

Changes to legislation: Apprenticeships, Skills, Children and Learning Act 2009, Schedule 13 is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

SCHEDULES

SCHEDULE 13

Section 203

POWERS IN RELATION TO SCHOOLS CAUSING CONCERN: ENGLAND

- 1 Part 4 of the Education and Inspections Act 2006 (c. 40) (schools causing concern: England) is amended as follows.

Commencement Information

I1 Sch. 13 para. 1 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, [Sch.](#)

- 2 (1) Section 59(2) (meaning of schools being “eligible for intervention”) is amended as follows.
- (2) For “warning notice by [^{F1}local authority]” substitute “performance standards and safety warning notice”.
- (3) Before “section 61” insert—
“section 60A (teachers' pay and conditions warning notice),”.

Textual Amendments

F1 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 16\(2\)](#)

Commencement Information

I2 Sch. 13 para. 2 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, [Sch.](#)

- 3 For the title of section 60 substitute “Performance standards and safety warning notice”.

Commencement Information

I3 Sch. 13 para. 3 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, [Sch.](#)

- 4 After section 60 insert—

“60A Teachers' pay and conditions warning notice

- (1) A maintained school is by virtue of this section eligible for intervention if—
- the [^{F1}local authority] have given the governing body a warning notice in accordance with subsection (2),
 - 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,

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- (c) either the governing body made no representations under subsection (7) to the [F1local authority] against the warning notice during the initial period or the [F1local authority] have 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
 - (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 64 to 66.
- (2) A [F1local authority] may give a warning notice to the governing body of a maintained school where the authority are satisfied that—
- (a) the governing body have failed to comply with a provision of an order under section 122 of EA 2002 (teachers' pay and conditions) that applies to a teacher at the school, or
 - (b) the governing body have failed to secure that the head teacher of the school complies with such a provision.
- (3) In subsection (2) references to an order under section 122 of EA 2002 include a document by reference to which provision is made in such an order.
- (4) For the purposes of this section a “warning notice” is a notice in writing by the [F1local 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 [F1local authority] are minded to take (under one or more of sections 64 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 [F1local 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 head teacher of the school,
 - (b) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (c) 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 [F1local authority] against the warning notice.
- (8) The [F1local authority] must consider any representations made to them under subsection (7) and may, if they think fit, confirm the warning notice.

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- (9) The [F1local authority] must give notice in writing of their decision whether or not to confirm the warning notice to 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 [F1local authority] confirm the warning notice under subsection (8), the period beginning with the day on which they do so and ending with the fifteenth working day following that day.”

Textual Amendments

F1 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**

Commencement Information

I4 Sch. 13 para. 4 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

- 5 (1) Section 63 (power of [F1local authority] to require governing body to enter into arrangements) is amended as follows.
- (2) In subsection (1) after “eligible for intervention” insert “ other than by virtue of section 60A ”.
- (3) In subsection (3) for “formal warning” substitute “ performance standards and safety warning ”.

Textual Amendments

F1 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**

Commencement Information

I5 Sch. 13 para. 5 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

- 6 (1) Section 64 (power of [F1local authority]etc to appoint additional governors) is amended as follows.
- ^{F2}(2)
- ^{F2}(3)
- (4) In subsection (2)—
- (a) for “formal warning” substitute “performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning)”, and
 - (b) after “60(10)” insert “ or as the case may be section 60A(10) ”.

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(5) In subsection (4)—

- (a) in paragraph (a) for “formal warning” substitute “performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning)”;
- (b) after paragraph (b) insert—
 - “and
 - (c) the Secretary of State has not exercised the power under section 67 in connection with the same warning notice.”.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**
- F2** Sch. 13 para. 6(2)(3) omitted (11.1.2017) by virtue of [Education and Adoption Act 2016 \(c. 6\)](#), **ss. 16(a), 19(2)**; S.I. 2017/6, reg. 2(b)

Commencement Information

- I6** Sch. 13 para. 6 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

7 In section 66(2) (power of ^{F1}local authority] to suspend right to delegated budget)

- (a) for “formal warning” substitute “performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning)”;
- and
- (b) after “60(10)” insert “ or as the case may be section 60A(10) ”.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**

Commencement Information

- I7** Sch. 13 para. 7 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

8 In section 67(1) (power of Secretary of State to appoint additional governors) omit the words from “by virtue of” to “special measures”).

Commencement Information

- I8** Sch. 13 para. 8 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

9 In section 69(1) (power of Secretary of State to provide for governing body to consist of interim executive members) omit the words from “by virtue of” to “special measures”).

