
STATUTORY INSTRUMENTS

2007 No. 935 (C. 37)

**CHILDREN AND YOUNG PERSONS, ENGLAND
EDUCATION, ENGLAND**

The Education and Inspections Act 2006 (Commencement No.
3 and Transitional Provisions and Savings) Order 2007

Made - - - - 20th March 2007

The Secretary of State for Education and Skills, in exercise of the powers conferred by sections 181 and 188(3) of the Education and Inspections Act 2006⁽¹⁾, makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Education and Inspections Act 2006 (Commencement No. 3 and Transitional Provisions and Savings) Order 2007.

(2) In this Order—

“the Act” means the Education and Inspections Act 2006,

“EA 1996” means the Education Act 1996⁽²⁾,

“SSFA 1998” means the School Standards and Framework Act 1998⁽³⁾.

Provisions coming into force on 28th March 2007

2. Section 164 of the Act comes into force in relation to England only on 28th March 2007.

3. Section 160 of the Act comes into force on 28th March 2007.

Provisions coming into force on 1st April 2007

4. The following provisions of the Act come into force in relation to England only on 1st April 2007—

(a) Chapter 1 of Part 7,

(b) sections 165 to 166,

(c) section 184 to the extent that it relates to the provisions set out in paragraph (d),

(1) 2006 c.40.
(2) 1996 c.56.
(3) 1998 c.31.

- (d) in Schedule 18 (Part 6), the repeal—
 - in EA 1996 of sections 550A and 550B,
 - in the Education Act 1997 of sections 4 and 5, and
 - in SSFA 1998 of section 61.
- 5. The following provisions of the Act come into force on 1st April 2007—
 - (a) section 5 in relation to primary schools which are not special schools, only in relation to the local education authorities listed in the Schedule,
 - (b) section 18 (1) to (3),
 - (c) section 21 to 24,
 - (d) section 25 (5), (6) and (7),
 - (e) section 26,
 - (f) section 27 (1) to (6) and (8),
 - (g) sections 31 and 32,
 - (h) section 33 to the extent that it inserts sections 23A(9) and (10) and 23B of SSFA 1998,
 - (i) section 35 to the extent that it inserts paragraph 9A (3) of Schedule 3 to SSFA 1998,
 - (j) sections 59 to 73,
 - (k) section 74 (4),
 - (l) section 76,
 - (m) section 77 (1) to the extent that it inserts section 508B(11) and 508D of EA 1996,
 - (n) sections 78 to 80,
 - (o) section 83,
 - (p) section 84 to the extent that it relates to travel functions under sections 508A and 509AA of EA 1996,
 - (q) section 85 to the extent that it relates to provisions set out in paragraph (ee),
 - (r) section 112 (4), to the extent that it is not already in force,
 - (s) sections 113 to 115,
 - (t) section 116 (1) (c) and (2),
 - (u) sections 118 to 153 to the extent that they are not already in force,
 - (v) section 155 to the extent that it is not already in force,
 - (w) section 157,
 - (x) section 158 to the extent that it relates to the provisions set out in paragraph (hh),
 - (y) section 176,
 - (z) section 184 to the extent that it relates to the provision set out in paragraph (ii),
 - (aa) in Schedule 2, paragraphs 5, 11, 13 to 15, 18 (1), 19 and 20,
 - (bb) Schedule 6,
 - (cc) Schedule 7,
 - (dd) Schedule 9,
 - (ee) in Schedule 10, paragraph 5,
 - (ff) Schedule 11, to the extent that it is not already in force,
 - (gg) Schedules 12 to 14,

- (hh) Schedule 15, to the extent that it is not already in force,
- (ii) in Schedule 18—
 - Part 4 (Schools Causing Concern),
 - Part 5 (Inspections), except for the repeal of section 38 of the Children Act 2004.

Provisions coming into force on 25th May 2007

6. The following provisions of the Act come into force in relation to England only on 25th May 2007—

- (a) section 1,
- (b) section 56,
- (c) section 184 to the extent that it related to the provision set out in paragraph (d),
- (d) in Schedule 18 (Part 6) the repeal of section 5 of SSFA 1998.

