



# Education Act 1996

## 1996 CHAPTER 56

### PART I

#### GENERAL

### CHAPTER I

#### THE STATUTORY SYSTEM OF EDUCATION

##### *General*

## 1 The stages of education.

- (1) The statutory system of public education consists of three progressive stages: primary education, secondary education and further education.
- (2) This Part—
  - (a) confers functions on the Secretary of State and local education authorities with respect to primary, secondary and further education; <sup>F1</sup> . . .
  - <sup>F1</sup>(b) . . . . .
- (3) Part I of the <sup>M1</sup>Further and Higher Education Act 1992 confers functions with respect to further education on the further education funding councils established under section 1 of that Act.
- (4) Apart from section 10 (general duty of Secretary of State), nothing in this Act confers any functions with respect to higher education.

#### Textual Amendments

- F1** S. 1(2)(b) and the word “and” preceding it repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 58, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1** (with savings in Sch. 7 paras. 2-4, 6, 7, 10, 12)

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### Marginal Citations

M1 1992 c. 13.

## 2 Definition of primary, secondary and further education.

- (1) In this Act “primary education” means —
  - (a) full-time education suitable to the requirements of junior pupils who have not attained the age of 10 years and six months; and
  - (b) full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils within paragraph (a).
- (2) In this Act “secondary education” means—
  - (a) full-time education suitable to the requirements of pupils of compulsory school age who are either—
    - (i) senior pupils, or
    - (ii) junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with senior pupils of compulsory school age; and
  - (b) (subject to subsection (5)) full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19 which is provided at a school at which education within paragraph (a) is also provided.
- (3) Subject to subsection (5), in this Act “further education” means—
  - (a) full-time and part-time education suitable to the requirements of persons who are over compulsory school age (including vocational, social, physical and recreational training), and
  - (b) organised leisure-time occupation provided in connection with the provision of such education,

except that it does not include secondary education or (in accordance with subsection (7)) higher education.
- (4) Accordingly, unless it is education within subsection (2)(b), full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19 is further education for the purposes of this Act and not secondary education.
- (5) For the purposes of this Act education provided for persons who have attained the age of 19 is further education not secondary education; but where a person—
  - (a) has begun a particular course of secondary education before attaining the age of 18, and
  - (b) continues to attend that course,

the education does not cease to be secondary education by reason of his having attained the age of 19.
- (6) In subsection (3)(b) “organised leisure-time occupation” means leisure-time occupation, in such organised cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.
- (7) References in this section to education do not include references to higher education.

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### 3 Definition of pupil etc.

- (1) In this Act “pupil” means a person for whom education is being provided at a school, other than—
- (a) a person who has attained the age of 19 for whom further education is being provided, or
  - (b) a person for whom part-time education suitable to the requirements of persons of any age over compulsory school age is being provided.

[<sup>F2</sup>and references to pupils in the context of the admission of pupils to, or the exclusion of pupils from, a school are references to persons who following their admission will be, or (as the case may be) before their exclusion were, pupils as defined by this subsection.]

- (2) In this Act—
- “junior pupil” means a child who has not attained the age of 12; and
  - “senior pupil” means a person who has attained the age of 12 but not the age of 19.
- (3) The definition of “pupil” in subsection (1) also applies (unless the context otherwise requires) for the purposes of any instrument made or having effect as if made under the Education Acts.

#### Textual Amendments

**F2** Words in s. 3(1) inserted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 9(2)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**

### *Educational institutions*

### 4 Schools: general.

- [<sup>F3</sup>(1) In this Act “school” means an educational institution which is outside the further education sector and the higher education sector and is an institution for providing—
- (a) primary education,
  - (b) secondary education, or
  - (c) both primary and secondary education,
- whether or not the institution also provides part-time education suitable to the requirements of junior pupils or further education.]
- (2) [<sup>F4</sup>Nothing in subsection (1) shall be taken to preclude the making of arrangements under section 19(1) (exceptional educational provision) under which part-time education is to be provided at a school; and for] the purposes of this Act an educational institution that would fall within subsection (1) but for the fact that it provides part-time rather than full-time education shall nevertheless be treated as a school if that part-time education is provided under arrangements made under section 19(1) <sup>F5</sup>. . . .
- (3) For the purposes of this Act an institution is outside the further education sector if it is not—
- (a) an institution conducted by a further education corporation established under section 15 or 16 of the <sup>M2</sup>Further and Higher Education Act 1992, or

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- (b) a designated institution for the purposes of Part I of that Act (defined in section 28(4) of that Act);  
 and references to institutions within that sector shall be construed accordingly.
- (4) For the purposes of this Act an institution is outside the higher education sector if it is not—
- (a) a university receiving financial support under section 65 of that Act,  
 (b) an institution conducted by a higher education corporation within the meaning of that Act, or  
 (c) a designated institution for the purposes of Part II of that Act (defined in section 72(3) of that Act);  
 and references to institutions within that sector shall be construed accordingly.

