



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 4

#### REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

### CHAPTER 1

#### INDEPENDENT EDUCATIONAL INSTITUTIONS IN ENGLAND

#### *Supplementary*

#### **134 Proceedings for offences**

No proceedings for an offence under this Chapter may be instituted except by or with the consent of the Secretary of State.

#### **135 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,that person (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 the member's functions of management as it applies to a director of a body corporate.

### **136 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 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (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, that person (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, the partner (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

### **137 Service of notice etc**

For the purposes of this Chapter, any notice, order or other document required to be given to or served on the proprietor of a registered independent educational institution may be given to or served on the proprietor by delivering it to the registered address of the institution.

### **138 Interpretation of Chapter**

- (1) In this Chapter—
  - “an action plan” has the meaning given by section 114(4);
  - “the Chief Inspector” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;
  - “early years provision” has the meaning given by section 96(2) of the Childcare Act 2006 (c. 21);
  - “independent educational institution standards” has the meaning given by section 94;
  - “an independent inspectorate” has the meaning given by section 106;
  - “a material change”, in relation to an independent educational institution, has the meaning given by section 101;
  - “proprietor”, in relation to an institution, means the person or body of persons responsible for the management of the institution;
  - “the register” means the register of independent educational institutions in England (see section 95);
  - “registered” means entered in the register;
  - “relevant restriction” has the meaning given by section 117;

“student” means—

- (a) in relation to an independent school, a pupil (for the meaning of “pupil” see section 3 of the Education Act 1996 (c. 56));
- (b) in relation to an institution within section 92(1)(b), a person for whom the institution provides part-time education within the meaning of that provision or full-time education;

“the Tribunal” has the meaning given by section 124(5).

- (2) In section 98 the reference to the proprietor of an independent educational institution includes the proprietor of an institution that it is proposed should become an independent educational institution (and accordingly the information required by subsection (3) of that section, in the case of such a proprietor, is information about the institution as it is proposed to be).