7. The following provisions of the Act come into force on 25th May 2007—

- (a) sections 2 and 3,
- (b) sections 7 to 17,
- (c) section 18 (4) and (5),
- (d) section 19 and 20,
- (e) section 25 (1) to (4) and (8),
- (f) section 27 (7),
- (g) section 28 to 30,
- (h) section 33 to the extent it is not already in force,
- (i) section 34,
- (j) section 35 to the extent it is not already in force,
- (k) section 36,
- (l) section 54 to the extent it is not already in force,
- (m) section 184 to the extent that it relates to the provision set out in paragraph (q),
- (n) in Schedule 2, paragraphs 1 to 4, 6 to 10, 12, 16, 18 (2) to (5), 19 and 21 to 31,
- (o) Schedule 3,
- (p) Schedule 4,
- (q) in Schedule 18—
 - Part 3 (School Organisation),
 - in Part 6, the repeal—
 - in SSFA 1998—
 - in section 77(4), of the words “by a local authority”,
 - in Schedule 3, in paragraph 3 as it applies in relation to England, of sub-paragraph (3), and
 - in Schedule 22 of—
 - 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),”,
in the Education Act 2002, in Schedule 21, of paragraph 118(3)(b) and (4)(a)(ii),
in the Education Act 2005, in Schedule 12, of paragraph 15.

Transitional provisions and savings

8.—(1) Despite the disapplication of section 15 of SSFA 1998 from England made by Schedule 7 to the Act, that section continues to have effect in relation to any warning notice given to the governing body of a maintained school in England under that section before 1st April 2007.

(2) An appointment of additional governors of a maintained school in England under section 16 of SSFA 1998 made before the 1st April 2007 has effect for the purposes of Part 4 of the Act as if it was made under section 64 of the Act.

(3) An appointment of interim executive members of a maintained school in England under section 16A of SSFA 1998 made before 1st April 2007 has effect for the purposes of Part 4 of the Act as if it was made under section 65 of the Act.

(4) A suspension of the governing body of a maintained school in England’s right to a delegated budget under section 17 of SSFA 1998 before 1 April 2007 has effect for the purposes of Part 4 of the Act as if it was made under section 66 of the Act.

(5) Despite the disapplication of paragraphs 1 to 4 of Schedule 22 to SSFA 1998 from England made by paragraphs 3 to 8 of Schedule 4 to the Act, those paragraphs continue to apply, in relation to all requests made to the Secretary of State to exercise his consent or order making powers under those paragraphs, before 25th May 2007.

(6) Despite the coming into force of section 83(2)(a) of the Act, local education authorities in England are to continue to have regard to any guidance issued before 1st April 2007 by the Secretary of State under section 509AB of EA 1996 until the Learning and Skills Council for England issues guidance under that section.

(7) Despite the coming into force of section 83(2)(b) of the Act, local education authorities in England must continue to consult any person specified by the Secretary of State before 1st April 2007 for the purposes of section 509AB of EA 1996 until the Learning and Skills Council for England specifies any person for the purposes of that section.

20th March 2007

Jim Knight
Minister of State
Department for Education and Skills

SCHEDULE

Article 5(a)

APPLICATION OF SECTION 5 OF THE ACT IN RELATION TO PRIMARY SCHOOLS WHICH ARE NOT SPECIAL SCHOOLS

Bath and North East Somerset Council
Bedfordshire County Council
Bolton Metropolitan Borough Council
East Riding of Yorkshire Council
Hartlepool Borough Council
London Borough of Havering Council
London Borough of Hillingdon Council
Lancashire County Council
Leeds City Council
Leicester City Council
North Lincolnshire Council
North Yorkshire County Council
Rotherham Metropolitan Borough Council
Rutland County Council
Sheffield City Council
Slough Borough Council
Swindon Borough Council
West Berkshire Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made under the Education and Inspections Act 2006. Articles 2 to 7 contain the provisions of the Act to be commenced. Articles 2, 4 and 6 contain the provisions to be commenced in relation to England only, in respect of which the National Assembly for Wales has the power to commence in relation to Wales.

