subsection (1) for the words from "so long as" to the end of the subsection substitute "so long as—

(a) the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and

(b) there is no significant change in the basis of selection."

(3) After subsection (1) insert—

"(1A) In subsection (1)(a), "the permitted proportion", in relation to any relevant age group, means the lowest proportion of selective admissions provided for by the school's admission arrangements at any time since the beginning of the 1997-1998 school year."

Commencement Information

I73 S. 53 in force at 27.2.2007 for E. by S.I. 2006/3400, **art. 6(e)**

I74 S. 53 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

54 Pupil banding

(1) In section 101 of SSFA 1998 (permitted selection: pupil banding)—

(a) in subsection (1)—

(i) for "subsections (2) to (4)" substitute " subsections (2) and (2A) ", and

(ii) after "a maintained school" insert " in England or Wales ",

(b) after subsection (1) insert—

"(1A) Subject to subsections (2) and (2A), the admission authority for a maintained school in England may make provision for selection by ability to the extent that the arrangements are designed to secure—

(a) that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among such one of the following groups as the admission arrangements may specify ("the reference group")—

(i) children who are applicants for admission in that age group to any of two or more schools (including the school in question) in the area of the local education authority,

(ii) children in that age group who live in the area of the local education authority, or

(iii) children in that age group who live in England, and

(b) that no level of ability is substantially over-represented or substantially under-represented by comparison with its representation in the reference group.",

(c) in subsection (2) for "Subsection (1)" substitute " Subsection (1) or (1A) ",

(d) after subsection (2) insert—

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"(2A) If the admission authority for a maintained school in England is the local education authority, the authority may only introduce such provision for selection by ability as is mentioned in subsection (1) or (1A) with the consent of the governing body of the school.",

(e) in subsection (3), after "maintained school" insert " in Wales ",

(f) in subsection (4), for the words from the beginning to "any school" substitute " In the case of a school in Wales, admission arrangements to which subsection (1) applies are not authorised ", and

(g) in subsection (5), for "subsection (1)" substitute " subsection (1) or (1A) ".

(2) In section 102 of SSFA 1998 (permitted selection: aptitude for particular subjects), in subsection (3), for "section 101(1)" substitute " section 101(1) or (1A) ".

(3) In section 103 of SSFA 1998 (permitted selection: introduction, variation or abandonment of provision for such selection)—

(a) in subsection (2) for "constitutes a prescribed alteration for the purposes of section 28" substitute "constitutes—

(a) in relation to England, a prescribed alteration for the purposes of section 18 of the Education and Inspections Act 2006, and

(b) in relation to Wales, a prescribed alteration for the purposes of section 28", and

(b) in subsection (3) —

(i) for "section 101(1)" substitute " section 101(1) or (1A) ", and

(ii) for "the objectives mentioned in section 101(1)(a) and (b)" substitute " the objectives mentioned in section 101(1)(a) and (b), section 101(1A)(a)(i) and (b), section 101(1A)(a)(ii) and (b) or section 101(1A)(a)(iii) and (b) ".

Commencement Information

I75 S. 54(1)(2)(3)(b) in force at 8.1.2007 by S.I. 2006/3400, **art. 3(e)**

I76 S. 54(3)(a) in force at 25.5.2007 by S.I. 2007/935, **art. 7(l)**

Miscellaneous

55 Right of sixth-form pupils to be excused from attendance at religious worship

(1) Section 71 of SSFA 1998 (which, in relation to religious education and attendance at religious worship, makes provision for exceptions and special arrangements, and for special schools) is amended as follows.

(2) For subsection (1) substitute—

"(1) If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused from receiving religious education given at the school in accordance with the school's basic curriculum, the pupil shall be so excused until the request is withdrawn.

(1A) If the parent of any pupil at a community, foundation or voluntary school other than a sixth-form pupil requests that he may be wholly or partly excused from

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attendance at religious worship at the school, the pupil shall be so excused until the request is withdrawn.

(1B) If a sixth-form pupil requests that he may be wholly or partly excused from attendance at religious worship at a community, foundation or voluntary school, the pupil shall be so excused."

(3) In subsection (2), for "subsection (1)" substitute " subsections (1) to (1B) ".

(4) In subsection (3), after "subsection (1)" insert " or (1A) ".

(5) In subsection (5), after "voluntary school" insert " and is not a sixth-form pupil ".

(6) After subsection (5) insert—

"(5A) Where a sixth-form pupil who is a boarder at a community, foundation or voluntary school requests that he be permitted—

(a) to receive religious education in accordance with the tenets of a particular religion or religious denomination outside school hours, or

(b) to attend worship in accordance with such tenets on Sundays or other days exclusively set apart for religious observance by the religious body to which the pupil belongs,

the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so."

(7) In subsection (6), after "subsection (5)" insert " or (5A) ".

(8) For subsection (7) substitute—

"(7) Regulations shall make provision for ensuring that, so far as practicable, every pupil attending a community or foundation special school—

(a) receives religious education unless withdrawn from receiving such education in accordance with the wishes of his parent, and

(b) attends religious worship unless withdrawn from attendance at such worship—

(i) in the case of a sixth-form pupil, in accordance with his own wishes, and

(ii) in any other case, in accordance with the wishes of his parent."

(9) After subsection (7) insert—

"(8) In this section "sixth-form pupil" means any pupil who—

(a) has ceased to be of compulsory school age, and

(b) is receiving education suitable to the requirements of pupils over compulsory school age."

Commencement Information

I77 S. 55 in force at 9.2.2009 for W. by S.I. 2009/49, **art. 2**

I78 S. 55(1)-(7) in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(b)**

I79 S. 55(8)(9) in force at 25.6.2007 for E. by S.I. 2007/1801, **art. 2**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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56 Charges for music tuition

(1) In section 451 of EA 1996 (prohibition of charges for provision of education) for subsection (3) substitute—

"(3) Regulations may prescribe circumstances in which subsection (2) does not apply in relation to tuition in singing or in playing a musical instrument."

(2) In section 456 of EA 1996 (regulation of permitted charges), in subsection (6), after "tuition in" insert " singing or in ".

Commencement Information

I80 S. 56 in force at 25.5.2007 for E. by S.I. 2007/935, **art. 6(b)** (with transitional provisions and savings in S.I. 2007/1271, art. 5)

57 School funding

Schedule 5 contains amendments of Chapter 4 of Part 2 of SSFA 1998 (financing of maintained schools).

Commencement Information

I81 S. 57 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(a)**

58 Removal of requirement to issue code of practice as to relationships between LEAs and maintained schools in England etc

(1) Section 127 of SSFA 1998 (code of practice for securing effective relationships between LEAs and maintained schools) is amended as follows.

(2) In subsection (1)—

(a) for "Secretary of State" substitute " Assembly ",

(b) for "he" substitute " it ",

(c) after "local education authorities" insert " in Wales ", and

(d) for paragraph (b) substitute—

"(b) in relation to the discharge of such functions as the Assembly may determine for the purposes of this paragraph which are functions exercisable by or on behalf of such authorities in relation to such schools."

(3) In subsection (2), after "maintained nursery school" insert " in Wales ".

(4) For subsection (3) substitute—

"(3) Subsections (1) and (2) of section 85 shall apply in relation to the code as they apply in relation to a code under section 84 relating to Wales."

(5) In subsection (4), for "Secretary of State" substitute " Assembly ".

(6) Omit subsections (5) and (6).

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(7) In the heading, and in the italic heading immediately above it, after "maintained schools" insert " in Wales ".

Commencement Information
I82 S. 58 in force at 8.1.2007, see s. 188(2)

PART 4

SCHOOLS CAUSING CONCERN: ENGLAND

Introduction

59 Meaning of "maintained school" and "eligible for intervention"

(1) In this Part "maintained school" means any of the following schools in England—
- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.

(2) In this Part, references to a school being "eligible for intervention" are to be read in accordance with—

section 60 (warning notice by local education authority),
section 61 (school requiring significant improvement), and
section 62 (school requiring special measures).

Commencement Information
I83 S. 59 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

Schools that are eligible for intervention

60 Warning notice by local education authority

(1) A maintained school is by virtue of this section eligible for intervention if—
- (a) the local education authority have given the governing body a warning notice in accordance with subsection (2),
- (b) the period beginning with the day on which the warning notice is given and ending with the fifteenth working day following that day ("the initial period") has expired,
- (c) either the governing body made no representations under subsection (7) to the Chief Inspector against the warning notice during the initial period or the Chief Inspector has confirmed the warning notice under subsection (8),
- (d) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction by the end of the compliance period (as defined by subsection (10)), and

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(e) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under any one or more of sections 63 to 66 (whether or not the notice is combined with a notice under section 62(2A)(c) of SSFA 1998).

(2) A local education authority may give a warning notice to the governing body of a maintained school where the authority are satisfied—

(a) that the standards of performance of pupils at the school are unacceptably low, and are likely to remain so unless the authority exercise their powers under this Part, or

(b) that there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or

(c) that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise).

(3) For the purposes of subsection (2)(a) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—

(a) the standards that the pupils might in all the circumstances reasonably be expected to attain,

(b) where relevant, the standards previously attained by them, or

(c) the standards attained by pupils at comparable schools.

(4) For the purposes of this section a "warning notice" is a notice in writing by the local education authority setting out—

(a) the matters on which the conclusion mentioned in subsection (2) is based,

(b) the action which they require the governing body to take in order to remedy those matters,

(c) the initial period applying under subsection (1)(b), and

(d) the action which the local education authority are minded to take (under one or more of sections 63 to 66 or otherwise) if the governing body fail to take the required action.

(5) The warning notice must also inform the governing body of their right to make representations under subsection (7) during the initial period.

(6) The local education authority must, at the same time as giving the governing body the warning notice, give a copy of the notice to each of the following persons—

(a) the Chief Inspector,

(b) the head teacher of the school,

(c) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

(d) in the case of a foundation or voluntary school, the person who appoints the foundation governors.

(7) Before the end of the initial period, the governing body may make representations in writing to the Chief Inspector against the warning notice, and must send a copy of any such representations to the local education authority.

(8) The Chief Inspector must consider any representations made to him under subsection (7) and may, if he thinks fit, confirm the warning notice.

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(9) The Chief Inspector must give notice in writing of his decision whether or not to confirm the warning notice to the local education authority, the governing body and such other persons as the Secretary of State may require.

(10) In this section—

"the compliance period", in relation to a warning notice, means—

(a) in a case where the governing body does not make representations under subsection (7), the initial period mentioned in subsection (1)(b), and

(b) in a case where the Chief Inspector confirms the warning notice under subsection (8), the period beginning with the day on which he does so and ending with the fifteenth working day following that day;

"working day" means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in England.

Commencement Information

I84 S. 60 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

61 School requiring significant improvement

A maintained school is by virtue of this section eligible for intervention if—

(a) following an inspection of the school under Chapter 1 of Part 1 of EA 2005, the Chief Inspector has given notice under section 13(3)(a) of that Act in a case falling within section 13(1)(b) of that Act (school requiring significant improvement), and

(b) where any subsequent inspection of the school has been made under Chapter 1 of Part 1 of that Act, the notice has not been superseded by—

(i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or

(ii) the Chief Inspector giving the Secretary of State a notice under section 13(3)(a) of that Act in a case falling within section 13(1)(a) of that Act (school requiring special measures).

Commencement Information

I85 S. 61 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

62 School requiring special measures

A maintained school is by virtue of this section eligible for intervention if—

(a) following an inspection of the school under Chapter 1 of Part 1 of EA 2005, the Chief Inspector has given notice under section 13(3)(a) of that Act in a case falling within section 13(1)(a) of that Act (school requiring special measures), and

(b) where any subsequent inspection of the school has been made under Chapter 1 of Part 1 of that Act, the person making it did not state that in his opinion special measures were not required to be taken in relation to the school.

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Commencement Information
I86 S. 62 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

Intervention by local education authority

63 Power of LEA to require governing body to enter into arrangements

(1) If at any time a maintained school is eligible for intervention, then (subject to subsection (3)) the local education authority may, with a view to improving the performance of the school, give the governing body of the school a notice requiring the governing body—

(a) to enter into a contract or other arrangement with a specified person (who may be the governing body of another school) for the provision to the governing body of specified services of an advisory nature,

(b) to make specified arrangements authorised by section 26 of EA 2002 (collaboration between schools) with the governing body of such other school as may be specified,

(c) to make specified arrangements authorised by regulations under section 166 of this Act (collaboration arrangements: maintained schools and further education bodies) with a further education body within the meaning of that section, or

(d) to take specified steps for the purpose of creating or joining a federation, as defined by section 24(2) of EA 2002.

(2) Before exercising the power conferred by subsection (1), the local education authority must consult—

(a) the governing body of the school,

(b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

(c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

(3) Where the school is eligible for intervention by virtue of section 60 (school subject to formal warning), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10)).

(4) A notice under subsection (1)(a) may require the contract or other arrangement to contain specified terms and conditions.

Commencement Information
I87 S. 63 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

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64 Power of LEA etc. to appoint additional governors

(1) If at any time a maintained school is eligible for intervention, then (subject to subsection (2)) the local education authority may appoint such number of additional governors as they think fit.

(2) Where the school is eligible for intervention by virtue of section 60 (school subject to formal warning), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10)).

(3) In relation to any appointment made by the local education authority by virtue of subsection (1) to the governing body of a school, the instrument of government for the school has effect as if (despite anything in regulations under section 19 of EA 2002) it provided for the local education authority to appoint such number of additional governors as they think fit.

(4) If at any time—

(a) a voluntary aided school other than one falling within section 61 or 62 is eligible for intervention by virtue of section 60 (school subject to formal warning), and

(b) the local education authority have exercised their power to appoint additional governors under subsection (1),

the appropriate appointing authority may appoint such number of additional foundation governors as is equal to the number of additional governors appointed by the authority.

(5) Any additional foundation governors appointed under subsection (4)—

(a) shall cease to hold office at the time when the additional governors appointed by the authority cease to do so; and

(b) shall not be eligible for re-appointment except where, and to the extent that, those governors are re-appointed.

(6) If at any time—

(a) a voluntary aided school is eligible for intervention by virtue of section 61 (school requiring significant improvement) or section 62 (school requiring special measures),

(b) the Secretary of State has not exercised his power under section 67 (power to appoint additional governors) in connection with the same inspection falling within section 61(a) or 62(a),

(c) the Secretary of State has not exercised his power under section 68 (power to direct closure of school), and

(d) the appropriate appointing authority have received a notice in writing from the Secretary of State informing them that he has received a notice under section 13(3)(a) of EA 2005 from the Chief Inspector,

the appropriate appointing authority may appoint such number of additional foundation governors as they think fit.

(7) In the case of any appointment made by virtue of subsection (4) or (6) to the governing body of a school, the instrument of government for the school has effect as if (despite anything in regulations under section 19 of EA 2002) the instrument provided for the appropriate appointing authority to appoint such number of additional foundation

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governors as they are authorised to appoint under subsection (4) or (6) (as the case may be).

(8) Subject to subsection (9), references in this section to the appropriate appointing authority in relation to any voluntary aided school are references—
  (a) to the appropriate diocesan authority, if it is a Church of England school or a Roman Catholic Church school; or
  (b) in any other case, to the person or persons by whom the foundation governors are appointed.

(9) Where, in the case of any voluntary aided school not falling within subsection (8)(a), there are different powers to appoint foundation governors, references in this section to the appropriate appointing authority are references—
  (a) to all those persons who have any such power acting jointly, or
  (b) if they are unable to agree, to such of them acting jointly, or such one of them, as the Secretary of State may, after consulting all those persons, determine.

Commencement Information
I88 S. 64 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

65 Power of LEA to provide for governing body to consist of interim executive members

(1) If at any time a maintained school is eligible for intervention, the local education authority may, with the consent of the Secretary of State, give the governing body a notice in writing stating that, as from a date specified in the notice, the governing body are to be constituted in accordance with Schedule 6 (governing bodies consisting of interim executive members).

(2) Before exercising the power conferred by subsection (1), the local education authority must consult—
  (a) the governing body of the school,
  (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

Commencement Information
I89 S. 65 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

66 Power of LEA to suspend right to delegated budget

(1) If at any time—
  (a) a maintained school is eligible for intervention, and
  (b) the school has a delegated budget within the meaning of Part 2 of SSFA 1998,

then (subject to subsection (2)) the local education authority may, by giving the governing body of the school notice in writing of the suspension, suspend the

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governing body's right to a delegated budget with effect from the receipt of the notice by the governing body.

(2) Where the school is eligible for intervention by virtue of section 60 (school subject to formal warning), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10)).

(3) A copy of a notice given under subsection (1) must be given to the head teacher of the school at the same time as the notice is given to the governing body.

(4) A suspension imposed under this section shall have effect for the purposes of Chapter 4 of Part 2 of SSFA 1998 as if made under paragraph 1 of Schedule 15 to that Act.

Commencement Information

I90 S. 66 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

Intervention by Secretary of State

67 Power of Secretary of State to appoint additional governors

(1) If at any time a maintained school is eligible for intervention by virtue of—

(a) section 61 (school requiring significant improvement), or

(b) section 62 (school requiring special measures),

the Secretary of State may appoint such number of additional governors as he thinks fit; and he may nominate one of those governors to be the chairman of the governing body in place of any person who has been elected as chairman of that body.

(2) Before making any such appointment, the Secretary of State must consult—

(a) the local education authority,

(b) the governing body of the school,

(c) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

(d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

(3) A governor appointed under this section—

(a) shall hold office as governor for such term, and

(b) if nominated as chairman of the governing body, shall be chairman of that body for such period,

as the Secretary of State may determine.

(4) The Secretary of State may pay to any governor appointed under this section such remuneration and allowances as the Secretary of State may determine.

(5) In relation to any appointment made by the Secretary of State by virtue of subsection (1) to the governing body of a school, the instrument of government for the school shall have effect as if (despite anything in regulations under section 19 of EA 2002) it provided for the Secretary of State to appoint such number of additional governors as he thinks fit.

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(6) Where the Secretary of State has exercised his power under this section in relation to a school, then—
  (a) in any such case—
    (i) the local education authority may not exercise their power under section 66(1) or paragraph 1 of Schedule 15 to SSFA 1998 to suspend the governing body's right to a delegated budget, and
    (ii) if they have already exercised either of those powers, the Secretary of State must, if requested to do so by the governing body, revoke the suspension; and
  (b) in the case of a voluntary aided school, nothing in regulations under section 19 of EA 2002 is to be read as authorising the appointment of foundation governors for the purpose of outnumbering the other governors as augmented by those appointed by the Secretary of State under this section.

(7) The revocation of a suspension under subsection (6)(a)—
  (a) must be notified to the local education authority in writing, and
  (b) takes effect from such date as is specified in that notification.

Commencement Information
I91 S. 67 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

68 Power of Secretary of State to direct closure of school

(1) If at any time a maintained school is eligible for intervention by virtue of section 62 (school requiring special measures), the Secretary of State may give a direction to the local education authority requiring the school to be discontinued on a date specified in the direction.

(2) Before giving a direction under subsection (1), the Secretary of State must consult—
  (a) the local education authority and the governing body of the school,
  (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority,
  (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed,
  (d) in the case of a school which provides education suitable to the requirements of persons over compulsory school age, the Learning and Skills Council for England, and
  (e) such other persons as the Secretary of State considers appropriate.

(3) On giving a direction under subsection (1) the Secretary of State must give notice in writing of the direction to the governing body of the school and its head teacher.

(4) Where the local education authority are given a direction under subsection (1), they must discontinue the school in question on the date specified in the direction; and nothing in sections 15 to 17 of this Act or in section 30 of SSFA 1998 applies to their discontinuance of the school under this section.

(5) In this section any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

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Modifications etc. (not altering text)

C7 S. 68 applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 23**

Commencement Information

I92 S. 68 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

69 Power of Secretary of State to provide for governing body to consist of interim executive members

(1) If at any time a maintained school is eligible for intervention by virtue of—

(a) section 61 (school requiring significant improvement), or

(b) section 62 (school requiring special measures),

the Secretary of State may give the governing body a notice in writing stating that, as from the date specified in the notice, the governing body are to be constituted in accordance with Schedule 6 (governing bodies consisting of interim executive members).

(2) Before exercising the power conferred by subsection (1), the Secretary of State must consult—

(a) the local education authority,

(b) the governing body of the school,

(c) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

(d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

(3) The Secretary of State need not consult the persons mentioned in subsection (2)(b), (c) and (d) if the local education authority have consulted them under subsection (2) of section 65 in relation to a proposed notice under subsection (1) of that section.

Commencement Information

I93 S. 69 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

Governing bodies consisting of interim executive members: further provisions

70 Governing bodies consisting of interim executive members

Schedule 6 has effect in relation to any school in respect of which a notice has been given—

(a) under section 65(1) by the local education authority, or

(b) under section 69(1) by the Secretary of State.

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Commencement Information
I94 S. 70 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

Amendments relating to schools causing concern

71 Amendments relating to schools causing concern

Schedule 7 contains amendments related to the provisions of this Part.

Commencement Information
I95 S. 71 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

Supplementary

72 Duty of LEA to have regard to guidance

A local education authority must, in exercising their functions under this Part, have regard to any guidance given from time to time by the Secretary of State.

Commencement Information
I96 S. 72 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

73 Interpretation of Part 4

In this Part—

"appropriate diocesan authority" has the same meaning as in SSFA 1998;

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

"Church of England school" and "Roman Catholic Church school" have the same meaning as in SSFA 1998;

"eligible for intervention", in relation to a maintained school, has the meaning given by section 59(2);

"maintained school" has the meaning given by section 59(1).

Commencement Information
I97 S. 73 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

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PART 5

CURRICULUM AND ENTITLEMENTS

74 Curriculum requirements for the fourth key stage

(1) For section 85 of EA 2002 (curriculum requirements for fourth key stage) substitute—

"**85 Curriculum requirements for the fourth key stage**

(1) For the fourth key stage, the National Curriculum for England shall comprise—
  (a) the core and other foundation subjects,
  (b) work-related learning, and
  (c) in relation to any pupil, such other courses of study as are necessary to satisfy the entitlements conferred on him by subsection (5) and section 85A.

(2) The National Curriculum for England shall specify programmes of study in relation to each of the core and other foundation subjects for the fourth key stage.

(3) The following are the core subjects for the fourth key stage—
  (a) mathematics,
  (b) English, and
  (c) science.

(4) The following are the other foundation subjects for the fourth key stage—
  (a) information and communication technology,
  (b) physical education, and
  (c) citizenship.

(5) A pupil in the fourth key stage is entitled, if he so elects, to follow a course of study in science which leads to such qualification or set of qualifications as the governing body may choose from among those—
  (a) approved under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act, and
  (b) specified by the Secretary of State by order for the purposes of this subsection.

(6) In the exercise of their functions under this Part so far as those functions relate by virtue of this section to work-related learning a local education authority, governing body or head teacher shall have regard to any guidance issued from time to time by the Qualifications and Curriculum Authority.

(7) In this section "work-related learning" means planned activity designed to use the context of work to develop knowledge, skills and understanding useful in work, including learning through the experience of work, learning about work and working practices and learning the skills for work.

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85A Entitlement areas for the fourth key stage

(1) A pupil in the fourth key stage is also entitled to do either of the following (as he may elect)—

(a) to follow a course of study in a subject within each of such one or more of the four entitlement areas specified in subsection (2) as he may choose, or

(b) to follow a course of study within an entitlement area specified by the Secretary of State by order for the purposes of this paragraph.

(2) The entitlement areas referred to in subsection (1)(a) are—

(a) arts, comprising—

(i) art and design,

(ii) music,

(iii) dance,

(iv) drama, and

(v) media arts,

(b) design and technology (comprising only that subject),

(c) humanities, comprising—

(i) geography, and

(ii) history, and

(d) modern foreign languages, comprising any modern foreign language specified in an order made by the Secretary of State or, if the order so specifies, any modern foreign language.

(3) An order under subsection (2)(d) may—

(a) specify circumstances in which a language is not to be treated as falling within subsection (2)(d), and

(b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.

(4) The entitlement conferred on a pupil by this section is to be taken to be satisfied—

(a) where he elects as mentioned in paragraph (a) of subsection (1), if a course of study in a subject within each of the entitlement areas specified in subsection (2) is made available to him by or on behalf of the school at which he is a registered pupil, or

(b) where he elects as mentioned in paragraph (b) of subsection (1), if a course of study within one of the entitlement areas specified by order under that paragraph is made available to him by or on behalf of the school at which he is a registered pupil.

(5) In the exercise of their functions by virtue of this Part in relation to courses of study falling within subsection (1)(a) or (b), a local education authority, governing body or head teacher shall have regard to any guidance issued from time to time by the Secretary of State or the Qualifications and Curriculum Authority.

(6) In this section “course of study” means—

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(a) in relation to a subject within an entitlement area specified in subsection (2), a course of education or training which leads to such qualification as the governing body may choose from among those approved under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act;

(b) in relation to an entitlement area specified by order under subsection (1)(b), a course of education or training which leads to such qualification as the governing body may choose from among those specified by the Secretary of State by order for the purposes of this paragraph."

(2) In section 86 of EA 2002 (power to alter or remove requirements for fourth key stage) —

(a) in paragraph (a), for "section 85," substitute " sections 85 and 85A, ",

(b) in paragraph (b), for "that section is" substitute " those sections are ", and

(c) renumber the section as so amended as subsection (1) of the section and at the end insert—

"(2) An order under this section may make such amendments of this Act as appear to the Secretary of State to be necessary or expedient in connection with the provision made by virtue of subsection (1)."

(3) **[**[F5]In section 88 of EA 2002, after subsection (1A) insert—**]**

"(2) In relation to any maintained school and any school year, the local education authority, the governing body and the head teacher shall, in addition to their duties by virtue of **[**[F5]subsections (1) and (1A)**]**, exercise their functions with a view to securing that courses of study within all of the entitlement areas specified by the Secretary of State by order for the purposes of section 85A(1)(b) ("the specified entitlement areas") are made available by or on behalf of the school, unless the local education authority determine that the making available of a course of study within a particular specified entitlement area would involve disproportionate expenditure.

(3) Nothing in subsection (2) entitles a pupil who elects as mentioned in section 85A(1)(b) to follow a course of study within a particular specified entitlement area or to follow more than one course of study within different specified entitlement areas (provision as to the entitlement of individual pupils being made by section 85A(4)(b)).

(4) For the purposes of discharging their functions by virtue of this Part in relation to courses of study within the specified entitlement areas, the governing body of a maintained school shall, in particular, consider whether it would be appropriate to make any collaboration arrangements.

(5) In subsection (4) "collaboration arrangements" means—

(a) arrangements made, in pursuance of regulations under section 26(a), with the governing body of one or more other maintained schools, and

(b) arrangements made, in pursuance of regulations under section 166(1)(a) of the Education and Inspections Act 2006, with one or more further education bodies (within the meaning of that section).

(6) For the purposes of discharging their functions by virtue of this Part in relation to courses of study within the specified entitlement areas, a local

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education authority may make arrangements with an institution within the further education sector under which a course of study within a specified entitlement area is made available to pupils of a school at the institution within the further education sector.

(7) The Learning and Skills Council for England must co-operate with a local education authority who propose to make arrangements in pursuance of subsection (6).”

(4) Until the commencement of subsection (1), section 85 of EA 2002 has effect with the following modifications—

(a) in subsection (1) after “other foundation subjects” insert “ , the entitlement conferred by subsection (3A) ”, and

(b) after subsection (3) insert—

“(3A) A pupil in the fourth key stage is entitled, if he so elects, to follow a course of study in science which leads to such qualification or set of qualifications as the governing body may choose from among those—

(a) approved under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act, and

(b) specified by the Secretary of State by order for the purposes of this subsection.”

(5) Any order made (by virtue of subsection (4) of this section) under section 85(3A) of EA 2002 before the commencement of subsection (1) of this section is to have effect from that commencement as if made under subsection (5) of section 85 (as substituted by subsection (1)).

Textual Amendments

F5 Words in s. 74(3) substituted (26.11.2008) by Education and Skills Act 2008 (c. 25), s. 173(1)(g), **Sch. 1 para. 87**

Commencement Information

I98 S. 74(4) in force at 1.4.2007 by S.I. 2007/935, **art. 5(k)**

PROSPECTIVE

[F6]75 Education and training to satisfy entitlements

. . . . . .

Textual Amendments

F6 S. 75 repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 6 para. 59, **Sch. 16 Pt. 2**; S.I. 2010/303, art. 3, Sch. 2 (with arts. 13, 14) (as amended (30.3.3010) by S.I. 2010/1151, art. 22)

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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PART 6

SCHOOL TRAVEL AND SCHOOL FOOD

Travel to schools etc

76 LEAs in England: duty to promote sustainable modes of travel etc

After section 508 of EA 1996 insert—

"508A LEAs in England: duty to promote sustainable modes of travel etc

(1) A local education authority in England must—
- (a) prepare for each academic year a document containing their strategy to promote the use of sustainable modes of travel to meet the school travel needs of their area ("a sustainable modes of travel strategy"),
- (b) publish the strategy in such manner and by such time as may be prescribed, and
- (c) promote the use of sustainable modes of travel to meet the school travel needs of their area.

(2) Before preparing a sustainable modes of travel strategy, an authority must in particular—
- (a) assess the school travel needs of their area, and
- (b) assess the facilities and services for sustainable modes of travel to, from and within their area.

(3) "Sustainable modes of travel" are modes of travel which the authority consider may improve either or both of the following—
- (a) the physical well-being of those who use them;
- (b) the environmental well-being of the whole or a part of their area.

(4) The "school travel needs" of a local education authority's area are—
- (a) the needs of children and persons of sixth form age in the authority's area as regards travel mentioned in subsection (5), and
- (b) the needs of other children and persons of sixth form age as regards travel mentioned in subsection (6).

(5) The needs of children and persons of sixth form age in the authority's area as regards travel referred to in subsection (4)(a) are their needs as regards travel to and from—
- (a) schools at which they receive or are to receive education or training,
- (b) institutions within the further education sector at which they receive or are to receive education or training, or
- (c) any other places where they receive or are to receive education by virtue of arrangements made in pursuance of section 19(1).

(6) The needs of other children and persons of sixth form age as regards travel referred to in subsection (4)(b) are their needs as regards travel to and from—
- (a) schools at which they receive or are to receive education or training,

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(b) institutions within the further education sector at which they receive or are to receive education or training, or

(c) any other places where they receive or are to receive education by virtue of arrangements made in pursuance of section 19(1),

in so far as that travel relates to travel within the authority's area.

(7) The Secretary of State must issue, and may from time to time revise, guidance in relation to the discharge by a local education authority of their duties under this section.

(8) Before issuing or revising guidance under subsection (7), the Secretary of State must consult such persons as he considers appropriate.

(9) In discharging their duties under this section an authority must—

(a) consult such persons as they consider appropriate, and

(b) have regard to any guidance given from time to time by the Secretary of State under subsection (7).

(10) References in this section to persons of sixth form age are to be construed in accordance with subsection (1) of section 509AC.

(11) In this section, "academic year" has the same meaning as in section 509AC in the case of local education authorities in England."

Commencement Information

I99 S. 76 in force at 1.4.2007 by S.I. 2007/935, **art. 5(l)**

77 LEAs in England: provision of travel arrangements etc for children

(1) After section 508A of EA 1996 (inserted by section 76 above) insert—

"**508B LEAs in England: travel arrangements for eligible children**

(1) A local education authority in England must make, in the case of an eligible child in the authority's area to whom subsection (2) applies, such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child's attendance at the relevant educational establishment in relation to him, are made and provided free of charge in relation to the child.

(2) This subsection applies to an eligible child if—

(a) no travel arrangements relating to travel in either direction between his home and the relevant educational establishment in relation to him, or in both directions, are provided free of charge in relation to him by any person who is not the authority, or

(b) such travel arrangements are provided free of charge in relation to him by any person who is not the authority but those arrangements, taken together with any other such travel arrangements which are so provided, do not provide suitable home to school travel arrangements for the purpose of facilitating his attendance at the relevant educational establishment in relation to him.

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(3) "Home to school travel arrangements", in relation to an eligible child, are travel arrangements relating to travel in both directions between the child's home and the relevant educational establishment in question in relation to that child.

(4) "Travel arrangements", in relation to an eligible child, are travel arrangements of any description and include—

(a) arrangements for the provision of transport, and

(b) any of the following arrangements only if they are made with the consent of a parent of the child—

(i) arrangements for the provision of one or more persons to escort the child (whether alone or together with other children) when travelling to or from the relevant educational establishment in relation to the child;

(ii) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses;

(iii) arrangements for the payment of allowances in respect of the use of particular modes of travel.

(5) "Travel arrangements", in relation to an eligible child, include travel arrangements of any description made by any parent of the child only if those arrangements are made by the parent voluntarily.

(6) "Travel arrangements", in relation to an eligible child, do not comprise or include travel arrangements which give rise to additional costs and do not include appropriate protection against those costs.

(7) For the purposes of subsection (6)—

(a) travel arrangements give rise to additional costs only if they give rise to any need to incur expenditure in order for the child to take advantage of anything provided for him in pursuance of the arrangements, and

(b) travel arrangements include appropriate protection against those costs only if they include provision for any expenditure that needs to be incurred for the purpose mentioned in paragraph (a) in the case of the child to be met by the person by whom the arrangements are made.

(8) Travel arrangements are provided free of charge if there is no charge for anything provided in pursuance of the arrangements.

(9) Schedule 35B has effect for the purposes of defining "eligible child" for the purposes of this section.

(10) References to a "relevant educational establishment", in relation to an eligible child, are references to—

(a) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 2, 4, 6, 9, 11 and 12 of Schedule 35B, the qualifying school (within the meaning of that Schedule) at which the child is a registered pupil referred to in the paragraph in question, and

(b) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 3, 5, 7, 10 and 13 of Schedule 35B, the place other than a school, where the child is receiving education by virtue

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of arrangements made in pursuance of section 19(1), referred to in the paragraph in question.

(11) Regulations may modify subsections (1) and (2) to provide for their application in cases where there is more than one relevant educational establishment in relation to a child.

508C LEAs in England: travel arrangements etc for other children

(1) A local education authority in England may make such school travel arrangements as they consider necessary, in relation to any child in the authority's area to whom this section applies, for the purpose of facilitating the child's attendance at any relevant educational establishment in relation to the child.

(2) This section applies to a child who is not an eligible child for the purposes of section 508B.

(3) "School travel arrangements", in relation to such a child, are travel arrangements relating to travel in either direction between his home and any relevant educational establishment in relation to the child, or in both directions.

(4) "Travel arrangements", in relation to such a child, are travel arrangements of any description and include—
- (a) arrangements for the provision of transport, and
- (b) any of the following arrangements only if they are made with the consent of a parent of the child—
  - (i) arrangements for the provision of one or more persons to escort the child (whether alone or together with other children) when travelling to or from any relevant educational establishment in relation to the child;
  - (ii) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses;
  - (iii) arrangements for the payment of allowances in respect of the use of particular modes of travel.

(5) A local education authority in England may pay, in the case of a child in the authority's area to whom this section applies and in relation to whom no arrangements are made by the authority under subsection (1), the whole or any part, as they think fit, of a person's reasonable travelling expenses in relation to that child's travel in either direction between his home and any relevant educational establishment in relation to the child, or in both directions.

(6) References to a "relevant educational establishment", in relation to a child to whom this section applies, are references to—
- (a) any school at which he is a registered pupil,
- (b) any institution within the further education sector at which he is receiving education, or
- (c) any place other than a school where he is receiving education by virtue of arrangements made in pursuance of section 19(1).

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508D Guidance etc in relation to sections 508B and 508C

(1) The Secretary of State must issue, and may from time to time revise, guidance in relation to the discharge by a local education authority of their functions under sections 508B and 508C.

(2) Before issuing or revising guidance under subsection (1), the Secretary of State must consult such persons as he considers appropriate.

(3) In discharging their functions under sections 508B and 508C an authority must have regard to any guidance given from time to time by the Secretary of State under subsection (1).

(4) Regulations may require a local education authority to publish, at such times and in such manner as may be prescribed, such information as may be prescribed with respect to the authority's policy and arrangements relating to the discharge of their functions under section 508B or 508C.”

(2) Schedule 8 (which inserts Schedule 35B to EA 1996) has effect.

Commencement Information

I100 S. 77(1) in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(m)**
I101 S. 77(1) in force at 1.9.2007 in so far as not already in force by S.I. 2007/1801, **art. 4(b)**
I102 S. 77(2) in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(c)**
I103 S. 77(2) in force at 1.9.2008 in so far as not already in force by S.I. 2008/1971, **art. 2(b)**

78 LEAs in England: school travel schemes

(1) After section 508D of EA 1996 (inserted by section 77 above) insert—

“**508E LEAs in England: school travel schemes**

(1) Schedule 35C has effect in relation to school travel schemes.

(2) Where a school travel scheme is in force under Schedule 35C, the local education authority in England by which the scheme is made must give effect to the scheme by—

(a) making the arrangements which are set out in the scheme as described in paragraph 2(1) of that Schedule as arrangements to be made by the authority,

(b) complying with the requirement of the scheme described in paragraph 2(5) of that Schedule (requirement to make suitable alternative arrangements),

(c) complying with the requirement of the scheme described in paragraph 3 of that Schedule (travel arrangements for eligible children), and

(d) complying with the scheme's policy applicable to charging and any other requirements of the scheme.

(3) Where a school travel scheme is in force under Schedule 35C, the local education authority in England by which the scheme is made do not have any functions under section 508B or 508C in relation to children in their area.

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(4) The Secretary of State must issue, and may from time to time revise, guidance in relation to the discharge by a local education authority in England of any duty under subsection (2) or of any functions under Schedule 35C.

(5) Before issuing or revising guidance under subsection (4), the Secretary of State must consult such persons as he considers appropriate.

(6) In discharging any duty under subsection (2) and in exercising any functions under Schedule 35C, a local education authority in England must have regard to any guidance given from time to time by the Secretary of State under subsection (4).”

(2) Schedule 9 (which inserts Schedule 35C to EA 1996) has effect.

Commencement Information
I104 S. 78 in force at 1.4.2007 by S.I. 2007/935, **art. 5(n)**

79 Piloting of school travel scheme provisions

(1) The school travel scheme provisions are to be piloted in accordance with regulations made by the Secretary of State.

(2) Regulations under subsection (1) may, in particular, provide for there to be a limit on the number of school travel schemes which may be in force while the school travel scheme provisions are being piloted.

(3) In this section, “the school travel scheme provisions” means section 508E of, and Schedule 35C to, EA 1996.

Commencement Information
I105 S. 79 in force at 1.4.2007 by S.I. 2007/935, **art. 5(n)**

80 Power to repeal school travel scheme provisions etc

(1) The Secretary of State must prepare and publish, before 1st January 2012, an evaluation of the operation and effect of school travel schemes approved under Schedule 35C to EA 1996.

(2) The Secretary of State may by order provide for the school travel scheme provisions to cease to have effect in relation to local education authorities with effect from such date as may be specified in the order.

(3) The earliest date which may be specified under subsection (2) is 1st August 2012.

(4) The latest date which may be specified under subsection (2) is 1st August 2015.

(5) Power to make an order under this section includes power to make consequential amendments and repeals in any enactment, including this Act and enactments passed or made after the passing of this Act.

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(6) In this section, "the school travel scheme provisions" means section 508E of, and Schedule 35C to, EA 1996.

Commencement Information

I106 S. 80 in force at 1.4.2007 by S.I. 2007/935, **art. 5(n)**

PROSPECTIVE

[F7]81 [Local authorities] in England: provision of transport etc for certain adult learners

. . . . . .

Textual Amendments

F7 S. 81 repealed (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 57(5), 269(4), **Sch. 16 Pt. 1**; S.I. 2010/303, art. 3, Sch. 2 (with art. 8)

82 Amendments of section 444 of EA 1996 in relation to school travel

(1) Section 444 of EA 1996 (offence of failing to secure regular attendance at school of registered pupil) is amended as follows.

(2) After subsection (3) insert—

"(3A) Subsections (3B) and (3D) apply where the child's home is in England.

(3B) The child shall not be taken to have failed to attend regularly at the school if the parent proves that—

(a) the local education authority have a duty to make travel arrangements in relation to the child under section 508B(1) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty, or

(b) the local education authority have a duty to make travel arrangements in relation to the child by virtue of subsection (2)(c) of section 508E (school travel schemes) for the purpose of facilitating the child's attendance at the school and have failed to discharge that duty.

(3C) For the purposes of subsection (3B)—

(a) the reference to "travel arrangements" in paragraph (a) has the same meaning as in section 508B, and

(b) the reference to "travel arrangements" in paragraph (b) has the same meaning as in paragraph 3 of Schedule 35C.

(3D) Where the school is an independent school which is not a qualifying school, the child shall not be taken to have failed to attend regularly at the school if the parent proves—

(a) that the school is not within walking distance of the child's home,

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(b) that no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near the school, and

(c) that no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(3E) For the purposes of subsection (3D), "qualifying school" has the same meaning as it has for the purposes of Schedule 35B (meaning of "eligible child" for the purposes of section 508B).

(3F) Subsection (4) applies where the child's home is in Wales."

(3) In subsection (5) for "subsection (4)" substitute " subsections (3D) and (4) ".

(4) In subsection (6) for "subsection (4)" substitute " subsections (3B), (3D) and (4) ".

(5) The amendments made by this section do not apply in relation to any failure of a child to attend at a school or other place in relation to which section 444 of EA 1996 applies which occurs on a day before this section comes into force.

Commencement Information

I107 S. 82 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(d)**

83 Learning and Skills Council for England: transport etc for persons of sixth form age

[F8](1) . . . . . .

(2) In section 509AB of EA 1996 (further provision about transport policy statements)—

(a) in subsection (5), for the words from "by the Secretary" to the end substitute "under this section—

(a) by the Learning and Skills Council for England [F9]...

[F9](b) . . . . . .",

[F9](b) . . . . . .

[F9](c) . . . . . .

[F10](3) . . . . . .

(4) In section 18 of the Learning and Skills Act 2000 (c. 21) (supplementary functions of Learning and Skills Council for England), after subsection (5) insert—

"(6) The Secretary of State may by order confer or impose on the Council such powers or duties falling within subsection (7) as he thinks fit.

(7) A power or duty falls within this subsection if it is exercisable in connection with—

(a) the Secretary of State's function under section 509AA(9) of the Education Act 1996 (power to direct LEA to make arrangements additional to those specified in transport policy statement), or

(b) any function of the Secretary of State under any of sections 496 to 497B of the Education Act 1996 as regards anything done, proposed

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to be done or omitted to be done by a local education authority in England under section 509AA or 509AB of that Act."

Textual Amendments

F8 S. 83(1) repealed (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 2**; S.I. 2009/371, art. 2(1), Sch. Pt. 1

F9 Words in s. 83(2) repealed (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 2**; S.I. 2009/371, art. 2(1), Sch. Pt. 1

F10 S. 83(3) repealed (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 2**; S.I. 2009/371, art. 2(1), Sch. Pt. 1

Commencement Information

I108 S. 83 in force at 1.4.2007 by S.I. 2007/935, **art. 5(o)** (with art. 8(6)(7))

84 LEAs in England: duty to have regard to religion or belief in exercise of travel functions

After section 509AC of EA 1996 insert—

"**509AD LEAs in England: duty to have regard to religion or belief in exercise of travel functions**

(1) A local education authority in England must have regard, amongst other things, in exercising any of their travel functions in relation to or in connection with the travel of a person or persons to or from a school, institution or other place, to any wish of a parent of such a person for him to be provided with education or training at a particular school, institution or other place where that wish is based on the parent's religion or belief.

(2) The "travel functions" of a local education authority in England are their functions under any of the following provisions—

section 508A (duty to promote sustainable modes of travel etc);
section 508B (travel arrangements for eligible children);
section 508C (travel arrangements etc for other children);
section 508E and Schedule 35C (school travel schemes);
section 508F (transport etc for certain adult learners);
section 509AA (transport etc for persons of sixth form age).

(3) For the purposes of this section—

(a) "religion" means any religion,
(b) "belief" means any religious or philosophical belief,
(c) a reference to religion includes a reference to lack of religion, and
(d) a reference to belief includes a reference to lack of belief."

Commencement Information

I109 S. 84 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(p)**

I110 S. 84 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(e)**

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85 Further amendments relating to travel to schools etc

Schedule 10 contains further amendments relating to travel to schools and other places where education or training is received.

Commencement Information

I111 S. 85 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(q)**

I112 S. 85 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(f)**

Food and drink provided on school premises etc

86 Provision of food and drink on school premises etc

(1) For section 114 of SSFA 1998 (nutritional standards for school lunches) and the cross-heading preceding it substitute—

"Food and drink provided on school premises etc

114A Requirements for food and drink provided on school premises etc

(1) Regulations may prescribe requirements which, subject to such exceptions as may be provided for by or under the regulations, are to be complied with in connection with—

(a) food or drink provided on the premises of any school maintained by a local education authority, or

(b) food or drink provided at a place other than school premises by a local education authority or the governing body of a school maintained by such an authority to any registered pupil at the school.

(2) Regulations under this section may in particular—

(a) specify nutritional standards, or other nutritional requirements, which are to be complied with;

(b) require that drinking water is to be available, free of charge, on the premises of any school maintained by a local education authority;

(c) require that specified descriptions of food or drink are not to be provided.

(3) Requirements prescribed by virtue of subsection (1)(a) do not apply to food or drink brought on to the premises of a school maintained by a local education authority where the food or drink is brought on to those premises by any person for his own consumption.

(4) Where a local education authority or the governing body of a school maintained by such an authority provide food or drink—

(a) to anyone on the premises of the school, or

(b) to any registered pupil at the school at a place other than school premises,

that authority or, as the case may be, that governing body must secure that any applicable provisions of the regulations are complied with.

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(5) Subsection (4) applies whether the food or drink is provided in pursuance of any statutory requirement or otherwise.

(6) Where—

(a) food or drink is provided on the premises of a school maintained by a local education authority,

(b) the provision is by a person ("X") other than the authority or the governing body of the school, and

(c) X uses or occupies the whole or a part of the premises in circumstances related to a use or occupation agreement made (whether by X or any other person) with the authority or the governing body,

that authority or, as the case may be, that governing body must secure that any applicable provisions of the regulations are complied with.

(7) A "use or occupation agreement", in relation to the premises of a school, is an agreement or other arrangement relating to the use or occupation of the whole or any part of the premises.

(8) Without prejudice to the generality of section 138(7), regulations under this section may prescribe—

(a) different requirements in relation to different classes or descriptions of school as specified in the regulations;

(b) different requirements in connection with food or drink provided by or to different classes or descriptions of person as specified in the regulations;

(c) requirements which apply during different periods of the day as specified in the regulations.

(9) A "place other than school premises" means a place other than the premises of any school maintained by a local education authority.

(10) References in this section to food or drink provided by a local education authority or the governing body of a school include references to food or drink provided in pursuance of an agreement or other arrangement made by such an authority or body for the provision of food or drink."

(2) In section 512(4) of EA 1996 (LEA functions concerning provision of meals), for "section 114(2) of the School Standards and Framework Act 1998 (lunches provided by LEAs to meet nutritional standards)" substitute " section 114A(4) of the School Standards and Framework Act 1998 (requirements for food and drink provided on school premises etc) ".

(3) Any regulations made under section 114 of SSFA 1998 which have effect immediately before the commencement of this section have effect after that commencement as if made under section 114A of that Act (as substituted by subsection (1)).

87 Power to charge for provision of meals etc

(1) In section 512ZA of EA 1996 (duty of LEA to charge for meals etc)—

(a) in subsection (1), for "shall" substitute " may ",

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(b) in subsection (2), for "A local education authority shall" substitute " Where a local education authority exercise the power to charge under subsection (1), they must ", and

(c) in the heading, for "Duty" substitute " Power ".

(2) In section 533 of EA 1996 (duties of governing bodies with respect to provision of school meals etc)—

(a) in subsection (3), for the words from "shall" to the end substitute " may charge for anything so provided. ",

(b) after that subsection, insert—

"(4) Where the governing body of a school exercise the power to charge under subsection (3), they must charge every person the same price for the same quantity of the same item.", and

(c) in the heading, for "Duties" substitute " Functions ".

PART 7

DISCIPLINE, BEHAVIOUR AND EXCLUSION

CHAPTER 1

SCHOOL DISCIPLINE

Certain schools required to have behaviour policy

88 Responsibility of governing body for discipline

(1) The governing body of a relevant school must ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.

