



# 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 [<sup>F2</sup> makes provision with respect to further education.].
- (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- F1** S. 1(2)(b) and preceding word repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 58, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1 (with savings in Sch. 7 paras.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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**F2** Words in s. 1(3) substituted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 51** (with s. 150); S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

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

**C1** S. 1(4) excluded by 2002 c. 32, s. 28A(5) (as inserted (1.9.2005 for E., 1.9.2006 for W.) by **Education Act 2005 (c. 18), ss. 105, 125(4)**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1)

**Marginal Citations**

**M1** 1992 c. 13.

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

[<sup>F3</sup>(1) In this Act “primary education” means—

- (a) full-time or part-time education suitable to the requirements of children who have attained the age of two but are under compulsory school age;
- (b) full-time education suitable to the requirements of junior pupils of compulsory school age who have not attained the age of 10 years and six months; and
- (c) full-time education suitable to the requirements of junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with junior pupils within paragraph (b).]

(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.

[<sup>F4</sup>(2A) Education is also secondary education for the purposes of this Act (subject to subsection (5)) if it is provided by an institution which—

- (a) is maintained by a local education authority [<sup>F5</sup>or is an Academy], and
- (b) is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19.

(2B) Where—

- (a) a person is in full-time education,
- (b) he receives his education partly at a school and, by virtue of arrangements made by the school, partly at another institution [<sup>F6</sup>or any other establishment], and
- (c) the education which he receives at the school would be secondary education if it was full-time education at the school,

the person’s education, both at the school and at the other institution [<sup>F7</sup>or establishment], is secondary education for the purposes of this Act (subject to subsection (5)).]

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- (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 [<sup>F8</sup>(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) [<sup>F9</sup>or (2A)], 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.

[<sup>F10</sup>(6A) In the context of the definitions of secondary education and further education, references in this section to education include vocational, social, physical and recreational training.]

(7) References in this section to education do not include references to higher education.

#### Textual Amendments

- F3** S. 2(1) substituted (1.10.2002 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 156\(2\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2004/912](#), [art. 4](#), [Sch. Pt. 1](#)
- F4** S. 2(2A)(2B) inserted (1.9.2000 for E. for certain purposes and 1.4.2001 otherwise for E.W.) by [2000 c. 21](#), [s. 110\(1\)](#) (with [s. 150](#)); [S.I. 2000/2114](#), [art. 2\(3\)](#), [Sch. Pt. III](#); [S.I. 2001/654](#), [art. 2\(2\)](#), [Sch. Pt. II](#) (with [art. 3](#)); [S.I. 2001/1274](#), [art. 2\(1\)](#), [Sch. Pt. I](#) (with [art. 3](#))
- F5** Words in s. 2(2A)(a) inserted (26.7.2002) by [Education Act 2002 \(c. 32\)](#), [ss. 65\(3\)](#), [216\(2\)](#), [Sch. 7 para. 6\(2\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2002](#), [art. 2](#)
- F6** Words in s. 2(2B)(b) inserted (1.10.2002 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 177\(2\)\(a\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2004/912](#), [art. 5](#), [Sch. Pt. 2](#)
- F7** Words in s. 2(2B) inserted (1.10.2002 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 177\(2\)\(b\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2004/912](#), [art. 5](#), [Sch. Pt. 2](#)
- F8** Words in s. 2(3)(a) repealed (1.10.2002 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [s. 216\(4\)](#), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2004/912](#), [art. 5](#), [Sch. Pt. 2](#)
- F9** Words in s. 2(4) inserted (1.10.2002 for E., 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 215\(1\)](#), [216\(4\)](#), [Sch. 21 para. 33](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#)

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**F10** S. 2(6A) inserted (1.10.2002 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 177(3), 216(4)** (with **ss. 210(8), 214(4)**); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 5, Sch. Pt. 2

### 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>F11</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.]

[<sup>F12</sup>(1A) A person is not for the purposes of this Act to be treated as a pupil at a school merely because any education is provided for him at the school in the exercise of the powers conferred by section 27 of the Education Act 2002 (power of governing body of maintained school to provide community facilities etc.).]

- (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 [<sup>F13</sup>Subsections (1) and (1A) also apply](unless the context otherwise requires) for the purposes of any instrument made or having effect as if made under the Education Acts.

#### Textual Amendments

- F11** 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**
- F12** S. 3(1A) inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 34(2)** (with **ss. 210(8), 214(4)**); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F13** Words in s. 3(3) substituted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 34(3)** (with **ss. 210(8), 214(4)**); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

### *Educational institutions*

#### 4 Schools: general.

- [<sup>F14</sup>(1) In this Act [<sup>F15</sup>(subject to subsection (1A))] “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,

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whether or not the institution also provides [<sup>F16</sup>part-time education suitable to the requirements of junior pupils or] further education.]

[<sup>F17</sup>(1A) An institution which—

(a) provides only early years provision (as defined by section 96(2) of the Childcare Act 2006), and

(b) is not a maintained nursery school,  
is not a school.]

(2) [<sup>F18</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>F19</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

(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

**F14** S. 4(1) substituted (1.9.1997) by 1997 c. 44, s. 51; S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**

**F15** Words in s. 4(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), **ss. 95(2)**, 109(2); S.I. 2008/2261, art. 2 (with **Sch. 1**)

**F16** Words in s. 4(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with **ss. 210(8)**, 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, **Sch. Pt. 1**

**F17** S. 4(1A) inserted (1.9.2008) by Childcare Act 2006 (c. 21), **ss. 95(3)**, 109(2); S.I. 2008/2261, art. 2 (with **Sch. 1**)

**F18** 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**

**F19** 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)

**C2** 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**

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### 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 [<sup>F20</sup>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.
- [<sup>F21</sup>(3) In this Act “middle school” means a school which, in pursuance of proposals published under any of the enactments specified in subsection (3A), has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—
- (a) have attained a specified age below 10 years and six months, and
  - (b) are under a specified age above 12 years.
- (3A) The enactments mentioned in subsection (3) are—
- (a) in relation to England—
    - (i) section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998,
    - (ii) section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, and
    - (iii) section 7, 10, 11 or 19 of the Education and Inspections Act 2006;
  - (b) in relation to Wales, section 28 of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998.]

(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) [<sup>F22</sup>The powers conferred by the enactments mentioned in subsection (3) (so far as relating to the establishment of middle schools) and the powers conferred by 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.

### Textual Amendments

- F20** Words in s. 5(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, [Sch. Pt. 1](#)
- F21** S. 5(3)(3A) substituted for s. 5(3) (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 7\(2\)](#); S.I. 2007/935, art. 7(o)
- F22** Words in s. 5(5) substituted (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 12 para. 1\(3\)](#); S.I. 2006/2129, art. 4

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## 6 Nursery schools and special schools.

- (1) A primary school is a nursery school if it is used [<sup>F23</sup>wholly or] mainly for the purpose of providing education for children who have attained the age of two but are under [<sup>F24</sup>compulsory school age].
- (2) A school is a special school if it is specially organised, [<sup>F25</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

- F23** Words in s. 6(1) inserted (1.10.2002 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 156\(1\), 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), art. 3; [S.I. 2004/912](#), art. 4, [Sch. Pt. 1](#)
- F24** 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](#)
- F25** 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>F26</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
  - (c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age.
- [<sup>F27</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);

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- (b) determine the day in any calendar year which is to be the school leaving date for that year.]

**Textual Amendments**

**F26** S. 8(2) substituted (1.8.1998) by 1997 c. 44, s. 52(2); S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

**F27** 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>F28</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**

**F28** 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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