



# Education Act 2002

## 2002 CHAPTER 32

### PART 10

#### INDEPENDENT SCHOOLS

#### CHAPTER 2

##### CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

#### 172 Alteration to definition of “independent school”

For section 463 of the Education Act 1996 (c. 56) (meaning of “independent school”) there is substituted—

#### “463 Meaning of “independent school”

- (1) In this Act “independent school” means any school at which full-time education is provided for—
  - (a) five or more pupils of compulsory school age, or
  - (b) at least one pupil of that age for whom a statement is maintained under section 324, or who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989),and which is not a school maintained by a [<sup>F1</sup>local authority] or a special school not so maintained.
- (2) For the purposes of subsection (1)(a) and (b) it is immaterial if full-time education is also provided at the school for pupils under or over compulsory school age.”

*Changes to legislation: Education Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 18 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*

**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 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**

**Commencement Information**

- I1** S. 172 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 4**
- I2** S. 172 in force at 1.1.2004 for W. by [S.I. 2003/2961](#), **art. 6, Sch. Pt. III**

**173 Right of access of [<sup>F1</sup>local authority]**

In section 327 of the Education Act 1996 (c. 56) ( [<sup>F1</sup>local authority] to have access to certain schools to monitor provision made for child with special educational needs), in subsection (1)(b) (schools to which section applies), at the end there is inserted “or at an independent school”.

**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 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**

**Commencement Information**

- I3** S. 173 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 4**
- I4** S. 173 in force at 1.1.2004 for W. by [S.I. 2003/2961](#), **art. 6, Sch. Pt. III**

**<sup>F2</sup>174 Consent to placement**

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**Textual Amendments**

- F2** S. 174 omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 9(3)**; [S.I. 2021/373](#), **art. 8(j)(xxi)**

**Changes to legislation:**

Education Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 18 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.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by [S.I. 2004/571 Sch.](#)
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by [S.I. 2005/2570 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1A) inserted by [2010 c. 26 s. 4\(1\)](#)
- s. 29(2A)-(2D) inserted by [2009 c. 22 s. 260\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by [2008 c. 25 s. 157](#)
- s. 8585A substituted for s. 85 by [2006 c. 40 s. 74\(1\)](#)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by [2011 c. 21 s. 31\(2\)](#)
- s. 85A(5) words substituted by [2009 c. 22 Sch. 12 para. 34](#)
- s. 86(1) s. 86 renumbered as s. 86(1) by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 86(2) inserted by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 88(2)-(7) inserted by [2006 c. 40 s. 74\(3\)](#)
- s. 88(7) repealed by [S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by [S.I. 2010/1158 Sch. 2 para. 11\(10\)\(b\)](#)
- s. 210A inserted by [2008 c. 25 Sch. 1 para. 79](#)