(2) In particular, the governing body—

(a) must make, and from time to time review, a written statement of general principles to which the head teacher is to have regard in determining any measures under section 89(1), and

(b) where they consider it desirable that any particular measures should be so determined by the head teacher or that he should have regard to any particular matters—

(i) shall notify him of those measures or matters, and

(ii) may give him such guidance as they consider appropriate.

(3) Before making or revising the statement required by subsection (2)(a) the governing body must consult (in such manner as appears to them to be appropriate)—

(a) the head teacher,

(b) such other persons who work at the school (whether or not for payment) as it appears to the governing body to be appropriate to consult,

(c) parents of registered pupils at the school, and

(d) registered pupils at the school.

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(4) In exercising their functions under subsection (2) the governing body must have regard to any guidance given from time to time—

(a) in relation to England, by the Secretary of State, and

(b) in relation to Wales, by the Assembly.

(5) In this section and section 89—

"relevant school" means—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school,

(c) a maintained nursery school,

(d) a pupil referral unit, or

(e) a school approved by the Secretary of State or the Assembly under section 342 of EA 1996 (approval of non-maintained special schools);

"governing body", in relation to a school approved by the Secretary of State or the Assembly under section 342 of EA 1996, means the proprietor of the school.

Modifications etc. (not altering text)

C8 S. 88 applied (with modifications) (25.5.2007) by The School Governance (New Schools) (England) Regulations 2007 (S.I. 2007/958), regs. 1, **30**

Commencement Information

I113 S. 88 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

89 Determination by head teacher of behaviour policy

(1) The head teacher of a relevant school must determine measures to be taken with a view to—

(a) promoting, among pupils, self-discipline and proper regard for authority,

(b) encouraging good behaviour and respect for others on the part of pupils and, in particular, preventing all forms of bullying among pupils,

(c) securing that the standard of behaviour of pupils is acceptable,

(d) securing that pupils complete any tasks reasonably assigned to them in connection with their education, and

(e) otherwise regulating the conduct of pupils.

(2) The head teacher must in determining such measures—

(a) act in accordance with the current statement made by the governing body under section 88(2)(a), and

(b) have regard to any notification or guidance given to him under section 88(2)(b).

(3) The standard of behaviour which is to be regarded as acceptable must be determined by the head teacher, so far as it is not determined by the governing body.

(4) The measures which the head teacher determines under subsection (1) must include the making of rules and provision for disciplinary penalties (as defined by section 90).

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(5) The measures which the head teacher determines under subsection (1) may, to such extent as is reasonable, include measures to be taken with a view to regulating the conduct of pupils at a time when they are not on the premises of the school and are not under the lawful control or charge of a member of the staff of the school.

(6) The measures determined by the head teacher under subsection (1) must be publicised by him in the form of a written document as follows—

(a) he must make the measures generally known within the school and to parents of registered pupils at the school, and

(b) he must in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons who work at the school (whether or not for payment).

Commencement Information

I114 S. 89 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

I115 S. 89(1)-(3) (5)(6) in force at 1.1.2009 for W. by S.I. 2009/2545, **art. 3(2)(a)** (with art. 4)

Enforcement of discipline (including compliance with instructions)

90 Meaning of "disciplinary penalty"

(1) In this Chapter, "disciplinary penalty" means a penalty imposed on a pupil, by any school at which education is provided for him, where his conduct falls below the standard which could reasonably be expected of him (whether because he fails to follow a rule in force at any such school or an instruction given to him by a member of its staff or for any other reason).

(2) In subsection (1), the reference to conduct, in relation to a pupil, includes—

(a) conduct which occurs at a time when the pupil is not on the premises of a school and is not under the lawful control or charge of a member of the staff of a school, but only to the extent that it is reasonable for the school imposing the penalty to regulate the pupil's conduct at such a time, and

(b) conduct which consists of a failure by the pupil to comply with a penalty previously imposed on him.

Commencement Information

I116 S. 90 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

91 Enforcement of disciplinary penalties: general

(1) This section applies in relation to a disciplinary penalty imposed on a pupil by any school at which education is provided for him, other than a penalty which consists of exclusion.

(2) The imposition of the disciplinary penalty is lawful if the following three conditions are satisfied.

(3) The first condition is that the imposition of the penalty on the pupil—

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(a) is not in breach of any statutory requirement or prohibition, and
(b) is reasonable in all the circumstances.

(4) The second condition is that the decision to impose the penalty on the pupil was made—
(a) by any paid member of the staff of the school, except in circumstances where the head teacher has determined that the member of staff is not permitted to impose the penalty on the pupil, or
(b) by any other member of the staff of the school, in circumstances where the head teacher has authorised the member of the staff to impose the penalty on the pupil and it was reasonable for the head teacher to do so.

(5) The third condition is that the decision to impose the penalty was made, and any action taken on behalf of the school to implement the decision was taken—
(a) on the premises of the school, or
(b) elsewhere at a time when the pupil was under the lawful control or charge of a member of staff of the school.

(6) In determining for the purposes of subsection (3)(b) whether the imposition of the penalty is reasonable, the following matters must be taken into account—
(a) whether the imposition of the penalty constitutes a proportionate punishment in the circumstances of the case, and
(b) any special circumstances relevant to its imposition on the pupil which are known to the person imposing it (or of which he ought reasonably to be aware) including in particular—
(i) the pupil's age,
(ii) any special educational needs he may have,
(iii) any disability he may have, and
(iv) any religious requirements affecting him.

(7) For the purposes of subsection (6)(b)(iii) a pupil has a disability if he has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50).

(8) A determination or authorisation by the head teacher for the purpose of subsection (4)(a) or (b) may be made—
(a) in relation to a particular member of staff or members of staff of a particular description;
(b) in relation to a particular disciplinary penalty or disciplinary penalties of a particular description;
(c) in relation to a particular pupil or pupils of a particular description or generally in relation to pupils.

(9) Where the disciplinary penalty is detention outside school sessions, this section has effect subject to section 92.

(10) Nothing in this section authorises anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548 of EA 1996.

(11) This section is not to be construed as restricting what may lawfully be done apart from this section.

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(12) In this section, "paid member of the staff", in relation to a school, means any member of the staff who works at the school for payment, whether under a contract of employment or a contract for services; and, for this purpose, it is immaterial whether the contract of employment or contract for services is made with the governing body or proprietor of the school or with any other person.

Commencement Information
I117 S. 91 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

92 Enforcement of disciplinary penalties: detention outside school sessions

(1) This section applies in relation to a disciplinary penalty which consists of the detention of a pupil outside school sessions.

(2) In relation to a disciplinary penalty to which this section applies, subsection (2) of section 91 has effect as if it required the following additional conditions to be satisfied, as well as the conditions set out in subsections (3) to (5) of that section.

(3) The additional conditions are—
- (a) that the pupil has not attained the age of 18,
- (b) that the head teacher of the school has previously determined, and has made generally known within the school and to parents of registered pupils at the school, that the detention of pupils outside school sessions is one of the measures that may be taken with a view to regulating the conduct of pupils,
- (c) that the detention is on a permitted day of detention, and
- (d) that the pupil's parent has been given at least 24 hours' notice in writing that the detention is due to take place.

(4) The additional conditions set out in subsection (3)(a), (c) and (d) do not apply in the case of a detention during a break between school sessions on the same day.

(5) If arrangements have to be made for the pupil to travel to school for the purposes of the detention or to travel home after the detention, then in determining for the purposes of the condition in subsection (3) of section 91 whether the imposition of the detention is reasonable, subsection (6) of that section is to be read as if it also required the question whether suitable travelling arrangements can reasonably be made by his parent to be taken into account.

(6) Section 572 of EA 1996, which provides for the methods by which notices may be served under that Act, does not preclude a notice under subsection (3)(d) from being given to the parent by any effective method.

(7) This section is not to be construed as restricting what may lawfully be done apart from this section.

(8) In this section, "permitted day of detention", in relation to a pupil, means any of the following days—
- (a) a school day, other than a day on which the pupil has leave to be absent, and for this purpose "leave" means leave granted by a person authorised to do so by the governing body or proprietor of the school;

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(b) a Saturday or Sunday during a school term, other than a Saturday or Sunday which falls during, or at a weekend immediately preceding or immediately following, a half-term break;

(c) a day (whether or not during a school term) which is set aside wholly or mainly for the performance of duties by members of the staff of the school other than teaching, other than such a day which is excluded by regulations made—

(i) in relation to England, by the Secretary of State, and

(ii) in relation to Wales, by the Assembly.

Commencement Information

I118 S. 92 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

Use of reasonable force

93 Power of members of staff to use force

(1) A person to whom this section applies may use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely—

(a) committing any offence,

(b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or

(c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

(2) This section applies to a person who is, in relation to a pupil, a member of the staff of any school at which education is provided for the pupil.

(3) The power conferred by subsection (1) may be exercised only where—

(a) the member of the staff and the pupil are on the premises of the school in question, or

(b) they are elsewhere and the member of the staff has lawful control or charge of the pupil concerned.

(4) Subsection (1) does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548 of EA 1996.

(5) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.

(6) In this section, "offence" includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.

Commencement Information

I119 S. 93 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Confiscation from pupils

94 Defence where confiscation lawful

(1) This section applies where, as a disciplinary penalty—
  (a) an item which a pupil has with him or in his possessions is seized, and
  (b) the item is retained for any period or is disposed of.

(2) A person who seizes, retains or disposes of the item is not liable in any proceedings in respect of—
  (a) the seizure, retention or disposal (as the case may be), or
  (b) any damage or loss which arises in consequence of it,

  if he proves that the seizure, retention or disposal (as the case may be) was lawful (whether or not by virtue of section 91).

(3) Nothing in this section applies where an item is seized under section 550AA of EA 1996 (provision as to what is to be done with such an item being made by that section).

(4) This section is not to be construed as preventing any person relying on any defence on which he is entitled to rely apart from this section.

Commencement Information
I120 S. 94 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

Interpretation of Chapter 1

95 Interpretation of Chapter 1

In this Chapter—

"disciplinary penalty" has the meaning given by section 90;

"member of the staff", in relation to a school, means—
  (a) any teacher who works at the school, and
  (b) any other person who, with the authority of the head teacher, has lawful control or charge of pupils for whom education is being provided at the school;

"possessions", in relation to a pupil, includes any goods over which he appears to have control.

Commencement Information
I121 S. 95 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**

Repeals

96 Repeals consequential on provisions of Chapter 1

The following provisions (which are superseded by sections 88 to 93) cease to have effect—

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(a) sections 550A and 550B of EA 1996;
(b) section 61 of SSFA 1998.

Commencement Information
I122 S. 96 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(a)**
I123 S. 96(b) in force at 1.1.2009 for specified purposes for W. by S.I. 2009/2545, **art. 3(2)(b)**

CHAPTER 2

PARENTAL RESPONSIBILITIES AND EXCLUDED PUPILS

Parenting contracts and parenting orders

97 Parenting contracts

(1) Section 19 of the Anti-social Behaviour Act 2003 (c. 38) (parenting contracts in cases of exclusion from school or truancy) is amended as follows.

(2) After subsection (1) insert—

"(1A) This section also applies where a local education authority or the governing body of a relevant school have reason to believe that a child who is a registered pupil at a relevant school has engaged in behaviour connected with the school which—

(a) has caused, or is likely to cause—

(i) significant disruption to the education of other pupils, or

(ii) significant detriment to the welfare of the child himself or of other pupils or to the health or safety of any staff, or

(b) forms part of a pattern of behaviour which (if continued) will give rise to a risk of future exclusion from the school on disciplinary grounds.

(1B) For the purposes of subsection (1A) the child's behaviour is connected with the school to the extent that it consists of—

(a) conduct at the school, or

(b) conduct elsewhere in circumstances in which it would be reasonable for the school to regulate his conduct."

(3) In subsection (6), after "subsection (1)" insert " or (1A) ".

(4) In the heading to the section, and in the italic cross-heading immediately before the section, for "exclusion from" substitute " misbehaviour at ".

Commencement Information
I124 S. 97 in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(c)**

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98 Parenting orders in case of exclusion or misbehaviour

(1) Section 20 of the Anti-social Behaviour Act 2003 (parenting orders in case of exclusion from school) is amended as follows.

(2) In subsection (1), for "This section" substitute " Subsection (2) ".

(3) In subsection (2), for "A local education authority" substitute " A relevant body ".

(4) After subsection (2) insert—

"(2A) A relevant body may also apply to a magistrates' court for a parenting order in respect of a pupil at a relevant school if—

(a) it appears to the body making the application that the pupil has engaged in behaviour which would warrant the exclusion of the pupil from the school on disciplinary grounds for a fixed period or permanently, and

(b) such conditions as may be prescribed in regulations made by the appropriate person are satisfied.

(2B) For the purposes of subsection (2A), there are to be disregarded—

(a) any practice restricting the use of exclusion at a particular school, or at schools of a particular description, and

(b) any grounds that might exist for not excluding the pupil, to the extent that those grounds relate to his education or welfare after exclusion."

(5) For subsection (3) substitute—

"(3) If an application is made under subsection (2) or (2A), the court may make a parenting order in respect of a pupil if it is satisfied—

(a) in the case of an application under subsection (2A), that the pupil has engaged in behaviour of the kind mentioned in that subsection, and

(b) in any case, that the making of the order would be desirable in the interests of improving the behaviour of the pupil."

(6) After subsection (8) insert—

"(9) In this section "a relevant body" means—

(a) a local education authority,

(b) the governing body of any relevant school in England at which the pupil to whom the application relates is a pupil or from which he has been excluded."

(7) In the heading, after "exclusion" insert " or potential exclusion ".

Commencement Information

I125 S. 98 in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(c)**

99 Parenting contracts and parenting orders: further provisions

(1) The Anti-social Behaviour Act 2003 (c. 38) is amended as follows.

(2) In section 21 (parenting orders: supplemental)—

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(a) in subsection (1)(a), after "subsection (1)" insert " or (1A) ",

(b) after subsection (1) insert—

"(1A) In deciding whether to make a parenting order under section 20, a court must also take into account any failure by the parent without reasonable excuse to attend a reintegration interview under section 102 of the Education and Inspections Act 2006 (reintegration interview in case of fixed period exclusion) when requested to do so in accordance with regulations under that section.",

(c) omit subsection (4), and

(d) in subsection (5), after "authorities," insert " governing bodies ".

(3) After section 22 insert—

"**22A Parenting contracts and parenting orders: further provisions**

(1) The appropriate person may by regulations make further provision about the exercise by local education authorities and the governing bodies of relevant schools of their functions relating to—

(a) parenting contracts under section 19, and

(b) parenting orders under section 20.

(2) The provision that may be made under subsection (1) includes—

(a) provision limiting the power of a local education authority to enter into a parenting contract, or apply for a parenting order, in prescribed cases where—

(i) the school by reference to which the contract is entered into or the application is made is not in the area of the authority, or

(ii) the child by reference to whom the contract is entered into or the application is made does not reside in that area;

(b) provision as to which governing body may apply for a parenting order in cases where a pupil has been admitted to a relevant school after being permanently excluded from another;

(c) provision requiring one local education authority or governing body to consult with another before taking any prescribed step;

(d) provision authorising or requiring the provision of information by one local education authority or governing body to another;

(e) provision as to how the costs associated with parenting contracts entered into by local education authorities or governing bodies of relevant schools or the costs associated with the requirements of parenting orders under section 20 (including in each case the costs of providing counselling or guidance programmes) are to be met.

(3) In subsection (2), "prescribed" means prescribed by regulations made by the appropriate person under subsection (1)."

(4) In section 24 (interpretation)—

(a) for "sections 19 to 21" substitute " sections 19 to 22A ", and

(b) after the definition of "child of compulsory school age" insert—

""governing body", in relation to a relevant school which is an Academy, a city technology college or a city college for the

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technology of the arts, means the proprietor of the school, as defined by section 579(1) of the 1996 Act;".

Commencement Information
I126 S. 99 in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(c)** (with art. 5(2))

Excluded pupils

100 Duty of governing body or proprietor where pupil excluded for fixed period

(1) Except in prescribed cases, the governing body of a relevant school in England must make arrangements for the provision of suitable full-time education for pupils of compulsory school age who are excluded from the school for a fixed period on disciplinary grounds.

(2) The education referred to in subsection (1) must be provided from a day that, in relation to the pupil concerned, is determined in accordance with regulations.

(3) The education must not be provided at the school unless it is provided there in pursuance of arrangements which—
  (a) are made jointly with the governing body of at least one other relevant school, and
  (b) make provision for the education of pupils excluded on disciplinary grounds from any of the schools that are parties to the arrangements.

(4) In determining what arrangements to make under subsection (1) in the case of any pupil, a governing body must have regard to any guidance given from time to time by the Secretary of State.

(5) In this section—

"governing body", in relation to a relevant school which is an Academy, a city technology college or a city college for the technology of the arts, means proprietor;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

"relevant school" does not include a pupil referral unit;

"suitable full-time education", in relation to a pupil, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

Commencement Information
I127 S. 100 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(g)**

101 Duty of local education authority in relation to excluded pupils

(1) Section 19 of EA 1996 (exceptional provision of education in pupil referral units or elsewhere) is amended as follows.

(2) After subsection (3) insert—

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"(3A) In relation to England, the duty imposed by subsection (1) includes, except in prescribed cases, a duty to make arrangements for the provision of suitable full-time education at school or otherwise than at school for—

(a) children of compulsory school age who have been permanently excluded on disciplinary grounds from relevant schools or pupil referral units, and have not subsequently been admitted to schools other than pupil referral units, and

(b) children of compulsory school age who are excluded for a fixed period on disciplinary grounds from any pupil referral unit maintained by the authority.

(3B) The education referred to in subsection (3A) must be provided from a day that, in relation to the pupil concerned, is determined in accordance with regulations."

(3) For subsection (6) substitute—

"(6) In this section—

"relevant school" means—

(a) a maintained school,

(b) an Academy,

(c) a city technology college, or

(d) a city college for the technology of the arts;

"suitable education", in relation to a child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have (and "suitable full-time education" is to be read accordingly)."

Commencement Information

I128 S. 101 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(g)**

102 Reintegration interviews

(1) Regulations may require the head teacher of a relevant school in prescribed cases to request any parent of a temporarily excluded pupil to attend an interview ("a reintegration interview") at the school with the head teacher of the school or any other person authorised by the head teacher.

(2) The purpose of a reintegration interview is to assist the reintegration of the pupil after the period of exclusion and to promote the improvement of his behaviour.

(3) Regulations under this section may make provision about the time within which any reintegration interview must be held, the procedure for arranging the interview and the notification of any request to the parent.

(4) In this section—

"prescribed" means prescribed by regulations;

"regulations" means regulations made—

(a) in relation to England, by the Secretary of State, or

(b) in relation to Wales, by the Assembly;

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

"a temporarily excluded pupil" means a pupil who is or has been excluded on disciplinary grounds for a fixed period.

Commencement Information
I129 S. 102 in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(d)**

103 Duty of parent in relation to excluded pupil

(1) This section applies where—
- (a) a pupil of compulsory school age ("the excluded pupil") is excluded on disciplinary grounds from a relevant school in England, whether for a fixed period or permanently, and
- (b) notice under section 104 has been given to a parent of the pupil.

(2) The parent of the excluded pupil must ensure that the pupil is not present in a public place at any time during school hours on a day which—
- (a) is one of the first five school days to which the exclusion mentioned in subsection (1)(a) relates or, where that exclusion is for a fixed period of five days or less, any of the days to which the exclusion relates, and
- (b) is stated in the notice under section 104 to be a day on which the parent is subject to this subsection.

(3) If the excluded pupil is present in a public place at any time during school hours on a school day falling within subsection (2), the parent commits an offence.

(4) It is a defence for a person charged with an offence under subsection (3) to prove that he had a reasonable justification for his failure to comply with the duty imposed by subsection (2).

(5) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Proceedings for an offence under subsection (3) may not be instituted except by a local education authority.

(7) Where the excluded pupil is excluded during the course of a school day but before the beginning of any afternoon session on that day, that day is to be treated for the purposes of subsection (2)(a) as the first day to which the exclusion relates.

(8) In this section—

"parent", in relation to a pupil, does not include any person who is not an individual;

"public place" means—
- (a) any highway, and
- (b) any place to which at the material time the public or any section of the public have access, on payment or otherwise, as of right or by virtue of express or implied permission;

"school hours" means any time during a school session of the school referred to in subsection (1)(a) or during a break between sessions of that school on the same day.

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Commencement Information

I130 S. 103 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(h)**

104 Notice to parent relating to excluded pupil

(1) The head teacher of a relevant school in England, on excluding from the school a pupil of compulsory school age, must give the parent by the prescribed time a notice in writing complying with subsections (2) and (3) and containing such other information as may be prescribed.

(2) Where the appropriate authority are or will be obliged under the relevant enactment to make arrangements for the provision of full-time education for the excluded pupil during his exclusion, or intend to do so without being so obliged, the notice must specify the first day on which full-time education is to be provided for the excluded pupil.

(3) The notice must specify as days on which the parent is to be subject to section 103(2) each school day beginning with the first school day to which the exclusion relates and ending with the earliest of the following—

(a) where a day is specified under subsection (2), the school day preceding that day,

(b) the fifth school day to which the exclusion relates, and

(c) the last school day to which the exclusion relates.

(4) Subsection (7) of section 103 applies for the purposes of subsection (3) as it applies for the purposes of subsection (2)(a) of that section.

(5) Where the appropriate authority are a local education authority, they must provide the head teacher with such information as will enable the head teacher to give a notice complying with subsection (2).

(6) Section 572 of EA 1996, which provides for the methods by which notices may be served under that Act, does not preclude a notice under this section from being given to the parent of the excluded pupil by any effective method.

(7) Regulations may enable a notice under this section to be combined with a notice required by virtue of section 52(3)(a) of EA 2002 (which relates to the exclusion of pupils from maintained schools).

(8) In this section—

"the appropriate authority" means—

(a) in the case of a permanent exclusion or an exclusion from a pupil referral unit, a local education authority,

(b) in the case of an exclusion for a fixed period from a maintained school, the governing body of the school, and

(c) in the case of an exclusion for a fixed period from a relevant school which is an Academy, a city technology college or a city college for the technology of the arts, the proprietor of the school;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Secretary of State;

"the relevant enactment" means—

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(a) where the appropriate authority is a local education authority, section 19 of EA 1996, and
(b) in any other case, section 100 of this Act.

Commencement Information
I131 S. 104 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(h)**

105 Penalty notice in respect of presence of excluded pupil in public place

(1) Where an authorised officer has reason to believe that a person has committed an offence under section 103(3), he may give the person a penalty notice in respect of the offence.

(2) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence under section 103(3) to which the notice relates by payment of a penalty in accordance with the notice.

(3) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.

(4) Where a person is given a penalty notice, he cannot be convicted of the offence to which the notice relates if he pays a penalty in accordance with the notice.

(5) Sums received by a local education authority under this section may be used by the authority for the purposes of any of their functions which may be specified in regulations but, to the extent that they are not so used, must be paid in accordance with regulations to the Secretary of State.

(6) In this section—

"authorised officer" means—
(a) a constable,
(b) an officer of a local education authority in England who is authorised by the authority to give penalty notices, or
(c) an authorised staff member;

"authorised staff member" means—
(a) a head teacher of a relevant school in England, or
(b) a member of the staff of a relevant school in England who is authorised by the head teacher of the school to give penalty notices;

"regulations" means regulations made by the Secretary of State.

Commencement Information
I132 S. 105 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(h)**

106 Penalty notices: supplemental

(1) Regulations may make—
(a) provision as to the form and content of penalty notices;

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(b) provision as to the monetary amount of any penalty and the time by which it is to be paid;

(c) provision for determining the local education authority to whom a penalty is payable;

(d) provision as to the methods by which penalties may be paid;

(e) provision as to the records which are to be kept in relation to penalty notices;

(f) provision as to the persons who may be authorised by a local education authority or a head teacher to give penalty notices;

(g) provision limiting the circumstances in which authorised officers of a prescribed description may give penalty notices;

(h) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—

(i) repayment of any amount by way of penalty under a penalty notice which is withdrawn, and

(ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates;

(i) provision for a certificate—

(i) purporting to be signed by or on behalf of a prescribed person, and

(ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,

to be received in evidence of the matters so stated;

(j) provision as to the action to be taken if a penalty is not paid in accordance with a penalty notice;

(k) provision for or in connection with the preparation of codes of conduct in relation to the giving of penalty notices;

(l) such other provision in relation to penalties or penalty notices as the Secretary of State thinks necessary or expedient.

(2) Without prejudice to the generality of subsection (1) or section 181(2)(a), regulations under subsection (1)(b) may make provision for penalties of different amounts to be payable in different cases (including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid).

(3) Local education authorities, head teachers and authorised officers must, in carrying out their functions in relation to penalty notices, have regard to any guidance which is given by the Secretary of State from time to time in relation to penalty notices.

(4) In this section —

"penalty" means a penalty under a penalty notice;

"penalty notice" has the meaning given by section 105(2);

and other expressions have the same meaning as in section 105.

Commencement Information

I133 S. 106 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(h)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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107 Penalty notices: amendments of Police Reform Act 2002

(1) The Police Reform Act 2002 (c. 30) is amended as follows.

(2) In paragraph 1(2) of Schedule 4 (powers of community support officers to issue fixed penalty notices), after paragraph (aa) insert—

"(ab) the power of a constable to give a penalty notice under section 105 of the Education and Inspections Act 2006 (penalty notice in respect of presence of excluded pupil in public place);".

(3) In paragraph 1(4) of that Schedule, after "sub-paragraph (2)(aa)" insert " or (ab) ".

(4) In paragraph 1(2) of Schedule 5 (powers of accredited persons to issue fixed penalty notices), after paragraph (ab) insert—

"(ac) the power of a constable to give a penalty notice under section 105 of the Education and Inspections Act 2006 (penalty notice in respect of presence of excluded pupil in public place);".

(5) In paragraph 1(4) of that Schedule, after "sub-paragraph (2)(ab)" insert " or (ac) ".

(6) In paragraph 2(4) of that Schedule, after "paragraph 1(2)(ab)" insert " or (ac) ".

Commencement Information

I134 S. 107 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(h)**

108 Removal of excluded pupils to designated premises

(1) Section 16 of the Crime and Disorder Act 1998 (c. 37) (removal of truants to designated premises) is amended in accordance with subsections (2) to (6).

(2) In subsection (2)—

(a) for "subsection (3)" substitute " subsections (3) and (3ZA) ", and

(b) for "that subsection" substitute " each of those subsections ".

(3) After subsection (3) insert—

"(3ZA) If a constable has reasonable cause to believe that a child or young person found by him in a public place in a specified area during a specified period and during school hours—

(a) is of compulsory school age,

(b) has been excluded on disciplinary grounds from a relevant school for a fixed period or permanently,

(c) remains excluded from that school,

(d) has not subsequently been admitted as a pupil to any other school, and

(e) has no reasonable justification for being in the public place,

the constable may remove the child or young person to designated premises."

(4) After subsection (3A) insert—

"(3B) In subsection (3ZA), "school hours" means any time during a school session of the school referred to in paragraph (b) of that subsection or during a break between sessions of that school on the same day."

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(5) In subsection (5), after the definition of "public place" insert—

> ""relevant school" has the meaning given by section 111 of the Education and Inspections Act 2006;".

(6) In the heading, after "truants" insert " and excluded pupils ".

(7) In Schedule 4 to the Police Reform Act 2002 (c. 30) (exercise of police powers by civilians)—

(a) in paragraph 4C, for the words from "section 16(3)" to the end substitute " section 16(3) or (3ZA) of that Act (power to remove truant or excluded pupil found in specified area to designated premises or, in case of truant, to the school from which he is absent). ", and

(b) in the italic heading immediately before that paragraph, after "truants" insert " and excluded pupils ".

Commencement Information

I135 S. 108 in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(e)**

School attendance

109 Failure to secure school attendance

(1) In section 444 of EA 1996 (offence of failing to secure regular attendance at school of registered pupil), in subsection (1A), omit "without reasonable justification".

(2) After that subsection insert—

> "(1B) It is a defence for a person charged with an offence under subsection (1A) to prove that he had a reasonable justification for his failure to cause the child to attend regularly at the school."

(3) In subsection (2) of that section, for "(3)" substitute " (2A) ".

(4) After that subsection insert—

> "(2A) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school at any time if the parent proves that at that time the child was prevented from attending by reason of sickness or any unavoidable cause."

(5) In subsection (3) of that section—

(a) at the end of paragraph (a) insert " or ", and

(b) omit paragraph (b) and the "or" immediately following it.

(6) In subsection (6) of that section, for "the parent shall be acquitted if he proves" substitute " it is a defence for the parent to prove ".

(7) In subsection (7) of that section, for "at a time when he was not" substitute " unless the parent proves that at that time the child was ".

(8) After that subsection insert—

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"(7A) Where—

(a) a child of compulsory school age has been excluded for a fixed period on disciplinary grounds from a school in England which is—

(i) a maintained school,

(ii) a pupil referral unit,

(iii) an Academy,

(iv) a city technology college, or

(v) a city college for the technology of the arts,

(b) he remains for the time being a registered pupil at the school,

(c) the appropriate authority make arrangements for the provision of full-time education for him at the school during the period of exclusion, and

(d) notice in writing of the arrangements has been given to the child's parent,

the exclusion does not affect the application of subsections (1) to (7) to the child's attendance at the school on any day to which the arrangements relate.

(7B) In subsection (7A)(c) "the appropriate authority" means—

(a) in relation to a maintained school, the governing body of the school,

(b) in relation to a pupil referral unit, the local education authority, and

(c) in relation to any school mentioned in subsection (7A)(a)(iii) to (v), the proprietor of the school."

(9) In subsection (6) of section 444ZA of EA 1996 (application of section 444 to alternative educational provision), for "the parent shall be acquitted if he proves" substitute " it is a defence for the parent to prove ".

(10) In section 16 of the Crime and Disorder Act 1998 (c. 37), in subsection (4) for the words from "unless" to the end substitute " unless the child or young person is prevented from attending by sickness or other unavoidable cause or the absence falls within subsection (3) (leave or day set apart for religious observance) of section 444 of the Education Act 1996 ".

(11) The amendments made by this section, and the entry in Part 1 of Schedule 18 relating to section 444 of EA 1996, do not apply in relation to any failure to attend at a school, or other place in relation to which that section applies, which occurs before the commencement of the amendment in question.

Commencement Information

I136 S. 109(8) in force at 1.9.2007 by S.I. 2007/1801, **art. 4(i)**

110 Sums received under section 444A of EA 1996

In section 444A of EA 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil) for subsection (6) substitute—

"(6) Sums received by a local education authority under this section may be used by the authority for the purposes of any of its functions which may be specified in regulations but, to the extent that they are not so used, must be paid in accordance with regulations to the Secretary of State."

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Commencement Information

I137 S. 110 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(i)**

Interpretation of Chapter 2

111 Meaning of "maintained school" and "relevant school" in Chapter 2

In this Chapter—

"maintained school" means—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school, or

(c) a pupil referral unit;

"relevant school" means—

(a) a maintained school,

(b) an Academy,

(c) a city technology college, or

(d) a city college for the technology of the arts.

PART 8

INSPECTIONS

CHAPTER 1

THE OFFICE AND THE CHIEF INSPECTOR

The Office

112 The Office for Standards in Education, Children's Services and Skills

(1) There is to be a body corporate known as the Office for Standards in Education, Children's Services and Skills.

(2) In this Part that body is referred to as "the Office".

(3) The Office is to perform its functions on behalf of the Crown.

(4) Schedule 11 makes further provision about the Office.

Commencement Information

I138 S. 112(1)-(3) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(b)**

I139 S. 112(4) in force at 12.12.2006 for specified purposes by S.I. 2006/2990, **art. 2(c)**

I140 S. 112(4) in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(r)**

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The Chief Inspector and other inspectors

113 Her Majesty's Chief Inspector of Education, Children's Services and Skills

(1) Her Majesty may by Order in Council appoint a person to the office of Her Majesty's Chief Inspector of Education, Children's Services and Skills.

(2) In this Part the holder of that office is referred to as "the Chief Inspector".

(3) The Chief Inspector is to be a member of the Office (see paragraph 1 of Schedule 11).

(4) The Chief Inspector holds and vacates office in accordance with the terms of his appointment.

(5) Those terms are to be determined by the Secretary of State.

(6) But the Chief Inspector—
- (a) must not be appointed for a term of more than five years,
- (b) may at any time resign by giving written notice to the Secretary of State, and
- (c) may be removed from office by Her Majesty on the grounds that he is unable or unfit to carry out the duties of his office.

(7) The previous appointment of a person as Chief Inspector does not affect his eligibility for appointment.

(8) The office of Her Majesty's Chief Inspector of Schools in England is abolished.

(9) But any person holding that office immediately before the appointed day is to become, as from that day, Her Majesty's Chief Inspector of Education, Children's Services and Skills.

(10) As from the appointed day—
- (a) the Order in Council by which such a person was appointed has effect as if it were an Order in Council under subsection (1) appointing him as Chief Inspector, and
- (b) the terms of his appointment have effect as if determined under subsection (5).

(11) In this section "the appointed day" means the day appointed under section 188 for the coming into force of this section.

Commencement Information

I141 S. 113 partly in force; s. 113 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I142 S. 113 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(s)**

114 Her Majesty's Inspectors of Education, Children's Services and Skills

(1) Her Majesty may by Order in Council appoint persons as Her Majesty's Inspectors of Education, Children's Services and Skills.

(2) In this Part a person so appointed is referred to as an "HMI".

(3) An HMI is to serve, in accordance with the terms of his appointment, as a member of the staff of the Office.

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(4) Those terms are to be determined by the Chief Inspector.

(5) A person's appointment as HMI ends when he ceases to serve as a member of the staff of the Office.

(6) Any person who—

(a) is one of Her Majesty's Inspectors of Schools in England immediately before the appointed day, and

(b) is then serving as member of the staff of Her Majesty's Chief Inspector of Schools in England or of the Adult Learning Inspectorate,

is to become, as from that day, one of Her Majesty's Inspectors of Education, Children's Services and Skills.

(7) As from the appointed day—

(a) the Order in Council by which such a person was appointed has effect as if it were an Order in Council under subsection (1) appointing him as an HMI, and

(b) the terms of his appointment have effect as if determined under subsection (4).

(8) In this section "the appointed day" means the day appointed under section 188 for the coming into force of this section.

Commencement Information

I143 S. 114 partly in force; s. 114 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I144 S. 114 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(s)**

115 Further provision about Chief Inspector and other inspectors etc.

Schedule 12 makes further provision about the Chief Inspector and persons acting on his behalf.

Commencement Information

I145 S. 115 in force at 1.4.2007 by S.I. 2007/935, **art. 5(s)**

Functions: the Office

116 Functions of the Office

(1) The Office has the following functions—

(a) to determine strategic priorities for the Chief Inspector in connection with the performance of his functions;

(b) to determine strategic objectives and targets relating to such priorities; and

(c) to secure that the Chief Inspector's functions are performed efficiently and effectively.

(2) The Office is to have such other functions in connection with the performance of the Chief Inspector's functions as may be assigned to it by the Secretary of State.

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Modifications etc. (not altering text)

C9 S. 116(1)(a) modified (temp.) (12.12.2006) by Office for Standards in Education, Children's Services and Skills (Transitional Provisions) Regulations 2006 (S.I. 2006/2991), regs. 1(1), **2(a)**

Commencement Information

I146 S. 116(1)(a)(b) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(d)**

I147 S. 116(1)(c)(2) in force at 1.4.2007 by S.I. 2007/935, **art. 5(t)**

117 Performance of Office's functions

(1) The Office is to perform its functions for the general purpose of encouraging—

(a) the improvement of activities within the Chief Inspector's remit,

(b) the carrying on of such activities as user-focused activities, and

(c) the efficient and effective use of resources in the carrying on of such activities.

(2) In performing its functions the Office is to have regard to—

(a) the need to safeguard and promote the rights and welfare of children;

(b) views expressed by relevant persons about activities within the Chief Inspector's remit;

(c) levels of satisfaction with such activities on the part of relevant persons;

(d) the need to promote the efficient and effective use of resources in the carrying on of such activities;

(e) the need to ensure that action by the Chief Inspector in relation to such activities is proportionate to the risks against which it would afford safeguards;

(f) any developments in approaches to inspection or regulatory action; and

(g) best practice amongst persons performing functions comparable to those of the Chief Inspector.

(3) In performing its functions the Office must also have regard to such aspects of government policy as the Secretary of State may direct.

(4) In this section—

(a) "children" means persons under the age of 18;

(b) "relevant persons", in relation to activities within the Chief Inspector's remit, means persons who have an interest in such activities, whether—

(i) as persons for whose benefit they are carried on, or

(ii) as parents (if they are carried on for the benefit of children), or

(iii) as employers;

(c) "parents" includes persons—

(i) who are not parents of children but have parental responsibility for them (within the meaning of the Children Act 1989 (c. 41)), or

(ii) who have care of children.

(5) Subsection (6) provides for the interpretation, for the purposes of this Part, of references to activities within the Chief Inspector's remit and related expressions.

(6) For those purposes—

(a) "activities" includes—

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(i) the provision of any form of education, training or care,
(ii) the provision of any form of services or facilities, and
(iii) the performance of any function;

(b) activities are within the Chief Inspector's remit—
(i) if he exercises any inspection function in relation to them, or
(ii) if they are services of the kind provided by persons in respect of whom he is the registration authority by virtue of any enactment; and

(c) references to persons for whose benefit activities are carried on are, in relation to activities within paragraph (a)(i) or (ii), references to persons for whom the education, training or care is provided, or (as the case may be) for whom the services or facilities are provided.

Commencement Information
I148 S. 117 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(e)**

Functions: the Chief Inspector

118 Functions of the Chief Inspector

(1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—
(a) the quality of activities within the Chief Inspector's remit and (where appropriate) the standards achieved by those for whose benefit such activities are carried on,
(b) improvements in the quality of such activities and in any such standards,
(c) the extent to which such activities are being carried on as user-focused activities, and
(d) the efficient and effective use of resources in the carrying on of such activities and services.

(2) If requested to do so by the Secretary of State, the Chief Inspector must provide the Secretary of State with information or advice on such matters relating to activities within the Chief Inspector's remit as are specified in the request.

(3) The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with any activities within his remit, including advice relating to a particular establishment, institution or agency.

(4) The Chief Inspector is to have such other functions in connection with activities within his remit as may be assigned to him by the Secretary of State.

(5) Subsection (6) applies where the Chief Inspector is requested under subsection (2) to provide the Secretary of State with information or advice on matters relating to activities within the Chief Inspector's remit.

(6) Any enactment by virtue of which—
(a) an inspection may be conducted by the Chief Inspector in relation to the activities in question (whether or not in pursuance of any duty), or
(b) any power of entry is exercisable by him in relation to those activities,

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is to have effect, with any necessary modifications, so as to enable him to conduct an inspection, or exercise any such power, for the purpose of complying with the request.

(7) In subsection (6) any reference to a power of entry includes a reference to a power to inspect documents or a power conferred in connection with the inspection of documents.

(8) Nothing in this section prejudices the operation of any other enactment relating to functions of the Chief Inspector.

Commencement Information
I149 S. 118 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

119 Performance of Chief Inspector's functions

(1) The Chief Inspector is to perform his functions for the general purpose of encouraging—
- (a) the improvement of activities within the Chief Inspector's remit,
- (b) the carrying on of such activities as user-focused activities, and
- (c) the efficient and effective use of resources in the carrying on of such activities.

(2) The Chief Inspector must ensure—
- (a) that his functions are performed efficiently and effectively, and
- (b) that, so far as practicable, those functions are performed in a way that responds to—
  - (i) the needs of persons for whose benefit activities within the Chief Inspector's remit are carried on, and
  - (ii) the views expressed by other relevant persons about such activities.

(3) In performing his functions the Chief Inspector must have regard to—
- (a) the matters mentioned in section 117(2); and
- (b) such aspects of government policy as the Secretary of State may direct.

(4) In this section “relevant persons” has the same meaning as in section 117.

Commencement Information
I150 S. 119 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

The Children's Rights Director

120 Children's Rights Director

(1) One of the persons appointed to the staff of the Office under paragraph 6 of Schedule 11 is to be appointed as Children's Rights Director.

(2) The Children's Rights Director is to have such functions in relation to the performance by the Chief Inspector of functions within subsection (3) as may be prescribed by regulations made by the Secretary of State.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(3) The following functions of the Chief Inspector are functions within this subsection—

(a) his functions under section 87 of the Children Act 1989 (c. 41) (welfare of children in boarding schools and colleges),

(b) his functions under Part 2 of the Care Standards Act 2000 (c. 14) (registration and standards), and

(c) his functions under Chapter 4 of this Part (inspection and review of local authorities in England) in connection with the inspection and review of the performance by such authorities of their functions within section 135(1)(d) and (e).

Commencement Information

I151 S. 120 partly in force; s. 120 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I152 S. 120 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

Annual reports etc.

121 Annual and other reports to Secretary of State

(1) The Chief Inspector must make an annual report to the Secretary of State.

(2) The Secretary of State must lay a copy of any such report before each House of Parliament.

(3) The Chief Inspector may make to the Secretary of State such other reports relating to matters which fall within the scope of the Chief Inspector's functions as he considers appropriate.

(4) The Chief Inspector may arrange for any report made by him under this section to be published in such manner as he considers appropriate.

Commencement Information

I153 S. 121 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

CHAPTER 2

GENERAL TRANSFER OF FUNCTIONS

122 General transfer of functions to the Chief Inspector

(1) Subject to the following provisions of this Part, the functions of the existing Chief Inspector under or by virtue of any enactment are transferred to the new Chief Inspector.

(2) In this section—

"the existing Chief Inspector" means Her Majesty's Chief Inspector of Schools in England, and

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

"the new Chief Inspector" means the Chief Inspector appointed under Chapter 1 of this Part.

Commencement Information
I154 S. 122 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

CHAPTER 3

INSPECTION OF FURTHER EDUCATION AND TRAINING ETC.

Education and training to which this Chapter applies

123 Education and training to which this Chapter applies

(1) This Chapter applies to the following kinds of education and training—

(a) secondary education provided in institutions which are in England and are within the further education sector;

(b) further education for persons aged 16 or over but under 19 which is provided in such institutions and wholly or partly funded by the Learning and Skills Council for England;

(c) further education for persons aged 19 or over which is wholly or partly funded by the Council;

(d) further education for persons aged under 19 which is provided by local education authorities in England;

(e) further education for persons aged 19 or over which is funded by such authorities;

(f) training for persons aged 16 or over which is funded by the Secretary of State under section 2 of the Employment and Training Act 1973 (c. 50);

(g) training for persons aged 16 or over if it is training the whole or part of which takes place at the premises of an employer and which is wholly or partly funded by the Council;

(h) such other education or training as may be prescribed by regulations made by the Secretary of State.

(2) The training which may be prescribed by regulations under subsection (1)(h) includes training of or for teachers, lecturers, trainers or other persons engaged in the provision of education or training falling within subsection (1)(a) to (g).

(3) If regulations made by the Secretary of State so provide—

(a) the provision of information, advice or guidance falling within section 5(1)(i) of the Learning and Skills Act 2000 (c. 21) (Council to secure provision of financial resources), or

(b) the provision of any description of such information, advice or guidance specified in the regulations,

is to be treated for the purposes of this Chapter as training to which it applies.

(4) In this Chapter—

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(a) "further education" and "secondary education" have the same meanings as in EA 1996, and

(b) any reference to institutions which are within the further education sector is to be read in accordance with section 91(3) of the Further and Higher Education Act 1992 (c. 13).

Commencement Information

I155 S. 123 partly in force; s. 123 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I156 S. 123 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

Inspection

124 Inspection of education and training to which this Chapter applies

(1) The Chief Inspector must conduct—

(a) inspections of such education or training to which this Chapter applies as may be specified by the Secretary of State, and

(b) inspections of such class of education or training to which this Chapter applies as may be so specified.

(2) The inspections are to be conducted at such intervals as may be specified by the Secretary of State.

(3) On completing an inspection under this section, the Chief Inspector must make a written report on it.

(4) The report—

(a) must state whether the Chief Inspector considers the education or training inspected to be of a quality adequate to meet the reasonable needs of those receiving it, and

(b) may deal with such other matters as he considers relevant.

(5) The Chief Inspector must send copies of the report to—

(a) the Secretary of State,

(b) the Council,

(c) any local education authority providing funds for the education or training inspected, and

(d) the provider of the education or training inspected.

(6) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.

(7) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

Commencement Information

I157 S. 124 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

125 Inspection of further education institutions

(1) The Chief Inspector must inspect all institutions within the further education sector.

(2) The inspections are to be conducted at such intervals as may be specified by the Secretary of State.

(3) On completing an inspection under this section, the Chief Inspector must make a written report on it.

(4) The report—
- (a) must state whether the Chief Inspector considers the education or training inspected to be of a quality adequate to meet the reasonable needs of those receiving it, and
- (b) may deal with such other matters as he considers relevant.

(5) The Chief Inspector must send copies of the report to—
- (a) the Secretary of State,
- (b) the Council, and
- (c) the provider of the education or training inspected.

(6) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.

(7) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

Commencement Information
I158 S. 125 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

126 Other inspections

(1) The Chief Inspector may inspect any education or training to which this Chapter applies (in a case where he is not required to do so by virtue of any provision of this Chapter).

(2) The Chief Inspector may inspect any education or training to which this Chapter does not apply if—
- (a) it is further education (whether for persons aged 16 or over but under 19, or for persons aged 19 or over) or training for persons aged 16 or over, and
- (b) he is requested to conduct the inspection by the provider of the education or training.

(3) On completing an inspection under this section, the Chief Inspector may—
- (a) make a written report on it;
- (b) arrange for the report to be published in such manner as he considers appropriate.

(4) If the Chief Inspector makes a report of an inspection conducted under subsection (1), he must send copies of the report to—
- (a) the Secretary of State,
- (b) the Council,

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(c) any local education authority providing funds for the education or training inspected, and

(d) the provider of the education or training inspected.

(5) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.

(6) In the case of an inspection conducted under subsection (2) the Chief Inspector may charge the provider of the education or training concerned for the cost of the inspection.

(7) For the purposes of that subsection it is immaterial whether the education or training concerned is provided in the United Kingdom or elsewhere.

Commencement Information

I159 S. 126 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

127 Action plans

(1) This section applies where the Chief Inspector publishes a report of an inspection conducted under section 124 or 125 or section 126(1).

(2) The provider of the education or training which is the subject of the report must prepare a written statement of—

(a) the action which he proposes to take in the light of the report, and

(b) the period within which he proposes to take that action.

(3) That person must—

(a) publish the statement within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and

(b) send copies of it to such persons as may be so prescribed.

(4) The requirements of subsection (2) may be waived by the Chief Inspector.

Commencement Information

I160 S. 127 partly in force; s. 127 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I161 S. 127 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

128 Area inspections

(1) If requested to do so by the Secretary of State, the Chief Inspector must inspect—

(a) the quality and availability of a specified description of education or training, in a specified area in England, for persons who are aged 15 or over but under 19;

(b) the standards achieved by those receiving that education or training; and

(c) whether the financial resources made available to those providing that education and training are managed efficiently and used in a way which provides value for money.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(2) The Chief Inspector may conduct such an inspection without being requested to do so.

(3) Subsection (4) applies if financial resources have been applied by—
  (a) the Council, or
  (b) a local education authority,
  in respect of education or training which is being inspected under this section.

(4) In such a case the inspection may extend to considering whether the application of those resources in that way—
  (a) constituted an efficient and effective use of the resources for the purpose of meeting the needs of persons within subsection (1)(a) as regards education or training of the kind in question, and
  (b) was appropriate to secure value for money.

(5) The education or training that may be made the subject of an inspection under this section ("an area inspection") is—
  (a) any education or training to which this Chapter applies, or
  (b) any other education or training within the scope of the Chief Inspector's functions.

(6) A provider of education or training which is the subject of an area inspection must provide the Chief Inspector with any information reasonably requested by him in connection with the inspection.

(7) Any local education authority whose area is wholly or partly within the area which is the subject of an area inspection must provide the Chief Inspector with any information reasonably requested by him in connection with the inspection.

(8) In subsection (1)(a) the reference to persons who are aged 15 includes persons—
  (a) for whom education is being provided at a school, and
  (b) who will attain that age in the current school year;
  and for this purpose "school" and "school year" have the same meanings as in EA 1996.

Commencement Information
I162 S. 128 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

129 Reports of area inspections

(1) On completing an area inspection conducted under section 128, the Chief Inspector must make a written report on it.

(2) The Chief Inspector must send copies of the report to—
  (a) the Secretary of State,
  (b) the Council, and
  (c) each local education authority whose area is wholly or partly within the area subject to the inspection.