#### Textual Amendments

- F3** S. 4(1) substituted (1.9.1997) by 1997 c. 44, s. 51; S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**
- F4** Words in s. 4(2) substituted (1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 10(a)**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**
- F5** Words in s. 4(2) repealed (1.9.1998) by 1997 c. 44, s. 57(1)(4), **Sch. 7 para. 10(b)**, **Sch. 8**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**

#### Modifications etc. (not altering text)

- C1** S. 4(1) restricted (1.9.2000 (E.) and 1.4.2001 (W.)) by 2000 c. 21, s. 110(3) (with s. 150); S.I. 2000/2114, art. 2(3), **Sch. Pt. III**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

#### Marginal Citations

- M2** 1992 c. 13.

## 5 Primary schools, secondary schools and middle schools.

- (1) In this Act “primary school” means (subject to regulations under subsection (4)) a school for providing primary education, whether or not it also provides part-time education suitable to the requirements of junior pupils or further education.
- (2) In this Act “secondary school” means (subject to regulations under subsection (4)) a school for providing secondary education, whether or not it also provides further education.
- (3) In this Act “middle school” means a school in respect of which proposals authorised by [F6section 28(4) of the School Standards and Framework Act 1998] are implemented (that is, a school providing full-time education suitable to the requirements of pupils who have attained a specified age below 10 years and six months and are under a specified age above 12 years).
- (4) The Secretary of State shall make regulations for determining, or enabling him to determine, whether a middle school is to be treated for the purposes of this Act and the other enactments relating to education as a primary school or as a secondary school.
- (5) The powers conferred by [F6section 28(4) of the School Standards and Framework Act 1998]and subsection (4) above are exercisable—
- (a) notwithstanding anything in this Act (and in particular section 1); but  
 (b) without prejudice to the exercise of any other power conferred by this Act.

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#### Textual Amendments

- F6** Words in s. 5(3) and (5) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 59(a)(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1** (with savings in art. 18, Sch. 7 paras. 2-4, 6, 7, 10, 12)

## 6 Nursery schools and special schools.

- (1) A primary school is a nursery school if it is used mainly for the purpose of providing education for children who have attained the age of two but are under [<sup>F7</sup>compulsory school age].
- (2) A school is a special school if it is specially organised, [<sup>F8</sup>and (in the case of a school which is not maintained by a local education authority) is for the time being approved, as mentioned in section 337.].

#### Textual Amendments

- F7** Words in s. 6(1) substituted (1.8.1998) by 1997 c. 44, s. 51(1), **Sch. 7 para. 11**; S.I. 1998/386, art. 2, **Sch. 1 Pt. III**
- F8** Words in s. 6(2) substituted (1.9.1999) by 1998 c. 31, s. 141(1), **Sch. 30 para.60** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1** (with savings in Sch. 7 paras. 2-4, 6, 7, 10, 12)

### *Compulsory education*

## 7 Duty of parents to secure education of children of compulsory school age.

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (a) to his age, ability and aptitude, and
  - (b) to any special educational needs he may have,
- either by regular attendance at school or otherwise.

## 8 Compulsory school age.

- (1) Subsections (2) and (3) apply to determine for the purposes of any enactment whether a person is of compulsory school age.

[<sup>F9</sup>(2) A person begins to be of compulsory school age—

- (a) when he attains the age of five, if he attains that age on a prescribed day, and
- (b) otherwise at the beginning of the prescribed day next following his attaining that age.]

- (3) A person ceases to be of compulsory school age at the end of the day which is the school leaving date for any calendar year—

- (a) if he attains the age of 16 after that day but before the beginning of the school year next following,
- (b) if he attains that age on that day, or

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- (c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age.

[<sup>F10</sup>(4) The Secretary of State may by order—

- (a) provide that such days in the year as are specified in the order shall be, for each calendar year, prescribed days for the purposes of subsection (2);
- (b) determine the day in any calendar year which is to be the school leaving date for that year.]

**Textual Amendments**

- F9** S. 8(2) substituted (1.8.1998) by 1997 c. 44, s. 52(2); S.I. 1998/386, art. 2, Sch. 1 Pt. III
- F10** S. 8(4) substituted (1.8.1998) by 1997 c. 44, s. 52(3); S.I. 1998/386, art. 2, Sch. 1 Pt. III

*Education in accordance with parental wishes*

**9 Pupils to be educated in accordance with parents' wishes.**

In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of [<sup>F11</sup>State and local education authorities] shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.

**Textual Amendments**

- F11** Words in s. 9 substituted (1.4.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 61 (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), Sch. 1

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