Commencement Information

- I9** Sch. 13 para. 9 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

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10 After section 69 insert—

“69A Power of Secretary of State to direct [F1local authority] to consider giving performance standards and safety warning notice

- (1) This section applies if the Secretary of State thinks that the conditions in subsections (2) and (3) are met.
- (2) The condition is that there are reasonable grounds for a [F1local authority] to give a warning notice to the governing body of a maintained school under section 60 (performance standards and safety warning notice).
- (3) The condition is that one of the following applies—
 - (a) the authority have not given a warning notice to the governing body under section 60 on those grounds;
 - (b) the authority have done so, but in inadequate terms;
 - (c) the authority have given a warning notice to the governing body under section 60 on those grounds, but the Chief Inspector has failed or declined to confirm it;
 - (d) the school has become eligible for intervention on those grounds by virtue of section 60, but the period of two months following the end of the compliance period (as defined by section 60(10)) has ended.
- (4) The Secretary of State may direct the [F1local authority] to consider giving a warning notice to the governing body under section 60 in the terms specified in the direction.
- (5) A direction under subsection (4) must be in writing.
- (6) If the Secretary of State gives a direction under subsection (4) to a [F1local authority] in respect of a governing body, the authority must—
 - (a) give the Secretary of State a written response to the direction before the end of the period of 10 working days beginning with the day on which the direction is given, and
 - (b) on the same day as they do so, give the Chief Inspector a copy of the response.
- (7) The [F1local authority]'s response to the direction must do one of the following—
 - (a) state that the authority have decided to give a warning notice to the governing body in the specified terms;
 - (b) state that the authority have decided not to give a warning notice to the governing body in those terms.
- (8) If the response states that the authority have decided to give a warning notice to the governing body in the specified terms, the authority must—
 - (a) give the warning notice to the governing body in those terms before the end of the period of 5 working days beginning with the day on which the response is given (and withdraw any previous warning notice given to the governing body under section 60), and
 - (b) on the same day as they do so, give the Secretary of State a copy of the notice.

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- (9) If the response states that the authority have decided not to give a warning notice to the governing body in the specified terms, it must set out the authority's reasons for the decision.
- (10) Subsection (8)(b) applies in addition to section 60(6).

69B Power of Secretary of State to direct [F¹local authority] to give teachers' pay and conditions warning notice

- (1) This section applies if the Secretary of State thinks that the conditions in subsections (2) and (3) are met.
- (2) The condition is that there are reasonable grounds for a [F¹local authority] to give a warning notice to the governing body of a maintained school under section 60A (teachers' pay and conditions warning notice).
- (3) The condition is that one of the following applies—
 - (a) the authority have not given a warning notice to the governing body under section 60A on those grounds;
 - (b) the authority have done so, but in inadequate terms;
 - (c) the authority have given a warning notice to the governing body under section 60A on those grounds, but have declined or failed to confirm it;
 - (d) the school has become eligible for intervention on those grounds by virtue of section 60A, but the period of two months following the end of the compliance period (as defined by section 60A(10)) has ended.
- (4) The Secretary of State may direct the [F¹local authority] to consider giving a warning notice to the governing body under section 60A in the terms specified in the direction.
- (5) If the Secretary of State gives a direction under subsection (4) to a [F¹local authority] in respect of a governing body, the authority must—
 - (a) give a copy of the direction to the governing body before the end of the period of 2 working days beginning with the day on which the direction is given,
 - (b) when it does so, invite the governing body to give the authority a written response before the end of the period of 7 working days beginning with the day on which the direction is given, and
 - (c) give the Secretary of State the authority's written response, and any response received from the governing body in accordance with paragraph (b), before the end of the period of 10 working days beginning with the day on which the direction is given.
- (6) The [F¹local authority]'s response to the direction must do one of the following—
 - (a) state that the authority have decided to give a warning notice to the governing body in the specified terms;
 - (b) state that the authority have decided not to give a warning notice to the governing body in those terms.

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- (7) If the response states that the authority have decided to give a warning notice to the governing body in the specified terms, the authority must—
- (a) give the warning notice to the governing body in those terms before the end of the period of 5 working days beginning with the day on which the response is given (and withdraw any previous warning notice given to the governing body under section 60A), and
 - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (8) If the response states that the authority have decided not to give a warning notice to the governing body in the specified terms—
- (a) the response must set out the authority's reasons for the decision, and
 - (b) the Secretary of State may direct the authority to give the warning notice to the governing body in those terms (and to withdraw any previous warning notice given to the governing body under section 60A).
- (9) If the Secretary of State directs the authority under subsection (8)(b) to give a warning notice to the governing body in the specified terms, the authority must—
- (a) comply with the direction under subsection (8)(b) before the end of the period of 5 working days beginning with the day on which that direction is given, and
 - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (10) Subsections (7)(b) and (9)(b) apply in addition to section 60A(6).
- (11) A direction under this section must be in writing.”

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , **Sch. 2 para. 16(2)**
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Commencement Information

- I10** Sch. 13 para. 10 in force at 12.1.2010 by [S.I. 2009/3317](#), art. 2, **Sch.**

^{F3}11

Textual Amendments

- F3** Sch. 13 para. 11 omitted (11.1.2017) by virtue of [Education and Adoption Act 2016 \(c. 6\)](#), **ss. 16(a), 19(2)**; [S.I. 2017/6](#), reg. 2(b)

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Commencement Orders yet to be applied to the Apprenticeships, Skills, Children and Learning Act 2009

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2009/3341 art. 2](#) commences (2009 c. 22)
- [S.I. 2010/2413 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/829 art. 2](#) commences (2009 c. 22)
- [S.I. 2011/882 art. 2](#) amendment to earlier commencing SI 2010/303 art. 7 Sch. 6