(3) Copies may also be sent to such other persons as the Chief Inspector considers appropriate.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(4) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

Commencement Information

I163 S. 129 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

130 Action plans following area inspections

(1) This section applies where the Chief Inspector publishes a report of an area inspection conducted under section 128.

(2) The Secretary of State may direct the Council to prepare a written statement of—
- (a) the action which it proposes to take in the light of the report, and
- (b) the period within which it proposes to take that action.

(3) The Secretary of State may direct a local education authority whose area is wholly or partly within the area covered by the report to prepare a written statement of—
- (a) the action which they propose to take in the light of the report, and
- (b) the period within which they propose to take that action.

(4) In preparing a statement under subsection (2) or (3) the Council or the authority must consult such persons as the Secretary of State may direct.

(5) The Council or the authority must—
- (a) publish the statement within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State; and
- (b) send copies of it to such persons as may be so prescribed.

Commencement Information

I164 S. 130 partly in force; s. 130 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I165 S. 130 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

Powers of entry etc.

131 Power of entry

(1) This section applies to an inspection conducted by the Chief Inspector under this Chapter, other than one conducted under section 126(2).

(2) When conducting such an inspection, the Chief Inspector may, at any reasonable time, enter—
- (a) any premises on which the education or training inspected is provided;
- (b) any premises of the provider of that education or training which are used in connection with its provision.

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(3) In respect of education or training provided by an employer in the workplace, the power of entry conferred by subsection (2) may be exercised only if the employer has been given reasonable notice in writing.

Commencement Information
I166 S. 131 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

132 Power to inspect documents, etc.

(1) This section applies to any inspection conducted by the Chief Inspector under this Chapter, other than one conducted under section 126(2).

(2) If the Chief Inspector considers it necessary or expedient for the purposes of the inspection, he may inspect, take copies of, or take away any documents relating to the education or training inspected which are on any premises in relation to which he exercises his power of entry under section 131.

(3) The power in subsection (2) includes—
- (a) power to require any person holding or accountable for any documents kept on the premises to produce them, and
- (b) in relation to any such documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away.

(4) In connection with inspecting any such documents the Chief Inspector—
- (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he considers is or has been in use in connection with the documents; and
- (b) may require a person within subsection (5) to afford him such reasonable assistance as he may require for that purpose.

(5) A person is within this subsection if he is—
- (a) the person by whom or on whose behalf the computer is or has been used, or
- (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(6) The powers conferred by this section may be exercised by the Chief Inspector at reasonable times only; and a person may not be required to do anything in pursuance of any provision of this section otherwise than at a reasonable time.

(7) Any person who without reasonable excuse—
- (a) obstructs the exercise of any power conferred by section 131 or this section, or
- (b) fails to comply with any requirement imposed under this section,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information
I167 S. 132 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Other provisions

133 Framework for inspections

(1) The Chief Inspector must devise—

(a) a common set of principles applicable to all inspections conducted under this Chapter, or

(b) two or more common sets of principles each of which is applicable to a particular description of such inspections.

(2) A set of principles devised under subsection (1)(a) or (b) is referred to in this section as a "framework".

(3) If the Chief Inspector devises two or more frameworks under subsection (1)(b), he must ensure that, taken together, they cover all inspections conducted under this Chapter.

(4) The Chief Inspector must publish a framework in such manner as he considers appropriate.

(5) The Chief Inspector may at any time revise a framework.

(6) The Chief Inspector must publish a revised framework in such manner as he considers appropriate.

Commencement Information
I168 S. 133 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

134 Abolition of Adult Learning Inspectorate

(1) The Adult Learning Inspectorate is abolished on the appointed day.

(2) In this section "the appointed day" means the day appointed under section 188 for the coming into force of this section.

Commencement Information
I169 S. 134 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

CHAPTER 4

INSPECTION AND REVIEW OF LOCAL AUTHORITIES IN ENGLAND

Functions to which this Chapter applies

135 Functions to which this Chapter applies and related activities

(1) This Chapter applies to the following functions of a local authority in England—

(a) the functions conferred on the authority under Part 1 of the Childcare Act 2006 (c. 21),

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(b) the functions conferred on or exercisable by the authority in their capacity as a local education authority,

(c) the functions conferred on the authority under sections 10, 12 and 17 to 19 of the Children Act 2004 (c. 31),

(d) the social services functions (within the meaning of the Local Authority Social Services Act 1970 (c. 42)) of the authority, so far as relating to persons aged under 18,

(e) (whether or not within paragraph (d)) functions conferred on or exercisable by the authority under the Children Act 1989 (c. 41), the Adoption (Intercountry Aspects) Act 1999 (c. 18) or the Adoption and Children Act 2002 (c. 38) and functions continuing to be exercisable by the authority under the Adoption Act 1976 (c. 36), and

(f) such other functions of the authority as may be prescribed by regulations made by the Secretary of State.

(2) In this Chapter "related activity", in relation to a function to which this Chapter applies, means (subject to subsections (3) and (4)) anything done in any place by, or pursuant to arrangements made by, the authority under section 2(1)(a) or (b) of the Local Government Act 2000 (c. 22) (promotion of economic and social well-being) which is similar in nature to anything which could be done by the authority in the performance of the function in question.

(3) In relation to a function within subsection (1)(c), (d) or (e), anything done as mentioned in subsection (2) is a "related activity" only if it is done in relation to or for the benefit of—

(a) persons aged under 18,

(b) persons aged 18 or over in relation to whom the authority have functions under any of sections 23C to 24D of the Children Act 1989, or

(c) persons not within paragraph (a) or (b) in connection with adoption or special guardianship.

In paragraph (c) "special guardianship" means special guardianship under sections 14A to 14G of the Children Act 1989.

(4) In relation to a function prescribed by regulations under subsection (1)(f), anything done as mentioned in subsection (2) is a "related activity" only if it is prescribed as such by the regulations.

(5) On the coming into force of this Chapter the Commission for Social Care Inspection is to cease to have functions under Chapter 5 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) in relation to anything which may be inspected by the Chief Inspector under this Chapter.

Commencement Information

I170 S. 135 partly in force; s. 135 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I171 S. 135 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Inspections and annual reviews

136 Inspection of local authorities in England

(1) The Chief Inspector may inspect—

(a) the overall performance by any local authority in England of the functions to which this Chapter applies, or

(b) the performance by any such authority of any particular function or functions comprised in the functions to which this Chapter applies.

(2) An inspection under subsection (1) of the performance by an authority of any function must include an inspection of any related activity.

(3) When requested to do so by the Secretary of State, the Chief Inspector must conduct an inspection under this section in relation to the local authority specified in the request.

(4) Such a request may specify particular matters which the Chief Inspector must inspect.

Commencement Information

I172 S. 136 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

137 Reports of inspections under section 136

(1) On completing an inspection under section 136, the Chief Inspector must make a written report on the matters which were the subject of the inspection.

(2) The Chief Inspector must send copies of the report to—

(a) the local authority in England which was inspected, and

(b) the Secretary of State.

(3) Where an authority receive a copy of a report under this section, they must prepare a written statement of—

(a) the action which they propose to take in the light of the report, and

(b) the period within which they propose to take that action.

(4) The authority must publish—

(a) the report, and

(b) the statement prepared under subsection (3),

within such period, and in such manner, as may be prescribed by regulations made by the Secretary of State.

(5) Such regulations may provide for the authority to charge a reasonable fee for providing a person with a copy of a document published under subsection (4).

(6) The Chief Inspector may arrange for any report under this section to be published in such manner as he considers appropriate.

Commencement Information

I173 S. 137 partly in force; s. 137 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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I174 S. 137 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

138 Annual reviews of local authorities in England

(1) In each financial year the Chief Inspector must review the overall performance by each local authority in England of the functions to which this Chapter applies.

(2) A review under subsection (1) of the performance of functions must include a review of related activities.

(3) After conducting a review under this section in relation to an authority the Chief Inspector must award the authority a performance rating in respect of the matters reviewed.

(4) In this section "financial year" means a period of 12 months ending with 31st March in any year.

Commencement Information
I175 S. 138 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

Powers of entry etc.

139 Power of entry

(1) This section applies to—
  (a) any inspection conducted by the Chief Inspector under section 136, and
  (b) any review conducted by him under section 138.

(2) The Chief Inspector may, at any reasonable time, enter any premises for the purposes of the inspection or review, other than any premises excluded by subsection (3).

(3) The premises excluded by this subsection are any domestic premises that are not a school (within the meaning of EA 1996).

Commencement Information
I176 S. 139 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

140 Power to inspect documents, etc.

(1) This section applies to—
  (a) any inspection conducted by the Chief Inspector under section 136, and
  (b) any review conducted by him under section 138.

(2) If the Chief Inspector considers it necessary or expedient for the purposes of the inspection or review, he may do any of the following—
  (a) inspect, take copies of, or take away any documents which—
    (i) relate to the performance by the local authority being inspected or reviewed of any function to which this Chapter applies, or to any related activity, and

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(ii) are on any premises in relation to which he exercises his power of entry under section 139,

(b) inspect or take away any other item which is on the premises,

(c) interview in private—

(i) any person working on the premises, or

(ii) (subject to subsection (3)) any person accommodated or cared for there, and

(d) make any other examination into the state and management of the premises and treatment of persons accommodated or cared for there.

(3) Subsection (2)(c)(ii) does not apply unless consent to the interview is given by or on behalf of the person concerned.

(4) The power in subsection (2)(a) includes—

(a) power to require any person holding or accountable for any documents kept on the premises to produce them, and

(b) in relation to documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away.

(5) In connection with inspecting any such documents, the Chief Inspector—

(a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he considers is or has been in use in connection with the documents, and

(b) may require a person within subsection (6) to afford him such reasonable assistance as he may require for that purpose.

(6) A person is within this subsection if he is—

(a) the person by whom or on whose behalf the computer is or has been used, or

(b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(7) The Chief Inspector may—

(a) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under section 139 or this section, and

(b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.

(8) The powers conferred by this section may be exercised by the Chief Inspector at reasonable times only; and a person may not be required to do anything in pursuance of any provision of this section otherwise than at a reasonable time.

(9) Any person who without reasonable excuse—

(a) obstructs the exercise of any power conferred by section 139 or this section, or

(b) fails to comply with any requirement imposed under this section,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I177 S. 140 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Supplementary

141 Power to require information etc.

(1) The Chief Inspector may at any time require any person within subsection (2) to provide him with any information, documents or other items—

(a) which relates or relate to the performance by a local authority in England of any of the functions to which this Chapter applies or any related activity, and

(b) which the Chief Inspector considers it necessary or expedient to have for the purposes of, or in connection with, the performance by him of any function under this Chapter.

(2) The persons within this subsection are—

(a) the local authority;

(b) any person with whom the authority have entered into arrangements—

(i) in the performance of any of the functions to which this Chapter applies, or

(ii) in connection with any related activity.

(3) The power in subsection (1) includes, in relation to documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away.

(4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I178 S. 141 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

142 Interpretation etc.

(1) In this Chapter "related activity", in relation to a function of a local authority to which this Chapter applies, has the meaning given by section 135(2) to (4).

(2) For the purposes of this Chapter, references to the performance by a local authority in England of any function include references to—

(a) anything done in any place by the authority in the performance of the function, and

(b) anything done in any place by another person pursuant to arrangements made by the authority in the performance of the function.

(3) This Chapter applies in relation to the Isles of Scilly subject to such modifications as may be specified by order made by the Secretary of State.

Commencement Information

I179 S. 142 partly in force; s. 142 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I180 S. 142 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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CHAPTER 5

INSPECTION OF CAFCASS FUNCTIONS

143 Inspection of CAFCASS functions

(1) The Chief Inspector must inspect the performance of CAFCASS functions.

(2) On completing an inspection under this section, the Chief Inspector must make a written report on it.

(3) The Chief Inspector must send copies of the report to—
- (a) the Secretary of State, and
- (b) CAFCASS.

(4) The Chief Inspector must arrange for the report to be published in such manner as he considers appropriate.

(5) In this Chapter—
- (a) "CAFCASS" means the Children and Family Court Advisory and Support Service, and
- (b) "CAFCASS functions" means the functions of CAFCASS and its officers.

Commencement Information
I181 S. 143 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

144 Power of entry

(1) This section applies to an inspection conducted by the Chief Inspector under section 143.

(2) The Chief Inspector may, at any reasonable time, enter for the purposes of the inspection—
- (a) any premises occupied by CAFCASS,
- (b) any premises occupied by any organisation with whom arrangements have been made under section 13 of the 2000 Act (other powers of CAFCASS) in respect of the performance of any CAFCASS functions, and so occupied in connection with the performance of any such functions, or
- (c) any premises occupied by any individual in connection with the performance of functions of an officer of the Service in accordance with arrangements under that section.

(3) Subsection (2) does not confer a power of entry to any part of any domestic premises.

(4) In this section and section 145 "officer of the Service" is to be construed in accordance with section 11(3) of the 2000 Act (establishment of CAFCASS).

(5) In this section "the 2000 Act" means the Criminal Justice and Court Services Act 2000 (c. 43).

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I182 S. 144 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

145 Power to inspect documents, etc.

(1) This section applies to any inspection conducted by the Chief Inspector under section 143.

(2) If the Chief Inspector considers it necessary or expedient for the purposes of the inspection, he may inspect, take copies of, or take away any documents kept by CAFCASS, or otherwise relating to the performance of CAFCASS functions, which—
- (a) are on any premises in relation to which he exercises his power of entry under section 144, or
- (b) are kept by an officer of the Service on domestic premises.

(3) The power in subsection (2) includes—
- (a) power to require any person holding or accountable for any documents kept on the premises to produce them, and
- (b) in relation to documents kept by means of a computer, power to require them to be produced in a form in which they are legible and can be taken away.

(4) In connection with inspecting any such documents the Chief Inspector—
- (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he considers is or has been in use in connection with the documents; and
- (b) may require a person within subsection (6) to afford him such reasonable assistance as he may require for that purpose.

(5) Where any such computer, apparatus or material is kept on domestic premises—
- (a) subsection (4) does not apply, but
- (b) the Chief Inspector may require a person within subsection (6) to give him possession of it for the purpose of inspecting it and checking its operation.

(6) A person is within this subsection if he is—
- (a) the person by whom or on whose behalf the computer is or has been used, or
- (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(7) Where the Chief Inspector takes possession of anything under subsection (5)—
- (a) he may retain it for as long as he considers that it is necessary to retain it for the purposes of the inspection under section 143, but
- (b) once he considers that it is no longer necessary to retain it for those purposes, he must arrange for it to be returned to the person from whose possession it was taken.

(8) The powers conferred by this section may be exercised by the Chief Inspector at reasonable times only; and a person may not be required to do anything in pursuance of any provision of this section otherwise than at a reasonable time.

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Commencement Information
I183 S. 145 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

CHAPTER 6

FURTHER PROVISIONS RELATING TO FUNCTIONS OF CHIEF INSPECTOR

Functions

146 Inspection of secure training centres

(1) The Chief Inspector and the Secretary of State may make arrangements for the Chief Inspector to conduct inspections of secure training centres in England.

(2) Inspections under this section shall be on such terms, including terms as to payments to be made to the Chief Inspector in respect of such inspections, as the Chief Inspector and the Secretary of State may agree in the arrangements.

(3) In this section "secure training centre" has the same meaning as in section 43(1)(d) of the Prison Act 1952 (c. 52).

Commencement Information
I184 S. 146 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

147 Inspection of premises in connection with adoption and fostering functions

(1) The Secretary of State may by regulations require the Chief Inspector to arrange for premises which are used by a local authority in England in their performance of relevant functions to be inspected on such occasions or at such intervals as may be specified in the regulations.

(2) An inspection under this section is to be regarded for all purposes as undertaken under section 136.

(3) In this section "relevant functions", in relation to a local authority, has the same meaning as in Part 3 of the Care Standards Act 2000 (c. 14).

Commencement Information
I185 S. 147 partly in force; s. 147 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)
I186 S. 147 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(u)**

148 Transfer of certain CSCI functions to the Chief Inspector

(1) The functions of the CSCI under Part 2 of the Care Standards Act 2000 (registration and standards) as the registration authority in relation to—

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(a) children's homes,
(b) residential family centres,
(c) fostering agencies,
(d) voluntary adoption agencies, and
(e) adoption support agencies,

are transferred to the Chief Inspector.

(2) The Chief Inspector shall make available to the public information about services of the kind provided by persons for whom he is (in accordance with subsection (1)) the registration authority under Part 2 of the Care Standards Act 2000.

(3) The functions of the CSCI under sections 65 and 87 to 87D of the Children Act 1989 (c. 41) (functions relating to children's homes, boarding schools and colleges) are transferred to the Chief Inspector.

(4) In this section "the CSCI" means the Commission for Social Care Inspection.

Commencement Information
I187 S. 148 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

149 Interaction with other authorities

Schedule 13 contains provisions authorising or requiring the Chief Inspector to take certain action in relation to other authorities, including the carrying out of inspections under arrangements with them.

Commencement Information
I188 S. 149 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

General provisions

150 Evidence of authority

(1) This section applies to any person exercising (in accordance with paragraph 9 of Schedule 12)—
(a) any power of entry conferred on the Chief Inspector by virtue of any enactment,
(b) any power to inspect documents so conferred, or
(c) any power so conferred in connection with the inspection of documents.

(2) Any such person must, if so required, produce a duly authenticated document showing his authority to exercise the power concerned.

(3) Nothing in this section applies in relation to any exercise of the power conferred by section 141(1).

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I189 S. 150 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

151 Publication of inspection reports

(1) For the purposes of the law of defamation, a report made by the Chief Inspector which—
  (a) is published under any enactment, or
  (b) is not so published but is made in pursuance of his functions under any enactment,
is privileged unless its publication is shown to have been made with malice.

(2) Where by virtue of any enactment the Chief Inspector has power to arrange for a report made by him to be published in a manner determined by him, he may (if he considers it appropriate to do so) arrange for the report to be published by electronic means only.

(3) Nothing in this section—
  (a) limits any privilege subsisting apart from subsection (1), or
  (b) prejudices the generality of any power of the Chief Inspector subsisting apart from subsection (2).

Commencement Information
I190 S. 151 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

152 Combined reports

(1) Nothing in any enactment prevents the Chief Inspector from—
  (a) combining in a single document two or more reports which are required to be made by him under any enactment or enactments, or
  (b) combining in a single document one or more such reports and one or more reports which are required to be made by one or more other persons under any enactment or enactments,
and (in either case) combining the substantive reports to such extent as he considers appropriate.

(2) In this section such a document is referred to as a "combined report".

(3) Where a combined report is made, any reference in any enactment—
  (a) to the publication of a report, or
  (b) to the giving or making available to any person of a copy of a report,
is to be read, so far as necessary, as a reference to the publication of the combined report, or to the giving or making available to that person of a copy of the combined report.

(4) The Chief Inspector may arrange for a combined report to be published in any manner he considers appropriate, but this subsection does not limit any duty as to publication imposed by any enactment.

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(5) The provisions of section 151 apply to a combined report (whether or not they would otherwise so apply).

Commencement Information
I191 S. 152 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

153 Use of information

Information obtained by the Chief Inspector in connection with any of his functions may be used by him in connection with any of his other functions.

Commencement Information
I192 S. 153 in force at 1.4.2007 by S.I. 2007/935, **art. 5(u)**

CHAPTER 7

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

154 Duty to report on contribution of certain schools to community cohesion

In section 5 of EA 2005 (duty to inspect certain schools in England at particular intervals), in subsection (5) (which lists matters on which the Chief Inspector is under a general duty to report)—

(a) omit the word "and" at the end of paragraph (e), and

(b) at the end insert—

"(g) the contribution made by the school to community cohesion."

Commencement Information
I193 S. 154 in force at 1.9.2008 by S.I. 2008/1971, **art. 2(c)**

155 Payment of annual fee to the Chief Inspector by local authorities

(1) Regulations made by the Secretary of State may require a local authority in England to pay to the Chief Inspector an annual fee in respect of the discharge by the authority of any of their relevant functions specified in the regulations.

(2) The regulations must specify—

(a) the amount of the fee, and

(b) the time at which it is to be paid.

(3) The Chief Inspector may make a scheme under subsection (4) that is to have effect at a time when no regulations are in force under subsection (1).

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(4) A scheme under this subsection ("a scheme") may provide for a local authority in England to be required to pay to the Chief Inspector an annual fee in respect of the discharge by the authority of any of their relevant functions specified in the scheme.

(5) The amount of the fee payable by virtue of a scheme is to be such as may be specified in, or calculated or determined under, the scheme.

(6) A scheme may include provision—
- (a) for different fees to be paid in different cases or classes of case;
- (b) for the amount of a fee to be determined by the Chief Inspector in accordance with specified factors;
- (c) for the time by which a fee must be paid;
- (d) for varying or revoking a previous scheme.

(7) Before making a scheme the Chief Inspector must consult such persons as he considers appropriate.

(8) The Chief Inspector must arrange for a scheme to be published in such manner as he considers appropriate.

(9) A local authority in England must provide the Chief Inspector with such information as he requires for the purpose of determining the amount of a fee payable by the authority by virtue of a scheme.

(10) A fee payable by virtue of this section may be recovered summarily as a civil debt.

(11) But subsection (10) is not to be read as prejudicing any other method of recovery.

(12) In this section "relevant functions", in relation to a local authority, has the same meaning as in Part 3 of the Care Standards Act 2000 (c. 14).

Commencement Information

I194 S. 155 partly in force; s. 155 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I195 S. 155 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(v)**

156 Removal of HMICA's duty to inspect performance of Assembly's functions relating to family proceedings

Section 38 of the Children Act 2004 (c. 31) (under which Her Majesty's Inspectorate of Court Administration must, at the request of the Assembly, inspect and report on the performance of the Assembly's functions under Part 4 of that Act) ceases to have effect.

Commencement Information

I196 S. partly in force; s. in force for specified purposes at 8.11.2006 see s.

I197 S. 156 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Supplementary

157 Minor and consequential amendments

Schedule 14 contains minor and consequential amendments relating to the provision made by this Part.

Commencement Information
I198 S. 157 in force at 1.4.2007 by S.I. 2007/935, **art. 5(w)**

158 Transitional provisions and savings

Schedule 15 contains—
(a) provision for the transfer of staff, property, rights and liabilities in connection with the establishment of the Office, and
(b) other transitional provisions and savings.

Commencement Information
I199 S. 158 in force at 12.12.2006 for specified purposes by S.I. 2006/2990, **art. 2(f)**
I200 S. 158 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(x)**

159 Interpretation of Part 8

(1) In this Part—

"activities within the Chief Inspector's remit" and related expressions are to be construed in accordance with section 117(6);

"the Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

"the Council" means the Learning and Skills Council for England;

"document" means anything in which information of any description is recorded, including personal records as defined by section 12 of the Police and Criminal Evidence Act 1984 (c. 60);

"domestic premises" means premises which are used wholly or mainly as a private dwelling;

"functions" includes powers and duties;

an "HMI" means one of Her Majesty's Inspectors of Education, Children's Services and Skills;

"local authority in England" means—
(a) a county council in England;
(b) a metropolitan district council;
(c) a non-metropolitan district council for an area for which there is no county council;
(d) a London borough council;
(e) the Common Council of the City of London (in their capacity as a local authority);
(f) the Council of the Isles of Scilly;

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"the Office" means the Office for Standards in Education, Children's Services and Skills;

"the registration authority" means the person exercising functions relating to registration.

(2) In this Part any reference to the carrying on of activities as "user-focused" activities is a reference to the carrying on of the activities in a way that focuses on the needs of those for whose benefit the activities are carried on.

Commencement Information

I201 S. 159 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(g)**

PART 9

MISCELLANEOUS

Investigation of complaints by Chief Inspector

160 Power of Chief Inspector to investigate complaints by parents about schools

After section 11 of EA 2005 insert—

"Investigation of complaints

11A Power of Chief Inspector to investigate complaints about schools

(1) The Chief Inspector may investigate a qualifying complaint if he thinks it is appropriate to do so—

(a) for the purpose of determining whether it is or may be appropriate to have regard to the matters raised by the complaint in carrying out any of his functions in relation to schools in England, and

(b) in particular, for the purpose of determining, in the light of the complaint—

(i) when to carry out an inspection under section 5 (insofar as the timing of such an inspection is within his discretion), and

(ii) whether it would be appropriate to carry out an inspection under section 8(2).

(2) A complaint is a qualifying complaint if—

(a) it is about a matter relating to a relevant school and that matter—

(i) falls within a prescribed description, and

(ii) does not fall within any prescribed exception,

(b) it is made in writing to the Chief Inspector, and

(c) it is made by a person who satisfies prescribed conditions.

(3) The conditions prescribed for the purposes of subsection (2)(c) may, in particular, require that the person has, before making the complaint to the Chief

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Inspector, taken advantage of other procedures of a prescribed description for dealing with the complaint.

(4) Regulations may enable the Chief Inspector to determine that a condition prescribed for the purposes of subsection (2)(c) by virtue of subsection (3) is not to apply in relation to a person making a complaint.

(5) In this section, "relevant school" means any of the schools mentioned in paragraphs (a) to (g) of section 5(2).

11B Investigations under section 11A

(1) This section applies where a qualifying complaint is made to the Chief Inspector by a person who is a registered parent of a registered pupil at the school to which the complaint relates.

(2) If the Chief Inspector so requests for the purposes of an investigation of the complaint, the governing body of the school to which the complaint relates must provide him with—
   (a) such information held by them as may be specified or described in the Chief Inspector's request, and
   (b) such other information held by them as they consider may be relevant to the investigation.

(3) If the complaint relates to a maintained school and the Chief Inspector so requests for the purposes of an investigation of the complaint, the local education authority who maintain the school must provide him with—
   (a) such information held by them as may be specified or described in the Chief Inspector's request, and
   (b) such other information held by them as they consider may be relevant to the investigation.

(4) If, for the purposes of an investigation of the complaint, it appears to the Chief Inspector to be appropriate to hold a meeting for registered parents of registered pupils at the school to which the complaint relates—
   (a) he must give notice to that effect to—
      (i) the governing body of the school (unless the school falls within sub-paragraph (ii)), or
      (ii) if the school is a maintained school which does not have a delegated budget, the local education authority who maintain the school, and
   (b) on being so notified, the governing body or (as the case may be) the local education authority must co-operate with the Chief Inspector in the making of arrangements for the meeting.

(5) In particular, the governing body or (as the case may be) the local education authority must if so requested by the Chief Inspector—
   (a) allow the meeting to be held on the premises of the school,
   (b) fix a date for the meeting which is consistent with any request made by the Chief Inspector for that purpose, and
   (c) take such steps as are specified by the Chief Inspector to give—
      (i) the registered parents of registered pupils at the school, and

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(ii) if the school is a maintained school which has a delegated budget, the local education authority who maintain the school,

such notice as the Chief Inspector may specify of the date, time and place of the meeting and of its purpose.

(6) The following persons (in addition to the registered parents of registered pupils at the school) may attend a meeting held in pursuance of subsection (5)—

(a) a representative of the governing body of the school, and

(b) if the school is a maintained school, a representative of the local education authority who maintain the school.

(7) In this section—

"governing body", in relation to a relevant school which is not a maintained school, means the proprietor of the school;

"maintain", in relation to school, has the same meaning as in the School Standards and Framework Act 1998;

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

"qualifying complaint" is to be read in accordance with section 11A(2);

"relevant school" has the meaning given by section 11A(5).

11C Reports of investigations

(1) This section applies where, for the purposes of an investigation of a qualifying complaint to which section 11B applies the Chief Inspector—

(a) requests information as mentioned in subsection (2) or (3) of that section, or

(b) gives notice in pursuance of subsection (4)(a) of that section that he considers it appropriate to hold a meeting for registered parents of registered pupils at the school to which the complaint relates.

(2) The Chief Inspector may, if he considers it appropriate to do so, prepare a report of the outcome of the investigation by him of the complaint.

(3) If the Chief Inspector prepares a report under subsection (2) he must send a copy of the report to—

(a) the governing body of the school (unless the school falls within paragraph (b)), or

(b) if the school is a maintained school which does not have a delegated budget, the local education authority who maintain the school.

(4) The body to whom a report is sent under subsection (3) must, if so requested by the Chief Inspector, provide a copy of the report to the registered parents of registered pupils at the school to which the complaint relates.

(5) In this section, "governing body" and "qualifying complaint" have the same meaning as in section 11B."

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Commencement Information
I202 S. 160 in force at 28.3.2007 by S.I. 2007/935, **art. 3**

Powers to facilitate innovation

161 Powers to facilitate innovation

In Schedule 16—

(a) Part 1 contains amendments of Chapter 1 of Part 1 of EA 2002 (powers to facilitate innovation), including amendments removing the restriction on the duration of the powers conferred by that Chapter; and

(b) Part 2 contains a consequential amendment.

References to "local education authority" or "children's services authority"

162 Power to repeal references to "local education authority" and "children's services authority" etc

(1) Subject to subsection (5), the Secretary of State may by order—

(a) make such provision as appears to him to be appropriate for the purpose of—

(i) repealing any reference in any statutory provision to a local education authority (however expressed) in so far as it relates to such an authority in England or such an authority in Wales, or to both, and

(ii) replacing it, where it appears to him to be appropriate, with a reference (however expressed) to, as the case may be, an English local authority or a Welsh local authority, or to both;

(b) make such provision as appears to him to be appropriate for the purpose of—

(i) repealing any reference in any statutory provision to a children's services authority (however expressed) in so far as it relates to a children's services authority in England or a children's services authority in Wales, or to both, and

(ii) replacing it, where it appears to him to be appropriate, with a reference (however expressed) to, as the case may be, an English local authority or a Welsh local authority, or to both;

(c) make such provision as appears to him to be appropriate in consequence of or in connection with any provision made by virtue of paragraph (a) or (b), or of both those paragraphs.

(2) An order under subsection (1) may make provision modifying any enactment whenever passed or made (including this Act), and may, in particular, make provision—

(a) modifying references (however expressed) in any statutory provision to the functions of a local education authority, or the functions of a local authority (however defined) in its capacity as a local education authority, where the references wholly or partly relate to a local education authority in England or a local education authority in Wales;

(b) modifying statutory provisions which consist of or include provision requiring or authorising consultation, co-operation, communication or other action

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between a local education authority in England and an English local authority or between a local education authority in Wales and a Welsh local authority;

(c) modifying statutory provisions which consist of or include provision imposing a duty on a local education authority in England or on a local education authority in Wales where the duty imposed is similar to a duty imposed by that or any other statutory provision on, as the case may be, an English local authority or a Welsh local authority;

(d) modifying statutory provisions which consist of or include provision imposing a duty on an English local authority or on a Welsh local authority where the duty imposed is similar to a duty imposed by that or any other statutory provision on, as the case may be, a local education authority in England or a local education authority in Wales;

(e) repealing statutory provisions which are spent or have ceased to be of any practical utility.

(3) The following powers to make provision by order under subsection (1) are exercisable by the Assembly as well as by the Secretary of State—

(a) the power to make provision under paragraph (a) of that subsection in relation to any reference in any statutory provision to a local education authority (however expressed) in so far as it relates to such an authority in Wales,

(b) the power to make provision under paragraph (b) of that subsection in relation to any reference in any statutory provision to a children's services authority (however expressed) in so far as it relates to a children's services authority in Wales, and

(c) the power to make provision under paragraph (c) of that subsection in consequence of or in connection with any provision made by virtue of the powers under paragraph (a) or (b) of that subsection mentioned in paragraph (a) or (b) above, or by virtue of both those powers.

(4) The Secretary of State must not make an order under subsection (1), except with the consent of the Assembly, which contains provision made wholly or partly by virtue of any of the powers to make provision under that subsection mentioned in any of paragraphs (a) to (c) of subsection (3).

(5) An order under subsection (1) may make provision which is within the legislative competence of the Scottish Parliament only in consequence of provision made under such an order which is outside that competence.

[[F11](5A) The Welsh Ministers may by order make such provision as appears to them to be appropriate for the purpose of—

(a) repealing any reference in a Measure of the National Assembly for Wales to a local education authority (however expressed), and

(b) replacing it, where it appears to them to be appropriate, with a reference (however expressed) to a Welsh local authority.**]**

(6) In this section—

"children's services authority in England" and "children's services authority in Wales" have the same meaning as in the Children Act 2004 (c. 31);

"English local authority" means—

(a) a county council in England,

(b) a metropolitan district council,

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(c) a non-metropolitan district council for an area for which there is no county council,

(d) a London borough council,

(e) the Common Council of the City of London, or

(f) the Council of the Isles of Scilly;

"modify" includes amend or repeal;

"statutory provision" means—

(a) any provision of this or any other Act, including any Act passed after this Act, and

(b) any provision of subordinate legislation, including any such legislation made under, or after the passing of, this Act;

"Welsh local authority" means a county council or county borough council in Wales.

Textual Amendments

F11 S. 162(5A) inserted (E.W.) (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 23(2)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

Commencement Information

I203 S. 162 in force at 8.1.2007, see s. 188(2)

Provision of advice by adjudicator

163 Provision of advice by adjudicator

In section 25 of SSFA 1998 (adjudicators) after subsection (3) insert—

"(3A) When asked to do so by the Secretary of State, an adjudicator must give advice to the Secretary of State on such matters relating to the admission of pupils to relevant schools as the Secretary of State may specify.

(3B) The adjudicator may, for the purposes of providing such advice to the Secretary of State, request any of the following persons to provide him with such information held by them as the adjudicator may specify—

(a) the admission authority (within the meaning of Chapter 1 of Part 3) of a community, foundation or voluntary school;

(b) the proprietor of any other relevant school.

(3C) A person so requested by the adjudicator to provide information must comply with the request.

(3D) In subsections (3A) and (3B), "relevant school" means a school in England falling within any of paragraphs (a) to (f) of section 5(2) of the Education Act 2005."

Commencement Information

I204 S. 163 in force at 8.1.2007 by S.I. 2006/3400, **art. 3(f)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Information about children receiving publicly-funded education

164 Information about children receiving funded education outside school

After section 537A of EA 1996 (provision of information about individual pupils) insert—

"**537B Provision of information about children receiving funded education outside school**

(1) Regulations may make provision requiring a person who provides funded education to provide to the relevant person such individual child information as may be prescribed.

(2) In subsection (1), "the relevant person" means one or more of the following—
  (a) the Secretary of State, and
  (b) any prescribed person.

(3) Where any person within paragraph (b) of subsection (2) receives information by virtue of subsection (1), the Secretary of State may require that person to provide any such information—
  (a) to him, or
  (b) to any prescribed person.

(4) The Secretary of State may provide any individual child information—
  (a) to any information collator,
  (b) to any prescribed person, or
  (c) to any person falling within a prescribed category.

(5) Any information collator—
  (a) may provide any individual child information—
    (i) to the Secretary of State,
    (ii) to any other information collator, or
    (iii) to the person who provides the funded education for the child or children to whom the information relates, and
  (b) may, at such times as the Secretary of State may determine, provide such individual child information as may be prescribed—
    (i) to any prescribed person, or
    (ii) to any person falling within a prescribed category.

(6) Any person holding any individual child information (other than the Secretary of State or an information collator) may provide that information to—
  (a) the Secretary of State,
  (b) any information collator, or
  (c) any prescribed person.

(7) No information received under or by virtue of this section shall be published in any form which includes the name of the child or children to whom it relates.

(8) Regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Secretary of State is to be treated, for the purposes of any provision of such regulations

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or this section, as compliance with any requirement imposed by or by virtue of any such provision and relating to the provision of information to the Secretary of State.

(9) In this section—

"child" means a person under the age of 19;

"funded education" means education provided under arrangements made by a local education authority in pursuance of the duties imposed by section 19(1) and (4) (duty to make special arrangements for provision of education for children of compulsory school age and young persons who may otherwise not receive suitable education), other than such education provided at a school;

"individual child information" means information relating to and identifying individual children for whom funded education is being or has been provided, whether obtained under subsection (1) or otherwise;

"information collator" means any body which, for the purposes of or in connection with the functions of the Secretary of State relating to funded education, is responsible for collating or checking information relating to children for whom such education is provided."

Commencement Information

I205 S. 164 in force at 28.3.2007 for E. by S.I. 2007/935, **art. 2**

Further education

165 Power of members of staff of further education institutions to use force

After section 85B of the Further and Higher Education Act 1992 (c. 13) insert—

"**85C Power of members of staff to use force**

(1) A member of the staff of an institution which is within the further education sector may use such force as is reasonable in the circumstances for the purpose of preventing a student at the institution from doing (or continuing to do) any of the following, namely—

(a) committing any offence,

(b) causing personal injury to, or damage to the property of, any person (including the student himself), or

(c) prejudicing the maintenance of good order and discipline at the institution or among any of its students, whether during a teaching session or otherwise.

(2) The power conferred by subsection (1) may be exercised only where—

(a) the member of the staff and the student are on the premises of the institution, or

(b) they are elsewhere and the member of the staff has lawful control or charge of the student.

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(3) Subsection (1) does not authorise anything to be done in relation to a student which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.

(4) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.

(5) In this section, "member of the staff", in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee."

Commencement Information
I206 S. 165 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(b)**

166 Collaboration arrangements: maintained schools and further education bodies

(1) Regulations may enable—

(a) the governing body of a maintained school, whether alone or together with other such governing bodies, to make collaboration arrangements with one or more further education bodies;

(b) a further education body, whether alone or together with other further education bodies, to make collaboration arrangements with the governing body of a maintained school or the governing bodies of two or more such schools;

(c) a further education body to make collaboration arrangements with one or more further education bodies.

(2) "Collaboration arrangements" are arrangements for any of the functions of any of the bodies who make the arrangements ("the collaborating bodies") to be discharged jointly or by a joint committee of those bodies.

(3) Regulations may make provision as to—

(a) the establishment by the collaborating bodies of a joint committee of those bodies for the purposes of discharging any functions in pursuance of collaboration arrangements made by them ("a joint committee");

(b) the appointment of persons to serve on a joint committee (including provision as to the restrictions or other requirements relating to any such appointments) and their removal from office;

(c) the appointment of a clerk to a joint committee (including provision as to the restrictions or other requirements relating to any such appointment) and his removal from office;

(d) the appointment by a joint committee of one of their number to act as clerk for the purposes of a meeting where the clerk fails to attend;

(e) rights of persons to attend meetings of a joint committee;

(f) restrictions on persons taking part in proceedings of a joint committee;

(g) other matters relating to the constitution or procedure of a joint committee.

(4) Regulations may make provision as to—

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(a) the functions of collaborating bodies which may or may not be discharged jointly, or by a joint committee, in pursuance of collaboration arrangements;

(b) the manner in which such functions are to be discharged jointly, or by a joint committee, in pursuance of collaboration arrangements;

(c) any other matters which are relevant to the discharge of functions by the collaborating bodies jointly, or as the case may be, by a joint committee in pursuance of such arrangements.

(5) Regulations may provide that any enactment relating to—

(a) the functions of the collaborating bodies which are to be discharged in pursuance of collaboration arrangements, or

(b) the governing bodies, or as the case may be the further education bodies, by whom those functions are to be discharged,

is to have effect subject to all necessary modifications in its application in relation to those functions and the bodies by whom they are to be discharged.

(6) In this section—

"further education body" means—

(a) a further education corporation (as defined by section 17(1) of the Further and Higher Education Act 1992 (c. 13)), or

(b) the governing body of a designated institution (as defined by section 28(4) of that Act) which is a body incorporated by virtue of section 143(4) of the Learning and Skills Act 2000 (c. 21);

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

"regulations" means regulations made by the Secretary of State (in relation to England) or the Assembly (in relation to Wales).

Commencement Information

I207 S. 166 in force at 1.4.2007 for E. by S.I. 2007/935, **art. 4(b)**

I208 S. 166 in force at 30.6.2008 for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

Early years provision

167 Consultation with young pupils

In section 176 of EA 2002 (consultation with pupils), in subsection (3)—

(a) in the definition of "maintained school", for "or a community or foundation special school" substitute " , a community or foundation special school or a maintained nursery school ", and

(b) omit the definition of "pupil" (which excludes children who are being provided with nursery education).

Commencement Information

I209 S. 167 in force at 1.9.2007 for E. by S.I. 2007/1801, **art. 3(f)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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168 Maintained nursery schools: amendment of sections 496 and 497 of EA 1996

(1) In section 496 of EA 1996 (power of Secretary of State to prevent unreasonable exercise of functions by LEA or governing body), in subsection (2)(b), for "or any community or foundation special school" substitute " , of any community or foundation special school, or of any maintained nursery school ".

(2) In section 497 of EA 1996 (Secretary of State's general default powers), in subsection (2)(b), for "or any community or foundation special school" substitute " , of any community or foundation special school, or of any maintained nursery school ".

Commencement Information

I210 S. 168 in force at 8.1.2007, see s. 188(2)

Independent schools

VALID FROM 12/10/2009

169 Prohibition on participation in management of independent school

After section 167 of EA 2002 insert—

"Prohibition on participation in management of independent schools

167A Prohibition on participation in management of independent schools

(1) The appropriate authority may direct that a person—
  (a) may not take part in the management of an independent school;
  (b) may take part in the management of an independent school only in circumstances specified in the direction;
  (c) may take part in the management of an independent school only if conditions specified in the direction are satisfied.

(2) A direction under this section may be given in respect of a person only on one or more prescribed grounds connected with the suitability of persons to take part in the management of an independent school.

(3) Regulations may prescribe the procedure for giving a direction under this section (including provision about notification of persons who are subject to directions).

(4) The appropriate authority may vary or revoke a direction under this section in prescribed cases.

(5) Regulations may prescribe the grounds on which a person subject to a direction under this section may seek to have it varied or revoked under subsection (4).

(6) In this section and sections 167B to 167D, "appropriate authority" means—

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(a) in relation to England, the registration authority or such other public authority as may be prescribed;

(b) in relation to Wales, the registration authority or such other public authority as may be prescribed.

167B Directions under section 167A: appeals

(1) A person in respect of whom a direction has been given under section 167A may appeal to the Tribunal established under section 9 of the Protection of Children Act 1999—

(a) against the decision to give the direction;

(b) against a decision not to vary or revoke the direction.

(2) Regulations may—

(a) provide that the Tribunal may not entertain an appeal under this section insofar as the appellant's case is inconsistent with his having been convicted of an offence;

(b) prescribe circumstances in which the Tribunal shall allow an appeal under this section;

(c) prescribe the powers available to the Tribunal on allowing an appeal under this section.

167C Directions under section 167A: information

(1) The Secretary of State may provide to the appropriate authority any information relating to a person which is held by the Secretary of State in connection with his functions—

(a) under the Protection of Children Act 1999, except section 9 (the Tribunal);

(b) under Part 7 of the Care Standards Act 2000;

(c) under sections 142 to 144 of this Act;

(d) as registration authority under this Part.

(2) The National Assembly for Wales may provide to the appropriate authority any information relating to a person which is held by the Assembly in connection with its functions as registration authority under this Part.

(3) The Independent Barring Board may provide to the appropriate authority any information relating to a person which is held by the Board in connection with its functions and which appears to it to be relevant to the exercise by the appropriate authority of its functions under sections 167A to 167C.

(4) The appropriate authority may provide to the Independent Barring Board, the General Teaching Council for England, the General Teaching Council for Wales, the Secretary of State or the National Assembly for Wales any information relating to a person which is held by the appropriate authority in connection with its functions under section 167A.

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167D Directions under section 167A: notification

(1) Where the appropriate authority in relation to England gives a direction under section 167A(1), or varies or revokes any such direction, it must notify—

(a) the registration authority in relation to England (unless the appropriate authority is the registration authority), and

(b) the registration authority in relation to Wales and (if different) the appropriate authority in relation to Wales.

(2) Where the appropriate authority in relation to Wales gives a direction under section 167A(1), or varies or revokes any such direction, it must notify—

(a) the registration authority in relation to Wales (unless the appropriate authority is the registration authority), and

(b) the registration authority in relation to England and (if different) the appropriate authority in relation to England.”

VALID FROM 12/10/2009

170 Prohibition on participation in management: supplementary

(1) In section 169 of EA 2002 (unsuitable persons), for the words from “any work” onwards substitute “ work of a prescribed kind is subject to a direction, order or decision of a prescribed description made under any prescribed enactment having effect in any part of the United Kingdom ”.

(2) In section 113BA of the Police Act 1997 (c. 50) (suitability information relating to children), at the end of subsection (2) insert—

“(e) whether the applicant is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).”

(3) In section 9 of the Protection of Children Act 1999 (c. 14) (the Tribunal), in subsection (2) after paragraph (b) insert—

“(ba) on an appeal under section 167B of the Education Act 2002;”.

VALID FROM 12/10/2009

171 Prohibition on participation in management: transitional provision

(1) A person falls within this subsection if—

(a) immediately before the relevant day he is subject to a direction under section 142 of EA 2002 given on grounds prescribed for the purposes of this section, and

(b) prescribed conditions (which may include conditions relating to decisions taken on or after the relevant day by the Independent Barring Board under the Safeguarding Vulnerable Groups Act 2006) are satisfied in relation to him.

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(2) Regulations may provide that, as from a time specified in or determined in accordance with the regulations, persons who fall within subsection (1) are to be treated for prescribed purposes as if the direction given under section 142 of EA 2002 were a direction given by the appropriate authority under section 167A of that Act.

(3) Regulations may make provision in connection with the determination of any appeal under subsection (1) of section 144 of EA 2002, or application for review under subsection (2) of that section, which is pending on the relevant day.

(4) Regulations under subsection (3) may, in particular, provide for an appeal, or application for review, under section 144 of EA 2002 to be treated as an appeal under section 167B of that Act.

(5) In this section—

"appropriate authority" has the same meaning as in section 167A of EA 2002;

"prescribed" means prescribed by regulations under this section;

"regulations" means regulations made—

(a) in relation to England, by the Secretary of State, or

(b) in relation to Wales, by the Assembly;

"the relevant day" means the day on which section 167A of EA 2002 comes into force.

172 Offences relating to independent schools

(1) Part 10 of EA 2002 (independent schools) is amended as follows.

(2) After section 168 insert—

"**168A Proceedings for offences**

No proceedings for an offence under this Chapter shall be instituted except by or with the consent of the registration authority.

168B Offences by bodies corporate

(1) Where an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as it applies to a director of a body corporate.

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168C Offences by unincorporated bodies

(1) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.

(3) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of an offence against a corporation) apply as they do in relation to a body corporate.

(4) Where an offence under this Chapter committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, he as well as the body is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly."

(3) In section 159 (unregistered schools), omit subsection (3).

(4) Sections 168B and 168C of EA 2002 do not have effect in relation to offences committed before the commencement of this section.

Commencement Information

I211 S. 172 in force at 8.1.2007, see s. 188(2)

Special educational needs

173 Special educational needs co-ordinators

In section 317 of EA 1996 (duties of governing body or LEA in relation to pupils with special educational needs) after subsection (3) insert—

"(3A) The governing body of a community, foundation or voluntary school or a maintained nursery school shall designate a member of the staff at the school (to be known as the "special educational needs co-ordinator") as having responsibility for co-ordinating the provision for pupils with special educational needs.

(3B) Regulations may—

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(a) require the governing bodies of schools falling within subsection (3A) to ensure that special educational needs co-ordinators have prescribed qualifications or prescribed experience (or both), and

(b) confer on the governing bodies of those schools other functions relating to special educational needs co-ordinators."

Commencement Information

I212 S. 173 in force at 8.1.2007 for E. by S.I. 2006/3400, **art. 2(c)**

174 Time limits relating to statements of special educational needs

(1) Chapter 1 of Part 4 of EA 1996 (children with special educational needs) is amended as follows.

(2) In Schedule 26 (making of assessments under section 323), in paragraph 3(3)(a) after "or 329A" insert " , or under regulations under sub-paragraph (1)(b), ".

(3) In Schedule 27 (making and maintenance of statements under section 324)—

(a) in paragraph 5, for sub-paragraph (3) substitute—

"(3) Regulations may provide that, where a local education authority are under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty to make the statement, or any step required to be taken for or in connection with the performance of the duty or the maintenance of the statement (including any step in relation to the amendment of the statement) must, subject to prescribed exceptions, be performed within the prescribed period.", and

(b) in paragraph 11, after sub-paragraph (2A) insert—

"(2B) Where the local education authority determine to cease to maintain a statement following a periodic review or a re-assessment review, regulations may provide that a notice under sub-paragraph (2)(a) must be given within the prescribed period beginning with the date of the review."

(4) Any regulations which were made under Schedule 26 or 27 to EA 1996 and are in force immediately before the commencement of this section are to have effect as from that time as if made under that Schedule as amended by subsection (2) or (3) (as the case may be).

