



Education and Skills Act 2008

2008 CHAPTER 25

PART 4

REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

CHAPTER 2

SCHOOLS PROVIDING FOR SPECIAL EDUCATIONAL NEEDS

Independent schools in England

146 Abolition of requirement of approval for independent schools: England

- (1) Section 347 of the Education Act 1996 (c. 56) (approval of independent schools) is amended as follows.
- (2) In subsection (1) —
 - (a) for “The Secretary of State” substitute “The Welsh Ministers”;
 - (b) after “independent school” insert “in Wales”.
- (3) In subsection (3) for “the Secretary of State sees” substitute “the Welsh Ministers see”.
- (4) In subsection (4) for “the Secretary of State may withdraw his” substitute “the Welsh Ministers may withdraw their”.
- (5) In subsection (5) —
 - (a) for “a child with special educational needs” substitute “a relevant child”;
 - (b) in paragraph (a) for “the Secretary of State” substitute “the Welsh Ministers”;
 - (c) in paragraph (b), for “the Secretary of State is” substitute “the Welsh Ministers are”, and for “consents” substitute “consent”.
- (6) After subsection (5) insert—

“(5ZA) In subsection (5) “a relevant child” means a child with special educational needs—

- (a) for whom a local education authority in Wales maintain a statement under section 324, or
- (b) for whom no local education authority maintain such a statement and who is in the area of a local education authority in Wales.”

(7) In subsection (5A)—

- (a) for “But that” substitute “Subsection (5)”;
- (b) after “local education authority” insert “in Wales”.

147 Approval of independent schools: consequential amendments

(1) Section 349 of the Education Act 1996 (c. 56) (variation of trust deeds by order) is amended as follows.

(2) In subsection (1)—

- (a) for “The Secretary of State” substitute “The appropriate national authority”;
- (b) for “him” substitute “it”;
- (c) omit “or 347”.

(3) After that provision insert—

“(1A) The Welsh Ministers may by order make such modifications of any trust deed or other instrument relating to a school in Wales as, after consultation with the governing body or other proprietor of the school, appear to them to be necessary to enable the governing body or proprietor to meet any requirement imposed by regulations under section 347.”

(4) Section 483A of that Act (city colleges and academies: special educational needs) is amended as follows.

(5) For subsection (3)(a) and (b) substitute—

- “(a) the statement is maintained by a local education authority in England, or
- (b) the statement is maintained by a local education authority in Wales and the Welsh Ministers consent to the child being educated at the school.”

(6) In subsection (4) of that section for “The Secretary of State” substitute “The appropriate national authority”.

(7) At the end of that section add—

“(6A) In subsection (4) “the appropriate national authority” means—

- (a) in relation to a school in England, the Secretary of State;
- (b) in relation to a school in Wales, the Welsh Ministers.”

(8) In section 59(3) of the Safeguarding Vulnerable Groups Act 2006 (c. 47) (vulnerable adults)—

- (a) in paragraph (b), for the words following “which” substitute—
 - “(i) is in England and is specially organised to make special educational provision for pupils with special

- educational needs (within the meaning of section 312 of that Act), or
- (ii) is in Wales and is approved by the Welsh Ministers under section 347 of that Act;”;
- (b) in paragraph (c), for “the Secretary of State” substitute “the Welsh Ministers”.

148 Approval of independent schools: transitional provision

- (1) This section applies where, immediately before the coming into force of section 146, a relevant child is being educated in an independent school in England and—
- (a) the school is for the time being approved by the Secretary of State under section 347 of the Education Act 1996 (c. 56), or
- (b) the Secretary of State has consented to the child being educated there under subsection (5)(b) of that section.
- (2) In subsection (1) “a relevant child” means a child with special educational needs—
- (a) for whom a local education authority in Wales maintains a statement under section 324 of the Education Act 1996 (statement of special educational needs), or
- (b) for whom no local education authority maintains such a statement and who is in the area of a local education authority in Wales.
- (3) On the coming into force of section 146 the Welsh Ministers are deemed to have consented, under section 347(5)(b) of the Education Act 1996, to the child being educated at the school.
- (4) The Welsh Ministers may withdraw consent deemed to have been given under subsection (3) as if it had in fact been given.
- (5) In this section “child” has the same meaning as in Part 4 of the Education Act 1996 (see section 312(5) of that Act).