Sections 1 to 3 set out new duties relating to the education functions of local authorities. Section 1 is commenced in relation to England only. These duties relate to promoting high standards and the fulfilment of potential, diversity and choice and to considering parental representations.

Sections 7 to 32 set out a new regime in England relating to the establishment, discontinuance or alteration of schools, and Schedule 3 amends previous enactments to disapply them from England.

It is proposed that regulations to be made under section 31 of the Act will set out saving and transitional provisions in relation to proposals published before 25th May 2007 under previous enactments for the establishment, alteration, discontinuance or change of category of schools

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Sections 33 and 34 set out new requirements as to foundations and as to the establishment of parent councils for certain foundation or foundation special schools.

Section 35 amends the definition of capital expenditure in respect of a voluntary aided school that applies for the purposes of Schedule 3 to the School Standards and Framework Act 1998 (“SSFA 1998”) as it applies to England.

Section 36 introduces Schedule 4 which makes amendments to the law relating to disposals and changes of use of land as contained in section 77 of SSFA 1998 and Schedule 22 to SSFA 1998.

Section 56 substitutes section 451(3) of EA 1996 to introduce a regulation making power in respect of charging for singing and musical instrument tuition.

Sections 59 to 73, Schedule 6 and Part 1 of Schedule 7 make amendments to the law in England relating to schools causing concern. The expressions “maintained school” and “eligible for intervention” are defined; a new category of eligibility, namely that of ‘requiring significant improvement’, replaces the category of ‘serious weaknesses’; the procedures for the issue of warning notices by LEAs are amended; provision is made for maintained schools to be eligible for intervention following a notice by the Chief Inspector that the school requires significant improvement or special measures; a new power is introduced enabling LEAs to direct governing bodies to take specified steps where a school is eligible for intervention; amendments are made in relation to schools causing concern; and there is a duty upon LEAs to have regard to guidance issued by the Secretary of State.

Existing provisions relating to appointment of additional governors, interim executive members, suspension of the right to a delegated budget, and power to direct closure of a school are re-enacted.

Part 2 of Schedule 7 provides that Chapter 4 of Part 1 of SSFA 1998 (Intervention in schools causing concern) will no longer apply in England but will continue to apply in Wales.

Section 74 (4) amends section 85 of the Education Act 2002 in relation to curriculum entitlements for the fourth key stage to create an entitlement for pupils at the fourth key stage who so elect to follow a course of study in science which will lead to an approved qualification or set of qualifications which will be specified in an order made by the Secretary of State by virtue of section 74 (4).

Section 76 inserts section 508A in the Education Act 1996 (“EA 1996”), which places a duty on local education authorities in England to promote sustainable home to school travel. The partial commencement of section 84 commences the duty on local education authorities under section 509AD of EA 1996 to have regard to a person’s religion or belief, but only in relation to their travel functions under section 508A and 509AA.

The partial commencement of section 77(1) enables the Secretary of State to make regulations modifying the application of section 508B of EA 1996 to clarify what is meant by ‘home to school’ travel in relation to pupils registered at more than one school, and to issue guidance under section 508D of EA 1996 in relation to the provision of home to school travel.

Commencement of sections 78 to 80 inserts section 508E and Schedule 35C of EA 1996 enabling local education authorities to make school travel schemes, makes provision for school travel schemes to be piloted, and for the school travel scheme provisions in EA 1996 to be repealed at the end of the pilot period. Section 83 amends sections 509AA to 509AC of EA 1996 and section 18 of the Learning and Skills Act 2000 to transfer certain functions from the Secretary of State to the Learning and Skills Council for England.

Sections 88 to 96 relate to school discipline, behaviour and exclusion. They establish a statutory power to enforce school discipline and more specific measures relating to excluded pupils and parental responsibility for the behaviour of children. These provisions also re-enact other existing legal provisions on the responsibilities of governing bodies for discipline and determination by the head teacher of a behaviour policy.