Commencement Information

I213 S. 174 in force at 8.1.2007, see s. 188(2)

Other miscellaneous provisions

175 Miscellaneous amendments relating to Wales

Schedule 17 contains further amendments relating to Wales.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Commencement Information

I214 S. 175 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

176 Support schemes relating to education and training for persons aged 10 to 15

(1) Before section 12 of the Learning and Skills Act 2000 (c. 21) (research and information), and immediately after the cross-heading which precedes that section, insert—

"11A **Support schemes relating to education and training for persons aged 10 to 15**

(1) The Council may—

(a) make and carry on one or more schemes for the purpose of encouraging 10 to 15 year olds to undergo relevant education or training, and

(b) secure the provision of financial resources to such persons who are receiving or proposing to receive relevant education or training in pursuance of such a scheme.

(2) Sections 5(2) and (3) and 6(1), (2) and (5) apply in relation to the provision of financial resources under subsection (1)(b) as they apply in relation to the provision of financial resources under section 5(1)(c).

(3) In this section—

"10 to 15 year olds" means persons who have attained the age of 10 but have not ceased to be of compulsory school age;

"relevant education" means—

(a) education (other than higher education) suitable to the requirements of 10 to 15 year olds, and

(b) organised leisure-time occupation connected with such education;

"relevant training" means—

(a) training suitable to the requirements of 10 to 15 year olds, and

(b) organised leisure-time occupation connected with such training.

(4) Subsection (5) of section 2 has effect for the purposes of the definitions of "relevant education" and "relevant training" in subsection (3) above as it has effect for the purposes of that section."

(2) In section 9 of that Act (assessment and means tests), in subsection (4), after "5(1)(c)" insert " or 11A(1)(b) ".

(3) In section 13 of that Act (persons with learning difficulties)—

(a) in subsection (1), for "and 8" substitute " , 8 and 11A ", and

(b) after subsection (6) insert—

"(7) In its application for the purposes of subsection (1) in relation to the functions of the Council under section 11A, the reference in subsection (5)(b) to "post-16 education or training" is to be read as a

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

reference to "relevant education or training" (within the meaning of section 11A)."

Commencement Information
I215 S. 176 in force at 1.4.2007 by S.I. 2007/935, **art. 5(y)**

177 University bodies: amendment of section 29 of Leasehold Reform Act 1967

(1) Section 29 of the Leasehold Reform Act 1967 (c. 88) (which enables university bodies in certain circumstances to reserve rights for future development in relation to land sold or let by them) is amended as follows.

(2) In subsection (6), omit the words from "but a university body" to the end.

(3) In subsection (6B), for the words from "includes" to the end substitute—

"(a) includes development by a related university body (within the meaning of section 28(6)(b) above); and

(b) must be development for the purposes (other than investment purposes) of the university body or any such related university body."

(4) Where immediately before the date on which this section comes into force—

(a) a university body have applied for consent under subsection (6) of section 29 of the Leasehold Reform Act 1967, and

(b) the application has yet to be determined,

consent under that subsection shall continue to be required; and for that purpose the amendments made by subsections (2) and (3) above shall be disregarded.

Commencement Information
I216 S. 177 in force at 8.1.2007, see s. 188(2)

PART 10

GENERAL

[F12]178 Framework power relating to Wales

. . . . . .

Textual Amendments
F12 S. 178 repealed (25.5.2007) by The National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007/910), arts. 1(2), **5(a)** (with art. 2)

Commencement Information
I217 S. 178 in force at 8.1.2007, see s. 188(2)

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

[F13]179 Restrictions on framework power conferred by section 178

. . . . . .

Textual Amendments

F13 S. 179 repealed (25.5.2007) by The National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007/910), arts. 1(2), **5(a)** (with art. 2)

Commencement Information

I218 S. 179 in force at 8.1.2007, see s. 188(2)

180 Functions to be exercisable by National Assembly for Wales

(1) Any function conferred on the Secretary of State by virtue of the amendments made by the provisions mentioned in subsection (2), so far as exercisable in relation to Wales, is to be taken to have been transferred to the Assembly by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38).

(2) Those provisions are—

section 4 (duty to identify children not receiving education);

sections 40 to 54 (school admissions);

[[F14]section 55 (right of sixth-form pupils to opt out of religious worship);**]**

section 56 (charges for music tuition);

section 86 (provision of food and drink on school premises etc);

section 164 (provision of information about children receiving funded education outside school);

section 168 (maintained nursery schools: amendment of sections 496 and 497 of EA 1996);

section 173 (special educational needs co-ordinators);

section 174 (time limits relating to statements of special educational needs);

Schedule 5 (funding of maintained schools).

Textual Amendments

F14 Words in s. 180(2) inserted (retrospectively) by Education and Skills Act 2008 (c. 25), s. 173(1)(g), **Sch. 1 para. 88**

181 Orders and regulations: general provisions

(1) **[**[F15]Any power of the Secretary of State or the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.**]**

(2) Any power of the Secretary of State or **[**[F16]the Assembly**][**[F16]the Welsh Ministers**]** to make an order or regulations under this Act includes power—

(a) to make different provision for different cases or areas,

(b) to make provision generally or in relation to specific cases, and

(c) to make such incidental, supplementary, transitional or saving provision as the Secretary of State or **[**[F17]the Assembly thinks**][**[F17]the Welsh Ministers think **]** fit.

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Textual Amendments

F15 S. 181(1) substituted (E.W.) (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 23(3)(a)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

F16 Words in s. 181(2) substituted (E.W.) (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 23(3)(b)(i)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

F17 Words in s. 181(2)(c) substituted (E.W.) (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 23(3)(b)(ii)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

182 Parliamentary control of orders and regulations

(1) Subject to subsection (2), any statutory instrument containing regulations or an order made under this Act by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Subsection (1) does not apply to—

(a) an order under section 15(7)(b) (designation of primary school as rural primary school for purposes of sections 15 and 16),

(b) an order under section 188(3) (commencement), or

(c) an instrument to which subsection (3) applies.

(3) A statutory instrument which contains (alone or with other provisions)—

(a) an order under section 80 (power to repeal the school travel scheme provisions),

(b) an order under section 162 (power to repeal references to "local education authority" and "children's services authority" etc) which amends or repeals any provision of a public general Act, or

(c) regulations under section 183 which amend or repeal any provision of an Act,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

[F18 182A Assembly control of orders and regulations

(1) Any statutory instrument containing an order made under section 162(5A) by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Assembly.

(2) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the Assembly procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the Assembly by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.**]**

Textual Amendments

F18 S. 182A inserted (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), **ss. 23(4)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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183 Power to make consequential and transitional provision etc

(1) The Secretary of State may by regulations make—

(a) any supplementary, incidental or consequential provision, and

(b) any transitional or saving provision,

that he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect, to any provision of this Act.

(2) Regulations under this section may in particular—

(a) provide for any provision of this Act which comes into force before another provision has come into force to have effect, until that other provision has come into force, with specified modifications;

(b) amend or repeal any provision of—

(i) an Act passed before or in the same Session as this Act, or

(ii) subordinate legislation made before the passing of this Act.

(3) Nothing in this section limits the power by virtue of section 181(2) to include transitional or saving provision in an order under section 188(3) (commencement).

(4) The amendments that may be made by virtue of subsection (2)(b) are in addition to those that are made by, or may be made under, any other provision of this Act.

184 Repeals

The enactments specified in Schedule 18 (which include spent enactments) are repealed to the extent specified.

Commencement Information

I219 S. 184 partly in force; s. 184 in force at 8.11.2006 for certain purposes see s. 188(1); s. 184 in force at 8.1.2007 for certain purposes see s. 188(2)

I220 S. 184 in force at 12.12.2006 for specified purposes by S.I. 2006/2990, **art. 2(h)**

I221 S. 184 in force at 8.1.2007 for specified purposes for E. by S.I. 2006/3400, **art. 2(d)**

I222 S. 184 in force at 8.1.2007 for specified purposes by S.I. 2006/3400, **art. 3(g)**

I223 S. 184 in force at 8.2.2007 for specified purposes for E. by S.I. 2006/3400, **art. 4(b)**

I224 S. 184 in force at 27.2.2007 for specified purposes for E. by S.I. 2006/3400, **art. 6(f)**

I225 S. 184 in force at 27.2.2007 for specified purposes by S.I. 2006/3400, **art. 7(d)**

I226 S. 184 in force at 1.4.2007 for specified purposes for E. by S.I. 2007/935, **art. 4(c)**

I227 S. 184 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(z)**

I228 S. 184 in force at 25.5.2007 for specified purposes for E. by S.I. 2007/935, **art. 6(c)**

I229 S. 184 in force at 25.5.2007 for specified purposes by S.I. 2007/935, **art. 7(m)**

I230 S. 184 in force at 1.9.2007 for specified purposes for E. by S.I. 2007/1801, **art. 3(g)**

I231 S. 184 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(j)**

I232 S. 184 in force at 30.6.2008 for specified purposes for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**

I233 S. 184 in force at 30.6.2008 for specified purposes by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

I234 S. 184 in force at 1.9.2008 for specified purposes for W. by S.I. 2008/1429, art. 3(3), **Sch. Pt. 3**

I235 S. 184 in force at 1.1.2009 for specified purposes for W. by S.I. 2009/2545, **art. 3(2)(c)**

185 Financial provisions

(1) There is to be paid out of money provided by Parliament—

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(a) any expenditure incurred by virtue of this Act by the Office for Standards in Education, Children's Services and Skills or by a Minister of the Crown, and
(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

(2) There are to be paid into the Consolidated Fund—
(a) sums received by Her Majesty's Chief Inspector of Education, Children's Services and Skills by virtue of this or any other Act, and
(b) sums received by a Minister of the Crown by virtue of this Act.

186 Abbreviations of Acts

In this Act—
"EA 1996" means the Education Act 1996 (c. 56);
"EA 2002" means the Education Act 2002 (c. 32);
"EA 2005" means the Education Act 2005 (c. 18);
"SSFA 1998" means the School Standards and Framework Act 1998 (c. 31).

187 General interpretation

(1) In this Act—
"the Assembly" means the National Assembly for Wales;
"community or foundation special school" means a community special school or a foundation special school;
"enactment" includes an enactment comprised in subordinate legislation;
"subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30).

(2) Subject to subsection (4), EA 1996 and the provisions of this Act specified in subsection (3) are to be read as if those provisions were contained in EA 1996.

(3) The provisions of this Act referred to in subsection (2) are—
(a) section 5 (school improvement partners);
(b) Part 2 (establishment, alteration or discontinuance of schools in England);
(c) section 39 (general restriction on selection by ability);
(d) Part 4 (schools causing concern: England);
(e) Part 7 (discipline, behaviour and exclusion);
(f) section 166 (collaboration arrangements: maintained schools and further education bodies).

(4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of EA 1996, the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.

(5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of SSFA 1998.

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188 Commencement

(1) The following provisions come into force on the day on which this Act is passed—

sections 86 and 87 (provision of food and drink on school premises etc.);

section 109 (failure to secure school attendance), except subsection (8);

section 111 (interpretation of Chapter 2 of Part 7);

any provision of Part 8 (inspections) so far as it confers power to make subordinate legislation;

section 161 (powers to facilitate innovation);

section 180 (functions to be exercisable by Assembly);

sections 181 and 182 (subordinate legislation);

section 183 (power to make consequential and transitional provision etc.);

sections 185 to 187, this section and sections 189 to 191;

Schedule 16;

Part 1 of Schedule 18, and section 184 so far as relating to that Part.

(2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—

section 6 (functions of LEAs in England in respect of youth work, recreation etc.);

section 52 (power of Assembly to make regulations about looked after children);

section 58 (code of practice as to relationships between LEAs and maintained schools in England, etc.);

section 162 (power to repeal references to “local education authority” and “children's services authority”, etc.);

section 168 (maintained nursery schools: amendment of sections 496 and 497 of EA 1996);

section 172 (offences relating to independent schools);

section 174 (time limits relating to statements of special educational needs);

section 177 (university bodies: amendment of section 29 of Leasehold Reform Act 1967);

sections 178 and 179 (framework power relating to Wales);

Schedule 1;

Part 2 of Schedule 18, and section 184 so far as relating to that Part.

(3) The remaining provisions of this Act come into force in accordance with provision made by the appropriate authority (as defined by section 189) by order.

189 The appropriate authority by whom commencement order is made

(1) This section has effect for determining who is the appropriate authority for the purposes of section 188(3).

(2) In relation to the provisions specified in subsection (3), the appropriate authority is—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Assembly.

(3) Those provisions are—

section 1 (duties in relation to high standards and fulfilment of potential);

section 4 (duty to identify children not receiving education);

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in section 37 (staff at foundation or voluntary schools with religious character), subsections (1) and (2)(a);

section 38 (general duties of governing body of maintained school);

section 39 (general restriction on selection by ability);

section 40 (code for school admissions);

section 43 (duty of governing body to implement decisions relating to admissions);

section 44 (prohibition on interviews);

section 45 (admission arrangements for schools with religious character: consultation and objections);

section 47 (objections to admission arrangements);

section 53 (schools with pre-1998 arrangements for selection by ability or aptitude);

section 55 (right of sixth-form pupils to be excused from attendance at religious worship);

section 56 (charges for music tuition);

section 57 (school funding);

Chapter 1 of Part 7 (school discipline);

sections 97, 98 and 99 (parenting contracts and parenting orders);

section 102 (reintegration interviews);

section 108 (removal of excluded pupils to designated premises);

section 164 (provision of information about children receiving funded education outside school);

section 165 (power of members of staff of further education institutions to use force);

section 166 (collaboration arrangements: maintained schools and further education bodies);

section 167 (consultation with young pupils);

sections 169 to 171 (prohibition on participation in management of independent schools);

section 173 (special educational needs co-ordinators);

Schedule 5.

(4) In relation to the provisions specified in subsection (5), the appropriate authority is the Assembly.

(5) Those provisions are—

section 156 (removal of duty to inspect performance of certain Assembly functions);

section 175 (miscellaneous amendments relating to Wales);

Schedule 17;

the repeal in Part 5 of Schedule 18 of section 38 of the Children Act 2004 (c. 31), and section 184 so far as relating to that repeal.

(6) In relation to a repeal contained in Part 6 of Schedule 18, and section 184 so far as relating to such a repeal, the appropriate authority is the appropriate authority for the purposes of section 188(3) in relation to the provision on which the repeal is consequential.

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(7) In relation to the other provisions to which section 188(3) applies, the appropriate authority is the Secretary of State.

190 Extent

(1) Subject to subsections (2) and (3), this Act extends to England and Wales only.

(2) The following provisions extend also to Scotland and Northern Ireland—
section 162;
sections 181 and 182;
sections 185 to 189, this section and section 191.

(3) Any amendment or repeal made by this Act, other than any amendment made by paragraph 2 of Schedule 10, has the same extent as the enactment amended or repealed.

191 Short title

(1) This Act may be cited as the Education and Inspections Act 2006.

(2) This Act is to be included in the list of Education Acts set out in section 578 of EA 1996.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

SCHEDULES

SCHEDULE 1

Section 6

AMENDMENTS RELATED TO SECTION 6

Disability Discrimination Act 1995 (c. 50)

1 (1) In paragraph 1 of Schedule 4C to the Disability Discrimination Act 1995 (modifications of Chapter 2 of Part 4 of the Act where further education etc. is provided by an LEA), the substituted section 28R is amended as follows.

(2) For subsection (12) substitute—

"(12) "Recreational or training facilities" means—

(a) in the case of a local education authority in England, any facilities secured by the authority under section 507A or 507B of the Education Act 1996 (functions of LEAs in England in respect of recreation etc), and

(b) in the case of a local education authority in Wales, any facilities secured by the authority under subsection (1), or provided by them under subsection (1A), of section 508 of that Act (functions of LEAs in Wales in respect of recreation and social and physical training)."

Commencement Information
I236 Sch. 1 para. 1 in force at 8.1.2007, see s. 188(2)

Education Act 1996 (c. 56)

2 EA 1996 is amended as follows.

Commencement Information
I237 Sch. 1 para. 2 in force at 8.1.2007, see s. 188(2)

3 In section 312 (meaning of "special educational needs"), in subsection (2), after "or 15B" insert " or section 507B ".

Commencement Information
I238 Sch. 1 para. 3 in force at 8.1.2007, see s. 188(2)

4 In section 508 (functions in respect of facilities for recreation etc.)—

(a) in subsections (1) and (1A), after "local education authority" insert " in Wales ", and

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(b) in the heading, for "Functions" substitute " LEAs in Wales: functions ".

Commencement Information
I239 Sch. 1 para. 4 in force at 8.1.2007, see s. 188(2)

5 In section 510 (provision of clothing), in subsection (4)(c), for "made available for them by the authority under section 508(2)" substitute " secured by the authority under section 507A or 507B (if the authority are in England) or made available by the authority for such persons under section 508(2) (if the authority are in Wales) ".

Commencement Information
I240 Sch. 1 para. 5 in force at 8.1.2007, see s. 188(2)

6 In section 547 (nuisance or disturbance on school premises), in subsection (2A)(a), for "section 508" substitute " section 507A or 507B (if the authority are in England) or section 508 (if the authority are in Wales) ".

Commencement Information
I241 Sch. 1 para. 6 in force at 8.1.2007, see s. 188(2)

SCHEDULE 2

Sections 7, 10, 11 and 15

PROPOSALS FOR ESTABLISHMENT OR DISCONTINUANCE OF SCHOOLS IN ENGLAND

Modifications etc. (not altering text)
C10 Sch. 2 modified (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 7**

PART 1

INTRODUCTORY

Application of Schedule

1 (1) This Schedule applies to proposals published under section 7, 10, 11 or 15.

(2) Accordingly, in this Schedule, unless a contrary intention appears, "proposals" means proposals published under any of those sections.

Modifications etc. (not altering text)
C11 Sch. 2 para. 1 applied (with modifications) (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 6**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I242 Sch. 2 para. 1 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

"The relevant authority"

2 In this Schedule "the relevant authority" means—

(a) in the case of proposals under section 7, the local education authority who published the notice under that section, and

(b) in the case of proposals under section 10, 11 or 15, the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school.

Modifications etc. (not altering text)
C12 Sch. 2 para. 2 applied (with modifications) (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 6**

Commencement Information
I243 Sch. 2 para. 2 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

"Proposers"

3 In this Schedule "proposers", in relation to any proposals, means the persons who made the proposals, but does not include a local education authority.

Commencement Information
I244 Sch. 2 para. 3 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

References to persons by whom proposals are made

4 For the purposes of this Schedule—

(a) proposals under section 7 are to be taken to be made by the person who submitted them to the relevant authority under subsection (4)(b) of that section, or in the case of proposals published by the relevant authority under subsection (5)(b) of that section, by the relevant authority, and

(b) proposals under section 10, 11 or 15 are to be taken to be made by the persons who published them.

Commencement Information
I245 Sch. 2 para. 4 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Objections and comments

5 Regulations may make provision—

(a) for the making of objections or comments in relation to the proposals within a prescribed period to the relevant authority, and

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(b) requiring the relevant authority, in any case where proposals are referred to the adjudicator, to forward to the adjudicator objections or comments made in relation to the proposals in accordance with the regulations.

Modifications etc. (not altering text)

C13 Sch. 2 para. 5 applied (with modifications) (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 6**

Commencement Information

I246 Sch. 2 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

PART 2

CONSIDERATION OF PROPOSALS BY LOCAL EDUCATION AUTHORITY OR ADJUDICATOR

Proposals requiring consideration under paragraph 8

6 All proposals under section 7, 10 or 11 require consideration under paragraph 8.

Commencement Information

I247 Sch. 2 para. 6 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

7 (1) Proposals under section 15 require consideration under paragraph 8 unless sub-paragraph (2) applies.

(2) Proposals under section 15 fall to be dealt with under paragraph 19 (and do not require consideration under paragraph 8) if the proposals were made by the relevant authority and either—

(a) no objections were made in relation to the relevant proposals in accordance with regulations under paragraph 5, or

(b) all objections so made were withdrawn in writing within the period prescribed as that within which any objections must be made.

Commencement Information

I248 Sch. 2 para. 7 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Consideration of proposals

8 (1) Proposals which require consideration under this paragraph, other than proposals to which paragraph 10 applies, must be considered in the first instance by the relevant authority.

(2) Sub-paragraphs (3) and (4) apply in relation to the relevant authority unless the authority is required by any of paragraphs 10 to 13 and 15 to refer the proposals to the adjudicator.

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(3) In a case where the proposals were published under section 7 and two or more sets of proposals were published, the authority may—
  (a) reject all the proposals,
  (b) approve any of the proposals without modification, or
  (c) approve any of the proposals with such modifications as the authority think desirable, after consulting such persons as may be prescribed.

(4) In any other case, the authority may—
  (a) reject the proposals,
  (b) approve the proposals without modification, or
  (c) approve the proposals with such modifications as the authority think desirable, after consulting such persons as may be prescribed.

(5) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.

(6) When deciding whether or not to give any approval under this paragraph, the relevant authority must have regard to any guidance given from time to time by the Secretary of State.

Commencement Information
I249 Sch. 2 para. 8 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Consideration of proposals that are related to other proposals

9 (1) The requirement to consider proposals under paragraph 8 only applies if, at the time when the proposals fall to be considered, the relevant authority are satisfied that the proposals do not relate to any proposals under section 113A of the Learning and Skills Act 2000 (c. 21) which fall to be determined by the Secretary of State but have not yet been determined by him.

(2) Where proposals under section 7, 10, 11 or 15 appear to the relevant authority to be related to—
  (a) other proposals published under any of those sections and not yet determined, or
  (b) proposals published under Schedule 7 to the Learning and Skills Act 2000 (c. 21) and not yet determined,

the authority must consider the proposals together.

(3) In deciding for the purposes of this paragraph whether proposals are related to other proposals, the relevant authority must have regard to any guidance given from time to time by the Secretary of State.

Commencement Information
I250 Sch. 2 para. 9 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Duty to refer to adjudicator certain proposals made by or involving relevant authority

10 (1) The relevant authority must refer to the adjudicator, within a prescribed time—

(a) all the proposals published under section 7 in response to a notice under that section, if they consist of or include any proposals which—

(i) are made by the relevant authority, or

(ii) relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2);

(b) any proposals under section 10 or 11 which—

(i) are made by the relevant authority, or

(ii) relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2).

(2) A foundation falls within this sub-paragraph if it is to be established otherwise than under SSFA 1998 and any of the following applies—

(a) the relevant authority or any person appointed by the relevant authority is to be a member of the foundation,

(b) any person appointed by the relevant authority is to be a charity trustee (within the meaning of the Charities Act 1993 (c. 10)) of the foundation, or

(c) any voting rights in the foundation are to be exercisable by the relevant authority or persons appointed by the relevant authority.

(3) Regulations may make provision for the making by the relevant authority to the adjudicator of objections to any proposals which are required to be referred to the adjudicator under this paragraph.

Commencement Information

I251 Sch. 2 para. 10 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Duty to refer proposals to adjudicator in prescribed cases

11 Regulations may make provision requiring the relevant authority in prescribed cases to refer to the adjudicator within a prescribed time proposals requiring consideration under paragraph 8 (or in the case of proposals under section 7 all the proposals requiring consideration under that paragraph), together with any comments made on the proposals (or in the case of proposals under section 7, any of the proposals) by the authority.

Commencement Information

I252 Sch. 2 para. 11 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

Duty to refer proposals to adjudicator in pursuance of direction by Secretary of State

12 (1) The Secretary of State may at any time give a direction to a local education authority requiring them to refer to the adjudicator by a specified time—

(a) any proposals which have been published by the authority under section 7 but which, at the time when the direction is given, have not been determined by the authority, and

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(b) all subsequent proposals published by the authority under that section until the direction is revoked,

together with any comments made on any of the proposals by the authority.

(2) Where a direction under sub-paragraph (1) is given to a local education authority at a time when the authority are considering proposals which consist of or include proposals published under section 7 to establish an Academy, the authority must complete any consultation required by paragraph 18 before referring the proposals to the adjudicator.

(3) References in this paragraph to the determination of any proposals are references to—

(a) a determination whether or not to approve the proposals under paragraph 8, or

(b) where by virtue of paragraph 7(2) the proposals fall to be dealt with under paragraph 19, a determination under paragraph 19 whether or not to implement the proposals.

Commencement Information

I253 Sch. 2 para. 12 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Duty to refer proposals to adjudicator where determination delayed

13 If by the end of such period as may be prescribed the relevant authority have not determined whether to give any approval under paragraph 8(3) or (4), they must within a prescribed time refer to the adjudicator—

(a) in the case mentioned in paragraph 8(3), all the proposals published under section 7, and

(b) in the case mentioned in paragraph 8(4), the proposals concerned,

together with any comments made on the proposals by the authority.

Modifications etc. (not altering text)

C14 Sch. 2 para. 13 applied (with modifications) (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 6**

Commencement Information

I254 Sch. 2 para. 13 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

Reference to adjudicator at request of aggrieved person after determination under paragraph 8(4)

14 (1) The relevant authority must if so requested within a prescribed time by any relevant person refer to the adjudicator within a prescribed time any proposals under section 10, 11 or 15 which the relevant authority have determined under paragraph 8(4), together with any reasons given by the authority for their determination.

(2) The following are relevant persons for the purposes of sub-paragraph (1)—

(a) the Diocesan Board of Education for any diocese of the Church of England any part of which is comprised in the area of the relevant authority;

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(b) the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority;

(c) in the case of proposals made under section 10 or 11 by a person other than the relevant authority and rejected by the authority under paragraph 8(4)(a), the proposers;

(d) in the case of proposals published under section 15, the governing body or trustees of any foundation, voluntary or foundation special school which is the subject of the proposals;

(e) where the proposals relate to a school or proposed school providing education for persons aged 14 years or over, the Learning and Skills Council for England.

Modifications etc. (not altering text)

C15 Sch. 2 para. 14 applied (with modifications) (E.) (25.5.2007) by The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (S.I. 2007/1288), reg. 1(1), **Sch. 6**

Commencement Information

I255 Sch. 2 para. 14 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

Duty to refer related proposals

15 Where the relevant authority are required under any of paragraphs 10 to 14 or under Schedule 7 to the Learning and Skills Act 2000 to refer any proposals ("the relevant proposals") to the adjudicator, the authority must also within a prescribed time refer to the adjudicator—

(a) any other proposals under section 7, 10, 11 or 15 which relate to the area of the relevant authority and which by virtue of paragraph 9(2) fall to be considered with the relevant proposals, and

(b) where the relevant proposals are referred to the adjudicator by virtue of paragraph 14, any other proposals under section 10, 11 or 15 which by virtue of paragraph 9(2) were determined by the relevant authority with the relevant proposals.

Commencement Information

I256 Sch. 2 para. 15 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

Withdrawal of proposals before determination

16 (1) Nothing in paragraph 8(1) to (4) prevents the proposers by whom any proposals have been made from withdrawing those proposals by notice in writing—

(a) to the relevant authority, and

(b) in a case where the proposals have been referred to the adjudicator, also to the adjudicator,

at any time before the proposals are determined under paragraph 8 by the authority or by the adjudicator.

(2) Nothing in paragraph 8(1) to (4) prevents the relevant authority from withdrawing any proposals made by the authority themselves by notice in writing to the

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adjudicator at any time before the proposals are determined under paragraph 8 by the adjudicator.

Commencement Information

I257 Sch. 2 para. 16 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

PROSPECTIVE

Effect of referring proposals to adjudicator

17 (1) Where any proposals are referred to the adjudicator under any provision of this Part of this Schedule—

(a) he must consider the proposals or, in a case where the proposals have previously been determined by the relevant authority, must consider them afresh,

(b) the following provisions of paragraph 8 apply to him in connection with his decision on the proposals as they apply to the relevant authority—

(i) sub-paragraph (3) or (4) (as the case requires), and

(ii) sub-paragraphs (5) and (6), and

(c) paragraph 9 applies to him as it applies to the relevant authority.

(2) The revocation of a direction under paragraph 12(1) does not affect the determination by the adjudicator of any proposals referred to him before the revocation.

Proposals to establish Academy

18 (1) Regulations may provide that, where proposals published under section 7 consist of or include proposals to establish an Academy, the relevant authority must within the prescribed period consult the Secretary of State in accordance with regulations, before taking any decision under paragraph 8.

(2) The relevant authority may not approve under paragraph 8 proposals to establish an Academy unless the Secretary of State, on being consulted under sub-paragraph (1), has indicated in accordance with regulations that, if the proposals were approved, he would be willing to commence negotiations with a view to entering into an agreement under section 482 of EA 1996 for the establishment of an Academy.

(3) If—

(a) the proposals have been referred to the adjudicator under paragraph 10, 11, 12, 13 or 15, or

(b) a direction under paragraph 12(1) is in force in relation to the relevant authority and the case does not fall within paragraph 12(2),

the reference in sub-paragraph (1) to the authority is to be read as a reference to the adjudicator.

(4) Sub-paragraph (2) has effect in relation to a decision of an adjudicator under paragraph 8 as it has effect in relation to a decision of the relevant authority under that paragraph.

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(5) Approval under paragraph 8 by the relevant authority or the adjudicator of proposals to establish an Academy does not oblige the Secretary of State to enter into, or seek to enter into, an agreement under section 482 of EA 1996.

Commencement Information

I258 Sch. 2 para. 18(1) in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

I259 Sch. 2 para. 18(2)-(5) in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Determination whether to implement proposals not requiring consideration under paragraph 8

19 (1) Where any proposals have been made under section 15 by the relevant authority and paragraph 7 does not require the proposals to be considered under paragraph 8, the authority must (subject to the following provisions of this paragraph) determine whether the proposals should be implemented.

(2) Any determination under sub-paragraph (1) must be made within a prescribed period.

(3) The requirement to make a determination under sub-paragraph (1) only applies if, at the time when the proposals fall to be considered, the relevant authority are satisfied that the proposals do not relate to any proposals under section 113A of the Learning and Skills Act 2000 (c. 21) which fall to be determined by the Secretary of State but have not yet been determined by him.

(4) The requirement to make a determination under sub-paragraph (1) does not apply where the proposals appear to the relevant authority to be related to—

(a) other proposals published under section 15 and not yet determined,

(b) proposals published under section 7, 10 or 11 and not yet determined, or

(c) proposals published under Schedule 7 to the Learning and Skills Act 2000 and not yet determined.

(5) In deciding for the purposes of this paragraph whether proposals are related to other proposals, the relevant authority must have regard to any guidance given from time to time by the Secretary of State.

(6) Where, in the case of any proposals falling within sub-paragraph (1)—

(a) the authority fail to make a determination under that sub-paragraph within the period mentioned in sub-paragraph (2), or

(b) the requirement to make such a determination does not apply by virtue of sub-paragraph (3) or (4),

the proposals require consideration under paragraph 8 and, in a case falling within paragraph (a), must be referred to the adjudicator.

Commencement Information

I260 Sch. 2 para. 19 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

Provision of information

20 Regulations may require one or more of the following—

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(a) the proposers (if any),
(b) the relevant authority, and
(c) the adjudicator,

to provide such information relating to the proposals to such persons, and at such times, as may be prescribed.

Commencement Information
I261 Sch. 2 para. 20 in force at 1.4.2007 by S.I. 2007/935, **art. 5(aa)**

PART 3

IMPLEMENTATION OF PROPOSALS

Requirement to implement proposals

21 (1) Where—
(a) any proposals have been approved under paragraph 8, or
(b) the relevant authority have determined under paragraph 19 to implement any proposals,

then (subject to the following provisions of this paragraph) the proposals must be implemented, in the form in which they were so approved or determined, in accordance with this Part of this Schedule.

(2) The relevant authority may, at the request of the proposers who made the proposals referred to in sub-paragraph (1), or, where the proposals were made by the authority themselves, on their own initiative—
(a) modify the proposals after consulting such persons as may be prescribed, and
(b) where any approval was given in accordance with paragraph 8(5), specify a later date by which the event in question must occur.

(3) If, after consulting such persons as may be prescribed, the relevant authority are satisfied—
(a) that implementation of the proposals would be unreasonably difficult, or
(b) that circumstances have so altered since approval was given under paragraph 8 that implementation of the proposals would be inappropriate,

the authority may determine that sub-paragraph (1) is to cease to apply to the proposals.

(4) The relevant authority may only make a determination under sub-paragraph (3) where proposals that they should do so have been published, in accordance with regulations, by the authority or proposers who made the proposals referred to in sub-paragraph (1); and regulations may provide for any of the provisions of sections 7 to 12, sections 15 and 16 and Parts 1 and 2 of this Schedule to have effect in relation to any such further proposals with or without modifications.

(5) The relevant authority must in prescribed cases refer to the adjudicator by a prescribed time any matter which would otherwise fall to be determined by the authority under this paragraph.

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(6) If by the end of such period as may be prescribed the relevant authority have failed to take any step required by this paragraph, the authority must refer the matter to the adjudicator by the prescribed time.

(7) Where any matter is referred to the adjudicator under this paragraph—
- (a) the relevant authority may refer to the adjudicator with the matter their comments on it,
- (b) the adjudicator must consider the matter afresh, and
- (c) such of the provisions of sub-paragraphs (2) to (4) above as are relevant shall apply to him in connection with his decision on that matter as they apply to the authority.

Commencement Information
I262 Sch. 2 para. 21 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Proposals not falling to be implemented

22 (1) Where, by virtue of paragraph 21(3), paragraph 21(1) ceases to apply to any proposals, those proposals are to be treated for the purposes of this Schedule as if they had been rejected under paragraph 8.

(2) Where—
- (a) any approval under paragraph 8 was given in accordance with paragraph 8(5), and
- (b) the event specified under paragraph 8(5) does not occur by the date in question (whether as specified under that provision or as specified under paragraph 21(2)(b)),

paragraph 21(1) ceases to apply to the proposals.

(3) Where, by virtue of sub-paragraph (2), paragraph 21(1) ceases to apply to any proposals approved by the relevant authority under paragraph 8 and not referred to the adjudicator, those proposals must be considered afresh by the authority under that paragraph.

(4) Where, by virtue of sub-paragraph (2), paragraph 21(1) ceases to apply to any proposals approved by the adjudicator under paragraph 8, those proposals must be considered afresh by him under that paragraph (and paragraph 17 applies accordingly).

Commencement Information
I263 Sch. 2 para. 22 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Proposals relating to community schools, community special schools or maintained nursery schools

23 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a community school, a community special school or a maintained nursery school or to a proposed such school.

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(2) The proposals must be implemented by the relevant authority.

Commencement Information
I264 Sch. 2 para. 23 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Proposals relating to foundation or voluntary controlled schools

24 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a foundation or voluntary controlled school or a proposed such school.

(2) Proposals made by the relevant authority must be implemented by the authority.

(3) Proposals made by proposers (including, in particular, such proposals so far as relating to the provision of the site for a proposed school) must be implemented by the relevant authority and by the proposers, respectively, to such extent as the proposals provide for each of them to do so.

Commencement Information
I265 Sch. 2 para. 24 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Proposals relating to voluntary aided school

25 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a voluntary aided school or a proposed voluntary aided school.

(2) The proposals must be implemented—
- (a) so far as relating to the provision of any relevant premises for a proposed school, by the relevant authority,
- (b) in the case of proposals under section 15 made by proposers, by the proposers and the relevant authority, and
- (c) otherwise by the proposers or, in the case of proposals made by the relevant authority, by the relevant authority.

(3) In sub-paragraph (2) "relevant premises" means—
- (a) in the case of proposals published under section 7, the site specified in the notice under that section or playing fields, and
- (b) in any other case, playing fields.

(4) Nothing in sub-paragraph (2) requires the relevant authority to provide any playing fields where—
- (a) a new voluntary aided school is to be established in place of one or more existing independent, foundation or voluntary schools falling to be discontinued on or before the date of implementation of the proposals, and
- (b) those playing fields—
  - (i) were part of the premises of any of the existing schools (whether it was an independent school or a foundation or voluntary school), and
  - (ii) (if it was a foundation or voluntary school) were not provided by the authority.

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Commencement Information
I266 Sch. 2 para. 25 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Proposals relating to foundation special schools

26 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a foundation special school or a proposed foundation special school.

(2) Where the proposals were made by the relevant authority, they must be implemented by the authority.

(3) Proposals made by proposers (including, in particular, proposals so far as relating to the provision of the site for a proposed school) must be implemented by the relevant authority and by the proposers, respectively, to such extent as the proposals provide for each of them to do so.

Commencement Information
I267 Sch. 2 para. 26 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Proposals relating to Academy

27 Where proposals published under section 7 to establish an Academy are implemented by the Secretary of State making an agreement under section 482 of EA 1996, subsection (3) of that section (requirement to consult certain LEAs about the establishment of the school) does not apply.

Commencement Information
I268 Sch. 2 para. 27 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

PART 4

PROVISION OF PREMISES AND OTHER ASSISTANCE IN CONNECTION WITH ESTABLISHMENT OF NEW SCHOOL

Provision of site and buildings for proposed foundation, voluntary controlled or foundation special school

28 (1) This paragraph applies where a local education authority are required—

(a) by virtue of paragraph 24(2) or (3) to provide a site for a proposed foundation or voluntary controlled school, or

(b) by virtue of paragraph 26(2) or (3) to provide a site for a proposed foundation special school.

(2) The authority must transfer their interest in the site and in any buildings on the site which are to form part of the school's premises—

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(a) to the school's trustees, to be held by them on trust for the purposes of the school, or

(b) if the school has no trustees, to the school's foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.

(3) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it must be made to such persons as the adjudicator thinks proper.

(4) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.

(5) Where—

(a) a transfer is made under this paragraph, and

(b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,

those persons must notify the local education authority that paragraph (b) applies to them; and they or their successors must pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the adjudicator.

(6) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—

(a) consideration for the creation or disposition of any kind of interest in other premises, including rent, and

(b) interest which has accrued in respect of any such consideration;

and for the purposes of any agreed determination under sub-paragraph (5) regard must be had to any guidance given from time to time by the Secretary of State.

(7) Any sum paid under sub-paragraph (5) is to be treated for the purposes of section 14 of the Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.

(8) A determination may be made under sub-paragraph (5) in respect of any property subject to a trust which has arisen under section 1 of the Reverter of Sites Act 1987 (c. 15) (right of reverter replaced by trust for sale) if, and only if—

(a) the determination is made by the adjudicator, and

(b) he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.

(9) Sub-paragraph (5) is to apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs A1 to A16 or 1 to 3 of Schedule 22 to SSFA 1998 to that sum.

(10) In this paragraph—

"the relevant purposes" means—

(a) in relation to a transfer to a school's foundation body, the purposes of the schools comprising the group for which that body acts, and

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(b) in relation to a transfer to a school's governing body, the purposes of the school;

"site" does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

Modifications etc. (not altering text)

C16 Sch. 2 para. 28 applied by 2000 c. 21, Sch. 7A para. 5(1) (as substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, art. 7(o))

Commencement Information

I269 Sch. 2 para. 28 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Grants in respect of certain expenditure relating to proposed voluntary aided school

29 (1) This paragraph applies where any proposers are required by virtue of paragraph 25(2) to implement proposals involving the establishment of a new voluntary aided school.

(2) Paragraph 5 of Schedule 3 to SSFA 1998 applies in relation to the new school as it applies in relation to an existing voluntary aided school.

(3) In the application of that paragraph in relation to a new voluntary aided school—

(a) the references to the governing body, in relation to any time before the governing body are constituted, are to be read as references to the proposers;

(b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the proposers, the requirements must be complied with by the governing body, when they are constituted, as well as by the proposers.

Commencement Information

I270 Sch. 2 para. 29 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Assistance for proposers of proposed voluntary aided school

30 A local education authority may give to persons required by virtue of paragraph 25(2) to implement proposals involving the establishment of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by those persons of any obligation arising by virtue of that provision.

Commencement Information

I271 Sch. 2 para. 30 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

Duty to transfer interest in premises provided under paragraph 30

31 (1) Where assistance under paragraph 30 consists of the provision of any premises for use for the purposes of a school, the local education authority must transfer their interest in the premises—

(a) to the trustees of the school to be held on trust for the purposes of the school, or

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(b) if the school has no trustees, to the school's foundation body, to be held by that body for the relevant purposes.

(2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer it must be made to such persons as the adjudicator thinks proper.

(3) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.

(4) In this paragraph "the relevant purposes" means, in relation to a transfer to a school's foundation body, the purposes of the schools comprising the group for which that body acts.

Modifications etc. (not altering text)

C17 Sch. 2 para. 31 applied by 2000 c. 21, Sch. 7A para. 7(2) (as substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, art. 7(o))

Commencement Information

I272 Sch. 2 para. 31 in force at 25.5.2007 by S.I. 2007/935, **art. 7(n)**

SCHEDULE 3

Section 30

AMENDMENTS RELATING TO SCHOOL ORGANISATION

Local Government Act 1972 (c. 70)

1 In section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176), omit subsection (1A)(b) (which relates to school organisation committees).

Commencement Information

I273 Sch. 3 para. 1 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Local Government Act 1974 (c. 7)

2 In section 25 of the Local Government Act 1974 (authorities subject to investigation), in subsection (5)—

(a) omit paragraph (a) (which relates to school organisation committees), and

(b) in paragraph (c), for "that Act" substitute " the School Standards and Framework Act 1998 ".

Commencement Information

I274 Sch. 3 para. 2 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Sex Discrimination Act 1975 (c. 65)

3 In section 27 of the Sex Discrimination Act 1975 (exception for single-sex establishments turning co-educational) for subsection (1A) substitute—

"(1A) Without prejudice to subsection (1), a transitional exemption order may be made—

(a) in accordance with regulations made by virtue of section 21(5) of the Education and Inspections Act 2006 (which relates to the alteration of maintained schools in England), or

(b) in accordance with paragraph 21 or 22 of Schedule 6 or paragraph 16 or 17 of Schedule 7 to the School Standards and Framework Act 1998 (which relate to the alteration of maintained schools and the rationalisation of school places in Wales)."

Commencement Information

I275 Sch. 3 para. 3 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Diocesan Boards of Education Measure 1991 (No. 2)

4 (1) Section 3 of the Diocesan Boards of Education Measure 1991 (transactions for which advice or consent of the Board is required) is amended as follows.

(2) In subsection (1)—

(a) for paragraphs (a) and (b) substitute—

"(a) publishing proposals for any prescribed alteration to the school—

(i) in the case of a school in England, under section 19(3) of the Education and Inspections Act 2006 ("the 2006 Act"), or

(ii) in the case of a school in Wales, under section 28(2)(b) of the School Standards and Framework Act 1998 ("the 1998 Act");

(b) publishing proposals for the discontinuance of the school—

(i) in the case of a school in England, under section 15(2) of the 2006 Act, or

(ii) in the case of a school in Wales, under section 29(2) of the 1998 Act;",

(b) in paragraphs (c) and (cc) for "that Act" substitute " the 1998 Act ", and

(c) for paragraph (d) substitute—

"(d) in the case of a school in Wales, publishing proposals for changing the category of the school under paragraph 2 or 3 of Schedule 8 to the 1998 Act; or".

(3) After subsection (1) insert—

"(1A) The governing body of a church school in England shall not, unless it has obtained the consent in writing of the Board for the diocese in which the school is situated, publish proposals under section 19 of the 2006 Act—

(a) where the school is a voluntary school, for a change of category to foundation school, or

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(b) where the school is a foundation school, for a change in the instrument of government which results in the majority of governors being foundation governors.

(1B) Subsection (1)(a)(i) does not apply in any case where by virtue of subsection (1A) the consent of the Board is required."

(4) In subsection (6), for "subsection (2)" substitute " subsection (1A) or (2) ".

Commencement Information
I276 Sch. 3 para. 4 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

5 (1) Section 7 of the Diocesan Boards of Education Measure 1991 (powers of Board to give directions to governing bodies of voluntary aided church schools) is amended as follows.

(2) In subsection (1) for paragraphs (a) to (c) substitute—

"(a) the making of any prescribed alteration to the school—

(i) in the case of a school in England, under Part 2 of the Education and Inspections Act 2006 ("the 2006 Act"), or

(ii) in the case of a school in Wales, under Chapter 2 of Part 2 of the School Standards and Framework Act 1998 ("the 1998 Act"), or

(b) the discontinuance of the school—

(i) in the case of a school in England, under Part 2 of the 2006 Act or section 30 of the 1998 Act, or

(ii) in the case of a school in Wales, under Chapter 2 of Part 2 of the 1998 Act, or

(c) in the case of a school in Wales, changing the school's category in accordance with paragraph 2 or 3 of Schedule 8 to the 1998 Act,".

(3) In subsection (1A), for "under paragraph 2 or 3 of Schedule 8 to that Act" substitute " under section 19(3) of the 2006 Act or paragraph 2 or 3 of Schedule 8 to the 1998 Act ".

(4) In subsection (3)—

(a) in paragraph (a), for "under section 28(2)(b) of the School Standards and Framework Act 1998" substitute " under section 19(3) of the 2006 Act or section 28(2)(b) of the 1998 Act ",

(b) in paragraph (b)—

(i) at the beginning insert " in the case of a school in Wales ", and

(ii) for "that Act" substitute " the 1998 Act ", and

(c) for "the provisions of that Act" substitute " the provisions of the 1998 Act and the 2006 Act ".

Commencement Information
I277 Sch. 3 para. 5 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Further and Higher Education Act 1992 (c. 13)

6 (1) Section 58 of the Further and Higher Education Act 1992 (reorganisation of schools involving establishment of further education corporation) is amended as follows.

(2) In subsection (3), for paragraph (b) substitute—

"(b) a prescribed alteration within the meaning of the relevant school organisation provision has been made to the school,".

(3) After that subsection insert—

"(4) In subsection (3)(b) "the relevant school organisation provision" means—

(a) in relation to England, section 18 of the Education and Inspections Act 2006, and

(b) in relation to Wales, section 28 of the School Standards and Framework Act 1998."

Commencement Information

I278 Sch. 3 para. 6 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Education Act 1996 (c. 56)

7 (1) Section 5 of EA 1996 (primary schools, secondary schools and middle schools) is amended as follows.

(2) For subsection (3) substitute—

"(3) In this Act "middle school" means a school which, in pursuance of proposals published under any of the enactments specified in subsection (3A), has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—

(a) have attained a specified age below 10 years and six months, and

(b) are under a specified age above 12 years.

(3A) The enactments mentioned in subsection (3) are—

(a) in relation to England—

(i) section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998,

(ii) section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, and

(iii) section 7, 10, 11 or 19 of the Education and Inspections Act 2006;

(b) in relation to Wales, section 28 of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998."

Commencement Information

I279 Sch. 3 para. 7 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

8 In section 332B of EA 1996 (resolution of disputes), in subsection (8)(c), for "a city academy" substitute " an Academy ".

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Commencement Information
I280 Sch. 3 para. 8 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

9 (1) Section 394 of EA 1996 (determination of cases in which requirement for Christian collective worship is not to apply) is amended as follows.

(2) In subsection (8), for "(by virtue of section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998)" substitute " (by virtue of the relevant enactments) ".

(3) After that subsection insert—

"(9) In subsection (8) "the relevant enactments" means—

(a) in relation to England, sections 18 to 24 of the Education and Inspections Act 2006;

(b) in relation to Wales, section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998."

Commencement Information
I281 Sch. 3 para. 9 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

10 (1) Section 529 of EA 1996 (power to accept gifts on trust for educational purposes) is amended as follows.

(2) After subsection (1) insert—

"(1A) Any intention on the part of a local education authority in England that a school should be vested in the authority as trustees shall be treated for the purposes of sections 7, 10 and 11 of the Education and Inspections Act 2006 as an intention to establish a new community school, community special school or maintained nursery school (so that proposals for that purpose shall be published in accordance with those sections); and Schedule 2 to that Act (proposals for establishment or discontinuance of schools in England) shall apply accordingly."

(3) In subsection (2)—

(a) after "local education authority" insert " in Wales ",

(b) omit "(other than a nursery school or a special school)", and

(c) for the words from "the purposes of" to the end substitute " for the purposes of sections 28 and 31 of the School Standards and Framework Act 1998 as an intention to establish a new community school, community special school or maintained nursery school (so that proposals for that purpose shall be published as required by those sections); and Schedule 6 to that Act (statutory proposals concerning schools in Wales: procedure and implementation) shall apply accordingly. "

(4) In subsection (3)—

(a) after "subsection" insert " (1A) or ", and

(b) at the end insert " , a community special school or a maintained nursery school. "

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Commencement Information
I282 Sch. 3 para. 10 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

11 (1) Section 530 of EA 1996 (compulsory purchase of land) is amended as follows.

(2) In subsection (1), for paragraph (c) substitute—

"(c) is required for the purposes of an Academy (whether established or to be established)."

(3) In subsection (3), for the words from "borne by them" to the end substitute "borne by them—

(a) in the case of an authority in England, under paragraph 7(1) of Schedule 7A to the Learning and Skills Act 2000 (power to give assistance in relation to carrying out of obligations under that Schedule) or under any provision of regulations under section 24 of the Education and Inspections Act 2006 (implementation of proposals under section 19 of that Act) which by virtue of subsection (7) of section 24 of that Act authorises a local education authority to provide assistance to the governing body of a voluntary aided school in connection with the implementation of the obligations of the governing body under the regulations, or

(b) in the case of an authority in Wales, under paragraph 18 of Schedule 6 to the School Standards and Framework Act 1998 (power to give assistance to governing body of voluntary aided school in carrying out statutory proposals) (including that provision as applied by any enactment)."

Commencement Information
I283 Sch. 3 para. 11 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

12 (1) In Schedule 35A to EA 1996 (Academies: land) paragraph 1 is amended as follows.

(2) In sub-paragraph (2)(b), for the words from "published" onwards substitute " published under section 7 of the Education and Inspections Act 2006 (invitation for proposals for establishment of new schools) as a possible site for a new school ".

(3) In sub-paragraph (3)(d), for the words from "published" onwards substitute " published under section 7 of the Education and Inspections Act 2006 ".

Commencement Information
I284 Sch. 3 para. 12 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

School Standards and Framework Act 1998 (c. 31)

13 (1) Section 20 of SSFA 1998 (new categories of maintained schools) is amended as follows.

(2) In subsection (2), for "Schedule 8", wherever occurring, substitute " the change of category provisions ".

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(3) After subsection (2) insert—

"(2A) In subsection (2) "the change of category provisions" means—

(a) in the case of a school in England, Schedule 8 to this Act or sections 18 to 24 of the Education and Inspections Act 2006, and

(b) in the case of a school in Wales, Schedule 8 to this Act."

Commencement Information

I285 Sch. 3 para. 13 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

14 In section 21 of SSFA 1998 (kinds of foundation and voluntary schools and types of foundations), in subsection (6)—

(a) in paragraph (a), after "Schedule 8" insert " or under section 19 of the Education and Inspections Act 2006 ",

(b) in paragraph (f)—

(i) in sub-paragraph (i), after "Schedule 8" insert " or under section 19 of the Education and Inspections Act 2006 ",

(ii) in sub-paragraph (ii), after "that paragraph" insert " or that section ", and

(iii) in sub-paragraph (iii), after "voluntary school" insert " in Wales ",

(c) in paragraph (h), after "his consent" insert " or to the disposal of which paragraph A9 of Schedule 22 would apply ", and

(d) in paragraph (i), omit "school organisation committees and".

Commencement Information

I286 Sch. 3 para. 14 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

15 In section 22 of SSFA 1998 (maintenance and other funding of schools) for subsection (2) substitute—

"(2) Subsection (1) has effect subject to any statutory provision authorising the discontinuance of a maintained school or maintained nursery school."

Commencement Information

I287 Sch. 3 para. 15 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

16 In section 25 of SSFA 1998 (adjudicators), in subsection (2), for "or Part 2 of the Education Act 2005" substitute " or Part 2 of the Education and Inspections Act 2006 ".

Commencement Information

I288 Sch. 3 para. 16 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

17 Omit section 27 of SSFA 1998 (power to require committees or adjudicators for Wales).

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Commencement Information
I289 Sch. 3 para. 17 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

18 (1) Section 28 of SSFA 1998 (proposals for establishment or alteration of community, foundation or voluntary school) is amended as follows.

(2) In subsection (1)—
(a) after "local education authority" (in the first place) insert " in Wales ", and
(b) in paragraph (d), omit "in the case of a local education authority in Wales,".

(3) In subsection (2)—
(a) in paragraph (a), after "voluntary school" insert " in Wales ", and
(b) in paragraph (b)—
(i) after "voluntary school" insert " in Wales ", and
(ii) omit from ", or of" to "in England,".

(4) Omit subsections (2A) and (2B).

(5) In subsection (5), for "Secretary of State" substitute " Assembly ".

(6) Omit subsection (6).

(7) In subsection (7)—
(a) omit the words from the beginning to "in Wales,",
(b) in paragraph (a), for "the published proposals" substitute " any proposals published under this section ", and
(c) for "Secretary of State" substitute " Assembly ".

(8) In subsection (8), omit "(for both England and Wales)".

(9) In subsection (9), omit "subsection (6) and".

(10) In the heading, after "voluntary school" insert " in Wales ".

Commencement Information
I290 Sch. 3 para. 18 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

19 Omit section 28A of SSFA 1998 (proposals for establishment of community, foundation or voluntary school maintained by English local education authority).

Commencement Information
I291 Sch. 3 para. 19 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

20 (1) Section 29 of SSFA 1998 (proposals for discontinuance of community, foundation, voluntary of maintained nursery school) is amended as follows.

(2) In subsection (1), after "local education authority" insert " in Wales ".

(3) In subsection (2), after "voluntary school" insert " in Wales ".

(4) In subsection (4A), for "Secretary of State" substitute " Assembly ".

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(5) In subsection (4B)—
  (a) omit paragraph (c), and
  (b) in paragraph (d), omit "parish council or".

(6) In subsection (4D), for "Secretary of State" substitute " Assembly ".

(7) Omit subsection (5).

(8) In subsection (6)—
  (a) omit the words from the beginning to "in Wales,",
  (b) in paragraph (a), for "the published proposals" substitute " any proposals published under this section ", and
  (c) for "Secretary of State" substitute " Assembly ".

(9) In subsection (7), omit "(for both England and Wales)".

(10) In subsection (8), omit "subsection (5) and".

(11) In subsection (9A), for "Secretary of State" substitute " Assembly ".

(12) In the heading, after "nursery school" insert " in Wales ".

Commencement Information
I292 Sch. 3 para. 20 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

21 In section 30 of SSFA 1998 (notice by governing body to discontinue foundation or voluntary school) for subsection (9) substitute—

"(9) Nothing in any of the following provisions applies in relation to the discontinuance under this section of a foundation or voluntary school—
  (a) sections 29 and 33 of this Act (which relate to Wales), and
  (b) sections 15 and 28 of the Education and Inspections Act 2006 (which relate to England)."

Commencement Information
I293 Sch. 3 para. 21 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

22 In the italic heading before section 31 of SSFA 1998, for "LEAs" substitute " LEAs in Wales ".

Commencement Information
I294 Sch. 3 para. 22 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

23 (1) Section 31 of SSFA 1998 (proposals for establishment, alteration or discontinuance of community or foundation special school) is amended as follows.

(2) In subsection (1), after "local education authority" insert " in Wales ".

(3) In subsection (2), after "special school" insert " in Wales ".

(4) In subsection (4C), for "Secretary of State" substitute " Assembly ".

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(5) Omit subsection (5).

(6) In subsection (6)—

(a) omit the words from the beginning to "in Wales,",

(b) in paragraph (a), for "the proposals" substitute " any proposals published under this section ", and

(c) for "Secretary of State" substitute " Assembly ".

(7) In subsection (7), omit "(5) or".

(8) In subsection (8), omit "(for both England and Wales)".

(9) In the heading, after "special school" insert " in Wales ".

Commencement Information

I295 Sch. 3 para. 23 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

24 (1) Section 32 of SSFA 1998 (direction requiring discontinuance of community or foundation special school) is amended as follows.

(2) In subsection (1)—

(a) for "Secretary of State" substitute " Assembly ",

(b) for "he" substitute " it ", and

(c) after "special school" insert " in Wales ".

(3) In subsection (3)—

(a) for "Secretary of State" (in both places) substitute " Assembly ", and

(b) in paragraph (b), for "his" substitute " its ".

(4) In subsection (4), for "Secretary of State" substitute " Assembly ".

(5) In the heading, after "special school" insert " in Wales ".

Commencement Information

I296 Sch. 3 para. 24 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

25 (1) Section 33 of SSFA 1998 (further provisions relating to establishment, alteration or discontinuance of schools) is amended as follows.

(2) In subsection (1), in paragraphs (a) and (c), after "school" insert " in Wales ".

(3) In subsection (2), after "school" insert " in Wales ".

(4) In subsection (4), omit "28A,".

(5) In subsections (5) and (6), after "maintained school" insert " in Wales ".

(6) In the heading, after "schools" insert " in Wales ".

Commencement Information

I297 Sch. 3 para. 25 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

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26 (1) Section 35 of SSFA 1998 (school changing from one category to another) is amended as follows.

(2) In subsection (1)—

(a) after "maintained school" (in both places) insert " in Wales ", and

(b) in paragraph (b), after "aided school" insert " in Wales ".

(3) In the heading, after "School" insert " in Wales ".

Commencement Information

I298 Sch. 3 para. 26 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

27 (1) Section 79 of SSFA 1998 (stamp duty) is amended as follows.

(2) In subsection (1)—

(a) omit the word "or" at the end of paragraph (b), and

(b) at the end of paragraph (c) insert ", or

(d) any regulations made under section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section.".

(3) In subsection (3), for "subsection (1)" substitute " subsection (1)(a) to (c) ".

Commencement Information

I299 Sch. 3 para. 27 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

28 In section 82 of SSFA 1998 (modification of trust deeds), in subsection (1), for "or the Education Act 2002" substitute " , the Education Act 2002 or the Education and Inspections Act 2006 ".

Commencement Information

I300 Sch. 3 para. 28 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

29 (1) Section 109 of SSFA 1998 (proposals by governing body of grammar school to end selective admission arrangements) is amended as follows.

(2) In subsection (2)—

(a) for "for the purposes of section 28" substitute " under section 18 of the 2006 Act ", and

(b) for "that section" substitute " section 19 of the 2006 Act ".

(3) In subsection (3)—

(a) in paragraph (a), for "section 28 or Schedule 6" substitute " sections 19 to 24 of the 2006 Act or regulations under those sections ", and

(b) in paragraph (b), for "section 28" substitute " section 19 of the 2006 Act ".

(4) In subsection (4)—

(a) for "section 28" substitute " section 19 of the 2006 Act ", and

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(b) for "paragraph 5 or 10 of Schedule 6" substitute " regulations under section 24 of that Act ".

(5) After subsection (5) insert—

"(6) In this section "the 2006 Act" means the Education and Inspections Act 2006."

Commencement Information
I301 Sch. 3 para. 29 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

30 In section 143 of SSFA 1998 (index)—

(a) in the entry beginning "promoters"—

(i) after "Part II" insert " in relation to Wales ", and

(ii) omit "or 28A(2)"

(b) omit the entry beginning "school organisation committee".

Commencement Information
I302 Sch. 3 para. 30 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

31 (1) Schedule 3 to SSFA 1998 (funding of foundation, voluntary and foundation special schools) is amended as follows.

(2) In paragraph 2(2), for paragraph (a) substitute—

"(a) apply in relation to the provision of any site or buildings which—

(i) in the case of a school in England, the authority or the person by whom any proposals were made are required to provide by virtue of Part 3 of Schedule 2 to the Education and Inspections Act 2006 (provision of premises in connection with proposals for establishment of school) or by virtue of regulations under section 24 of that Act (implementation of proposals for alteration of school), or

(ii) in the case of a school in Wales, the authority or promoters are required to provide by virtue of Part 3 of Schedule 6 (provision of premises in connection with statutory proposals); or".

(3) At the beginning of Part 2 insert—

"Interpretation of Part

2A In this Part of this Schedule "promoters", in relation to a school in England, means persons who are for the purposes of Schedule 2 to the Education and Inspections Act 2006 the proposers in relation to proposals for the establishment of the school."

Commencement Information
I303 Sch. 3 para. 31 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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32 In Schedule 5 to SSFA 1998 (adjudicators), in paragraph 5(1) for "or under Part 2 of the Education Act 2005" substitute " or under Part 2 of the Education and Inspections Act 2006 ".

Commencement Information

I304 Sch. 3 para. 32 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

33 (1) Schedule 6 to SSFA 1998 (statutory proposals: procedure and implementation) is amended as follows.

(2) For the heading substitute " STATUTORY PROPOSALS CONCERNING SCHOOLS IN WALES: PROCEDURE AND IMPLEMENTATION ".

(3) Omit paragraphs 1 to 5.

(4) For the heading to Part 2 substitute " PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS ".

(5) In paragraph 6, omit the words from "which relate" to the end.

(6) In paragraph 7, in sub-paragraphs (2) and (3), for "Secretary of State" substitute " Assembly ".

(7) In paragraph 8—

(a) for "Secretary of State", wherever occurring, substitute " Assembly ",

(b) in sub-paragraph (1)(a), for "him" substitute " it ", and

(c) in sub-paragraph (2)(c), for "he" substitute " it ".

(8) In paragraph 9, in sub-paragraphs (2) and (3), for "Secretary of State" substitute " Assembly ".

(9) In paragraph 10—

(a) for "Secretary of State", wherever occurring, substitute " Assembly ", and

(b) in sub-paragraphs (3) and (4), for "he" substitute " it ".

(10) In paragraph 11, omit "5 or".

(11) In paragraph 12(2), omit ", 28A(1)".

(12) In paragraph 13—

(a) in sub-paragraph (2), omit ", 28A(1)", and

(b) in sub-paragraph (3)(a), omit "or 28A(2)".

(13) In paragraph 14(3), omit "or 28A(2)".

(14) In paragraph 16—

(a) for "Secretary of State", wherever occurring, substitute " Assembly ", and

(b) in sub-paragraph (8)(b), for "he" substitute " it ".

(15) In paragraph 20(2), for "Secretary of State" substitute " Assembly ".

(16) Omit paragraph 21 and the italic heading immediately above it.

(17) For the italic heading immediately above paragraph 22, substitute " Single-sex schools ".

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(18) In paragraph 22—

(a) for "Secretary of State", wherever occurring, substitute " Assembly ",

(b) in sub-paragraph (3), for "he" substitute " the Assembly ", and

(c) after sub-paragraph (3) insert—

"(4) In this paragraph—

"the 1975 Act" means the Sex Discrimination Act 1975,

"make", in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke,

"the responsible body" has the same meaning as in section 22 of the 1975 Act, and

"transitional exemption order" has the same meaning as in section 27 of the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school's admission arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational)."

Commencement Information

I305 Sch. 3 para. 33 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

34 In Schedule 8 to SSFA 1998 (changes of category of school), in paragraph 5(1), for "Secretary of State" substitute " Assembly ".

Commencement Information

I306 Sch. 3 para. 34 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Learning and Skills Act 2000 (c. 21)

35 In section 113 of the Learning and Skills Act 2000 (sixth forms requiring significant improvement), in subsection (3)(b) omit ", any school organisation committee".

Commencement Information

I307 Sch. 3 para. 35 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

36 In section 113A of the Learning and Skills Act 2000 (restructuring of sixth-form education), in subsection (4)—

(a) in paragraph (a), after "local education authority" insert " in Wales ", and

(b) after that paragraph insert—

"(aa) the establishment by a local education authority in England of one or more new foundation or foundation special schools to provide secondary education suitable to the requirements of persons who are above compulsory school age but below the age of 19 (and no other secondary education);".

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Commencement Information
I308 Sch. 3 para. 36 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

37 Schedule 7 to the Learning and Skills Act 2000 (sixth forms requiring significant improvement) is amended as follows.

Commencement Information
I309 Sch. 3 para. 37 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

38 For paragraph 17 substitute —

"17 The Council shall send a copy of the published proposals—

(a) to the local education authority who maintain the school, and

(b) in the case of a community or foundation special school, to such other persons as may be prescribed."

Commencement Information
I310 Sch. 3 para. 38 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

39 For paragraph 25 substitute —

"25 The Council shall send a copy of the published proposals—

(a) to the local education authority who maintain the school, and

(b) in the case of a community or foundation special school, to such other persons as may be prescribed."

Commencement Information
I311 Sch. 3 para. 39 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

40 (1) Paragraph 32 is amended as follows.

(2) In sub-paragraph (2)—

(a) after the definition of "the Council" insert—

""the local education authority" means the local education authority who maintain the school to which the proposals relate;", and

(b) omit the definition of "the school organisation committee".

(3) Omit sub-paragraph (3).

Commencement Information
I312 Sch. 3 para. 40 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

41 In paragraph 33(b), for "school organisation committee" substitute " local education authority ".

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Commencement Information
I313 Sch. 3 para. 41 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

42 In paragraph 34, for "school organisation committee" substitute " local education authority ".

Commencement Information
I314 Sch. 3 para. 42 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

43 (1) Paragraph 35 is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) The local education authority must consider the proposals and, subject to subsection (2), may —

(a) reject them,

(b) approve them without modification,

(c) approve them subject to modifications.

(1A) The authority—

(a) may, if they think it appropriate to do so and subject to regulations, refer the proposals to the adjudicator, and

(b) must do so in prescribed cases."

(3) In sub-paragraphs (2) and (3), for "school organisation committee" substitute " local education authority ".

(4) Omit sub-paragraphs (5) and (6).

(5) In sub-paragraph (7)(b), for "committee" substitute " local education authority ".

(6) In sub-paragraph (8)—

(a) for "school organisation committee" substitute " local education authority ", and

(b) for "the committee" substitute " the authority ".

Commencement Information
I315 Sch. 3 para. 43 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

44 In paragraph 36, in sub-paragraphs (2) and (3), for "school organisation committee" substitute " local education authority ".

Commencement Information
I316 Sch. 3 para. 44 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

45 For paragraph 37 substitute—

"37 (1) The local education authority—

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(a) may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any question which would otherwise fall to be determined by the authority under paragraph 36, and

(b) in prescribed cases, must refer to the adjudicator any such matter.

(2) Where a question is referred to the adjudicator—

(a) he shall consider the matter afresh, and

(b) for that purpose, paragraph 36 applies to him as it applies to the committee."

Commencement Information

I317 Sch. 3 para. 45 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

46 In Schedule 7A to the Learning and Skills Act 2000, for paragraphs 5 to 7 substitute—

"5 (1) Where a local education authority in England are required under this Schedule to provide a site for a foundation or voluntary controlled school or foundation special school (or a proposed such school), paragraph 28 of Schedule 2 to the Education and Inspections Act 2006 applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

(2) Where a local education authority in Wales are required under this Schedule to provide a site for a foundation or voluntary controlled school or foundation special school (or a proposed such school), paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

6 (1) In relation to England, where the governing body of a voluntary aided school are required by paragraph 3(3)(b) of this Schedule to implement proposals to make an alteration to the school, paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 (grants by Secretary of State in respect of expenditure on premises and equipment) applies in relation to the school.

(2) In relation to Wales, paragraph 17 of Schedule 6 to the School Standards and Framework Act 1998 (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under paragraph 3(3)(b) of this Schedule as it applies in relation to the obligations referred to in sub-paragraph (1)(a) of that paragraph 17.

7 (1) A local education authority in England may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation imposed on the governing body under this Schedule.

(2) Paragraph 31 of Schedule 2 to the Education and Inspections Act 2006 applies in relation to assistance under sub-paragraph (1) as it applies in relation to assistance under paragraph 30 of that Schedule.

(3) In relation to Wales, paragraph 18 of Schedule 6 to the School Standards and Framework Act 1998 (assistance from LEA in respect

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of voluntary aided schools) applies in relation to obligations imposed on the governing body of a voluntary aided school under this Schedule as it applies in relation to the obligations referred to in that paragraph, and paragraph 20 of that Schedule (duty on LEA to transfer interest in premises provided under paragraph 18) applies accordingly."

Commencement Information
I318 Sch. 3 para. 46 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Education Act 2002 (c. 32)

47 (1) Section 129 of EA 2002 (transfer of employment) is amended as follows.

(2) In subsection (1)(a), for the words from "section" to "1998" substitute " the relevant school organisation provisions (as defined by subsection (6)) ".

(3) After subsection (5) insert—

"(6) In subsection (1)(a) "the relevant school organisation provisions" means—

(a) in relation to England, section 28, 28A or 31 of the School Standards and Framework Act 1998, section 66 of the Education Act 2005 or section 7 or 11 of the Education and Inspections Act 2006, and

(b) in relation to Wales, section 28 or 31 of the School Standards and Framework Act 1998."

Commencement Information
I319 Sch. 3 para. 47 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

48 In Schedule 1 to EA 2002 (incorporation and powers of governing body), in paragraph 5 (dissolution of governing body) for sub-paragraph (2) substitute—

"(2) In this paragraph "the discontinuance date" means—

(a) in relation to a school in England, whichever of the following is relevant—

(i) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 2 to the Education and Inspections Act 2006 or under Schedule 7 or 7A to the Learning and Skills Act 2000,

(ii) the date on which the school is discontinued under section 30 of the 1998 Act, or

(iii) the date specified in a direction given under section 17(1) or 68(1) of the Education and Inspections Act 2006;

(b) in relation to a school in Wales, whichever of the following is relevant—

(i) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6 to the 1998 Act or under Schedule 7 or 7A to the Learning and Skills Act 2000,

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(ii) the date on which the school is discontinued under section 30 of the 1998 Act, or

(iii) the date specified in a direction given under section 19(1) or 32(1) of the 1998 Act.".

Commencement Information
I320 Sch. 3 para. 48 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

Education Act 2005 (c. 18)

49 Omit sections 64 to 67 of EA 2005 (which relate to school organisation in England).

Commencement Information
I321 Sch. 3 para. 49 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

50 (1) Section 68 of EA 2005 (proposals for establishment of federated school) is amended as follows.

(2) At the end of the heading insert " in Wales ".

(3) In subsection (1)—

(a) in paragraph (a), omit ", 28A",

(b) at the end of paragraph (b), insert " or ", and

(c) omit paragraphs (d) and (e).

Commencement Information
I322 Sch. 3 para. 50 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

51 In section 69 of EA 2005 (LEA not to establish school on opposite side of Welsh border), omit paragraph (a).

Commencement Information
I323 Sch. 3 para. 51 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

52 Omit section 73 of EA 2005 (interpretation of Part 2).

Commencement Information
I324 Sch. 3 para. 52 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

53 Omit Schedules 10 and 11 to EA 2005 (which relate to school organisation in England).

Commencement Information
I325 Sch. 3 para. 53 in force at 25.5.2007 by S.I. 2007/935, **art. 7(o)**

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SCHEDULE 4

Section 36

DISPOSALS AND CHANGES OF USE OF LAND

PART 1

AMENDMENTS TO SCHEDULE 22 TO SSFA 1998

1 Schedule 22 to SSFA 1998 (disposal of land by foundation, voluntary or foundation special schools and disposals on discontinuance) is amended as follows.

Commencement Information
I326 Sch. 4 para. 1 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

2 Before Part 1 of the Schedule insert—

"PART A1

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS IN ENGLAND: DISPOSALS OF LAND

Disposal of land by governing body of foundation, voluntary or foundation special school

A1 (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school in England of—

(a) any land acquired under a transfer under section 201(1)(a) of the Education Act 1996,

(b) any land acquired under any of the following—

paragraph 2 of Schedule 3;

paragraph 16 of Schedule 6 (including that provision as applied by any enactment);

paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;

any regulations made under paragraph 5 of Schedule 8;

paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),

(c) any land acquired under any regulations made under—

section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or

section 27 of that Act by virtue of subsection (2)(b) of that section,

(d) any land acquired from a foundation body,

(e) any land acquired from the Funding Agency for Schools,

(f) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),

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(g) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,

(h) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or

(i) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (h).

(2) But this paragraph does not apply to any disposal which—

(a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and

(b) is a disposal to the trustees of the school made on the school becoming a school with a foundation established otherwise than under this Act.

(3) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—

(a) prepared an appropriate statement in relation to the expenditure, and

(b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

(4) An "appropriate statement" in relation to expenditure is a statement in writing which—

(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and

(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

A2 (1) This paragraph applies to a disposal of land to which paragraph A1 applies if, or to the extent that, it comprises a disposal of non-playing field land.

(2) "Non-playing field land" means land which does not include playing fields within the meaning of section 77.

(3) Accordingly, in this paragraph, paragraphs A3 to A5 and paragraph A19—

(a) references to the disposal are to the disposal by the governing body of the non-playing field land, and

(b) references to the land are to that non-playing field land.

(4) The governing body must give the local education authority notice of their intention to dispose of the land.

(5) That notification must specify—

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(a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
(b) the estimated amount of the proceeds of disposal.

(6) For the purposes of this paragraph and paragraphs A3 and A4, the "publicly funded proceeds of disposal" means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A1.

(7) The authority may, within the requisite period, give the governing body any or all of the following—
(a) notice of their objection to the disposal, giving reasons for their objection;
(b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
(c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.

(8) The "requisite period" means the period of 6 weeks beginning with the date upon which the governing body gave notification of the disposal to the authority under sub-paragraph (4).

(9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the governing body notice to that effect.

(10) The governing body may not make the disposal within the requisite period unless within that period—
(a) the authority give the governing body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
(b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.

(11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the governing body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.

(12) The "relevant requirements" in relation to a notice given under sub-paragraph (7)(a) are met if—
(a) the adjudicator has approved the disposal on a reference made under paragraph A3(1), or
(b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).

(13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
(a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
(b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),

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the governing body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.

(14) The "relevant requirements" in relation to a notice given under sub-paragraph (7)(b) are met if—

(a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A3(2), or

(b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).

(15) The "relevant requirements" in relation to a notice given under sub-paragraph (7)(c) are met if—

(a) the "appropriate amount" has been determined in accordance with paragraph A3(3), or

(b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).

A3 (1) Where the authority give the governing body notice of their objection to the disposal in accordance with paragraph A2(7)(a), the governing body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.

(2) Where the authority give the governing body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—

(a) by agreement between the governing body and the authority, or

(b) by the adjudicator where—

(i) the governing body or the authority refer the matter to him for determination, and

(ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.

(3) Where the authority give the governing body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), the amount of those proceeds which it is appropriate for the governing body to pay to the authority (the "appropriate amount") is to be determined—

(a) by agreement between the governing body and the authority, or

(b) by the adjudicator where—

(i) the governing body or the authority refer the matter to him for determination, and

(ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.

(4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the governing body or, as the case may be, the authority, must give the other notice of their intention to make the reference.

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(5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.

A4 (1) This paragraph applies where the disposal is made.

(2) The governing body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.

(3) Where—

(a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), and

(b) the "appropriate amount" has been determined in accordance with paragraph A3(3) to be an amount greater than zero,

the governing body must pay the "appropriate amount" to the authority.

(4) The governing body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.

(5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the governing body must ensure that the surplus amount is used on relevant capital expenditure.

(6) The "agreed relevant capital expenditure" means—

(a) in a case where—

(i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A2(7)(b), or

(ii) such a notice was so given and was then withdrawn in accordance with paragraph A2(9),

the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A2(4), and

(b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A3(2).

(7) The "remaining publicly funded proceeds of disposal" means the amount of the publicly funded proceeds of disposal which remains after deducting the "appropriate amount" (if any) determined in accordance with paragraph A3(3).

(8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A2(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A2(7)(b) or (c)).

A5 (1) This paragraph applies where—

(a) the authority gave notice of their objection to the disposal in accordance with paragraph A2(7)(a), and

(b) the adjudicator has determined that he does not approve the disposal.

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(2) The governing body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.

(3) Before making an application under sub-paragraph (2), the governing body must give the local education authority notice of their intention to make the application.

A6 (1) For the purposes of paragraphs A2 to A4, "relevant capital expenditure", in relation to a disposal of land by the governing body of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—

(a) the school,

(b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or

(c) any proposed foundation, voluntary or foundation special school, or Academy.

(2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Disposal of land by foundation body

A7 (1) This paragraph applies to any disposal by a foundation body in England of—

(a) any land acquired under any of the following—

paragraph 2, 4 or 9 of Schedule 3;

paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);

paragraph 5 or 6 of Schedule 21;

paragraph 5(4B)(d) of this Schedule;

any regulations made under paragraph 5 of Schedule 8,

(b) any land acquired under any of the following—

paragraph 8(5) of Schedule 8 to the Education Act 2002;

paragraph 14(5) of Schedule 10 to the Education Act 2005;

paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);

any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;

any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,

(c) any land acquired from the governing body of a maintained school,

(d) any land acquired from another foundation body,

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(e) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment),

(f) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,

(g) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or

(h) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (g).

(2) A "foundation body in England" means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in England.

(3) But this paragraph does not apply to any disposal which—

(a) is made by a foundation body after the commencement of this sub-paragraph, and

(b) is a disposal to the trustees of a foundation or foundation special school made on the school leaving the group for which the foundation body acts and becoming a school with a foundation established otherwise than under this Act.

(4) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—

(a) prepared an appropriate statement in relation to the expenditure, and

(b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

(5) An "appropriate statement" in relation to expenditure is a statement in writing which—

(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and

(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

A8 (1) This paragraph applies to a disposal of land to which paragraph A7 applies if, or to the extent that, it comprises a disposal of non-playing field land.

(2) "Non-playing field land" means land which does not include playing fields within the meaning of section 77.

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(3) Accordingly, in this paragraph, paragraphs A9 to A11 and paragraph A19—
  (a) references to the disposal are to the disposal by the foundation body of the non-playing field land, and
  (b) references to the land are to that non-playing field land.

(4) The foundation body must give the local education authority notice of its intention to dispose of the land.

(5) That notification must specify—
  (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
  (b) the estimated amount of the proceeds of disposal.

(6) For the purposes of this paragraph and paragraphs A9 and A10, the "publicly funded proceeds of disposal" means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A7.

(7) The authority may, within the requisite period, give the foundation body any or all of the following—
  (a) notice of their objection to the disposal, giving reasons for their objection;
  (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
  (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.

(8) The "requisite period" means the period of 6 weeks beginning with the date upon which the foundation body gave notification of the disposal to the authority under sub-paragraph (4).

(9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the foundation body notice to that effect.

(10) The foundation body may not make the disposal within the requisite period unless within that period—
  (a) the authority give the foundation body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
  (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.

(11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the foundation body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.

(12) The "relevant requirements" in relation to a notice given under sub-paragraph (7)(a) are met if—

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(a) the adjudicator has approved the disposal on a reference made under paragraph A9(1), or

(b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).

(13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—

(a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);

(b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),

the foundation body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.

(14) The "relevant requirements" in relation to a notice given under sub-paragraph (7)(b) are met if—

(a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A9(2), or

(b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).

(15) The "relevant requirements" in relation to a notice given under sub-paragraph (7)(c) are met if—

(a) the "appropriate amount" has been determined in accordance with paragraph A9(3), or

(b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).

A9 (1) Where the authority give the foundation body notice of their objection to the disposal in accordance with paragraph A8(7)(a), the foundation body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.

(2) Where the authority give the foundation body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—

(a) by agreement between the foundation body and the authority, or

(b) by the adjudicator where—

(i) the foundation body refers or the authority refer the matter to him for determination, and

(ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.

(3) Where the authority give the foundation body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), the amount of those proceeds which it is appropriate for the foundation body to pay to the authority (the "appropriate amount") is to be determined—

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(a) by agreement between the foundation body and the authority, or

(b) by the adjudicator where—

(i) the foundation body refers or the authority refer the matter to him for determination, and

(ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.

(4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the foundation body or, as the case may be, the authority, must give the other notice of its or their intention to make the reference.

(5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.

A10 (1) This paragraph applies where the disposal is made.

(2) The foundation body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.

(3) Where—

(a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), and

(b) the "appropriate amount" has been determined in accordance with paragraph A9(3) to be an amount greater than zero,

the foundation body must pay the "appropriate amount" to the authority.

(4) The foundation body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.

(5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the foundation body must ensure that the surplus amount is used on relevant capital expenditure.

(6) The "agreed relevant capital expenditure" means—

(a) in a case where—

(i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A8(7)(b), or

(ii) such a notice was so given and was then withdrawn in accordance with paragraph A8(9),

the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A8(4), and

(b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A9(2).

(7) The "remaining publicly funded proceeds of disposal" means the amount of the publicly funded proceeds of disposal which remains after

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deducting the "appropriate amount" (if any) determined in accordance with paragraph A9(3).

(8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A8(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A8(7)(b) or (c)).

A11 (1) This paragraph applies where—

(a) the authority gave notice of their objection to the disposal in accordance with paragraph A8(7)(a), and

(b) the adjudicator has determined that he does not approve the disposal.

(2) The foundation body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.

(3) Before making an application under sub-paragraph (2), the foundation body must give the local education authority notice of its intention to make the application.

A12 (1) For the purposes of paragraphs A8 to A10, "relevant capital expenditure", in relation to a disposal of land by a foundation body, means capital expenditure in relation to the premises of—

(a) any of the schools comprising the group for which the body acts,

(b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or

(c) any proposed foundation, voluntary or foundation special school, or Academy.

(2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Disposal of land by trustees of foundation, voluntary or foundation special school

A13 (1) This sub-paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school in England of—

(a) any land acquired under section 60, 61 or 70 of the Education Act 1996,

(b) any land acquired under any of the following—

paragraph 2 of Schedule 3;

paragraph 16 of Schedule 6 (including that provision as applied by any enactment);

paragraph 5(4B)(d) of this Schedule;

any regulations made under paragraph 5 of Schedule 8,

(c) any land acquired under any of the following—

paragraph 4 or 9 of Schedule 3;

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paragraph 20 of Schedule 6 (including that provision as applied by any enactment),

(d) any land acquired under any of the following—

paragraph 8(5) of Schedule 8 to the Education Act 2002;

paragraph 14(5) of Schedule 10 to the Education Act 2005;

paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);

any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,

(e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,

(f) any land acquired from the Funding Agency for Schools,

(g) any land acquired, or enhanced in value, wholly or partly by means of—

(i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or

(ii) any grant paid under section 216(2) of that Act,

(h) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (f) or (g),

(i) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996),

(j) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27, or

(k) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (j).

(2) This sub-paragraph applies to any disposal by the trustees of a foundation or foundation special school in England of—

(a) any land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—

(i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,

(ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or

(iii) acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or

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(b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).

(3) This sub-paragraph applies to any disposal by the trustees of a voluntary school in England of—

(a) any land acquired by the trustees from the governing body of the school which was land acquired by the governing body—

(i) under a transfer under section 201(1)(a) of the Education Act 1996, or

(ii) wholly or partly with the proceeds of disposal of any land so acquired,

and transferred by the governing body to be held on trust by the trustees, or

(b) in the case of a school to which sub-paragraph (4) applies, any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.

(4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.

(5) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—

(a) prepared an appropriate statement in relation to the expenditure, and

(b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.

(6) An "appropriate statement" in relation to expenditure is a statement in writing which—

(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and

(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

(7) Where the trustees of a foundation, voluntary or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools the preceding provisions of this paragraph and paragraphs A14 to A16 apply (subject to the modifications specified in paragraphs A14(18), A15(5) and A16(9)) as if any such change of use of the land were a disposal of the land.

A14 (1) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies.

(2) But this paragraph only applies to a disposal if, or to the extent that, it comprises a disposal of non-playing field land which does not fall within sub-paragraph (5).

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(3) "Non-playing field land" means land which does not include playing fields within the meaning of section 77.

(4) Accordingly, in this paragraph, paragraphs A15 to A17 and paragraph A19—

(a) references to the disposal are to the disposal by the trustees of the non-playing field land, and

(b) references to the land are to that non-playing field land.

(5) A disposal of non-playing field land falls within this sub-paragraph if it is a disposal of—

(a) land acquired under section 60 or 61 of the Education Act 1996, or

(b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,

by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).

(6) The trustees must give the local education authority notice of their intention to dispose of the land.

(7) That notification must specify—

(a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and

(b) the estimated amount of the proceeds of disposal.

(8) For the purposes of this paragraph and paragraphs A15 and A16, the "publicly funded proceeds of disposal" means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1), (2) or (3) of paragraph A13.

(9) The authority may, within the requisite period, give the trustees any or all of the following—

(a) notice of their objection to the disposal, giving reasons for their objection;

(b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;

(c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.

(10) The "requisite period" means the period of 6 weeks beginning with the date upon which the trustees gave notification of the disposal to the authority under sub-paragraph (6).

(11) A notice given under sub-paragraph (9) may be withdrawn at any time by the authority giving the trustees notice to that effect.

(12) The trustees may not make the disposal within the requisite period unless within that period—

(a) the authority give the trustees notice that they relinquish any right to give notice under sub-paragraph (9)(a) in relation to the disposal, or

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(b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the relevant requirements in relation to such a notice are met.

(13) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the trustees may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.

(14) The "relevant requirements" in relation to a notice given under sub-paragraph (9)(a) are met if—

(a) the adjudicator has approved the disposal on a reference made under paragraph A15(1), or

(b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (11).

(15) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (9)—

(a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (9)(b);

(b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (9)(c),

the trustees may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.

(16) The "relevant requirements" in relation to a notice given under sub-paragraph (9)(b) are met if—

(a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A15(2), or

(b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (11).

(17) The "relevant requirements" in relation to a notice given under sub-paragraph (9)(c) are met if—

(a) the "appropriate amount" has been determined in accordance with paragraph A15(3), or

(b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (11).

(18) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—

(a) in sub-paragraph (7) for paragraphs (a) and (b) substitute "the purposes for which it is proposed the land is to be used",

(b) in sub-paragraph (9)—

(i) omit paragraphs (a) and (c), and

(ii) in paragraph (b), for "proposed use of the publicly funded proceeds of disposal" substitute "proposed purposes for which the land is to be used",

(c) in sub-paragraph (15)—

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(i) for "proposed use of the publicly funded proceeds of disposal" substitute "proposed purposes for which the land is to be used", and

(ii) for "use the publicly funded proceeds of disposal" substitute "use the land for purposes not connected with the provision of education in maintained schools", and

(d) in sub-paragraph (16)—

(i) for "relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has" substitute "purposes for which the land is to be used have", and

(ii) for "proposed use of the publicly funded proceeds of disposal" substitute "proposed purposes for which the land is to be used".

A15 (1) Where the authority give the trustees notice of their objection to the disposal in accordance with paragraph A14(9)(a), the trustees or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.

(2) Where the authority give the trustees notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—

(a) by agreement between the trustees and the authority, or

(b) by the adjudicator where—

(i) the trustees or the authority refer the matter to him for determination, and

(ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.

(3) Where the authority give the trustees notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), the amount of those proceeds which it is appropriate for the trustees or their successors to pay to the authority (the "appropriate amount") is to be determined—

(a) by agreement between the trustees and the authority, or

(b) by the adjudicator where—

(i) the trustees or the authority refer the matter to him for determination, and

(ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.

(4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the trustees or, as the case may be, the authority, must give the other notice of their intention to make the reference.

(5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.

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(6) In the application of this paragraph in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, sub-paragraph (2) is modified as follows—

(a) for "proposed use of the publicly funded proceeds of disposal" substitute "proposed purposes for which the land is to be used", and

(b) for "relevant capital expenditure upon which those proceeds are to be used is" substitute "purposes for which the land is to be used are".

A16 (1) This paragraph applies where the disposal is made.

(2) The trustees must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.

(3) Where—

(a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), and

(b) the "appropriate amount" has been determined in accordance with paragraph A15(3) to be an amount greater than zero,

the trustees or their successors must pay the "appropriate amount" to the authority.

(4) The trustees and their successors must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.

(5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the trustees and their successors must ensure that the surplus amount is used on relevant capital expenditure.

(6) The "agreed relevant capital expenditure" means—

(a) in a case where—

(i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A14(9)(b), or

(ii) such a notice was so given and was then withdrawn in accordance with paragraph A14(11),

the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A14(6), and

(b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A15(2).

(7) The "remaining publicly funded proceeds of disposal" means the amount of the publicly funded proceeds of disposal which remains after deducting the "appropriate amount" (if any) determined in accordance with paragraph A15(3).

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(8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A14(15) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A14(9)(b) or (c)).

(9) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—

(a) in sub-paragraph (2) omit the words from "and of the amount" to the end,

(b) in sub-paragraph (4) for "remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure" substitute "land is used for the agreed purposes",

(c) omit sub-paragraph (5), and

(d) in sub-paragraph (6)—

(i) for "agreed relevant capital expenditure" substitute "agreed purposes",

(ii) for "proposed use of the publicly funded proceeds of disposal" substitute "proposed purposes for which the land is to be used",

(iii) for "relevant capital expenditure" substitute "proposed purposes", and

(iv) for "relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used" substitute "purposes for which the land is to be used".

A17 (1) This paragraph applies where—

(a) the authority gave notice of their objection to the disposal in accordance with paragraph A14(9)(a), and

(b) the adjudicator has determined that he does not approve the disposal.

(2) The trustees may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.

(3) Before making an application under sub-paragraph (2), the trustees must give the local education authority notice of their intention to make the application.

A18 (1) For the purposes of paragraphs A14 to A16, "relevant capital expenditure", in relation to a disposal of land by the trustees of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—

(a) the school,

(b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or

(c) any proposed foundation, voluntary or foundation special school, or Academy.

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(2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Duty to have regard to guidance etc

A19 (1) A local education authority, a governing body, a foundation body and trustees must have regard, in particular, to any guidance given from time to time by the Secretary of State—

(a) in determining whether to give a notice, or make a reference or application to the adjudicator, under any of paragraphs A2 to A17, or

(b) in determining the publicly funded proceeds of disposal or the "appropriate amount" for the purposes of any of those paragraphs.

(2) In determining any matter for the purposes of any of the provisions mentioned in sub-paragraph (1), the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(3) In addition to having regard to guidance as required under sub-paragraph (1)(b) or (2), a local education authority, a governing body, a foundation body, trustees and the adjudicator, must also have regard, in particular, to the factors mentioned in sub-paragraph (4) in determining any of the following for the purposes of any of paragraphs A2 to A17—

(a) the publicly funded proceeds of disposal;

(b) the "appropriate amount";

(c) the amount of the consideration (if any) to be paid under paragraph A5, A11 or A17.

(4) The factors referred to in sub-paragraph (3) are—

(a) in the case of any disposal, the value of the land as at the date of the determination,

(b) in the case of any disposal, any enhancement in value of the land attributable to expenditure on the land by the local education authority or a relevant person,

(c) in the case of any disposal, any expenditure on the land by a relevant person,

(d) in the case of any disposal, any relevant payments made by a relevant person to the local education authority or the Secretary of State,

(e) in the case of any disposal, to the extent that they do not fall within paragraph (c) or (d), any payments in respect of the acquisition of the land, and

(f) in the case of a disposal falling within paragraph A1(1)(i), paragraph A7(1)(h) or paragraph A13(1)(h) or (k), (2)(a)(iii) or (b), or (3)(a)(ii), the extent to which the proceeds of disposal mentioned in the provision in question were publicly funded proceeds of disposal as defined for the purposes of paragraph A2, A8 or A14, as the case may be.

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(5) A "relevant person" means—

(a) in the case of a disposal to which paragraph A2 or A14 applies, the governing body or the trustees of the school in question, and

(b) in the case of a disposal to which paragraph A8 applies, the foundation body in question.

(6) A "relevant payment" means—

(a) in the case of any disposal, a payment in respect of the current school site or sites to which the land relates,

(b) in the case of any disposal, a payment under any of the following provisions—

paragraph 2(6) of Schedule 3;

paragraph 16(5) of Schedule 6 (including that provision as applied by any enactment);

section 60(4) of the Education Act 1996;

paragraph 28(5) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment), and

(c) in the case of a disposal of land falling within any of the following provisions—

paragraph A1(1)(f) or (g);

paragraph A7(1)(e) or (f);

paragraph A13(1)(g), (i) or (j),

a payment in respect of the grant mentioned in the provision in question.

(7) The reference in sub-paragraph (5)(a) to the governing body or the trustees of the school in question includes—

(a) where the school was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,

(b) where the school was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and

(c) where the school was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.

(8) The reference in sub-paragraph (5)(b) to the foundation body in question includes—

(a) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,

(b) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 70 of the Education Act 2002 or

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section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and

(c) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.

Power to vary or revoke determinations or orders

A20 (1) A determination made by the adjudicator on a reference made to him under any of paragraphs A3 to A15 may be varied or revoked by a further determination made by him if—

(a) the matter is referred to him by a relevant person in relation to the determination, and

(b) before making the further determination, the adjudicator consults such persons as he considers appropriate.

(2) A "relevant person" in relation to a determination means—

(a) the local education authority, governing body, foundation body or trustees who made the reference to the adjudicator in relation to which the determination was made, or

(b) any other of those persons who could have made that reference.

(3) In determining whether to make a reference to the adjudicator under sub-paragraph (1)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(4) An order made by the adjudicator on an application under paragraph A5, A11 or A17 may be varied or revoked by a further order made by him if—

(a) an application for its variation or revocation is made to him by an appropriate person in relation to the order, and

(b) before making the further order, the adjudicator consults such persons as he considers appropriate.

(5) An "appropriate person" in relation to an order made under paragraph A5, A11 or A17 means—

(a) the governing body, the foundation body or the trustees, as the case may be, who applied for the order,

(b) the local education authority, or

(c) if different from that authority, the local authority to whom land is required to be transferred under the order.

(6) In determining whether to make an application to the adjudicator under sub-paragraph (4)(a), an appropriate person must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(7) Paragraph A19 applies in relation to the further determination by the adjudicator, by virtue of sub-paragraph (1) or (4), of any matter for the

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purposes of any of paragraphs A2 to A17 as it applies in relation to the original determination of the matter.

Meaning of "capital expenditure"

A21 (1) This paragraph applies to the references to capital expenditure in the definition of "relevant capital expenditure" in paragraphs A6, A12 and A18.

(2) Subject to sub-paragraphs (3) and (4), such references are references to—

(a) in the case of paragraph A6, expenditure which, if it were to be incurred by the governing body, would fall to be capitalised in accordance with proper accounting practices;

(b) in the case of paragraph A12, expenditure which, if it were to be incurred by the foundation body, would fall to be capitalised in accordance with proper accounting practices;

(c) in the case of paragraph A18, expenditure which, if it were to be incurred by the trustees, would fall to be capitalised in accordance with proper accounting practices.

(3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated—

(a) for the purposes of paragraph A6 as being, or as not being, capital expenditure of any governing body, or any prescribed class or description of governing body;

(b) for the purposes of paragraph A12 as being, or as not being, capital expenditure of any foundation body, or any prescribed class or description of foundation body;

(c) for the purposes of paragraph A18 as being, or as not being, capital expenditure of any trustees, or any prescribed class or description of trustee.

(4) The Secretary of State may by direction provide that—

(a) expenditure of a particular governing body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A6 as being, or as not being, capital expenditure of that body;

(b) expenditure of a particular foundation body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A12 as being, or as not being, capital expenditure of that body;

(c) expenditure of particular trustees, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A18 as being, or as not being, capital expenditure of those persons.

(5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.

A22 (1) For the purposes of paragraph A21, "proper accounting practices", in relation to a governing or foundation body, or to trustees, means those accounting practices—

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(a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by that body, or as the case may be, those persons, or

(b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the relevant local education authority.

(2) The "relevant local education authority" means the local education authority to whom notice of the disposal in question is required to be given under paragraph A2, A8 or A14.

(3) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.

Land required by local education authority for certain purposes

A23 (1) A local education authority in England may apply to the adjudicator for a transfer order under this paragraph in relation to publicly funded land which—

(a) is held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school,

(b) is held by a foundation body for the purposes of the group of schools for which it acts, or

(c) is held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school.

(2) A transfer order is an order requiring the land in relation to which it is made to be transferred by the body or trustees holding it to the authority, subject to the payment by the authority of such sum by way of consideration (if any) as the adjudicator determines to be appropriate.

(3) In determining whether to make an application under sub-paragraph (1) for a transfer order, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give the body or trustees holding the land notice of the authority's intention to make the application.

(5) An application under sub-paragraph (1) must state the purpose for which the land to which it relates is required by the authority ("the stated purpose").

(6) In relation to the content of such an application, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.

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(7) Where an application is made under sub-paragraph (1) for a transfer order in relation to publicly funded land, the adjudicator may make a transfer order if he is satisfied that—

(a) the land is not required for the purposes of the school or, as the case may be, the schools in the group,

(b) the land is required by the authority for the stated purpose,

(c) the stated purpose is a qualifying purpose, and

(d) it is appropriate for the land to be used for that purpose.

(8) For the purposes of sub-paragraph (7)(c) the stated purpose is a qualifying purpose if it falls within one or more of the following descriptions of purpose—

(a) the land is required for the purposes of any school or institution which is, or is to be, maintained by the authority, or which they have power to assist;

(b) the land is otherwise required for the purposes of the exercise of any of the functions of the authority;

(c) the land is required for the provision of children's services by or on behalf of the local authority who are that authority in the exercise of any of the relevant functions of that local authority.