Sections 112 to 153, 155, and 157 to 158, Schedules 11, 12 to 14, 15 and Part 5 of Schedule 18 provide for the establishment of the Office for Standards in Education, Children’s Services and

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Skills and a new office of Chief Inspector of Education, Children’s Services and Skills (“the Chief Inspector”). The new arrangements bring together the existing remit of HM Chief Inspector of Schools in England, the children’s social care remit of the Commission for Social Care Inspection, the Children and Family Court Advisory and Support Service inspection remit of Her Majesty’s Inspectorate of Court Administration and the inspection remit of the Adult Learning Inspectorate.

Section 160 gives the Chief Inspector power to investigate certain complaints about schools in order to decide whether to take any further action.

Section 164 provides for regulations that prescribe the persons and categories of persons who can exchange information about children receiving education outside school which is funded by the local authority.

Section 165 inserts a new section 85C into the Further and Higher Education Act 1992 and extends the power to use reasonable force to members of staff at institutions within the further education sector, in order to prevent a student at the institution from committing an offence, causing personal injury, damaging property or doing something that prejudices discipline at the institution.

Section 166 provides that regulations may enable the governing bodies of maintained schools to make collaboration arrangements with further education bodies, and further education bodies to make collaboration arrangements with schools and other further education bodies. Section 176 confers power on the Learning and Skills Council for England in relation to support schemes relating to education and training for 10 to 15 year olds.

Article 8 sets out transitional provisions and savings relating to the provisions of the Act that amend the law relating to schools causing concern, the law relating to disposals and changes of use of land as contained in section 77 of, and Schedule 22 to, SSFA 1998 and transport provision.

NOTE AS TO EARLIER COMMENCEMENT ORDER

(This note is not part of the Order)

The following provisions of this Act have been brought into force by commencement orders made before the date of this Order:

<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 4 in relation to England	27th February 2007	SI 2006/3440
Section 5 (partially), in relation to England	8th February 2007	SI 2006/3440
Section 39 in relation to England	27th February 2007	SI 2006/3440
Section 40 in relation to England	12th December 2006	SI 2006/2990
Section 41	27th February 2007	SI 2006/3440
Section 42	27th February 2007	SI 2006/3440
Section 43 in relation to England	8th January 2007	SI 2006/3400
Section 44 in relation to England	27th February 2007	SI 2006/3400
Section 46	27th February 2007	SI 2006/3400

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 47 in relation to England	27th February 2007	SI 2006/3400
Section 45 in relation to England	8th January 2007	SI 2006/3400
Section 48	8th January 2007	SI 2006/3400
Section 49	8th January 2007	SI 2006/3400
Section 50	8th January 2007	SI 2006/3400
Section 51	8th January 2007	SI 2006/3400
Section 53	27th February 2007	SI 2006/3400
Section 54 (1), (2) and (3) (b)	8th January 2007	SI 2006/3400
Section 57 in relation to England	8th February 2007	SI 2006/3400
Section 112 (1) to (3)	12th December 2006	SI 2006/2990
Section 112 (4), partially	12th December 2006	SI 2006/2990
Section 116 (1) (a) and (b)	12th December 2006	SI 2006/2990
Section 117	12th December 2006	SI 2006/2990
Section 158, partially	12th December 2006	SI 2006/2990
Section 159	12th December 2006	SI 2006/2990
Section 163	8th January 2007	SI 2006/3400
Section 173	8th January 2007	SI 2006/3400
Section 184, partially	12th December 2006	SI 2006/2990
Section 184 (partially), in relation to England	8th January 2007	SI 2006/3400
Section 184, partially	8th January 2007	SI 2006/3400
Section 184 (partially), in relation to England	8th February 2007	SI 2006/3400
Section 184 (partially) in relation to England	27th February 2007	SI 2006/3400
Section 184 partially	27th February 2007	SI 2006/3400
Schedule 5 in relation to England	8th February 2007	SI 2006/3400
Schedule 11, partially	12th December 2006	SI 2006/2990
Schedule 15, partially	12th December 2006	SI 2006/2990
Schedule 18, partially	12th December 2006	SI 2006/2990
Schedule 18 (partially), in relation to England	8th January 2007	SI 2006/3400

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Schedule 18, partially	8th January 2007	SI 2006/3400
Schedule 18 (partially), in relation to England	8th February 2007	SI 2006/3400