(9) For the purposes of sub-paragraph (8)(c)—

"children's services" are services provided for or in relation to any of the following persons (whether or not they are also provided for or in relation to any other persons)—

(a) children;

(b) persons aged 18 or 19;

(c) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989;

(d) persons over the age of 19 but under the age of 25 who have a learning difficulty, within the meaning of section 13 of the Learning and Skills Act 2000, and are receiving services under that Act;

"relevant functions" means the functions described in any of paragraphs (a), (c), (d) or (e) of subsection (1) of section 135 of the Education and Inspections Act 2006.

(10) Before making a transfer order the adjudicator must consult the body or trustees holding the land in relation to which the application for the transfer order is made.

(11) In determining whether to make a transfer order, the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(12) Where a transfer order is made, the authority must use the land to which it relates for the stated purpose.

(13) A transfer order made by the adjudicator may be varied or revoked by a further order made by the adjudicator if—

(a) an application for its variation or revocation is made to him by a relevant person in relation to the order, and

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(b) before making the further order, the adjudicator consults such persons as he considers appropriate.

(14) A "relevant person" in relation to a transfer order means—

(a) the local education authority who applied for the transfer order, or

(b) the body or trustees who held the land to which the order relates.

(15) In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(16) Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.

A24 (1) For the purposes of paragraph A23, land held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school is "publicly funded land" if it is—

(a) land acquired under a transfer under section 201(1)(a) of the Education Act 1996,

(b) land acquired under any of the following—

paragraph 2 of Schedule 3;

paragraph 16 of Schedule 6 (including that provision as applied by any enactment);

paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;

any regulations made under paragraph 5 of Schedule 8;

paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),

(c) land acquired under any regulations made under—

section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or

section 27 of that Act by virtue of subsection (2)(b) of that section,

(d) land acquired from a foundation body,

(e) land acquired from the Funding Agency for Schools,

(f) land acquired wholly by means of—

(i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or

(ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,

(g) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,

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(h) land acquired wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or

(i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (h).

(2) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—

(a) prepared an appropriate statement in relation to the expenditure, and

(b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

(3) An "appropriate statement" in relation to expenditure is a statement in writing which—

(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and

(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

A25 (1) For the purposes of paragraph A23, land held by a foundation body for the purposes of the group of schools for which it acts is "publicly funded land" if it is—

(a) land acquired under any of the following—

paragraph 2, 4 or 9 of Schedule 3;

paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);

paragraph 5 or 6 of Schedule 21;

paragraph 5(4B)(d) of this Schedule;

any regulations made under paragraph 5 of Schedule 8,

(b) land acquired under any of the following—

paragraph 8(5) of Schedule 8 to the Education Act 2002;

paragraph 14(5) of Schedule 10 to the Education Act 2005;

paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);

any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;

any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,

(c) land acquired from the governing body of a maintained school,

(d) land acquired from another foundation body,

(e) land acquired wholly by means of—

(i) any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), or

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(ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,

(f) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,

(g) land acquired wholly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or

(h) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (g).

(2) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—

(a) prepared an appropriate statement in relation to the expenditure, and

(b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

(3) An "appropriate statement" in relation to expenditure is a statement in writing which—

(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and

(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

A26 (1) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is "publicly funded land" if it is—

(a) land acquired under section 60, 61 or 70 of the Education Act 1996,

(b) land acquired under any of the following—

paragraph 2 of Schedule 3;

paragraph 16 of Schedule 6 (including that provision as applied by any enactment);

paragraph 5(4B)(d) of this Schedule;

any regulations made under paragraph 5 of Schedule 8,

(c) land acquired under any of the following—

paragraph 4 or 9 of Schedule 3;

paragraph 20 of Schedule 6 (including that provision as applied by any enactment),

(d) land acquired under any of the following—

paragraph 8(5) of Schedule 8 to the Education Act 2002;

paragraph 14(5) of Schedule 10 to the Education Act 2005;

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paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);

any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,

(e) land acquired wholly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,

(f) land acquired from the Funding Agency for Schools,

(g) land acquired wholly by means of—

(i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),

(ii) any grant paid under section 216(2) of that Act, or

(iii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,

(h) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,

(i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (f) to (h), or

(j) land acquired wholly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996).

(2) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation or foundation special school by the trustees of the school is also "publicly funded land" if it is—

(a) land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—

(i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,

(ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or

(iii) acquired by the governing body wholly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or

(b) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).

(3) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a voluntary school by the trustees of the school is also "publicly funded land" if it is—

(a) land acquired by the governing body of the school—

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(i) under a transfer under section 201(1)(a) of the Education Act 1996, or

(ii) wholly with the proceeds of disposal of any land so acquired,

and transferred by the governing body to be held on trust by the trustees, or

(b) in the case of a school to which sub-paragraph (4) applies, land acquired wholly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.

(4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.

(5) Land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is not "publicly funded land" for the purposes of paragraph A23 if it is—

(a) land acquired under section 60 or 61 of the Education Act 1996, or

(b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,

by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).

(6) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—

(a) prepared an appropriate statement in relation to the expenditure, and

(b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.

(7) An "appropriate statement" in relation to expenditure is a statement in writing which—

(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and

(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

Notice in relation to grants under paragraph 5 of Schedule 3

A27 (1) Where a grant is made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), the Secretary of State may within the relevant period give the body or other persons to whom the grant is made notice that—

(a) any land acquired, or enhanced in value, wholly or partly by means of the grant is land falling within paragraph A1(1)(g), A7(1)(f) and A13(1)(j), and

(b) any land acquired wholly or partly by means of the grant is land falling within paragraph A24(1)(g), A25(1)(f) and A26(1)(h).

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(2) The "relevant period" means the period of 6 months beginning with the date upon which the grant is made."

Commencement Information
I327 Sch. 4 para. 2 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

3 In the heading to Part 1 of the Schedule after "SCHOOLS" insert " IN WALES ".

Commencement Information
I328 Sch. 4 para. 3 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)** (with art. 8(5))

4 (1) Paragraph 1 is amended as follows.

(2) In sub-paragraph (1)—
(a) after "foundation special school" insert " in Wales ", and
(b) omit paragraph (c).

(3) In sub-paragraph (1A)(b) for "falling within section 21(1)(a)" substitute " established otherwise than under this Act ".

(4) In sub-paragraphs (2) and (3) for "Secretary of State" substitute " Assembly ".

(5) In sub-paragraph (3)—
(a) for "his" substitute " its ",
(b) for "he", wherever occurring, substitute " the Assembly ", and
(c) for "him" substitute " the Assembly ".

Commencement Information
I329 Sch. 4 para. 4 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)** (with art. 8(5))

5 (1) Paragraph 2 is amended as follows.

(2) In sub-paragraph (1)—
(a) after "by a foundation body" insert " in Wales ",
(b) in paragraph (a) omit the words from "or acquired" to the end, and
(c) in paragraph (d) for "Secretary of State" substitute " Assembly ".

(3) After that sub-paragraph insert—

"(1A) A "foundation body in Wales" means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in Wales."

(4) In sub-paragraphs (2) and (3) for "Secretary of State" substitute " Assembly ".

(5) In sub-paragraph (3)—
(a) for "his" substitute " its ", and
(b) for "he", wherever occurring, substitute " the Assembly ".

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Commencement Information
I330 Sch. 4 para. 5 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)** (with art. 8(5))

6 (1) Paragraph 2A is amended as follows.

(2) In sub-paragraph (1) after "trustees of a foundation or foundation special school" insert " in Wales ".

(3) In sub-paragraphs (3) and (4) for "Secretary of State" substitute " Assembly ".

(4) In sub-paragraph (4)—
(a) for "his" substitute " its ", and
(b) for "he", wherever occurring, substitute " the Assembly ".

(5) In sub-paragraph (6) after "foundation special school" insert " in Wales ".

Commencement Information
I331 Sch. 4 para. 6 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)** (with art. 8(5))

7 (1) Paragraph 3 is amended as follows.

(2) In sub-paragraph (1)—
(a) after "foundation special school" insert " in Wales ",
(b) in paragraph (a) omit the words from "or acquired" to the end,
(c) omit paragraph (d), and
(d) in paragraph (f) omit "(d) or".

(3) In sub-paragraph (2) after "voluntary aided school" insert " in Wales ".

(4) In sub-paragraphs (3) and (4) for "Secretary of State" substitute " Assembly ".

(5) In sub-paragraph (8) omit "(d),".

(6) In sub-paragraph (9)—
(a) for "Secretary of State", wherever occurring, substitute " Assembly ", and
(b) for "he" substitute " the Assembly ".

(7) In sub-paragraph (12) after "foundation special school" insert " in Wales ".

Commencement Information
I332 Sch. 4 para. 7 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)** (with art. 8(5))

8 (1) Paragraph 4 is amended as follows.

(2) In sub-paragraph (1)—
(a) after "local education authority" insert " in Wales ", and
(b) for "Secretary of State" substitute " Assembly ".

(3) In sub-paragraph (2)—
(a) for "Secretary of State" substitute " Assembly ", and

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(b) for "he" substitute " the Assembly ".

Commencement Information
I333 Sch. 4 para. 8 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)** (with art. 8(5))

9 (1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (1)(b)—
(a) for "Secretary of State" substitute " appropriate authority ", and
(b) for sub-paragraphs (i) and (ii) substitute—
"(i) under section 19(1) requiring a foundation, voluntary or foundation special school in Wales to be discontinued,
(ii) under section 32(1) requiring a foundation special school in Wales to be discontinued,
(iii) under section 68(1) of the Education and Inspections Act 2006 requiring a foundation, voluntary or foundation special school in England to be discontinued, or
(iv) under section 17(1) of that Act requiring a foundation special school in England to be discontinued."

(3) In sub-paragraph (2) for the words from "Secretary of State" to the end substitute "appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
(a) if the school is in England, any land falling within paragraphs (a) to (i) of paragraph A1(1) other than land falling within sub-paragraph (2A), or
(b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 1(1),

which is held by the body for the purposes of the school. "

(4) After sub-paragraph (2) insert—

"(2A) Land falls within this sub-paragraph if it is—
(a) land falling within paragraph (g) of paragraph A1(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
(b) land falling within paragraph (i) of paragraph A1(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(2B) If the school is in England and the governing body dispose of any land falling within sub-paragraph (2A) which is held by them for the purposes of the school, paragraph A1 shall apply to them."

(5) In sub-paragraph (3) for the words from "Secretary of State" to the end substitute "appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—

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(a) if the school is in England, any land falling within paragraphs (a) to (h) of paragraph A7(1) other than land falling within sub-paragraph (3A), or

(b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 2(1),

which is held by the body for the purposes of the schools comprising the group. ”

(6) After sub-paragraph (3) insert—

“(3A) Land falls within this sub-paragraph if it is—

(a) land falling within paragraph (f) of paragraph A7(1) by virtue of being land enhanced in value as mentioned in that paragraph, or

(b) land falling within paragraph (h) of paragraph A7(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(3B) If the school is in England and the foundation body disposes of any land falling within sub-paragraph (3A) which is held by it for the purposes of the schools comprising the group, paragraph A7 shall apply to it.”

(7) In sub-paragraph (4)—

(a) for “Secretary of State” substitute “ appropriate authority ”,

(b) for paragraph (a) substitute—

“(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;”,

(c) in paragraph (b) for “him” and “he” substitute “ the appropriate authority ”, and

(d) in paragraph (c) for “he” substitute “ the appropriate authority ”.

(8) After sub-paragraph (4) insert—

“(4ZA) Where the school is in England, the trustees of the school shall apply to the appropriate authority for it to exercise its powers under sub-paragraph (4B) in relation to any land falling within paragraph A13(1), (2) or (3), other than land falling within sub-paragraph (4ZB), which is held by the trustees for the purposes of the school.

(4ZB) Land falls within this sub-paragraph if it is—

(a) land falling within paragraph (j) of paragraph A13(1) by virtue of being land enhanced in value as mentioned in that paragraph, or

(b) land falling within paragraph (k) of paragraph A13(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.”

(9) In sub-paragraph (4A)—

(a) after “Where the school” insert “ is in Wales and ”, and

(b) for “Secretary of State for him to exercise his” substitute “ appropriate authority for it to exercise its ”.

(10) In sub-paragraph (4B)—

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(a) after "under sub-paragraph" insert " (4ZA) or ",

(b) for "Secretary of State" substitute " appropriate authority ",

(c) for paragraph (a) substitute—

"(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;",

(d) in paragraph (b) for the words from "for the purposes of another" to the end substitute "—

(i) in the case of a school in England, for the purposes of another foundation, voluntary or foundation special school, or

(ii) in the case of a school in Wales, for the purposes of another foundation or foundation special school or for the purposes of a voluntary school,

direct the trustees to exercise that power in such manner as the appropriate authority may specify; ",

(e) in paragraph (c) after "sub-paragraph" insert " (4ZA) or, as the case may be, ", and

(f) in paragraphs (c) and (d) for "he", wherever occurring, substitute " the appropriate authority ".

(11) In sub-paragraph (5)—

(a) after "(3)" insert " , (4ZA) ", and

(b) for "Secretary of State" substitute " appropriate authority ".

(12) After that sub-paragraph insert—

"(5A) Where the school is in England and the trustees of the school—

(a) dispose of any land falling within sub-paragraph (4ZB), or

(b) wish to use any such land for purposes not connected with the provision of education in maintained schools,

paragraph A13 shall apply to them."

(13) In sub-paragraph (6) after "Where" insert " the school is in Wales and ".

Commencement Information

I334 Sch. 4 para. 9 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

10 (1) Paragraph 6 is amended as follows.

(2) In sub-paragraph (1) for "Secretary of State's" substitute " appropriate authority's ".

(3) In sub-paragraph (2)—

(a) for "Secretary of State" substitute " appropriate authority ",

(b) for "he", wherever occurring, substitute " the appropriate authority ",

(c) for "the authority", wherever occurring, substitute " the local education authority ", and

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(d) for "him" substitute " the appropriate authority ".

(4) After sub-paragraph (3) insert—

"(3A) Where the school is in England and the trustees of the school—

(a) dispose of any land falling within paragraph A13(1), (2) or (3), or

(b) wish to use any such land for purposes not connected with the provision of education in maintained schools,

paragraph A13 shall apply to them."

(5) In sub-paragraph (4) after "Where" insert " the school is in Wales and ".

Commencement Information

I335 Sch. 4 para. 10 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

11 In paragraph 7, in sub-paragraphs (2)(ii), (3)(c) and (6), for "Secretary of State" substitute " appropriate authority ".

Commencement Information

I336 Sch. 4 para. 11 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

12 In paragraph 8(2)—

(a) for "Secretary of State" substitute " appropriate authority ",

(b) for "he", wherever occurring, substitute " the appropriate authority ",

(c) for "him" substitute " the appropriate authority ", and

(d) for "the authority", wherever occurring, substitute " the local education authority ".

Commencement Information

I337 Sch. 4 para. 12 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

13 After paragraph 8 insert—

"PART 2A

MAINTAINED SCHOOL: TRANSFER OF LAND FROM TRUSTEE TO GOVERNING BODY

8A (1) This paragraph applies where the trustee of one or more foundation or foundation special schools to which section 23A (requirements as to foundations) applies is a body corporate.

(2) Where—

(a) the body corporate has under any enactment passed a resolution for its winding up,

(b) a court has made an order for the winding up of the body corporate,

(c) the body corporate has been removed under subsection (4) of section 3 of the Charities Act 1993 from the register of charities kept under that section, or

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(d) prescribed conditions relating to the ability of the body corporate to pay its debts or to its continued existence as a body corporate or as a charity are met,

the Secretary of State may make an order under this paragraph.

(3) Conditions may be prescribed under sub-paragraph (2)(d) by reference to the opinion of the Secretary of State as to any prescribed matter.

(4) An order under this paragraph is an order directing that any land falling within paragraph A13(1)(b) or (2) held by the body corporate on trust for one or more foundation or foundation special schools to which section 23A applies is to be transferred to, and by virtue of the order vest in—

(a) the governing body of the school, or

(b) where the land is held on trust for two or more schools, such of the governing bodies of the schools as the Secretary of State thinks proper.

(5) In a case where—

(a) proposals to establish a new foundation or foundation special school fall to be implemented under Schedule 2 to the Education and Inspections Act 2006, and

(b) the local education authority have before the school opening date transferred land to be held on trust for the school,

references in this paragraph to a foundation or foundation special school include references to a proposed such school, references to a governing body include references to a proposed governing body and for the purpose of sub-paragraph (1) section 23A is to be taken to apply to the proposed school if it would apply to the school when it is established.

(6) In this paragraph—

"charity" has the same meaning as in the Charities Act 1993;

"foundation" means a foundation established otherwise than under this Act."

Commencement Information

I338 Sch. 4 para. 13 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

14 In paragraph 9(1)—

(a) after "paragraph" insert " A5, A11, A17, A23, ", and

(b) for "or 8(2)(b)" substitute " , 8(2)(b) or 8A ".

Commencement Information

I339 Sch. 4 para. 14 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

15 (1) Paragraph 10 is amended as follows.

(2) In sub-paragraph (1) after paragraph (d) insert—

"(e) "the appropriate authority" means—

(i) in relation to a school in England, the Secretary of State, and

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(ii) in relation to a school in Wales, the Assembly."

(3) In sub-paragraph (3) after "paragraphs" insert " A1(1), A13(1), (2) or (3)(a), A24 to A26, ".

(4) In sub-paragraph (4) after "paragraphs" insert " A1(1), A13(1), ".

(5) In sub-paragraph (5) for "paragraph 1(1)" substitute " paragraphs A1(1) and 1(1) ".

Commencement Information

I340 Sch. 4 para. 15 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

16 (1) Paragraph 11 is amended as follows.

(2) For paragraph (a) of sub-paragraph (1) substitute—

"(a) subject to sub-paragraph (7), "capital expenditure" means expenditure of the governing body in question which falls to be capitalised in accordance with proper accounting practices;".

(3) In paragraph (b) of that sub-paragraph for "that Order" substitute " the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002 ".

(4) In sub-paragraph (4) for the words from ", either by agreement" to the end substitute "—

(a) by agreement between the authority and the relevant body, or

(b) by the adjudicator where—

(i) the authority or the relevant body refer the matter to him for determination, and

(ii) by the time of his determination, the matter has not been determined by agreement between the authority and the relevant body."

(5) After sub-paragraph (4) insert—

"(4A) In determining whether to make a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference."

(6) In sub-paragraph (5)—

(a) for "Secretary of State" substitute " adjudicator ", and

(b) after "particular" insert " to any guidance given from time to time by the Secretary of State and ".

(7) After sub-paragraph (5) insert—

"(5A) A determination made by the adjudicator on a reference made to him under sub-paragraph (4)(b) may be varied or revoked by a further determination made by him if—

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(a) the matter is referred to him by the local education authority or the relevant body, and

(b) before making the further determination, the adjudicator consults such persons as he considers appropriate.

(5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the local education authority or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter."

(8) After sub-paragraph (6) insert—

"(7) The Secretary of State may—

(a) by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of any governing body or of any prescribed class or description of governing body;

(b) by direction provide that expenditure of a particular governing body which is expenditure of a particular class or description is to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of that body.

(8) Directions under sub-paragraph (7)(b) may be expressed to have effect in specified circumstances or subject to specified conditions."

Commencement Information

I341 Sch. 4 para. 16 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

17 After paragraph 11 insert—

"12 (1) For the purposes of paragraph 11(1)(a), "proper accounting practices", in relation to a governing body, means those accounting practices—

(a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the governing body, or

(b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.

(2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices."

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I342 Sch. 4 para. 17 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

PART 2

AMENDMENTS TO SECTION 77 OF SSFA 1998

18 (1) Section 77 of SSFA 1998 (control of disposals or changes of use of school playing fields in relation to England) is amended as follows.

(2) In subsection (1)—

(a) for "Except" substitute " Subject to subsections (2A) and (2B), except ", and

(b) after "a body" insert " or trustees ".

(3) For subsection (2) substitute—

"(2) Subsection (1) applies to—

(a) a local authority;

(b) the governing body of a maintained school;

(c) a foundation body;

(d) the trustees of a foundation, voluntary or foundation special school."

(4) After subsection (2) insert—

"(2A) Subsection (1) applies in the case of a disposal by the trustees of a foundation, voluntary or foundation special school, only if the disposal is of land falling within paragraph A13(1), (2) or (3) of Schedule 22.

(2B) Subsection (1) does not apply—

(a) to a disposal in pursuance of a transfer order under paragraph A23 of that Schedule, or

(b) to a disposal to which paragraph 5 or 6 of Schedule 22 (disposals on discontinuance) applies."

(5) In subsection (3)—

(a) for "Except" substitute " Subject to subsections (4) and (4A), except ",

(b) for "a local authority" substitute " a body or trustees to whom subsection (1) applies ", and

(c) for "falling within subsection (1)" substitute " which falls within subsection (1) or is excluded from that subsection by subsection (2B)(a) or (b) ".

(6) In subsection (4) omit "by a local authority".

(7) After subsection (4) insert—

"(4A) Subsection (3) applies in relation to the trustees of a foundation, voluntary or foundation special school only if the playing fields in question are land falling within paragraph A13(1), (2) or (3) of Schedule 22."

(8) In subsection (7), at the appropriate place, insert—

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""maintained school" includes a maintained nursery school;".

Commencement Information
I343 Sch. 4 para. 18 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

PART 3

CONSEQUENTIAL AMENDMENTS

19 In section 75(2) of SSFA 1998 (transfer of land by governing body to trustees) after "Paragraph" insert " A1 or ".

Commencement Information
I344 Sch. 4 para. 19 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

F19 20 . . . . . .

Textual Amendments
F19 Sch. 4 para. 20 repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 4(3)**

Commencement Information
I345 Sch. 4 para. 20 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

21 In section 138 of SSFA 1998 (orders and regulations), in subsection (2)(b) (orders not made by statutory instrument), for "or 7(3)(c)" substitute " , 7(3)(c) or 8A ".

Commencement Information
I346 Sch. 4 para. 21 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

22 In Schedule 3 to SSFA 1998 (funding of foundation, voluntary and foundation special schools), in paragraph 2, in sub-paragraph (10), after "paragraphs" insert " A1 to A16 or ".

Commencement Information
I347 Sch. 4 para. 22 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

23 In Schedule 32 to SSFA 1998 (transitional provisions and savings), in paragraph 4(4)—

(a) in paragraph (a) for "paragraph 1(1)(d)" substitute " paragraphs A1(1)(f) and 1(1)(d) ",

(b) in paragraph (b) for "paragraph 2(1)(d)" substitute " paragraphs A7(1)(e) and 2(1)(d) ", and

(c) in paragraph (c) for "paragraph 3(1)(e)" substitute " paragraphs A13(1)(g) and 3(1)(e) ".

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I348 Sch. 4 para. 23 in force at 25.5.2007 by S.I. 2007/935, **art. 7(p)**

SCHEDULE 5

Section 57

FUNDING OF MAINTAINED SCHOOLS

1 In section 17(6) of SSFA 1998 (power of LEA to suspend right to delegated budget), omit the words from "but" onwards.

Commencement Information
I349 Sch. 5 para. 1 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(c)**

2 (1) Section 47A of SSFA 1998 (schools forums) is amended as follows.

(2) In subsection (3)(b), for the words from "function" to the end substitute " other function that may be imposed on the schools forum by or under this Chapter ".

(3) Omit subsection (6) (which enables regulations under subsection (5) of that section to enable the Secretary of State or the Assembly to remove a non-schools member from membership of a schools forum).

(4) For subsection (9) substitute—

"(9) In this section "relevant authority", in relation to a schools forum, means the local education authority by whom the forum is established."

Commencement Information
I350 Sch. 5 para. 2 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(c)**

3 (1) Section 48 of SSFA 1998 (local education authorities' financial schemes) is amended as follows.

(2) In subsection (1), for "prepare" substitute " maintain ".

(3) In subsection (3), for "prepared" substitute " maintained ".

(4) In subsection (4), omit the words from "the approval" to "and for".

(5) In subsection (5), for the words from "the scheme prepared" to the end substitute " the scheme for the time being maintained under this section ".

Commencement Information
I351 Sch. 5 para. 3 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(c)**

4 In section 49 of SSFA 1998 (maintained schools to have delegated budgets) for subsections (2) and (3) substitute—

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"(2) A new school shall have a delegated budget from a date determined in accordance with regulations.

(2A) Regulations under subsection (2) may—

(a) enable the date that would otherwise apply by virtue of the regulations to be varied in accordance with the regulations, on the application of the local education authority, by the authority's schools forum or by the Secretary of State, and

(b) make provision about the respective powers of the schools forum and the Secretary of State in relation to any application to vary that date."

Commencement Information

I352 Sch. 5 para. 4 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(c)**

5 (1) Schedule 14 to SSFA 1998 (approval, imposition and revision of local education authority schemes) is amended as follows.

(2) For the heading substitute " REVISION OF LOCAL EDUCATION AUTHORITY SCHEMES ".

(3) For the italic heading immediately before paragraph 1 substitute " Publication of schemes ".

(4) In paragraph 1—

(a) omit sub-paragraphs (1) to (6), and

(b) for sub-paragraph (7) substitute—

"(7) A scheme maintained by a local education authority under section 48(1) shall be published in such manner as may be prescribed—

(a) on its coming into force as revised under this Schedule, and

(b) on such other occasions as may be prescribed."

(5) For paragraph 2 substitute—

"2A (1) A local education authority may, in accordance with this paragraph, revise the whole or part of the scheme maintained by them under section 48(1).

(2) In revising the scheme, the local education authority shall take into account any guidance given by the Secretary of State, whether—

(a) generally, or

(b) in relation to that authority or any class or description of local education authorities to which that authority belongs,

as to the provisions the Secretary of State regards as appropriate for inclusion in the scheme.

(3) As regards any proposed variation of the scheme, the authority—

(a) shall first consult the governing body and head teacher of every school maintained by the authority (within the meaning of this Chapter), and

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(b) shall then submit a copy of their proposals to the authority's schools forum for their approval.

2B (1) Regulations may make provision preventing schemes as revised from coming into force unless they are approved in accordance with the regulations by the local education authority's schools forum or by the Secretary of State.

(2) The regulations may in particular—

(a) prescribe circumstances in which proposals which have been submitted to a local education authority's schools forum may be submitted to the Secretary of State,

(b) enable the schools forum or the Secretary of State to approve proposals with modifications, and

(c) enable the schools forum or the Secretary of State, in giving their or his approval, to specify the date on which the scheme as revised is to come into force."

Commencement Information

I353 Sch. 5 para. 5 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(c)**

6 In Schedule 15 to SSFA 1998 (suspension of financial delegation), the following provisions (which confer on the governing body a right to appeal to the Secretary of State or the Assembly or relate to that right of appeal) are omitted—

(a) paragraph 1(4) and (6),

(b) paragraph 2(5), and

(c) paragraph 3.

Commencement Information

I354 Sch. 5 para. 6 in force at 8.2.2007 for E. by S.I. 2006/3400, **art. 4(c)**

SCHEDULE 6

Section 70

GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

Interpretation of Schedule

1 (1) In this Schedule—

"the appropriate authority" means—

(a) where this Schedule applies by virtue of a notice under section 65(1), the local education authority who gave the notice, and

(b) where this Schedule applies by virtue of a notice under section 69(1), the Secretary of State;

"existing governors", in relation to a school in respect of which a notice under section 65(1) or 69(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;

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"the interim period", in relation to a school in respect of which a notice under section 65(1) or 69(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule;

"a normally constituted governing body" means a governing body constituted in accordance with regulations made by virtue of section 19 of EA 2002 (governing bodies).

(2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

Commencement Information
I355 Sch. 6 para. 1 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Governing body to consist of members appointed by appropriate authority

2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of EA 2002.

(2) In the following provisions of this Schedule—

(a) the governing body as constituted in accordance with this Schedule is referred to as "the interim executive board", and

(b) the members of the governing body as so constituted are referred to as "interim executive members".

Commencement Information
I356 Sch. 6 para. 2 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Effect of notice under section 65(1) or 69(1)

3 (1) On the date specified in the notice under section 65(1) or 69(1), the existing governors vacate office.

(2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.

(3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school has effect, in relation to the school, as a reference to an interim executive member.

(4) During the interim period, section 83 of SSFA 1998 (modification of provisions making governors of foundation or voluntary school ex officio trustees) has effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

Commencement Information
I357 Sch. 6 para. 3 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Interim executive members

4 (1) The number of interim executive members must not be less than two.

(2) The initial appointment of interim executive members must be made so as to take effect on the date specified in the relevant notice.

(3) The appropriate authority may appoint further interim executive members at any time during the interim period.

Commencement Information
I358 Sch. 6 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.

(2) An interim executive member—
(a) holds office in accordance with the terms of his appointment and subject to paragraph 18, and
(b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.

(3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice.

Commencement Information
I359 Sch. 6 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Duty of appropriate authority to inform other persons

6 (1) The appropriate authority must give a copy of the notice under section 65(1) or 69(1) and of every instrument of appointment of an interim executive member—
(a) to every interim executive member,
(b) to every existing governor of the school,
(c) where the local education authority are the appropriate authority, to the Secretary of State,
(d) where the Secretary of State is the appropriate authority, to the local education authority,
(e) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, to the appropriate diocesan authority, and
(f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed.

(2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

Commencement Information
I360 Sch. 6 para. 6 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Power to specify duration of interim period

7 The appropriate authority may in the notice under section 65(1) or 69(1) specify the duration of the interim period.

Commencement Information
I361 Sch. 6 para. 7 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Chairman

8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

Commencement Information
I362 Sch. 6 para. 8 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Remuneration and allowances

9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

Commencement Information
I363 Sch. 6 para. 9 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Duty of interim executive board

10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.

(2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

Commencement Information
I364 Sch. 6 para. 10 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Proceedings of interim executive board

11 (1) The interim executive board may determine their own procedure.

(2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person.

Commencement Information
I365 Sch. 6 para. 11 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

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Effect on suspension of delegated budget

12 (1) If, immediately before the date specified in the notice under section 65(1) or 69(1), the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.

(2) If a notice under paragraph 1 of Schedule 15 to SSFA 1998 (suspension of delegated budget for mismanagement etc) has been given to the governing body before the date specified in a notice under section 65(1) or 69(1) but has not yet taken effect, the notice under that paragraph ceases to have effect on that date.

(3) During the interim period, the local education authority may not exercise the power conferred by section 66 (power to suspend right to delegated budget).

(4) Sub-paragraph (1) is to be construed in accordance with section 49(7) of SSFA 1998.

Commencement Information
I366 Sch. 6 para. 12 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Exclusion of certain statutory provisions

13 (1) Regulations made by virtue of subsection (2) or (3) of section 19 of EA 2002 (governing bodies) shall not apply in relation to the interim executive board.

(2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board.

Commencement Information
I367 Sch. 6 para. 13 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

14 During the interim period—

(a) the local education authority may not exercise any power conferred by section 64 (power to appoint additional governors), and

(b) the Secretary of State may not exercise any power conferred by section 67 (power to appoint additional governors).

Commencement Information
I368 Sch. 6 para. 14 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Closure of school

15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the Secretary of State recommending that the school be discontinued, and stating the reasons for that recommendation.

(2) The interim executive board may not—

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(a) publish under section 15(2) proposals to discontinue the school, or
(b) serve notice under section 30 of SSFA 1998.

Commencement Information
I369 Sch. 6 para. 15 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

16 (1) Where during the interim period—
(a) the Secretary of State gives a direction under section 17(1) or 68(1) in relation to the school, or
(b) the local education authority determine to discontinue the school,
the interim period is to continue until the discontinuance date, even where it would otherwise end before that date.

(2) In this paragraph "the discontinuance date" means—
(a) the date on which proposals for discontinuing the school are implemented under Part 4 of Schedule 2,
(b) the date on which the school is discontinued under section 30 of SSFA 1998, or
(c) the date specified in the direction under section 17(1) or 68(1),
as the case may be.

Commencement Information
I370 Sch. 6 para. 16 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Notice of resumption of government by normally constituted governing body

17 (1) Where—
(a) the notice under section 65(1) or 69(1) did not specify the duration of the interim period, and
(b) paragraph 16 does not apply,
the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body.

(2) The persons referred to in sub-paragraph (1) are—
(a) every interim executive member,
(b) where the local education authority are the appropriate authority, the Secretary of State,
(c) where the Secretary of State is the appropriate authority, the local education authority,
(d) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
(e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I371 Sch. 6 para. 17 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Time when interim executive members cease to hold office

18 (1) The interim executive members vacate office—
(a) in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
(b) in a case where that paragraph does not apply and the notice under section 65(1) or 69(1) specified the duration of the interim period, at the end of the specified period, and
(c) in any case, on the date specified under paragraph 17(1).

(2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.

Commencement Information
I372 Sch. 6 para. 18 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Establishment of normally constituted governing body

19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18(1)(b) or (c), the local education authority must make arrangements providing for the constitution of the governing body on and after that date.

(2) The Secretary of State may by regulations make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
(a) modify any provision made under any of sections 19, 20 and 23 of EA 2002 or by Schedule 1 to that Act,
(b) apply any such provision with or without modifications, and
(c) make provision corresponding to or similar to any such provision.

(3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.

Commencement Information
I373 Sch. 6 para. 19 in force at 1.4.2007 by S.I. 2007/935, **art. 5(bb)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 7

Section 71

AMENDMENTS RELATING TO SCHOOLS CAUSING CONCERN

PART 1

PRINCIPAL AMENDMENTS

Statement to be prepared by LEA following adverse report on maintained school

1 (1) Section 15 of EA 2005 (measures to be taken by local education authority following inspection report stating that school requires special measures or significant improvement) is amended as follows.

(2) In subsection (1), for "This section" substitute " Subsection (2) ".

(3) For subsection (2) substitute—

"(2) The local education authority must—

(a) consider what action to take in the light of the report,

(b) consider what arrangements to make for the purpose of informing registered parents of the proposed action, ascertaining their views on the proposed action and taking account of those views,

(c) consider whether those arrangements are to include the appointment of a specified person for that purpose,

(d) prepare a written statement—

(i) of the action they propose to take, and the period within which they propose to take that action, or, if they do not propose to take such action, of their reasons for not doing so, and

(ii) of the arrangements they propose to make for the purpose mentioned in paragraph (b), and

(e) send a copy of the statement prepared under paragraph (d) to—

(i) the Chief Inspector,

(ii) in the case of a voluntary aided school, the person who appoints the foundation governors and (if different) the appropriate appointing authority, and

(iii) such other persons as the Secretary of State may specify.

(2A) Subsection (2B) applies where—

(a) the local education authority have prepared a statement under subsection (2) in relation to a school,

(b) it appears to the Secretary of State, on the basis of a report of an interim inspection of the school by the Chief Inspector, that the case has become urgent, and

(c) no subsequent inspection of the school has been made under section 5.

(2B) The Secretary of State may by notice require the local education authority to—

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(a) consider the action to be taken in the light of the report of the interim inspection and the arrangements to be made for the purpose mentioned in subsection (2)(b),

(b) prepare a written statement—

(i) of the action they propose to take, and the period within which they propose to take that action, or, if they do not propose to take such action, of their reasons for not doing so, and

(ii) of the arrangements they propose to make for the purpose mentioned in subsection (2)(b), and

(c) send a copy of the statement to the Secretary of State and to the persons mentioned in subsection (2)(e)(i) to (iii).

(2C) For the purposes of subsections (2A) and (2B) an "interim inspection" is an inspection under section 8 in respect of which no election under section 9 is made."

(4) In subsection (3) for "the statement" substitute " a statement under subsection (2) or (2B) ".

(5) After subsection (3) insert—

"(4) In performing their functions under subsections (2)(a), (b), (c) and (d) and (2B)(a) and (b), the local education authority must have regard to any guidance given from time to time by the Secretary of State."

Commencement Information
I374 Sch. 7 para. 1 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

Statement to be prepared by proprietor following adverse report on non-maintained school

2 (1) Section 17 of EA 2005 (statement to be prepared by proprietor of school other than maintained school) is amended as follows.

(2) In subsection (1)—

(a) at the beginning insert " Subsection (1A) applies ", and

(b) omit all the words following paragraph (b).

(3) After subsection (1) insert—

"(1A) The proprietor must—

(a) consider what action to take in the light of the report,

(b) consider what arrangements to make for the purpose of informing registered parents of the proposed action, ascertaining their views on the proposed action and taking account of those views,

(c) consider whether those arrangements are to include the appointment of a specified person for that purpose, and

(d) prepare a written statement—

(i) of the action the proprietor proposes to take, and the period within which he proposes to take that action, or, if he does

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not propose to take such action, of his reasons for not doing so, and

(ii) of the arrangements he proposes to make for the purpose mentioned in paragraph (b).

(1B) Subsection (1C) applies where—

(a) the proprietor of a school has prepared a statement under subsection (1A) in relation to the school,

(b) it appears to the Secretary of State, on the basis of a report of an interim inspection of the school by the Chief Inspector, that the case has become urgent, and

(c) no subsequent inspection of the school has been made under section 5.

(1C) The Secretary of State may by notice require the proprietor to—

(a) consider the action to be taken in the light of the report of the interim inspection and the arrangements to be made for the purpose mentioned in subsection (1A)(b), and

(b) prepare a written statement—

(i) of the action the proprietor proposes to take, and the period within which he proposes to take that action, or, if he does not propose to take such action, of his reasons for not doing so, and

(ii) of the arrangements the proprietor proposes to make for the purpose mentioned in subsection (1A)(b)".

(1D) For the purposes of subsections (1B) and (1C) an "interim inspection" is an inspection under section 8 in respect of which no election under section 9 is made."

(4) In subsection (3)—

(a) for "such a statement" substitute " a statement under subsection (1A) or (1C) ", and

(b) before the word "and" at the end of paragraph (a) insert—

"(aa) in the case of a statement under subsection (1C), to the Secretary of State,".

(5) After subsection (4) insert—

"(5) In performing his functions under subsections (1A)(a), (b), (c) and (d) and (1C)(a) and (b), the proprietor must have regard to any guidance given from time to time by the Secretary of State."

Commencement Information

I375 Sch. 7 para. 2 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

School Standards and Framework Act 1998 (c. 31)

3 In the heading to Chapter 4 of Part 1 of SSFA 1998 after "SCHOOLS" insert " IN WALES ".

Commencement Information
I376 Sch. 7 para. 3 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

4 (1) Section 14 of SSFA 1998 (powers of intervention exercisable by LEAs) is amended as follows.

(2) In subsection (1) for "Secretary of State" substitute " Assembly ".

(3) Omit subsection (1A).

(4) In subsection (3)—

(a) in paragraph (a), for "Secretary of State" and "he" substitute respectively " Assembly " and " its ", and

(b) in paragraph (b), for "he" and "his" substitute respectively " the Assembly " and " its ".

(5) After subsection (3) insert—

"(3A) In this Chapter "maintained school" means any school in Wales that is—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school, or

(c) a maintained nursery school."

(6) In subsection (4)—

(a) for paragraph (a) substitute—

"(a) "Chief Inspector" means Her Majesty's Chief Inspector of Education and Training in Wales,", and

(b) omit paragraph (b).

Commencement Information
I377 Sch. 7 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

5 (1) Section 15 of SSFA 1998 (cases where LEA may exercise powers of intervention) is amended as follows.

(2) For subsection (4) substitute—

"(4) This section applies to a maintained school by virtue of this subsection if—

(a) following an inspection of the school under Chapter 3 of Part 1 of the Education Act 2005, the Chief Inspector has given the Assembly a notice under subsection (2) of section 37 of that Act in a case falling

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within subsection (1)(a)(ii) or (b)(ii) of that section (school requiring significant improvement), and

(b) where any subsequent inspection of the school has been made under that Chapter, the notice has not been superseded by—

(i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or

(ii) the Chief Inspector giving the Assembly a notice under subsection (2) of section 37 of that Act in case falling within subsection (1)(a)(i) or (1)(b)(i) of that section (school requiring special measures)."

(3) For subsection (6) substitute—

"(6) This section applies to a maintained school by virtue of this subsection if—

(a) following an inspection of the school under Chapter 3 of Part 1 of the Education Act 2005, the Chief Inspector has given the Assembly a notice under subsection (2) of section 37 of that Act in a case falling within subsection (1)(a)(i) or (b)(i) of that section (school requiring special measures), and

(b) where any subsequent inspection of the school has been made under that Chapter, the notice has not been superseded by the person making the subsequent inspection making a report stating that in his opinion the school no longer requires special measures."

(4) Omit subsection (7).

Commencement Information

I378 Sch. 7 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)** (with art. 8(1))

6 (1) Section 16 of SSFA 1998 (power of LEA to appoint additional governors) is amended as follows.

(2) In subsection (3)(a), omit "13(3)(a) or".

(3) In subsection (9)—

(a) for "Secretary of State" (in both places) substitute " Assembly ", and

(b) in paragraph (a)—

(i) for "he" substitute " it ", and

(ii) omit "13(3)(a) or".

(4) In subsection (12)(b) for "Secretary of State" substitute " Assembly ".

(5) In subsection (12A)—

(a) for "Secretary of State" substitute " Assembly ", and

(b) for "he" substitute " the Assembly ".

Commencement Information

I379 Sch. 7 para. 6 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)** (with art. 8(2))

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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7 (1) Section 16A of SSFA 1998 (power of LEA to provide for governing body to consist of interim executive members) is amended as follows.

(2) In subsection (1), for "Secretary of State" substitute " Assembly ".

(3) In subsection (2)(a), omit "13(3)(a) or".

(4) In subsection (3)—

(a) for "Secretary of State" substitute " Assembly ", and

(b) for "he" substitute " the Assembly ".

Commencement Information

I380 Sch. 7 para. 7 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)** (with art. 8(3))

8 (1) Section 17 of SSFA 1998 (power of LEA to suspend right to delegated budget) is amended as follows.

(2) In subsection (3), omit "13(3)(a) or".

(3) In subsection (4)—

(a) for "Secretary of State" substitute " Assembly ", and

(b) for "he" substitute " the Assembly ".

Commencement Information

I381 Sch. 7 para. 8 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)** (with art. 8(4))

9 In the italic heading immediately preceding section 18 of SSFA 1998, for "Secretary of State" substitute " Assembly ".

Commencement Information

I382 Sch. 7 para. 9 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

10 (1) Section 18 of SSFA 1998 (power of Secretary of State to appoint additional governors) is amended as follows.

(2) For "the Secretary of State" and "he", wherever occurring, substitute " the Assembly ".

(3) In subsection (6), for "his" substitute " the Assembly's ".

(4) In the heading, for "Secretary of State" substitute " Assembly ".

Commencement Information

I383 Sch. 7 para. 10 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

11 In section 18A of SSFA 1998 (power of Secretary of State to provide for governing body to consist of interim executive members) for "Secretary of State", wherever occurring (in the section and its heading), substitute " Assembly ".

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Commencement Information
I384 Sch. 7 para. 11 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

12 (1) Section 19 of SSFA 1998 (power of Secretary of State to direct closure of school) is amended as follows.

(2) For "Secretary of State", wherever occurring (in the section and its heading) substitute " Assembly ".

(3) In subsection (2), omit paragraph (ca).

Commencement Information
I385 Sch. 7 para. 12 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

13 In section 19A of SSFA 1998 (governing bodies consisting of interim executive members), in paragraph (b), for "Secretary of State" substitute " Assembly ".

Commencement Information
I386 Sch. 7 para. 13 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

14 (1) Section 62 of SSFA 1998 (LEA's reserve power to prevent a breakdown of discipline) is amended as follows.

(2) In subsection (1), for "subsection (3)" substitute " subsection (2A) or (3) ".

(3) After subsection (2) insert—

"(2A) This subsection applies where, in the case of a school in England—

(a) a warning notice has been given in accordance with section 60(2) of the Education and Inspections Act 2006 ("the 2006 Act") referring to the safety of pupils or staff at the school being threatened by a breakdown of discipline at the school,

(b) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction within the compliance period, and

(c) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under subsection (1) of this section (whether or not in conjunction with exercising their powers under any one or more of sections 63 to 66 of the 2006 Act);

and a notice under paragraph (c) of this subsection may be combined with a notice under section 60(2) of the 2006 Act."

(4) In subsection (3) after "applies where" insert " in the case of school in Wales ".

Commencement Information
I387 Sch. 7 para. 14 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

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15 In section 142 of SSFA 1998 (interpretation), in subsection (4)—

(a) after "this Act" insert " (or Part 4 of the Education and Inspections Act 2006) ", and

(b) in paragraph (b), after "section 16(6) or (8)" insert " or of section 64(4) or (6) of the Education and Inspections Act 2006 ".

Commencement Information
I388 Sch. 7 para. 15 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

16 In section 143 of SSFA 1998 (index) in the entry beginning "maintained school", after the line beginning "(generally)" insert—

"(in Chapter 4 of Part 1)	section 14(3A)."

Commencement Information
I389 Sch. 7 para. 16 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

17 In Schedule 1A to SSFA 1998, for "Secretary of State" (wherever occurring) substitute " Assembly ".

Commencement Information
I390 Sch. 7 para. 17 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

Learning and Skills Act 2000 (c. 21)

18 (1) Schedule 7 to the Learning and Skills Act 2000 (sixth forms requiring significant improvement) is amended as follows.

(2) In paragraph 6(3)(a)(iii) for "section 15(2) and (3)" substitute " section 15(2) to (4) ".

(3) Omit paragraph 13.

Commencement Information
I391 Sch. 7 para. 18 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

Education Act 2002 (c. 32)

19 In section 25 of EA 2002 (federations: supplementary provisions), in subsection (1)—

(a) before paragraph (a) insert—

"(za) Part 4 of the Education and Inspections Act 2006 (schools causing concern: England),", and

(b) in paragraph (a), for "(intervention in schools causing concern)" substitute " (intervention in schools causing concern: Wales) ".

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Commencement Information
I392 Sch. 7 para. 19 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

20 After section 62 of EA 2002 insert—

"**62A Power to require LEA in England to obtain advisory services**

(1) This section applies where—

(a) one or more schools maintained by a local education authority in England are for the purposes of Part 4 of the Education and Inspections Act 2006 (schools causing concern: England) eligible for intervention by virtue of either of the following provisions of that Act—

(i) section 61 (school requiring significant improvement), or

(ii) section 62 (school requiring special measures), and

(b) it appears to the Secretary of State that the local education authority—

(i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,

(ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or

(iii) maintain a disproportionate number of schools falling within that paragraph.

(2) The Secretary of State may direct the local education authority to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class so specified, for the provision to the authority or the governing body of any school maintained by them (or both) of specified services of an advisory nature.

(3) The direction may require the contract or other arrangement to contain specified terms and conditions.

(4) In this section "school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

(5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State, by a mandatory order."

Commencement Information
I393 Sch. 7 para. 20 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

21 (1) Section 63 of EA 2002 (power to require LEA to obtain advisory services) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after "by a local education authority" insert " in Wales ", and

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(b) in paragraph (b), for the words from "Secretary" to "Wales)" substitute " National Assembly for Wales ".

(3) In subsection (2), for the words from the beginning to "Wales)" substitute " The National Assembly for Wales ".

(4) In subsection (5), omit "of the Secretary of State or, as the case may be,".

(5) In the heading, after "LEA" insert " in Wales "

Commencement Information
I394 Sch. 7 para. 21 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

22 (1) Section 64 (provisions supplementary to section 63) is amended as follows.

(2) In subsections (1) and (2), for "section 63" substitute " section 62A or 63 ".

(3) In subsection (7)—

(a) in the definition of "the advisory services" for "section 63" substitute " section 62A or 63 ", and

(b) in the definition of "the relevant person", in paragraph (a) for "section 63(2)" substitute " section 62A(2) or 63(2) ".

(4) In the heading, for "section 63" substitute " sections 62A and 63 ".

Commencement Information
I395 Sch. 7 para. 22 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

Education Act 2005 (c. 18)

23 In section 5 of EA 2005 (duty to inspect schools at prescribed intervals), in subsection (4)(c), for "section 19 or 32 of that Act" substitute " section 17 or 68 of the Education and Inspections Act 2006 ".

Commencement Information
I396 Sch. 7 para. 23 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

24 In section 18 of EA 2005 (interpretation of Chapter 2 of Part 1), in paragraph (a) of the definition of "appropriate appointing authority", omit ", a Church in Wales school".

Commencement Information
I397 Sch. 7 para. 24 in force at 1.4.2007 by S.I. 2007/935, **art. 5(cc)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 8

Section 77

TRAVEL TO SCHOOLS ETC: MEANING OF "ELIGIBLE CHILD"

Commencement Information

I398 Sch. 8 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(k)**

I399 Sch. 8 in force at 1.9.2008 in so far as not already in force by S.I. 2008/1971, **art. 2(b)**

After Schedule 35A to EA 1996 insert—

"SCHEDULE 35B

Section 508B

MEANING OF "ELIGIBLE CHILD" FOR PURPOSES OF SECTION 508B

1 For the purposes of section 508B (travel arrangements for eligible children) an "eligible child" means a child who falls within any of paragraphs 2 to 7 or 9 to 13.

Children with special educational needs, a disability or mobility problems

2 A child falls within this paragraph if—

(a) he is of compulsory school age and is any of the following—

a child with special educational needs;

a disabled child;

a child with mobility problems,

(b) he is a registered pupil at a qualifying school which is within walking distance of his home,

(c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and

(d) having regard to whichever of the following are relevant—

his special educational needs;

his disability;

his mobility problems,

he cannot reasonably be expected to walk to the school mentioned in paragraph (b).

3 A child falls within this paragraph if—

(a) he is of compulsory school age and is any of the following—

a child with special educational needs;

a disabled child;

a child with mobility problems,

(b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and

(c) having regard to whichever of the following are relevant—

his special educational needs;

his disability;

his mobility problems,

he cannot reasonably be expected to walk to that place.

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Children who cannot reasonably be expected to walk because of nature of routes

4 A child falls within this paragraph if—

(a) he is of compulsory school age and is a registered pupil at a qualifying school which is within walking distance of his home,

(b) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and

(c) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to the school mentioned in paragraph (a).

5 A child falls within this paragraph if—

(a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and

(b) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to that place.

Children outside walking distance where no suitable alternative arrangements made

6 A child falls within this paragraph if—

(a) he is of compulsory school age and is a registered pupil at a qualifying school which is not within walking distance of his home,

(b) no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near the school, and

(c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

7 A child falls within this paragraph if—

(a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),

(b) that place is not within walking distance of his home,

(c) no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near that place, and

(d) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

8 (1) Where—

(a) a child of compulsory school age has been excluded from a relevant school,

(b) he remains for the time being a registered pupil at the school, and

(c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training,

paragraph 6 has effect as if the place at which the child is required to attend were a qualifying school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).

(2) For the purposes of sub-paragraph (1)—

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(a) "relevant school" and "appropriate authority" have the same meaning as in section 444ZA (application of section 444 to alternative educational provision), and

(b) subsection (3) of that section applies in relation to that sub-paragraph as it applies in relation to subsection (2) of that section.

Children entitled to free school meals etc

9 A child falls within this paragraph if—

(a) he has attained the age of 8 but not the age of 11,

(b) he is a registered pupil at a qualifying school which is more than two miles from his home,

(c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and

(d) the appropriate condition is met in relation to him.

10 A child falls within this paragraph if—

(a) he has attained the age of 8 but not the age of 11,

(b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),

(c) that place is more than two miles from his home, and

(d) the appropriate condition is met in relation to him.

11 A child falls within this paragraph if—

(a) he has attained the age of 11,

(b) he is a registered pupil at a qualifying school which is more than two miles, but not more than six miles, from his home,

(c) there are not three or more suitable qualifying schools which are nearer to his home, and

(d) the appropriate condition is met in relation to him.

12 A child falls within this paragraph if—

(a) he has attained the age of 11,

(b) he is a registered pupil at a qualifying school which is more than two miles, but not more than fifteen miles, from his home,

(c) his parent has expressed a wish, based on the parent's religion or belief, for him to be provided with education at that school,

(d) having regard to the religion or belief on which the parent's wish is based, there is no suitable qualifying school which is nearer to the child's home, and

(e) the appropriate condition is met in relation to him.

13 A child falls within this paragraph if—

(a) he has attained the age of 11,

(b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),

(c) that place is more than two miles, but not more than six miles, from his home, and

(d) the appropriate condition is met in relation to him.

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14 (1) For the purposes of paragraphs 9 to 13, the appropriate condition is met in relation to a child if condition A or condition B is met.

(2) Condition A is met if the child is within section 512ZB(4) (provision of free school lunches and milk).

(3) Condition B is met if—

(a) a parent of the child, with whom the child is ordinarily resident, is a person to whom working tax credit is awarded, and

(b) the award is at the rate which is the maximum rate for the parent's case or, in the case of an award to him jointly with another, at the rate which is the maximum rate for their case.

Meaning of "qualifying school" etc

15 (1) The definitions in sub-paragraphs (2) to (5) apply for the purposes of this Schedule.

(2) "Qualifying school" in relation to a child means—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school,

(c) a school approved under section 342 (non-maintained special schools),

(d) a pupil referral unit,

(e) a maintained nursery school, or

(f) a city technology college, a city college for the technology of the arts or an Academy.

(3) In relation to a child with special educational needs, an independent school, other than a college or Academy falling within sub-paragraph (2)(f), is also a "qualifying school" if—

(a) it is the only school named in the statement maintained for the child under section 324, or

(b) it is one of two or more schools named in that statement and of those schools it is the nearer or nearest to the child's home.

(4) "Disabled child" means a child who has a disability for the purposes of the Disability Discrimination Act 1995, and "disability" is to be construed accordingly.

(5) "Walking distance" has the meaning given by section 444(5).

(6) "Religion" and "belief" are to be read in accordance with section 509AD(3).

(7) In the case of a child who is a registered pupil at both a pupil referral unit and at a school other than a unit, references in this Schedule to the school at which he is a registered pupil are to be read as references to the unit."

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SCHEDULE 9

Section 78

SCHOOL TRAVEL SCHEMES

Commencement Information
I400 Sch. 9 in force at 1.4.2007 by S.I. 2007/935, **art. 5(dd)**

After Schedule 35B to EA 1996 (inserted by section 77 above) insert—

"SCHEDULE 35C

Section 508E

SCHOOL TRAVEL SCHEMES

Power to make scheme

1 (1) A local education authority in England may make a school travel scheme for their area.

(2) Before making a school travel scheme, a local education authority must consult such persons as the authority consider appropriate.

Arrangements to be included in scheme

2 (1) A school travel scheme must set out (in general terms) what arrangements in connection with the attendance of children in the authority's area receiving education—

(a) at schools,

(b) at any institution within the further education sector, or

(c) at any other place by virtue of arrangements made in pursuance of section 19(1),

the scheme authority consider it appropriate to be made in relation to travel to and from such places.

(2) Those arrangements are to be either or both of the following—

(a) arrangements to be made by the authority;

(b) arrangements to be made by any other persons.

(3) A school travel scheme may include travel arrangements of any description and may, in particular, include—

(a) arrangements for the provision of transport;

(b) any of the following arrangements only if made with the relevant parental consent—

(i) arrangements for the provision of one or more persons to escort a child (whether alone or together with other children) when travelling to or from any of the places mentioned in any of paragraphs (a) to (c) of sub-paragraph (1);

(ii) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses;

(iii) arrangements for the payment of allowances in respect of the use of particular modes of travel;

(c) arrangements to facilitate or promote the use of particular modes of travel.

(4) The reference in sub-paragraph (3) to the relevant parental consent is to the consent of a parent of each child in relation to whom the arrangements in question are made.

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(5) A school travel scheme must require that if any arrangements set out in the scheme involve arrangements to be made by any person other than the scheme authority and those arrangements—
  (a) are not made by that person or by any other persons, or
  (b) are so made but are not given effect to in compliance with the requirements of the scheme,

the scheme authority must make suitable alternative arrangements.

Travel arrangements for "eligible children"

3 (1) A school travel scheme must require that, in the case of an eligible child in the scheme authority's area to whom sub-paragraph (2) applies, the authority must make such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child's attendance at the relevant educational establishment in relation to him, are made in relation to the child.

(2) This sub-paragraph applies to an eligible child if—
  (a) no travel arrangements relating to travel in either direction between his home and the relevant educational establishment in relation to him, or in both directions, are provided in relation to him by any person who is not the scheme authority, or
  (b) such travel arrangements are provided in relation to him by any person who is not the scheme authority but those arrangements, taken together with any other such travel arrangements which are so provided, do not provide suitable home to school travel arrangements for the purpose of facilitating his attendance at the relevant educational establishment in relation to him.

(3) "Home to school travel arrangements", in relation to an eligible child, are travel arrangements relating to travel in both directions between the child's home and the relevant educational establishment in question in relation to that child.

(4) "Travel arrangements", in relation to an eligible child, are travel arrangements of any description and include—
  (a) arrangements for the provision of transport, and
  (b) any of the following arrangements only if they are made with the consent of a parent of the child—
    (i) arrangements for the provision of one or more persons to escort the child (whether alone or together with other children) when travelling to or from the relevant educational establishment in relation to the child;
    (ii) arrangements for the payment of the whole or any part of a person's reasonable travelling expenses;
    (iii) arrangements for the payment of allowances in respect of the use of particular modes of travel.

(5) "Travel arrangements", in relation to an eligible child, include travel arrangements of any description made by any parent of the child only if those arrangements are made by the parent voluntarily.

(6) Regulations may modify sub-paragraphs (1) and (2) to provide for their application in cases where there is more than one relevant educational establishment in relation to a child.

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4 (1) For the purposes of paragraph 3, an "eligible child" is a child who falls within any of the following paragraphs of Schedule 35B—

(a) paragraph 2 or 3 (children of compulsory school age with special educational needs, a disability or mobility problems);

(b) paragraph 4 or 5 (children of compulsory school age who cannot reasonably be expected to walk because of the nature of the routes);

(c) paragraph 6 or 7 (children of compulsory school age who live outside walking distance and for whom no suitable alternative arrangements are made);

(d) paragraph 9, 10, 11, 12 or 13 (children aged 8 or over who are entitled to free school meals etc).

(2) References in paragraph 3 to the "relevant educational establishment", in relation to an eligible child, are references to—

(a) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 2, 4, 6, 9, 11 and 12 of Schedule 35B, the qualifying school at which the child is a registered pupil referred to in the paragraph in question, and

(b) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 3, 5, 7, 10 and 13 of Schedule 35B, the place other than a school, where the child is receiving education by virtue of arrangements made in pursuance of section 19(1), referred to in the paragraph in question.

Charges

5 (1) A school travel scheme must set out the policy applicable to charging in relation to anything provided in pursuance of the scheme.

(2) The policy to be set out under sub-paragraph (1) must include provision to the effect that anything provided in pursuance of the scheme for a protected child is provided free of charge.

(3) The policy to be set out under sub-paragraph (1) must include provision to the effect mentioned in sub-paragraph (3) of paragraph 7 in relation to any child falling within sub-paragraph (1) or (2) of that paragraph.

6 (1) For the purposes of paragraph 5, a "protected child" is a child of compulsory school age in the scheme authority's area who falls within any of sub-paragraphs (2) to (4).

(2) A child falls within this sub-paragraph if he is a child falling within any of the following paragraphs of Schedule 35B—

(a) paragraph 2 or 3 (children of compulsory school age with special educational needs, a disability or mobility problems);

(b) paragraph 4 or 5 (children of compulsory school age who cannot reasonably be expected to walk because of nature of routes).

(3) A child falls within this sub-paragraph if he is within section 512ZB(4) (provision of free school lunches and milk).

(4) A child falls within this sub-paragraph if—

(a) a parent of the child, with whom the child is ordinarily resident, is a person to whom working tax credit is awarded, and

(b) the award is at the rate which is the maximum rate for the parent's case or, in the case of an award to him jointly with another, at the rate which is the maximum rate for their case.

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7 (1) For the purposes of paragraph 5(3), a child falls within this sub-paragraph if—

(a) he is of compulsory school age and is any of the following—

a child with special educational needs;

a disabled child;

a child with mobility problems,

(b) he is a registered pupil at a qualifying school which is not within walking distance of his home, and

(c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

(2) For the purposes of paragraph 5(3), a child falls within this sub-paragraph if—

(a) he is of compulsory school age and is any of the following—

a child with special educational needs;

a disabled child;

a child with mobility problems,

(b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and

(c) that place is not within walking distance of his home.

(3) The effect referred to in paragraph 5(3) is that the amount payable in respect of anything provided in pursuance of the scheme for a child falling within sub-paragraph (1) or (2) is not to exceed the amount (if any) which would be payable under the scheme if—

(a) he were a child who is not a child with special educational needs, a disabled child or a child with mobility problems,

(b) in the case of a child falling within sub-paragraph (1), he were registered as a pupil at his nearest qualifying school, and

(c) he took full advantage of any arrangements under the scheme for the provision of transport for persons of his description.

(4) In sub-paragraph (3)(b), the reference to the child's nearest qualifying school is to whichever of the following is the nearest to his home to provide education for persons of his age who are not children with special educational needs, disabled children or children with mobility problems—

(a) a community school,

(b) a foundation school,

(c) a voluntary school,

(d) an Academy,

(e) a city technology college, and

(f) a city college for the technology of the arts.

8 Any sum payable in respect of a charge for anything provided by the scheme authority in pursuance of arrangements made by that authority in pursuance of a school travel scheme is to be recoverable summarily as a civil debt.

9 (1) This paragraph applies if a school travel scheme will give rise to any need to incur expenditure in order for a child to take advantage of anything provided for him in pursuance of the scheme.

(2) The scheme must include provision for any expenditure that needs to be incurred for the purpose mentioned in sub-paragraph (1) in the case of a protected child to be met by the scheme authority.

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(3) "Protected child" has the meaning given for the purposes of paragraph 5.

Commencement of scheme

10 (1) A school travel scheme is not to come into force unless approved by the Secretary of State.

(2) A school travel scheme which has been approved by the Secretary of State is to come into force in accordance with directions given by the Secretary of State.

(3) The earliest date on which a school travel scheme may come into force is 31 August 2007.

Amendment or revocation of scheme

11 (1) The scheme authority may amend or revoke a school travel scheme.

(2) Before amending a school travel scheme, the scheme authority must consult such persons as they consider appropriate.

(3) The power of amendment under sub-paragraph (1) is exercisable only with the consent of the Secretary of State.

(4) The Secretary of State may consent to the exercise of the power of amendment under sub-paragraph (1) on an application by the scheme authority specifying the proposed exercise of the power.

(5) If on an application under sub-paragraph (4) the Secretary of State consents to the exercise of the power of amendment under sub-paragraph (1), the scheme authority must exercise the power accordingly.

(6) Any amendment under this paragraph is to come into force in accordance with directions given by the Secretary of State.

Provision of information

12 (1) The scheme authority must—

(a) make such reports and returns to the Secretary of State, and

(b) compile and give to the Secretary of State such information,

as the Secretary of State may require for any of the purposes mentioned in sub-paragraph (2).

(2) Those purposes are—

(a) the purpose of monitoring the operation or effect of a school travel scheme approved under this Schedule;

(b) the purpose of preparing or publishing an evaluation under section 80 of the Education and Inspections Act 2006.

Guidance

13 (1) The Secretary of State must issue, and may from time to time revise, guidance as to the matters which he will take into account in exercising his power under paragraph 10(1) or 11(3).

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(2) Before issuing or revising guidance under sub-paragraph (1), the Secretary of State must consult such persons as he considers appropriate.

Interpretation

14 In this Schedule—

"disabled child" means a child who has a disability for the purposes of the Disability Discrimination Act 1995, and "disability" is to be construed accordingly;

"qualifying school" has the same meaning as it has for the purposes of Schedule 35B;

"scheme authority", in relation to a school travel scheme, means the local education authority by which the scheme is made;

"walking distance" has the meaning given by section 444(5)."

SCHEDULE 10

Section 85

FURTHER AMENDMENTS RELATING TO TRAVEL TO SCHOOLS ETC

Public Passenger Vehicles Act 1981 (c. 14)

1 In section 46 of the Public Passenger Vehicles Act 1981 (fare-paying passengers on school buses), in subsection (3), in the definition of "free school transport"—

(a) after "under" insert " section 508B(1), section 508C(1), section 508F(1), " and

(b) after "1996," insert—

"(aa) in pursuance of arrangements made by the authority in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes),".

Commencement Information

I401 Sch. 10 para. 1 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(l)**

Transport Act 1985 (c. 67)

2 (1) Section 6 of the Transport Act 1985 (registration of local services) is amended as follows.

(2) In subsection (1) after "London local service" insert " nor a service which falls within subsection (1A) below ".

(3) After subsection (1) insert—

"(1A) A service falls within this subsection if conditions A and B are satisfied in relation to it.

(1B) Condition A is satisfied if the service is provided in pursuance of—

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(a) the obligation placed on a local education authority by section 508B(1), section 508F(1), section 509(1) or (1A), or section 509AA(7)(b) or (9)(a) of the Education Act 1996 (provision of transport etc);

(b) the exercise of the power of a local education authority under section 508C(1) of that Act; or

(c) arrangements made by a local education authority in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes).

(1C) Condition B is satisfied if the service is for the carriage of any of the following persons (and no other)—

(a) a person receiving education or training at premises to or from which transport is provided in pursuance of the obligation, the exercise of the power or the arrangements, as the case may be, mentioned in paragraph (a), (b) or (c) of subsection (1B);

(b) a person supervising or escorting any such person while he is using such transport;

(c) a person involved with the provision of education or training at any such premises."

Commencement Information

I402 Sch. 10 para. 2 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(l)**

Education Act 1996 (c. 56)

3 In section 455(1) of EA 1996 (permitted charges), in paragraph (c), for "509(2)" substitute " 508B(1), 508F(3) or 509(2), or section 508E(2)(d) and paragraph 5(2) of Schedule 35C, ".

Commencement Information

I403 Sch. 10 para. 3 in force at 1.9.2007 for specified purposes by S.I. 2007/1801, **art. 4(l)**

4 (1) Section 509 of EA 1996 (provision of transport etc) is amended as follows.

(2) In subsection (1)—

(a) after "local education authority" insert " in Wales ", and

(b) for "Secretary of State" substitute " National Assembly for Wales ".

(3) In subsection (1A)—

(a) after "authority" insert " in Wales ", and

(b) for "Secretary of State" substitute " National Assembly for Wales ".

(4) In subsection (1B)—

(a) omit "the Learning and Skills Council for England or", and

(b) in paragraph (b), omit "13 or".

(5) In subsection (3), after "authority" insert " in Wales ".

(6) In subsection (5), in paragraph (c), for "section 13" substitute " section 41 ".

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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(7) In the heading, for "Provision" substitute " LEAs in Wales: provision ".

Commencement Information
I404 Sch. 10 para. 4 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(l)** (with art. 5(1))

5 In section 509AB of EA 1996 (further provision about transport policy statements) —

(a) after subsection (3) insert—

"(3A) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a local education authority in England shall have regard (amongst other things) to the nature of the route, or alternative routes, which he could reasonably be expected to take.", and

[F20](b) . . . . . .

Textual Amendments
F20 Sch. 10 para. 5(b) repealed (6.3.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), **Sch. 2**; S.I. 2009/371, art. 2(1), Sch. Pt. 1

Commencement Information
I405 Sch. 10 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(ee)**

SCHEDULE 11

Section 112

THE OFFICE FOR STANDARDS IN EDUCATION, CHILDREN'S SERVICES AND SKILLS

Modifications etc. (not altering text)
C18 Sch. 11 modified (temp.) (12.12.2006) by Office for Standards in Education, Children's Services and Skills (Transitional Provisions) Regulations 2006 (S.I. 2006/2991), regs. 1(1), **2(b)**

Membership

1 The Office is to consist of—

(a) a chairman appointed by the Secretary of State;

(b) not less than 5 and not more than 10 other members appointed by the Secretary of State ("the appointed members"); and

(c) the Chief Inspector.

Commencement Information
I406 Sch. 11 para. 1 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(i)**

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Terms of appointment

2 (1) The chairman and the appointed members hold and vacate office in accordance with the terms of their respective appointments.

(2) Sub-paragraph (1) has effect subject to the following provisions of this Schedule.

(3) Section 113 makes provision for the holding and vacation of office by the Chief Inspector.

Commencement Information

I407 Sch. 11 para. 2(1) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(i)**
I408 Sch. 11 para. 2(2) in force at 12.12.2006 for specified purposes by S.I. 2006/2990, **art. 2(i)(ii)**
I409 Sch. 11 para. 2(2) in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(ff)**
I410 Sch. 11 para. 2(3) in force at 1.4.2007 by S.I. 2007/935, **art. 5(ff)**

3 A person appointed as chairman or appointed member—

(a) must not be appointed for a term of more than five years,

(b) may at any time resign by giving written notice to the Secretary of State, and

(c) may be removed from office by the Secretary of State on the grounds that he is unable or unfit to carry out the duties of his office.

Commencement Information

I411 Sch. 11 para. 3 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

4 The previous appointment of a person as chairman or appointed member does not affect his eligibility for appointment to either office.

Commencement Information

I412 Sch. 11 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(ff)**

Remuneration of members

5 (1) The Office must pay to the chairman and each of the appointed members such remuneration and allowances as may be determined by the Secretary of State.

(2) The Office must, if required to do so by the Secretary of State—

(a) pay such pension, allowances or gratuities as may be determined by the Secretary of State to or in respect of a person who is or has held office as chairman or appointed member; or

(b) make such payments as may be so determined towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.

(3) If, where a person ceases to hold office as chairman or appointed member, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Office must pay to him such amount by way of compensation as the Secretary of State may determine.

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(4) Paragraph 1 of Schedule 12 makes provision for the payment to the Chief Inspector of remuneration etc.

Commencement Information

I413 Sch. 11 para. 5(1) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

I414 Sch. 11 para. 5(2)-(4) in force at 1.4.2007 by S.I. 2007/935, **art. 5(ff)**

Staff

6 (1) The Office has power to appoint staff—

(a) for the purposes of the performance of its own functions, and

(b) for the purposes of the performance of functions of the Chief Inspector.

(2) But that power is exercisable only by the Chief Inspector acting on behalf of the Office.

(3) The conditions of service of persons appointed under this paragraph are to be determined by the Chief Inspector, subject to the approval of the Minister for the Civil Service.

(4) The management of the staff of the Office is to be the responsibility of the Chief Inspector.

(5) Nothing in this paragraph is to be read as preventing any delegation by the Chief Inspector under paragraph 9 of Schedule 12.

Commencement Information

I415 Sch. 11 para. 6(1)-(4) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

I416 Sch. 11 para. 6(5) in force at 1.4.2007 by S.I. 2007/935, **art. 5(ff)**

Committees

7 (1) The Office may establish committees, and any committee so established may establish sub-committees.

(2) The members of a committee of the Office may include persons who are not members of the Office (and the members of a sub-committee may include persons who are not members of the committee or of the Office).

(3) The Office may make arrangements for the payment of such remuneration and allowances as it thinks fit to any person who—

(a) is a member of a committee or sub-committee, but

(b) is not a member of the Office.

Commencement Information

I417 Sch. 11 para. 7(1) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

I418 Sch. 11 para. 7(2)(3) in force at 1.4.2007 by S.I. 2007/935, **art. 5(ff)**

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Procedure etc.

8 (1) The Office may make such provision as it thinks fit to regulate—
(a) its own proceedings (including quorum), and
(b) the procedure (including quorum) of its committees and sub-committees.

(2) The validity of any proceedings of the Office, or any of its committees or sub-committees, is not affected by—
(a) any vacancy in the office of chairman or in the membership of the Office or (as the case may be) of the committee or sub-committee, or
(b) any defect in the appointment of the chairman or any other member of the Office or (as the case may be) of any member of the committee or sub-committee.

Commencement Information
I419 Sch. 11 para. 8 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

Performance of functions

9 Anything authorised or required to be done by the Office may be done by—
(a) any member of the Office who is authorised for the purpose by the Office, whether generally or specially, or
(b) any committee or sub-committee of the Office which has been so authorised.

Commencement Information
I420 Sch. 11 para. 9 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

Execution of documents

10 The application of the seal of the Office must be authenticated by the signature of—
(a) any member of the Office, or
(b) some other person who has been authorised for that purpose by the Office, whether generally or specially.

Commencement Information
I421 Sch. 11 para. 10 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

Evidence

11 The Documentary Evidence Act 1868 (c. 37) shall have effect in relation to the Office as if—
(a) the Office were included in the first column of the Schedule to that Act,
(b) any member or other person authorised to act on behalf of the Office were mentioned in the second column of that Schedule, and

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(c) the regulations referred to in that Act included any document issued by or under the authority of the Office.

Commencement Information
I422 Sch. 11 para. 11 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

Supplementary powers

12 (1) The Office has power—
(a) to enter into contracts,
(b) to acquire, and dispose of, land or other property, and
(c) to arrange for the provision of accommodation,
in connection with the performance of its own functions or in connection with the performance of functions of the Chief Inspector.

(2) But those powers are exercisable only by the Chief Inspector acting on behalf of the Office.

(3) The management of any property or accommodation held or used in connection with the performance of any of the functions mentioned in sub-paragraph (1) is to be the responsibility of the Chief Inspector.

(4) Nothing in this paragraph is to be read as preventing any delegation by the Chief Inspector under paragraph 9 of Schedule 12.

Commencement Information
I423 Sch. 11 para. 12(1)-(3) in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**
I424 Sch. 11 para. 12(4) in force at 1.4.2007 by S.I. 2007/935, **art. 5(ff)**

13 (1) The Office may do anything that it considers is necessary or expedient for the purposes of, or in connection with, its functions.

(2) But to the extent that paragraph 6 or 12 makes provision for restricting the exercise of any such power, the power is accordingly exercisable subject to any such restriction.

Commencement Information
I425 Sch. 11 para. 13 in force at 12.12.2006 by S.I. 2006/2990, **art. 2(i)(ii)**

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SCHEDULE 12

Section 115

THE CHIEF INSPECTOR AND OTHER INSPECTORS ETC.

PART 1

THE CHIEF INSPECTOR

Remuneration, pensions etc. of Chief Inspector

1 (1) The Office is to pay the Chief Inspector such remuneration, and such travelling and other allowances, as the Secretary of State may determine.

(2) In the case of any Chief Inspector determined by the Secretary of State, the Office is to pay—

(a) such pension, allowance or gratuity to or in respect of him, or

(b) such contributions or payments towards provision for such a pension, allowance or gratuity,

as the Secretary of State may determine.

(3) If, when any person ceases to hold office as Chief Inspector, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Office may pay to him such sum by way of compensation as the Secretary of State may determine.

(4) Service as Chief Inspector is one of the kinds of service to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.

(5) The Office must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (4) in the sums payable out of money provided by Parliament under that Act.

Commencement Information
I426 Sch. 12 para. 1 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Temporary appointment of Chief Inspector; performance of functions during vacancy or incapacity etc.

2 (1) If there is a vacancy in the office of Chief Inspector, the Secretary of State may appoint a person to be Chief Inspector during such period (not exceeding one year) as he thinks fit.

(2) Any such appointment is to be on such terms as the Secretary of State may determine.

(3) Those terms may include provision for the Secretary of State to terminate the appointment before the time when it would otherwise end.

Commencement Information
I427 Sch. 12 para. 2 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

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3 (1) The Chief Inspector may designate an HMI to perform his functions during any period when he is absent or unable to act.

(2) If (at a time when no designation is in force under sub-paragraph (1)) it appears to the chairman of the Office that the Chief Inspector is, as a result of any incapacity—

(a) unable to act, and

(b) unable to make a designation under that sub-paragraph,

the chairman may designate an HMI to perform the Chief Inspector's functions so long as he remains in office and is unable to act.

(3) For the purposes of this paragraph the Chief Inspector's functions include his functions as a member of the Office.

Commencement Information

I428 Sch. 12 para. 3 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Execution of documents

4 The application of the Chief Inspector's seal must be authenticated by the signature of—

(a) the Chief Inspector, or

(b) some other person who has been authorised for that purpose by the Chief Inspector, whether generally or specially.

Commencement Information

I429 Sch. 12 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Evidence

5 The Documentary Evidence Act 1868 (c. 37) shall have effect in relation to the Chief Inspector as if—

(a) he were mentioned in the first column of the Schedule to that Act,

(b) he and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and

(c) the regulations referred to in that Act included any document issued by him or any such person.

Commencement Information

I430 Sch. 12 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Ancillary powers

6 The Chief Inspector may do anything that he considers necessary or expedient for the purposes of, or in connection with, his functions.

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Commencement Information
I431 Sch. 12 para. 6 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Nature of functions conferred on Chief Inspector

7 (1) Functions conferred on the Chief Inspector by virtue of this Part or any other enactment are conferred on him in his capacity as holder of the office of Chief Inspector and not in his capacity as a member of the Office.

(2) Sub-paragraph (1) does not apply to any function of the Chief Inspector under—
(a) section 114(4),
(b) paragraph 6 or 12 of Schedule 11, or
(c) paragraph 3 of this Schedule.

(3) References in this Part to functions of the Chief Inspector are references to functions conferred on him in his capacity as holder of the office of Chief Inspector.

This is subject to paragraph 3(3).

(4) Any proceedings brought in respect of any such function of the Chief Inspector are to be brought against the Chief Inspector in his capacity as holder of that office.

Commencement Information
I432 Sch. 12 para. 7 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Relationship between Chief Inspector and the Office

8 (1) For all purposes relating to the government department constituted by the Office, the Chief Inspector is to be regarded—
(a) as part of that government department, whether acting in his capacity as holder of the office of Chief Inspector or in his capacity as a member of the Office, and
(b) as performing his functions (in whatever capacity) on behalf of it.

(2) Sub-paragraph (1) applies subject to any provision made by virtue of sub-paragraph (3).

(3) The Secretary of State may by order make such provision as he considers appropriate for—
(a) supplementing or modifying the effect of sub-paragraph (1), or
(b) prescribing other matters in connection with responsibilities of the Chief Inspector in relation to the Office or otherwise connected with the relationship between them.

(4) Such an order may in particular provide—
(a) for allocating functions, property, rights or liabilities as between the Office and the Chief Inspector;
(b) for conferring on the Chief Inspector responsibilities in relation to property, rights or liabilities of the Office, including responsibilities as to the conduct of proceedings;

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Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

(c) for the capacity in which the Chief Inspector is to discharge any such functions or responsibilities.

Commencement Information
I433 Sch. 12 para. 8 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

PART 2

INSPECTORS ETC. ACTING ON BEHALF OF CHIEF INSPECTOR

Delegation of functions

9 (1) Anything authorised or required by or under any enactment to be done by the Chief Inspector may be done by—
(a) any HMI,
(b) any other member of the staff of the Office, or
(c) any additional inspector,
who is authorised generally or specially for the purpose by the Chief Inspector.

(2) But sub-paragraph (1) has effect subject to—
(a) sub-paragraph (3) below and paragraphs 10(2) and 11(4), and
(b) any contrary provision made by any enactment.

(3) The making of any report of an inspection of a school under section 5 of EA 2005 which states the opinion that special measures are required to be taken in relation to the school must be personally authorised by—
(a) the Chief Inspector, or
(b) an HMI who is authorised by the Chief Inspector for the purposes of this sub-paragraph.

(4) Without prejudice to the generality of sub-paragraph (1) above, references to the Chief Inspector—
(a) in section 10 of EA 2005 (power of entry for purposes of inspection under s. 5 or 8), or
(b) in any other enactment by virtue of which any power of entry is exercisable by the Chief Inspector, or otherwise having effect in connection with any such power of entry,
include references to any person authorised to act on his behalf under sub-paragraph (1).

(5) In sub-paragraph (4) the reference to any power of entry includes a reference to a power to inspect documents or a power conferred in connection with the inspection of documents.

Commencement Information
I434 Sch. 12 para. 9 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Inspectors etc. to have necessary qualifications, experience and skills

10 (1) This paragraph applies where—
(a) an HMI,
(b) a member of the staff of the Office, or
(c) an additional inspector,
is authorised to act on behalf of the Chief Inspector in connection with the carrying out of any of the activities within his remit.

(2) The Chief Inspector must ensure that the person concerned has such qualifications, experience and skills as are necessary to secure that he is able to perform the function, or (as the case may be) assist with its performance, in an effective manner.

Commencement Information
I435 Sch. 12 para. 10 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Additional inspectors

11 (1) The Chief Inspector may enter into arrangements with such persons as he thinks fit for them to assist him in the performance of his functions in a particular case or class of case.

(2) The Chief Inspector may also enter into arrangements with persons ("inspection service providers") under which they provide the services of inspectors to carry out inspections on behalf of the Chief Inspector.

(3) A person assisting the Chief Inspector in pursuance of arrangements under sub-paragraph (1) or (2) is to be known as an additional inspector.

(4) The Chief Inspector may not authorise an additional inspector to conduct an inspection of a school under section 5 of EA 2005 unless—
(a) the inspection is to be supervised by an HMI, or
(b) the additional inspector has previously conducted an inspection under that section under the supervision of an HMI to the satisfaction of the HMI.

(5) In sub-paragraph (4)(b) the reference to an HMI is, in relation to an inspection conducted before the commencement of this paragraph, to be read as a reference to one of Her Majesty's Inspectors of Schools in England.

Commencement Information
I436 Sch. 12 para. 11 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Provisions relating to additional inspectors provided by inspection service providers

12 (1) This paragraph applies to arrangements made with inspection service providers under paragraph 11(2) ("ISP arrangements").

(2) In pursuance of his duty under paragraph 10(2), so far as applying to additional inspectors provided under ISP arrangements, the Chief Inspector—
(a) must publish in such manner as he thinks fit, and

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(b) may from time to time revise,

a statement of the matters mentioned in sub-paragraph (3).

(3) The matters are—

(a) the qualifications or experience (or both) that are to be required of additional inspectors provided under ISP arrangements, and

(b) the standards that such additional inspectors are to be required to meet in the exercise of their functions and the skills that they are to be required to demonstrate in the exercise of those functions.

(4) ISP arrangements must be made on terms that require the inspection service provider to secure compliance with any requirements that are for the time being published under sub-paragraph (2).

(5) Where the Chief Inspector has entered into any ISP arrangements, he must publish, at intervals of not more than 12 months, a list of the names of the persons who are, at a specified date, currently notified to him by the inspection service provider as persons with whom the provider proposes to make arrangements for the carrying out of inspections on behalf of the Chief Inspector.

Commencement Information

I437 Sch. 12 para. 12 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

SCHEDULE 13

Section 149

INTERACTION WITH OTHER AUTHORITIES

Inspection authorities and inspection functions

1 (1) In this Schedule references to inspection authorities are to be read in accordance with sub-paragraph (2) or (3), as the case may be.

(2) For the purposes of paragraph 4 or 5 the inspection authorities are—

(a) Her Majesty's Chief Inspector of Prisons,

(b) Her Majesty's Chief Inspector of Constabulary,

(c) Her Majesty's Chief Inspector of the Crown Prosecution Service,

(d) **[**[F21]Her Majesty's Chief Inspector of Probation for England and Wales**]**,

(e) Her Majesty's Chief Inspector of Court Administration,

(f) the Commission for Healthcare Audit and Inspection,

(g) the Commission for Social Care Inspection, and

(h) the Audit Commission for Local Authorities and the National Health Service in England [F22]....

(3) For the purposes of paragraph 6 the inspection authorities are—

(a) Her Majesty's Chief Inspector of Prisons,

(b) Her Majesty's Inspectors of Constabulary,

(c) Her Majesty's Chief Inspector of the Crown Prosecution Service,

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(d) **[**[F23]Her Majesty's Inspectorate of Probation for England and Wales**]**,
(e) Her Majesty's Inspectorate of Court Administration, and
(f) the bodies mentioned in sub-paragraph (2)(f) to (h).

(4) In this Schedule "inspection functions" means functions relating to, or connected with, inspections.

Textual Amendments

F21 Words in Sch. 13 para. 1(2)(d) substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **Sch. 1 para. 27(2)(g)**

F22 Words in Sch. 13 para. 1(2)(h) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 9 para. 1(2)(y), **Sch. 18 Pt. 9**; S.I. 2008/172, art. 4(a)(n)(i)

F23 Words in Sch. 13 para. 1(3)(d) substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **Sch. 1 para. 26(2)(h)**

Modifications etc. (not altering text)

C19 Sch. 13 para. 1 modified (temp.) (1.10.2008) by The Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 (S.I. 2008/2250), arts. 1(1), **3(13)**

Commencement Information

I438 Sch. 13 para. 1 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Public authorities

2 (1) In this Schedule "public authority"—
(a) includes any person certain of whose functions are functions of a public nature, but
(b) does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.

(2) Subject to paragraph 8(3), references in this Schedule to a public authority do not include a public authority outside the United Kingdom.

Commencement Information

I439 Sch. 13 para. 2 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Delegation of inspection functions to public authorities

3 (1) The Chief Inspector may delegate any of his inspection functions (to such extent as he may determine) to another public authority.

(2) If the carrying out of an inspection is delegated under sub-paragraph (1) it is nevertheless to be regarded for the purposes of any enactment as carried out by the Chief Inspector.

Commencement Information

I440 Sch. 13 para. 3 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

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Inspection programmes and inspection frameworks

4 (1) The Chief Inspector must from time to time, or at such times as the Secretary of State may specify by order, prepare—

(a) a document setting out what inspections he proposes to carry out (an "inspection programme");

(b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an "inspection framework").

(2) Before preparing an inspection programme or an inspection framework the Chief Inspector must consult—

(a) the Secretary of State,

(b) the inspection authorities, and

(c) any other person or body specified by an order made by the Secretary of State;

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.

(3) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.

(4) The Chief Inspector may determine that any document or combination of documents prepared for the purposes of any other enactment or enactments is to be treated as a document prepared for the purposes of sub-paragraph (1)(b) (so long as any requirements applying under or by virtue of this paragraph are complied with in relation to the document or documents concerned).

Commencement Information

I441 Sch. 13 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Inspections by other inspectors of institutions within Chief Inspector's remit

5 (1) If—

(a) an inspection authority is proposing to carry out an inspection that would involve inspecting a specified institution, and

(b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that institution, or would do so if carried out in a particular manner,

the Chief Inspector must, subject to sub-paragraph (5), give a notice to that authority requiring it not to carry out the proposed inspection, or not to carry it out in that manner.

(2) In sub-paragraph (1)(a) "specified institution" means a person or body specified by order made by the Secretary of State.

(3) A person or body may be specified under sub-paragraph (2) only if the person or body—

(a) discharges functions or carries on other activities in relation to which the Chief Inspector exercises inspection functions by virtue of any enactment, or

(b) is a person or body in respect of whom the Chief Inspector is the registration authority by virtue of any enactment.

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(4) A person or body may be specified under sub-paragraph (2) in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

(5) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.

(6) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (7).

(7) The Secretary of State, if satisfied that the proposed inspection—

(a) would not impose an unreasonable burden on the institution in question, or

(b) would not do so if carried out in a particular manner,

may give consent to the inspection being carried out, or being carried out in that manner.

(8) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—

(a) provision about the form of notices;

(b) provision prescribing the period within which notices are to be given;

(c) provision prescribing circumstances in which notices are, or are not, to be made public;

(d) provision for revising or withdrawing notices;

(e) provision for setting aside notices not validly given.

Commencement Information

I442 Sch. 13 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Co-operation

6 The Chief Inspector must co-operate with—

(a) the inspection authorities, and

(b) any other public authority specified by order made by the Secretary of State,

where it is appropriate to do so for the efficient and effective exercise of his functions.

Commencement Information

I443 Sch. 13 para. 6 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

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Joint action

7 The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective exercise of his functions.

Commencement Information
I444 Sch. 13 para. 7 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Advice or assistance for other public authorities

8 (1) The Chief Inspector may, if he thinks it appropriate to do so, provide advice or assistance to another public authority for the purpose of the exercise by that authority of its functions.

(2) Advice or assistance under this paragraph may be provided on such terms as the Chief Inspector thinks fit.

(3) In this paragraph the reference to another public authority includes a public authority in the Channel Islands or the Isle of Man.

Commencement Information
I445 Sch. 13 para. 8 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Inspections carried out under arrangements

9 (1) The Chief Inspector may make arrangements with a public authority for the carrying out by him—

(a) in England or Wales, or

(b) in Northern Ireland,

of inspections of any institution or matter which he is not required or authorised to carry out by virtue of any other enactment.

(2) The Chief Inspector may make arrangements with a public authority or the relevant overseas authority for the carrying out by him outside the United Kingdom of inspections of any institution or matter.

(3) "The relevant overseas authority" means the authority in the jurisdiction concerned that is responsible for the institution or other matter.

(4) Inspections under this paragraph may be carried out on such terms as the Chief Inspector thinks fit.

Commencement Information
I446 Sch. 13 para. 9 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Charges

10 The Chief Inspector may, with the consent of the Secretary of State, enter into arrangements for charges to be made—

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(a) for providing advice or assistance under paragraph 8; or
(b) for carrying out inspections under paragraph 9.

Commencement Information
I447 Sch. 13 para. 10 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

SCHEDULE 14

Section 157

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 8

Public Records Act 1958 (c. 51)

1 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records) omit the entry relating to the Adult Learning Inspectorate.

Commencement Information
I448 Sch. 14 para. 1 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Parliamentary Commissioner Act 1967 (c. 13)

2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation)—
(a) omit the entries relating to the Adult Learning Inspectorate and the Office of Her Majesty's Chief Inspector of Schools in England, and
(b) at the appropriate place insert— " Office for Standards in Education, Children's Services and Skills. "

Commencement Information
I449 Sch. 14 para. 2 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Superannuation Act 1972 (c. 11)

3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment etc. referred to in section 1)—
(a) omit the entry relating to the Adult Learning Inspectorate, and
(b) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I450 Sch. 14 para. 3 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

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Employment and Training Act 1973 (c. 50)

4 In section 10B(1) of the Employment and Training Act 1973 (inspection)—

(a) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ",

(b) omit paragraphs (a) and (b), and

(c) in paragraph (c) for "those services" substitute " services in England in pursuance of section 8 or 9 ".

Commencement Information

I451 Sch. 14 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

House of Commons Disqualification Act 1975 (c. 24)

5 (1) Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) is amended as follows.

(2) In Part 2 (bodies of which all members are disqualified) insert at the appropriate place— " The Office for Standards in Education, Children's Services and Skills. "

(3) In Part 3 (other disqualifying offices) omit the entries relating to any member of the Adult Learning Inspectorate and to Her Majesty's Chief Inspector of Schools in England.

Commencement Information

I452 Sch. 14 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

6 (1) Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership) is amended as follows.

(2) In Part 2 (bodies of which all members are disqualified) insert at the appropriate place— " The Office for Standards in Education, Children's Services and Skills. "

(3) In Part 3 (other disqualifying offices) omit the entry relating to Her Majesty's Chief Inspector of Schools in England.

Commencement Information

I453 Sch. 14 para. 6 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Race Relations Act 1976 (c. 74)

7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty) omit the entry relating to the Adult Learning Inspectorate.

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Commencement Information
I454 Sch. 14 para. 7 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Education Reform Act 1988 (c. 40)

8 In section 226(2)(b) (services for schools in other member States providing education for British children) for "by, or under the direction of, one or more of Her Majesty's Inspectors of Schools for England" substitute " by Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I455 Sch. 14 para. 8 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Children Act 1989 (c. 41)

9 The Children Act 1989 has effect subject to the following amendments.

Commencement Information
I456 Sch. 14 para. 9 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

10 Omit section 26ZA (representations: further consideration).

Commencement Information
I457 Sch. 14 para. 10 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

11 In section 26A(2A) (advocacy services) omit "26ZA or".

Commencement Information
I458 Sch. 14 para. 11 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

12 In section 65(6)(a) (persons disqualified from carrying on, or being employed in, children's homes) for "the Commission for Social Care Inspection" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I459 Sch. 14 para. 12 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

13 In section 79B(1) (other definitions etc.) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

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Commencement Information
I460 Sch. 14 para. 13 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

14 In section 79N (general functions of Chief Inspector) omit subsections (1) to (3) and (6).

Commencement Information
I461 Sch. 14 para. 14 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

15 In section 79R (reports of inspections) omit subsection (4).

Commencement Information
I462 Sch. 14 para. 15 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

16 (1) Section 87 (welfare of children in boarding schools and colleges) is amended as follows.

(2) In subsection (4)—

(a) for "the Commission are" substitute " the Chief Inspector for England is ", and

(b) for "college, they shall" substitute " college in England, he shall ".

(3) In subsection (4A), after "school or college" insert " in Wales ".

(4) In subsections (9A) to (9C)—

(a) for "the Commission", wherever occurring, substitute " the Chief Inspector for England ", and

(b) for "it must" substitute " that authority must ".

(5) In subsection (10)—

(a) in the definition of "appropriate authority", for "the Commission for Social Care Inspection" substitute " the Chief Inspector for England ",

(b) at the appropriate place insert—

> ""the Chief Inspector for England" means Her Majesty's Chief Inspector of Education, Children's Services and Skills;", and

(c) omit the definition of "the Commission".

Commencement Information
I463 Sch. 14 para. 16 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

17 In Schedule 2 (local authority support for children and families) in paragraph 20(1)(a) for "and the Commission for Social Care Inspection" substitute " and (in the case of a local authority in England) Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

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Commencement Information
I464 Sch. 14 para. 17 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Further and Higher Education Act 1992 (c. 13)

F24 18 . . . . . .

Textual Amendments
F24 Sch. 14 para. 18 repealed (18.4.2008) by Further Education and Training Act 2007 (c. 25), s. 32(5), **Sch. 2**; S.I. 2008/1065, art. 2(e)

Commencement Information
I465 Sch. 14 para. 18 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Education Act 1994 (c. 30)

19 (1) Section 18B (inspection of teacher training) is amended as follows.

(2) In subsection (1) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

(3) For subsection (2) substitute—

"(2) If requested to do so by the Secretary of State, the Chief Inspector must inspect and report on such one or more relevant training providers in England as may be specified in the Secretary of State's request."

(4) In subsection (3) omit paragraph (a).

(5) In subsection (4) omit the words from "and subsections (2) to (4)" onwards.

(6) In subsection (10) for "paragraph 5(1) or (2) of Schedule 1 to the 2005 Act" substitute " paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 ".

(7) In subsection (11) for the words from "sections" onwards substitute " paragraph 9(1) of that Schedule. "

Commencement Information
I466 Sch. 14 para. 19 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Education Act 1997 (c. 44)

20 The Education Act 1997 has effect subject to the following amendments.

Commencement Information
I467 Sch. 14 para. 20 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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21 In section 26(2) (supplementary provisions relating to discharge by Authority of their functions) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I468 Sch. 14 para. 21 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

22 (1) Section 38 (inspection of LEAs) is amended as follows.

(2) Omit subsection (2) (inspection of LEAs in England).

(3) In subsection (5) (persons conducting inspections)—
(a) in paragraph (a) omit "England or (as the case may require)", and
(b) in paragraph (b) omit "paragraph 2 of Schedule 1 to the Education Act 2005 or (as the case requires)" and for "that Act" substitute " the Education Act 2005 ".

(4) In subsection (7) (definitions)—
(a) for "41" substitute " 41A ", and
(b) omit paragraph (a).

Commencement Information
I469 Sch. 14 para. 22 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

23 In section 39(4) (reports of inspections under s. 38 etc.)—
(a) omit the words from "section 11(2)" to "Wales,",
(b) for "that Act" substitute " the Education Act 2005 ", and
(c) omit "section 11(2) or, as the case may be,".

Commencement Information
I470 Sch. 14 para. 23 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

24 Omit section 41 (inspections involving collaboration of Audit Commission).

Commencement Information
I471 Sch. 14 para. 24 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

25 In Schedule 4 (the Qualifications and Curriculum Authority), in paragraph 15(1)(d) and (2) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I472 Sch. 14 para. 25 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Audit Commission Act 1998 (c. 18)

26 The Audit Commission Act 1998 has effect subject to the following amendments.

Commencement Information
I473 Sch. 14 para. 26 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

27 In section 33(6) (consultation before studies for improving economy etc. in services) after paragraph (ca) insert—

"(cb) in the case of a study which has a connection with anything which may be inspected under Chapter 4 of Part 8 of the Education and Inspections Act 2006, also consult Her Majesty's Chief Inspector of Education, Children's Services and Skills;".

Commencement Information
I474 Sch. 14 para. 27 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

28 In section 34(6) (consultation before studies as to impact of statutory provisions etc.) after paragraph (b) insert—

"(bza) in the case of a study which has a connection with anything which may be inspected under Chapter 4 of Part 8 of the Education and Inspections Act 2006, Her Majesty's Chief Inspector of Education, Children's Services and Skills;".

Commencement Information
I475 Sch. 14 para. 28 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

[F25]29 . . . . . .

Textual Amendments
F25 Sch. 14 para. 29 repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 10**; S.I. 2008/172, art. 2(1)(u)(i)

Commencement Information
I476 Sch. 14 para. 29 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

30 In section 49(1) (restriction on disclosure of information) after paragraph (c) insert—

"(ca) to Her Majesty's Chief Inspector of Education, Children's Services and Skills for the purposes of his functions under Chapter 4 of Part 8 of the Education and Inspections Act 2006;".

Commencement Information
I477 Sch. 14 para. 30 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

31 In Schedule 1 (the Audit Commission) omit paragraph 8(2)(e).

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Commencement Information
I478 Sch. 14 para. 31 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Data Protection Act 1998 (c. 29)

32 In section 31(6) of the Data Protection Act 1998 (personal data exempt from subject information provisions) omit ““, 26ZA””.

Commencement Information
I479 Sch. 14 para. 32 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

School Standards and Framework Act 1998 (c. 31)

33 SSFA 1998 has effect subject to the following amendments.

Commencement Information
I480 Sch. 14 para. 33 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

34 In section 139(2)(b) (payments into Consolidated Fund) omit “Her Majesty's Chief Inspector of Schools in England, or”.

Commencement Information
I481 Sch. 14 para. 34 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

35 (1) Schedule 26 (inspection of nursery education) is amended as follows.

(2) In paragraph 2(1)(a) for “Her Majesty's Chief Inspector of Schools in England” substitute “ Her Majesty's Chief Inspector of Education, Children's Services and Skills ”.

(3) In paragraph 13A omit sub-paragraph (4).

(4) In paragraph 14 omit sub-paragraph (1).

Commencement Information
I482 Sch. 14 para. 35 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Protection of Children Act 1999 (c. 14)

36 In section 2A(2) of the Protection of Children Act 1999 (persons who may refer individuals for inclusion in list of those unsuitable to work with children) for paragraph (c) substitute—

“(c) Her Majesty's Chief Inspector of Education, Children's Services and Skills.”

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Commencement Information
I483 Sch. 14 para. 36 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Local Government Act 1999 (c. 27)

37 In section 25(2) of the Local Government Act 1999 (coordination of inspections, &c) for paragraph (c) substitute—

"(c) Her Majesty's Chief Inspector of Education, Children's Services and Skills;".

Commencement Information
I484 Sch. 14 para. 37 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Care Standards Act 2000 (c. 14)

38 The Care Standards Act 2000 has effect subject to the following amendments.

Commencement Information
I485 Sch. 14 para. 38 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

39 In section 5(1) (registration authorities) for paragraph (a)(ii) substitute—

"(ii) the CSCI, in the case of care homes, domiciliary care agencies and nurses agencies;

(iii) Her Majesty's Chief Inspector of Education, Children's Services and Skills (referred to in this Act as "the CIECSS"), in the case of children's homes, residential family centres, fostering agencies, voluntary adoption agencies and adoption support agencies;".

Commencement Information
I486 Sch. 14 para. 39 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

40 (1) Section 8 (general functions of the Assembly) is amended as follows.

(2) For subsection (3) substitute—

"(3) The Assembly shall have such additional functions in relation to Part II services provided in Wales as may be specified in regulations made by the Assembly.

(3A) But the only functions which may be so specified in relation to a particular Part II service are functions which—

(a) by virtue of section 5A(7) are exercisable by the CHAI;

(b) by virtue of section 5B(7) are exercisable by the CSCI; or

(c) by virtue of section 118(4) of the Education and Inspections Act 2006 are exercisable by the CIECSS,

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in relation to the corresponding Part II service provided in England."

(3) In the subsection (6) inserted by section 109 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) for paragraph (b) substitute—

"(b) any other functions exercisable by the Assembly corresponding to functions exercisable—

(i) by the CSCI in relation to England; or

(ii) by the CIECSS under section 147 of the Education and Inspections Act 2006."

(4) The subsection (6) inserted by paragraph 18(3) of Schedule 9 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) is renumbered as subsection (7).

Commencement Information

I487 Sch. 14 para. 40 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

41 In section 10(6) (inquiries relating to exercise of functions by Assembly) for paragraph (b) substitute—

"(b) any other functions exercisable by the Assembly corresponding to functions exercisable—

(i) by the CHAI, the CSCI or the CIECSS under this Act in relation to England; or

(ii) by the CIECSS under section 147 of the Education and Inspections Act 2006."

Commencement Information

I488 Sch. 14 para. 41 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

42 In section 11(4) (keeping of registers) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

Commencement Information

I489 Sch. 14 para. 42 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

43 In section 12(2) (applications for registration) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

Commencement Information

I490 Sch. 14 para. 43 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

44 In section 15(3)(a) (fees for applications by registered persons) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

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Commencement Information
I491 Sch. 14 para. 44 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

45 In section 16(3)(a) (annual fee payable by persons registered under Part 2) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

Commencement Information
I492 Sch. 14 para. 45 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

46 In section 22(7)(i)(i) (fees in respect of notifications) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

Commencement Information
I493 Sch. 14 para. 46 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

47 In section 29(1)(a) (proceedings for offences) for "or the CSCI" (in the first place) substitute " , the CSCI or the CIECSS ".

Commencement Information
I494 Sch. 14 para. 47 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

48 In section 31(7) (requirement to arrange for inspection of premises) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

Commencement Information
I495 Sch. 14 para. 48 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

49 In section 36A (voluntary adoption agencies: distribution of functions) for "the CSCI" (in each place) substitute " the CIECSS ".

Commencement Information
I496 Sch. 14 para. 49 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

50 In section 42(5) (power to extend application of Part 2) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

Commencement Information
I497 Sch. 14 para. 50 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

51 Omit section 45(4) (inspection of premises used in discharge of adoption and fostering functions).

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Commencement Information
I498 Sch. 14 para. 51 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

52 In section 55(3)(e) (persons who may be treated as social care workers)—
(a) after "the CSCI" insert " , the Office for Standards in Education, Children's Services and Skills ",
(b) for "or section 88" substitute " , section 88 ", and
(c) after "Act 2003" insert " or section 139 of the Education and Inspections Act 2006 ".

Commencement Information
I499 Sch. 14 para. 52 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

53 (1) Section 113A (fees payable under Part 2) is amended as follows.

(2) In subsection (1)—
(a) for "and the CSCI" substitute " , the CSCI and the CIECSS ", and
(b) after "to it" insert " or him ".

(3) For subsection (3) substitute—

"(3) Before making any provision under subsection (1), the CHAI, the CSCI or the CIECSS must consult such bodies as appear to it or him to be representative of the persons liable to pay the fee."

(4) In subsection (5) for "or the CSCI" substitute " , the CSCI or the CIECSS ".

(5) In subsection (6)—
(a) for "or the CSCI" substitute " , the CSCI or the CIECSS ", and
(b) after "body" insert " or person ".

Commencement Information
I500 Sch. 14 para. 53 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

54 In section 121(13) (interpretation), at the appropriate place in the Table insert— " the CIECSS Section 5. "

Commencement Information
I501 Sch. 14 para. 54 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Learning and Skills Act 2000 (c. 21)

55 The Learning and Skills Act 2000 has effect subject to the following amendments.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Commencement Information
I502 Sch. 14 para. 55 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

56 Omit sections 52 to 72 (inspections in England).

Commencement Information
I503 Sch. 14 para. 56 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

57 (1) Section 82 (inspections of education and training provided under 1973 Act arrangements) is amended as follows.

(2) In subsection (1) for "the Adult Learning Inspectorate" substitute " the Chief Inspector for England ".

(3) In subsection (4) for the words from "the Adult Learning Inspectorate" onwards substitute " the Chief Inspector for England must be given to that Chief Inspector. "

(4) In subsection (5) for "The Adult Learning Inspectorate" substitute " The Chief Inspector for England " and for "it" substitute " he ".

(5) After subsection (6) add—

"(7) In this section "the Chief Inspector for England" means Her Majesty's Chief Inspector of Education, Children's Services and Skills."

Commencement Information
I504 Sch. 14 para. 57 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

58 Omit—

(a) section 90 (preliminary transfers: FEFC for England), and

(b) section 92(4)(b) and (c) (transfers: England).

Commencement Information
I505 Sch. 14 para. 58 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

59 In section 94(2) (stamp duty) for "section 90 or 92" substitute " section 92 ".

Commencement Information
I506 Sch. 14 para. 59 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

60 In section 95(1)(b) (contracts of employment) for "section 90 or 92" substitute " section 92 ".

Commencement Information
I507 Sch. 14 para. 60 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

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61 In section 113A(1)(a) (restructuring of sixth-form education) for "section 65" substitute " section 128 of the Education and Inspections Act 2006 ".

Commencement Information
I508 Sch. 14 para. 61 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

62 In section 118(1) (inspection)—
(a) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ",
(b) omit paragraphs (a) and (b), and
(c) in paragraph (c) for "those services" substitute " services in pursuance of section 114(1) ".

Commencement Information
I509 Sch. 14 para. 62 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

63 In section 150(4)(a) (Wales) omit "90,".

Commencement Information
I510 Sch. 14 para. 63 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

64 Omit section 151(2) (transitional provisions).

Commencement Information
I511 Sch. 14 para. 64 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

65 Omit Schedule 6 (the Adult Learning Inspectorate).

Commencement Information
I512 Sch. 14 para. 65 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

66 (1) Schedule 7 (sixth forms requiring significant improvement) is amended as follows.

(2) In paragraph 3(1) for "section 65 or 83" substitute " section 128 of the Education and Inspections Act 2006 or section 83 of this Act ".

(3) In paragraph 5(1) for "section 65 or 83" substitute " , section 128 of the Education and Inspections Act 2006 or section 83 ".

(4) In paragraph 10(1) for "section 65 or 83" substitute " section 128 of the Education and Inspections Act 2006 or section 83 of this Act ".

(5) In paragraph 12(1) for "section 65 or 83" substitute " , section 128 of the Education and Inspections Act 2006 or section 83 ".

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I513 Sch. 14 para. 66 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

67 Omit Part 3 of Schedule 10 (transitional provisions).

Commencement Information
I514 Sch. 14 para. 67 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Regulation of Investigatory Powers Act 2000 (c. 23)

68 In Part 2 of Schedule 1 (relevant authorities for purposes only of section 28) for paragraph 27B and the cross-heading preceding it substitute—

"HM Chief Inspector of Education, Children's Services and Skills

27B Her Majesty's Chief Inspector of Education, Children's Services and Skills."

Commencement Information
I515 Sch. 14 para. 68 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Freedom of Information Act 2000 (c. 36)

69 (1) Schedule 1 to the Freedom of Information Act 2000 (public authorities) is amended as follows.

(2) In Part 1—

(a) at the end of paragraph 1 insert " other than the Office for Standards in Education, Children's Services and Skills ", and

(b) after that paragraph insert—

"1A The Office for Standards in Education, Children's Services and Skills, in respect of information held for purposes other than those of the functions exercisable by Her Majesty's Chief Inspector of Education, Children's Services and Skills by virtue of section 5(1)(a)(iii) of the Care Standards Act 2000."

(3) In Part 6 omit the entry relating to the Adult Learning Inspectorate.

Commencement Information
I516 Sch. 14 para. 69 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Education Act 2002 (c. 32)

70 EA 2002 has effect subject to the following amendments.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I517 Sch. 14 para. 70 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

71 In section 1(3) (purpose and interpretation of Chapter 1) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I518 Sch. 14 para. 71 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

72 In section 151 (childcare functions of HM Chief Inspector and National Assembly for Wales) in subsections (1) and (2) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I519 Sch. 14 para. 72 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

73 (1) Section 162A (power to inspect registered schools in England) is amended as follows.

(2) Omit subsection (4).

(3) In subsection (5) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I520 Sch. 14 para. 73 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

74 In section 162B (inspections under section 162A: supplementary) omit subsection (8).

Commencement Information
I521 Sch. 14 para. 74 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

75 In section 171 (interpretation of Chapter 1), in the definition of "Chief Inspector", for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I522 Sch. 14 para. 75 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

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Adoption and Children Act 2002 (c. 38)

76 In section 99 of the Adoption and Children Act 2002 (proceedings for offences) for "the Commission for Social Care Inspection" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I523 Sch. 14 para. 76 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Courts Act 2003 (c. 39)

77 The Courts Act 2003 has effect subject to the following amendments.

Commencement Information
I524 Sch. 14 para. 77 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

78 In section 58 (inspectors of court administration etc.) omit subsection (6).

Commencement Information
I525 Sch. 14 para. 78 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

79 (1) Section 59 (functions of inspectors) is amended as follows.

(2) In subsection (1) for paragraphs (b) and (c) substitute—

"(b) discharge any other particular functions which may be specified in connection with the courts listed in subsection (2) in a direction given by the Lord Chancellor."

(3) In subsection (4) for the words from "subsection (1)(c)(i)" to "subsection (1)(c)(ii)," substitute " subsection (1)(b), ".

Commencement Information
I526 Sch. 14 para. 79 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

80 In section 60 (functions of Chief Inspector) for subsection (4) substitute—

"(4) The Chief Inspector must report to the Lord Chancellor on any matter which the Lord Chancellor refers to him and which is connected with the courts listed in section 59(2)."

Commencement Information
I527 Sch. 14 para. 80 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

81 In section 61 (rights of entry and inspection) for subsections (1) and (2) substitute—

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"(1) An inspector exercising functions under section 59 may enter any place of work occupied by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4).

(2) An inspector exercising functions under section 59 may inspect and take copies of any records kept by persons provided under such a contract which he considers relevant to the discharge of his functions."

Commencement Information
I528 Sch. 14 para. 81 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

82 The Health and Social Care (Community Health and Standards) Act 2003 has effect subject to the following amendments.

Commencement Information
I529 Sch. 14 para. 82 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

83 In section 76(2) (matters to which the CSCI is to have particular regard in the exercise of certain functions)—

(a) in paragraph (d) at the end insert " and ", and

(b) omit paragraphs (f) and (g).

Commencement Information
I530 Sch. 14 para. 83 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

84 Omit section 77(3) (advice as to standards prepared and published under section 23 of the Care Standards Act 2000 (c. 14)).

Commencement Information
I531 Sch. 14 para. 84 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

85 (1) Section 79 (annual reviews) is amended as follows.

(2) For subsection (2) substitute—

"(2) After conducting a review under subsection (1) in respect of a local authority the CSCI must award a performance rating to that authority in respect of all the English local authority social services provided by, or pursuant to arrangements made by, that authority."

(3) Omit subsection (7).

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Commencement Information
I532 Sch. 14 para. 85 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

86 Omit section 80(5) (duty to take into account standards prepared and published under section 23 of the Care Standards Act 2000).

Commencement Information
I533 Sch. 14 para. 86 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

87 In section 81(2) (duties of the CSCI on awarding lowest performance rating) for "section 79(2)(a) or (b)" substitute " section 79(2) ".

Commencement Information
I534 Sch. 14 para. 87 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

88 For section 96 substitute—

"**96 Additional functions**

(1) The Assembly shall have such additional functions in relation to the provision of Welsh local authority social services as—
  (a) correspond to functions within subsection (2), and
  (b) are specified by the Assembly in regulations.

(2) The functions within this subsection are—
  (a) functions conferred on the CSCI by or under this Act, and
  (b) functions relating to the provision of relevant services and assigned to Her Majesty's Chief Inspector of Education, Children's Services and Skills under section 118(4) of the Education and Inspections Act 2006.

(3) In subsection (2)(b) "relevant services" means services which immediately before the coming into force of Chapter 4 of Part 8 of the Education and Inspections Act 2006 were English local authority social services for the purposes of this Part of this Act."

Commencement Information
I535 Sch. 14 para. 88 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

89 Omit section 110 (transfer to the CSCI of functions under section 87 of the Children Act 1989).

Commencement Information
I536 Sch. 14 para. 89 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

90 Omit section 112 (inspection of secure training centres by the CSCI).

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Education and Inspections Act 2006 is up to date with all changes known to be in force on or before 08 July 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)*

Commencement Information
I537 Sch. 14 para. 90 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

91 (1) Section 120 (co-operation etc.) is amended as follows.

(2) After subsection (1) insert—

"(1A) The CHAI and the CSCI must each co-operate with the CIECSS where it seems to the CHAI or the CSCI (as the case may be) appropriate to do so for the efficient and effective discharge of—

(a) its functions; and

(b) the functions of the CIECSS under Chapter 4 of Part 8 of the Education and Inspections Act 2006."

(3) In subsection (2) after "each other" insert " or the CIECSS ".

(4) For subsection (3) substitute—

"(3) The CHAI may delegate to the CSCI or the CIECSS any of its functions to be exercised by the CSCI or the CIECSS (as the case may be) on its behalf.

(3A) The CSCI may delegate to the CHAI or the CIECSS any of its functions to be exercised by the CHAI or the CIECSS (as the case may be) on its behalf."

(5) In subsection (4) for "whenever they consider" substitute " with the other or with the CIECSS whenever the CHAI or the CSCI (as the case may be) considers ".

(6) After that subsection add—

"(5) In this section "the CIECSS" means Her Majesty's Chief Inspector of Education, Children's Services and Skills."

Commencement Information
I538 Sch. 14 para. 91 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

92 In section 133(1)(a) (failure in discharge of functions: CSCI) omit "or the Children Act 1989 (c. 41)".

Commencement Information
I539 Sch. 14 para. 92 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

93 (1) Section 148 (interpretation of Part 2) is amended as follows.

(2) At the end of the definition of "English local authority social service" add— " but does not include anything which may be inspected by Her Majesty's Chief Inspector of Education, Children's Services and Skills under Chapter 4 of Part 8 of the Education and Inspections Act 2006. "

(3) At the end of the definition of "social services functions" add "but (in relation to a local authority in England) does not include—

(a) functions within section 135(1)(d) or (e) of the Education and Inspections Act 2006, or

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(b) functions prescribed by regulations under section 135(1)(f) of that Act."

Commencement Information
I540 Sch. 14 para. 93 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

94 In Schedule 7 (CSCI: supplementary) omit paragraph 5(2).

Commencement Information
I541 Sch. 14 para. 94 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Children Act 2004 (c. 31)

95 The Children Act 2004 has effect subject to the following amendments.

Commencement Information
I542 Sch. 14 para. 95 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

96 (1) Section 20 (joint area reviews) is amended as follows.

(2) In subsection (4) omit paragraphs (b) and (c).

(3) In subsection (7)—

(a) for "subsection (7)(a) of section 2 of the School Inspections Act 1996 (c. 57)" substitute " subsection (1) of section 121 of the Education and Inspections Act 2006 ", and

(b) for "subsection (7)(b)" substitute " subsection (3) ".

Commencement Information
I543 Sch. 14 para. 96 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

97 In section 23 (sections 20 to 22: interpretation) for subsection (5) substitute—

"(5) "The Chief Inspector of Schools" means Her Majesty's Chief Inspector of Education, Children's Services and Skills."

Commencement Information
I544 Sch. 14 para. 97 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Education Act 2005 (c. 18)

98 EA 2005 has effect subject to the following amendments.

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I545 Sch. 14 para. 98 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

99 Omit sections 1 to 4 (appointment and functions of Her Majesty's Chief Inspector of Schools in England, etc.).

Commencement Information
I546 Sch. 14 para. 99 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

100 For section 8 substitute—

"**8 Other inspections**

(1) If requested to do so by the Secretary of State, the Chief Inspector must inspect and report on such school, or class of school, in England as is specified in the request.

(2) The Chief Inspector may inspect any school in England in circumstances where he is not required to do so by section 5 or subsection (1) above."

Commencement Information
I547 Sch. 14 para. 100 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

101 In section 9 (power of Chief Inspector to treat other inspection as s. 5 inspection) omit "2(2)(b) or".

Commencement Information
I548 Sch. 14 para. 101 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

102 In section 11 (publication of inspection reports) omit subsections (2) to (4).

Commencement Information
I549 Sch. 14 para. 102 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

103 In section 12 (interpretation of Chapter 1) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I550 Sch. 14 para. 103 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

104 In section 18 (interpretation of Chapter 2) for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

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Commencement Information
I551 Sch. 14 para. 104 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

105 (1) Section 59 (combined reports) is amended as follows.

(2) After subsection (2) insert—

"(2A) Subsection (2) does not apply so as to authorise the making of a combined report by the Chief Inspector for England (as to which section 152 of the Education and Inspections Act 2006 applies instead)."

(3) In subsection (4) after "Chief Inspector" insert " for Wales ".

(4) After that subsection add—

"(5) In this section—

"the Chief Inspector for England" means Her Majesty's Chief Inspector of Education, Children's Services and Skills; and

"the Chief Inspector for Wales" means Her Majesty's Chief Inspector of Education and Training in Wales."

Commencement Information
I552 Sch. 14 para. 105 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

106 In section 100(1) (interpretation of Part 3) in the definition of "the Chief Inspector for England", for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I553 Sch. 14 para. 106 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

107 Omit Schedule 1 (provisions relating to HM Chief Inspector of Schools in England).

Commencement Information
I554 Sch. 14 para. 107 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

Childcare Act 2006 (c. 21)

108 The Childcare Act 2006 has effect subject to the following amendments.

Commencement Information
I555 Sch. 14 para. 108 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

109 Omit section 14 (inspection).

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I556 Sch. 14 para. 109 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

110 Omit section 31 (general functions of Chief Inspector).

Commencement Information
I557 Sch. 14 para. 110 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

111 In section 50 (report of inspections) omit subsection (4).

Commencement Information
I558 Sch. 14 para. 111 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

112 In section 61 (report of inspections) omit subsection (4).

Commencement Information
I559 Sch. 14 para. 112 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

113 (1) Section 77 (powers of entry) is amended as follows.

(2) In subsections (1) and (2) omit "A person authorised for the purposes of this subsection by".

(3) In subsection (3) for "Authorisation" substitute " An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to his functions ".

(4) Omit subsection (7).

Commencement Information
I560 Sch. 14 para. 113 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

114 (1) Section 79 (power of constable to assist in exercise of powers of entry) is amended as follows.

(2) In subsection (1) for "A person authorised for the purpose of subsection (1) or (2) of section 77" substitute " The Chief Inspector ".

(3) In subsection (2)—

(a) for "authorised person" substitute " Chief Inspector ", and

(b) for "that person" substitute " the Chief Inspector ".

Commencement Information
I561 Sch. 14 para. 114 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

115 Omit section 80 (combined reports).

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I562 Sch. 14 para. 115 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

116 Omit section 81 (information to be included in annual reports).

Commencement Information
I563 Sch. 14 para. 116 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

117 In section 98(1) (interpretation of Part 3), in the definition of "the Chief Inspector", for "Her Majesty's Chief Inspector of Schools in England" substitute " Her Majesty's Chief Inspector of Education, Children's Services and Skills ".

Commencement Information
I564 Sch. 14 para. 117 in force at 1.4.2007 by S.I. 2007/935, **art. 5(gg)**

SCHEDULE 15

Section 158

TRANSITIONAL PROVISIONS AND SAVINGS RELATING TO PART 8

Staff transfer schemes

1 (1) The Secretary of State may make a scheme (a "staff transfer scheme") providing—

(a) for an employee of the ALI or the CSCI to become a member of the staff of the Office;

(b) for his contract of employment to have effect (subject to any necessary modifications) as his conditions of service as a member of the staff of the Office;

(c) for the transfer to the Office of the rights, powers, duties and liabilities of the ALI or the CSCI under or in connection with the employee's contract of employment;

(d) for anything done (or having effect as if done) before that transfer by or in relation to the ALI or the CSCI in respect of such a contract or the employee to be treated as having been done by or in relation to the Office.

(2) A staff transfer scheme may provide for a period before a person became a member of the staff of the Office to count as a period during which he was a member of its staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).

(3) A staff transfer scheme may provide for an employee of the ALI or the CSCI who would otherwise become a member of the staff of the Office not to become such a member of staff if he gives notice objecting to the operation of the scheme in relation to him.

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(4) A staff transfer scheme may provide for any person who would be treated (whether by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.

(5) A staff transfer scheme may provide for—
- (a) section 3 of the Act of Settlement (1700 c. 2),
- (b) section 6 of the Aliens Restriction (Amendment) Act 1919 (c. 92), and
- (c) any rules prescribing requirements as to nationality which must be satisfied in the case of persons employed in a civil capacity under the Crown,

not to apply in relation to service as a member of the staff of the Office by a person who becomes a member of its staff pursuant to the scheme.

Commencement Information
I565 Sch. 15 para. 1 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

Property transfer schemes

2 (1) The Secretary of State may make a scheme (a "property transfer scheme") providing for the transfer to the Office or the new Chief Inspector of any property, rights or liabilities of any of the following—
- (a) the existing Chief Inspector;
- (b) the Secretary of State;
- (c) the Lord Chancellor;
- (d) the ALI;
- (e) the CSCI.

(2) A property transfer scheme may provide for the transfer to a person other than the Office or the new Chief Inspector of any property, rights or liabilities of the ALI not transferred pursuant to sub-paragraph (1).

(3) A property transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
- (b) provide for things done by or in relation to persons mentioned in paragraphs (a) to (e) of sub-paragraph (1) in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the person to whom the property, rights or liabilities in question are transferred;
- (c) apportion property, rights and liabilities;
- (d) make provision about the continuation of legal proceedings.

(4) The things that may be transferred by a property transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
- (b) property acquired, and rights and liabilities arising, after the making of the scheme.

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Commencement Information
I566 Sch. 15 para. 2 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

Continuity of exercise of functions etc.

3 (1) Anything which—
(a) has been done (or has effect as if done) by or in relation to the existing Chief Inspector, and
(b) is in force immediately before the appointed day,
is to be treated as done by or in relation to the new Chief Inspector.

(2) Anything (including any legal proceedings) which—
(a) relates to any function transferred to, or otherwise made exercisable by, the new Chief Inspector under this Part, and
(b) is in the process of being done by or in relation to the existing Chief Inspector immediately before the appointed day,
may be continued by or in relation to the new Chief Inspector.

(3) Nothing in sub-paragraph (1) or (2)—
(a) applies to anything in relation to which provision may be made under paragraph 2(3)(b), or
(b) affects the validity of anything done by the existing Chief Inspector.

(4) In this paragraph "the appointed day" means the day appointed under section 188 for the coming into force of section 113.

Commencement Information
I567 Sch. 15 para. 3 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

4 (1) A scheme made by the Secretary of State may make provision corresponding to the provision made by paragraph 3 in relation to things done, having effect as if done, or in the process of being done by—
(a) any court administration inspector,
(b) the ALI,
(c) the Chief Inspector of Adult Learning, or
(d) the CSCI.

(2) Such a scheme may provide for things to be treated as done, or to be continued, by or in relation to the Chief Inspector or the Office.

(3) This paragraph does not apply to anything in relation to which provision may be made under paragraph 1(1)(d).

Commencement Information
I568 Sch. 15 para. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

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Schemes: supplementary

5 A staff transfer scheme, a property transfer scheme or a scheme made under paragraph 4 may contain supplementary, incidental, transitional and consequential provision.

Commencement Information

I569 Sch. 15 para. 5 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

Saving for previous transfer schemes

6 Paragraphs 58 and 60 of Schedule 14 to this Act (and the corresponding entries in Part 5 of Schedule 18 to this Act) do not affect—

(a) any provision of a scheme made under section 90(1) or 92(1) of the Learning and Skills Act 2000 (c. 21) which has effect immediately before the coming into force of those paragraphs;

(b) the operation of section 95 of that Act in relation to rights and liabilities under a contract of employment transferred by virtue of such a scheme.

Commencement Information

I570 Sch. 15 para. 6 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

Preparation for performance of functions by the new Chief Inspector

7 (1) The Secretary of State may by regulations confer on the Office and the existing Chief Inspector such powers, and impose on them such duties, as the Secretary of State considers necessary or expedient for the purpose of preparing for the performance by the new Chief Inspector of his functions.

(2) Regulations under sub-paragraph (1) may be made at any time before the day on which the new Chief Inspector acquires his functions.

(3) The ALI, the Chief Inspector of Adult Learning, the CSCI and the court administration inspectors must give such assistance to the Office and the existing Chief Inspector as is reasonably required for the purpose of preparing for the performance by the new Chief Inspector of his functions.

(4) In this paragraph references to the new Chief Inspector's functions are to the functions conferred on him by virtue of this Part.

Commencement Information

I571 Sch. 15 para. 7 partly in force; Sch. 15 para. 7 in force at 8.11.2006 in so far as it confers power to make subordinate legislation see s. 188(1)

I572 Sch. 15 para. 7 in force at 12.12.2006 in so far as not already in force by S.I. 2006/2990, **art. 2(j)**

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First annual report of the new Chief Inspector

8 (1) The first annual report made by the new Chief Inspector under section 121 is to be a report in respect of the year beginning with the day after the end of the last year for which the existing Chief Inspector made a report under section 3 of EA 2005.

(2) That report is to include a report on the exercise by the existing Chief Inspector of his functions during any period—

(a) beginning with the day mentioned in sub-paragraph (1), and

(b) ending with the day before his office was abolished.

Commencement Information

I573 Sch. 15 para. 8 in force at 1.4.2007 by S.I. 2007/935, **art. 5(hh)**

Interpretation

9 In this Schedule—

"the ALI" means the Adult Learning Inspectorate;

"the existing Chief Inspector" means Her Majesty's Chief Inspector of Schools in England;

"the new Chief Inspector" means the Chief Inspector appointed under Chapter 1 of this Part;

"court administration inspector" means an inspector of court administration appointed under section 58 of the Courts Act 2003 (c. 39);

"the CSCI" means the Commission for Social Care Inspection.

Commencement Information

I574 Sch. 15 para. 9 in force at 12.12.2006 for specified purposes by S.I. 2006/2990, **art. 2(j)**

I575 Sch. 15 para. 9 in force at 1.4.2007 in so far as not already in force by S.I. 2007/935, **art. 5(hh)**

SCHEDULE 16

Section 161

POWERS TO FACILITATE INNOVATION

PART 1

AMENDMENTS OF CHAPTER 1 OF PART 1 OF EA 2002

1 (1) Section 1 of EA 2002 (purpose and interpretation of Chapter 1 of Part 1) is amended as follows.

(2) In subsection (1)(a) and (b), for "the educational standards achieved by children" substitute " educational standards ".

(3) In subsection (2)—

(a) for "the educational standards achieved by children" substitute " educational standards ", and

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(b) in paragraph (b), for "children" substitute " pupils or students ".

(4) In subsection (3)—

(a) after the definition of "education legislation" insert—

""maintained school" means—
(a) a community, foundation or voluntary school,
(b) a community or foundation special school, or
(c) a maintained nursery school;",

(b) for the definition of "qualifying body" substitute—

""qualifying body" means—
(a) a local education authority,
(b) an Education Action Forum,
(c) a qualifying foundation,
(d) the governing body of a maintained school,
(e) the head teacher of a maintained school,
(f) the proprietor of an Academy, a city technology college or a city college for the technology of the arts,
(g) the proprietor of any special school that is not maintained by a local education authority but is for the time being approved by the Secretary of State or the National Assembly for Wales under section 342 of the Education Act 1996, or
(h) the governing body of an institution within the further education sector;", and

(c) after the definition of "qualifying body" insert—

""qualifying foundation" means the foundation, as defined by subsection (3)(a) of section 21 of the School Standards and Framework Act 1998, of any foundation or foundation special school that for the purposes of that section has a foundation established otherwise than under that Act;", and

(d) omit the definition of "qualifying school".

2 (1) Section 2 of EA 2002 (power to suspend statutory requirements etc.) is amended as follows.

(2) After subsection (1) insert—

"(1A) Where the applicant is or includes a qualifying foundation, references in paragraphs (a) to (d) of subsection (1) to the applicant (so far as they would otherwise be read as references to the qualifying foundation) are to be read as references to the governing bodies of all or any of the foundation or foundation special schools in respect of which the applicant is the foundation."

(3) Omit subsections (7) and (8).

3 (1) Section 4 of EA 2002 (applications for orders under section 2) is amended as follows.

(2) In subsection (1) after "section 2" insert " ("an application for an order") ".

(3) After subsection (1) insert—

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"(1A) No application for an order may be made by the head teacher of a maintained school without the consent of the governing body of the school."

(4) In subsection (2)—

(a) for "such an application" substitute " an application for an order ",

(b) after paragraph (a) insert—

"(aa) in the case of a qualifying foundation, consult the governing body of each foundation or foundation special school to which the application relates and the local education authority who maintain the school,", and

(c) for paragraph (b) substitute—

"(b) in the case of the governing body of a maintained school, consult—

(i) the local education authority who maintain the school, and

(ii) where the school is a foundation school with a qualifying foundation, that foundation, and".

PART 2

CONSEQUENTIAL AMENDMENT

4 In section 24 of the Anti-social Behaviour Act 2003 (c. 38), for the definition of "relevant school" substitute—

""relevant school" means—

(a) a community, foundation or voluntary school,

(b) a community or foundation special school,

(c) a maintained nursery school as defined in section 22(9) of the School Standards and Framework Act 1998,

(d) a pupil referral unit as defined in section 19(2) of the 1996 Act,

(e) an Academy,

(f) a city technology college, or

(g) a city college for the technology of the arts,".

SCHEDULE 17

Section 175

MISCELLANEOUS AMENDMENTS RELATING TO WALES

Schools in Wales causing concern: warning notice by local education authority

1 (1) Section 15 of SSFA 1998 (cases where local education authority may exercise powers of intervention) is amended as follows.

(2) In subsections (1)(c) and (2)(a)(i) for "either or both of sections 16 and 17" substitute " any one or more of sections 16, 16A and 17 ".

(3) After subsection (3) insert—

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"(3A) For the purposes of subsection (2)(a) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—

(a) the standards that the pupils might in all the circumstances reasonably be expected to attain,

(b) where relevant, the standards previously attained by them, or

(c) the standards attained by pupils at comparable schools."

(4) In subsection (7), for "Part 1 of the School Inspections Act 1996" substitute " Chapter 3 of Part 1 of the Education Act 2005 ".

Commencement Information
I576 Sch. 17 para. 1 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

LEA's reserve power to prevent breakdown of discipline

2 In section 62 of SSFA 1998 (LEA's reserve power to prevent a breakdown of discipline) in subsection (3)(c), for "either or both of sections 16 and 17" substitute " any one or more of sections 16, 16A and 17 ".

Commencement Information
I577 Sch. 17 para. 2 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

Orders and regulations made by Assembly under SSFA 1998

3 (1) Section 138 of SSFA 1998 (orders and regulations) is amended as follows.

(2) In subsection (1), after "the Secretary of State" insert " or the Assembly ".

(3) In subsection (3), after "regulations" insert " made by the Secretary of State ".

(4) In subsection (7), after "the Secretary of State" insert " or the Assembly ".

Commencement Information
I578 Sch. 17 para. 3 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

Meaning of "the Assembly" in SSFA 1998

4 In section 142(1) of SSFA 1998 (general interpretation), before the definition of "Church in Wales school" insert—

""the Assembly" means the National Assembly for Wales;".

Commencement Information
I579 Sch. 17 para. 4 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

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5 In section 143 of SSFA 1998 (index), after the entry for "area" insert—

"Assembly	section 142(1)".

Commencement Information
I580 Sch. 17 para. 5 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

Power of Assembly to require LEA to obtain advisory services

6 In section 63 of EA 2002 (power to require LEA to obtain advisory services) in subsection (4) (which defines "school" for the purposes of that section), for "Chapter 2" substitute " Chapter 4 ".

Commencement Information
I581 Sch. 17 para. 6 in force at 30.6.2008 by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

SCHEDULE 18

Section 184

REPEALS

PART 1

REPEALS COMING INTO FORCE ON ROYAL ASSENT

Short title and chapter	***Extent of repeal***
Education Act 1996 (c. 56)	In section 444— in subsection (1A), the words "without reasonable justification", and in subsection (3), paragraph (b) and the word "or" immediately following it.
Education Act 2002 (c. 32)	In section 1(3), the definition of "qualifying school". Section 2(7) and (8). In Schedule 21, paragraph 54.

PART 2

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 188(2)

Commencement Information
I582 Sch. 18 Pt. 2 in force at 8.1.2007, see s. 188(2)

Status: *Point in time view as at 11/03/2009. This version of this Act contains provisions that are not valid for this point in time.*
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Short title and chapter	*Extent of repeal*
Leasehold Reform Act 1967 (c. 88)	In section 29(6), the words from "but a university body" to the end.
Employment Act 1989 (c. 38)	Section 26. Section 28(4)(b).
Education Act 1996 (c. 56)	In section 569— in subsection (2), the words "other than regulations under section 492", and subsection (3).
School Standards and Framework Act 1998 (c. 31)	Section 127(5) and (6).
Education Act 2002 (c. 32)	Section 159(3). In Schedule 21, paragraph 110(3).
Education Act 2005 (c. 18)	In Schedule 9, paragraph 21.

PART 3

SCHOOL ORGANISATION

Commencement Information
I583 Sch. 18 Pt. 3 in force at 25.5.2007 by S.I. 2007/935, **art. 7(q)**

Short title and chapter	*Extent of repeal*
Local Government Act 1972 (c. 70)	Section 177(1A)(b).
Local Government Act 1974 (c. 7)	Section 25(5)(a).
Education Act 1996 (c. 56)	In section 529(2), the words "(other than a nursery school or a special school)".
School Standards and Framework Act 1998	In section 21(6)(i), the words "school organisation committees and". Section 24. Section 27. In section 28— in subsection (1)(d), the words from "in the case" to "Wales,"; in subsection (2)(b), the words from "or of" to "in England,"; subsections (2A) and (2B); subsection (6); in subsection (7), the words from the beginning to "in Wales,"; in subsection (8), the words "(for both England and Wales)"; and in subsection (9), the words "subsection (6) and".

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	Section 28A. In section 29— in subsection (4B), paragraph (c) and in paragraph (d), the words "parish council or"; subsection (5); in subsection (6), the words from the beginning to "in Wales"; in subsection (7), the words "(for both England and Wales)"; and in subsection (8), the words "subsection (5) and". In section 31— subsection (5); in subsection (6), the words from the beginning to "in Wales"; in subsection (7), the words "(5) or"; and in subsection (8), the words "(for both England and Wales)". In section 33(4), the words "28A,". In section 79(1), the word "or" at the end of paragraph (b). In section 138(4), the words "29(9A),". In section 143— in the entry beginning "promoters", the words "or 28A(2)", and the entry beginning "school organisation committee". Schedule 4. In Schedule 6— paragraphs 1 to 5; in paragraph 6, the words from "which relate" to the end; in paragraph 11, the words "5 or"; in paragraph 12(2), the words ", 28A(1)"; in paragraph 13, in sub-paragraph (2), the words ", 28A(1)", and in sub-paragraph (3)(a) the words "or 28A(2)"; in paragraph 14(3), the words "or 28A(2)"; and paragraph 21 and the heading immediately preceding it. In Schedule 30, paragraphs 45 and 146(b).
Learning and Skills Act 2000 (c. 21)	In section 113(3)(b), the words ", any school organisation committee". In Schedule 7— in paragraph 32, in sub-paragraph (2), the definition of "the school organisation committee", and sub-paragraph (3);

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	paragraph 35(5) and (6). In Schedule 9, paragraph 82.
Race Relations (Amendment) Act 2000 (c. 34)	In Schedule 2, paragraph 30.
Special Educational Needs and Disability Act 2001 (c. 10)	In Schedule 8, paragraph 23(2).
Education Act 2002 (c. 32)	Section 73. In Schedule 21, paragraph 53.
Education Act 2005 (c. 18)	Sections 64 to 67. In section 68(1), in paragraph (a) the words “, 28A”, and paragraphs (d) and (e). Section 69(a). Section 73. Schedules 10 and 11. In Schedule 12, paragraphs 1(2), 2, 3, 5, 6 and 9 to 12.

PART 4

SCHOOLS CAUSING CONCERN

Commencement Information
I584 Sch. 18 Pt. 4 in force at 1.4.2007 by S.I. 2007/935, **art. 5(ii)**

Short title and chapter	*Extent of repeal*
School Standards and Framework Act 1998 (c. 31)	In section 14, subsections (1A) and (4)(b). Section 15(7). In section 16(3)(a) and (9)(a), the words “13(3)(a) or”. In section 16A(2)(a), the words “13(3)(a) or”. In section 17(3), the words “13(3)(a) or”. Section 19(2)(ca).
Learning and Skills Act 2000 (c. 21)	In Schedule 7, paragraph 13. In Schedule 9, paragraphs 78 and 79.
Education Act 2002 (c. 32)	In section 63(5), the words “of the Secretary of State or, as the case may be,”.
Education Act 2005 (c. 18)	In section 17(1), all the words following paragraph (b). In section 18, in paragraph (a) of the definition of “the appropriate appointing authority”, the words “, a Church in Wales school”. In Schedule 5, paragraph 3(14).

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PART 5

INSPECTIONS

Commencement Information

I585 Sch. 18 Pt. 5 in force at 1.4.2007 for specified purposes by S.I. 2007/935, **art. 5(ii)**

I586 Sch. 18 Pt. 5 in force at 30.6.2008 for specified purposes by S.I. 2008/1429, art. 3(2), **Sch. Pt. 2**

Short title and chapter	*Extent of repeal*
Public Records Act 1958 (c. 51)	In Schedule 1, in Part 2 of the Table in paragraph 3, the entry relating to the Adult Learning Inspectorate.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to the Adult Learning Inspectorate and the Office of Her Majesty's Chief Inspector of Schools in England.
Superannuation Act 1972 (c. 11)	In Schedule 1, the entry relating to the Adult Learning Inspectorate.
Employment and Training Act 1973 (c. 50)	Section 10B(1)(a) and (b).
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entries relating to any member of the Adult Learning Inspectorate and to Her Majesty's Chief Inspector of Schools in England.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 3, the entry relating to Her Majesty's Chief Inspector of Schools in England.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to the Adult Learning Inspectorate.
Children Act 1989 (c. 41)	Section 26ZA. In section 26A(2A), “26ZA or”. In section 79N, subsections (1) to (3) and (6). In section 79R(4). In section 87(10), the definition of “the Commission”.
Further and Higher Education Act 1992 (c. 13)	Section 57(3)(c) and (d).
Education Act 1994 (c. 30)	In section 18B, subsection (3)(a), and in subsection (4) the words from “and subsections (2) to (4)” onwards.
Education Act 1997 (c. 44)	In section 38, subsection (2), in subsection (5)(a) the words “England or (as the case may require)”, in subsection (5)(b) the words “paragraph 2 of Schedule 1 to the Education Act 2005 or (as the case requires)”, and subsection (7)(a).

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	In section 39(4), the words from "section 11(2)" to "Wales," and "section 11(2) or, as the case may be,".
	Section 41.
Audit Commission Act 1998 (c. 18)	In Schedule 1, paragraph 8(2)(e).
Data Protection Act 1998 (c. 29)	In section 31(6), ", 26ZA".
School Standards and Framework Act 1998 (c. 31)	In section 139(2)(b), the words "Her Majesty's Chief Inspector of Schools in England, or".
	In Schedule 26, paragraphs 13A(4) and 14(1).
Care Standards Act 2000 (c. 14)	Section 45(4).
Learning and Skills Act 2000 (c. 21)	Sections 52 to 72.
	Section 90.
	Section 92(4)(b) and (c).
	Section 118(1)(a) and (b).
	In section 150(4)(a), "90,".
	Section 151(2).
	Schedule 6.
	In Schedule 10, Part 3.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6, the entry relating to the Adult Learning Inspectorate.
Education Act 2002 (c. 32)	Section 162A(4).
	Section 162B(8).
	Section 178(3).
Courts Act 2003 (c. 39)	Section 58(6).
Health and Social Care (Community Health and Standards) Act 2003 (c. 43)	Section 76(2)(f) and (g).
	Section 77(3).
	Section 79(7).
	Section 80(5).
	Section 110.
	Section 112.
	Section 116(1).
	In section 133(1)(a), the words "or the Children Act 1989 (c. 41)".
	In Schedule 7, paragraph 5(2).
	In Schedule 9, paragraphs 10, 18(2), 26 and 32.
Public Audit (Wales) Act 2004 (c. 23)	In Schedule 2, paragraph 18.
Children Act 2004 (c. 31)	Section 20(4)(b) and (c).
	Section 24.
	Section 38.
Education Act 2005 (c. 18)	Sections 1 to 4.
	In section 5(5), the word "and" at the end of paragraph (e).
	In section 9, "2(2)(b) or".
	Section 11(2) to (4).

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	Schedule 1. In Schedule 7, paragraphs 1 and 4(5). In Schedule 9, paragraph 5.
Childcare Act 2006 (c. 21)	Section 14. Section 31. Section 50(4). Section 61(4). In section 77, in each of subsections (1) and (2) the words "A person authorised for the purposes of this subsection by", and subsection (7). Sections 80 and 81.

PART 6

OTHER REPEALS

Commencement Information

I587 Sch. 18 Pt. 6 in force at 12.12.2006 for specified purposes for E. by S.I. 2006/2990, **art. 2(k)**
I588 Sch. 18 Pt. 6 in force at 8.1.2007 for specified purposes for E. by S.I. 2006/3400, **art. 2(e)**
I589 Sch. 18 Pt. 6 in force at 8.1.2007 for specified purposes by S.I. 2006/3400, **art. 3(h)**
I590 Sch. 18 Pt. 6 in force at 8.2.2007 for specified purposes for E. by S.I. 2006/3400, **art. 4(d)**
I591 Sch. 18 Pt. 6 in force at 27.2.2007 for specified purposes for E. by S.I. 2006/3400, **art. 6(g)**
I592 Sch. 18 Pt. 6 in force at 27.2.2007 for specified purposes by S.I. 2006/3400, **art. 7(e)**
I593 Sch. 18 Pt. 6 in force at 1.4.2007 for specified purposes for E. by S.I. 2007/935, **art. 4(d)**
I594 Sch. 18 Pt. 6 in force at 25.5.2007 for specified purposes by S.I. 2007/935, **art. 7(q)**
I595 Sch. 18 Pt. 6 in force at 25.5.2007 for specified purposes for E. by S.I. 2007/935, **art. 6(d)**
I596 Sch. 18 Pt. 6 in force at 1.9.2007 for specified purposes for E. by S.I. 2007/1801, **art. 3(h)**
I597 Sch. 18 Pt. 6 in force at 1.9.2007 by S.I. 2007/1801, **art. 4(m)** (with art. 5(2))
I598 Sch. 18 Pt. 6 in force at 30.6.2008 for specified purposes for W. by S.I. 2008/1429, art. 3(1), **Sch. Pt. 1**
I599 Sch. 18 Pt. 6 in force at 1.9.2008 for specified purposes for W. by S.I. 2008/1429, art. 3(3), **Sch. Pt. 3**
I600 Sch. 18 Pt. 6 in force at 1.1.2009 for specified purposes for W. by S.I. 2009/2545, **art. 3(2)(d)**

Short title and chapter	***Extent of repeal***
Education Act 1996 (c. 56)	In section 437(8), the definition of "suitable education". In section 509(1B)— the words "the Learning and Skills Council for England or", and in paragraph (b), the words "13 or". Sections 550A and 550B.
Education Act 1997 (c. 44)	Sections 4 and 5.
School Standards and Framework Act 1998 (c. 31)	Section 5. In section 17(6), the words from "but" onwards. Section 47A(6).

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	In section 48(4), the words from "the approval" to "and for".
	Section 58(4).
	Section 61.
	In section 77(4), the words "by a local authority".
	In section 84(5), the words "of practice", in each place where they occur.
	In section 85(1), the words "of practice".
	In section 85A—
	in subsection (1), the word "and" at the end of paragraph (a), and
	in subsection (3), the word "and" at the end of paragraph (b).
	In section 89—
	(a) in subsection (1A) the words "(within the meaning of section 22 of the Children Act 1989)", and
	(b) in subsection (2) the word "and" at the end of paragraph (c).
	Section 90(6), (7) and (10).
	Section 99(1).
	In Schedule 3, in paragraph 3 as it applies in relation to England, sub-paragraph (3).
	In Schedule 14, paragraph 1(1) to (6).
	In Schedule 15, paragraphs 1(4) and (6), 2(5) and 3.
	In Schedule 22—
	paragraph 1(1)(c);
	in paragraph 2(1)(a), the words from "or acquired" to the end;
	in paragraph 3(1)(a), the words from "or acquired" to the end;
	paragraph 3(1)(d);
	in paragraph 3(1)(f), the words "(d) or"; and
	in paragraph 3(8), the words "(d),".

Education Act 2002 (c. 32)	In section 176(3), the definition of "pupil". In Schedule 21, paragraph 118(3)(b) and (4)(a)(ii).
Anti-social Behaviour Act 2003 (c. 38)	Section 21(4).
Education Act 2005 (c. 18)	In Schedule 12, paragraph 15.
Childcare Act 2006 (c. 21)	In Schedule 2, paragraph 42.

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