



Education Act 2002

2002 CHAPTER 32

PART 11

MISCELLANEOUS AND GENERAL

Special educational needs: Wales

191 Regional provision for special educational needs in Wales

- (1) When directed to do so by the National Assembly for Wales, the local education authorities in Wales (or such of them as may be specified in the direction) must consider whether they (or any of them) would be able to carry out their special education functions, in respect of children with the special educational needs specified in the direction, more efficiently or effectively if regional provision were made.
- (2) In this section—
 - “regional provision” means—
 - (a) provision of education for children from the areas of different local education authorities in Wales, at a school maintained by one of those authorities, or
 - (b) provision made by two or more local education authorities in Wales for goods or services to be supplied by one of the authorities—
 - (i) to the other or others, or
 - (ii) to one or more governing bodies of schools maintained by the other authority or authorities;
 - “special education functions” means functions under Part 4 of the Education Act 1996 (c. 56) (special educational needs).
- (3) The authorities to whom a direction is given must report their conclusions to the Assembly not later than the time specified in the direction.
- (4) In discharging their duties under this section, local education authorities must have regard to any guidance given from time to time by the Assembly.

Status: This is the original version (as it was originally enacted).

192 Directions to bring forward proposals to secure regional provision

- (1) Where the National Assembly for Wales is of the opinion that two or more local education authorities in Wales (“Welsh authorities”) would be able to carry out their special education functions, in respect of a particular class of children, more effectively or efficiently if regional provision were made, the Assembly may exercise its powers under this section and section 193 with a view to securing that such provision is made.
- (2) The Assembly may, by order, do one or more of the following—
- (a) direct a Welsh authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools;
 - (b) direct the governing body of a foundation, voluntary or foundation special school maintained by a Welsh authority (a “relevant school”) to exercise their powers to make proposals for the alteration of their school;
 - (c) direct two or more Welsh authorities to make proposals for arrangements under which—
 - (i) provision for education is made by one of the authorities in respect of persons from the area (or areas) of the other authority (or authorities), and
 - (ii) provision is made for determining the payments to be made under the arrangements in respect of the provision of that education;
 - (d) direct two or more Welsh authorities to make proposals for arrangements that provide for one of those authorities to make to the other (or others) such supplies of goods or services as may be specified in the proposals on such terms (including terms as to payment) as may be so specified;
 - (e) direct a Welsh authority and the governing bodies of one or more relevant schools to make proposals for arrangements that provide for the authority to make to the governing bodies such supplies of goods or services as may be specified in the proposals, on such terms (including terms as to payment) as may be so specified;
- to secure that regional provision is made in relation to such class of children, from such areas, as may be specified in the order.
- (3) Where an order contains a direction under paragraph (c) of subsection (2) and also a direction under paragraph (a) or (b) of that subsection, the payments to which paragraph (c) refers may include an amount in respect of such costs connected with the establishment, alteration or discontinuance of the school in question as may be specified in the order.
- (4) An order under this section shall—
- (a) require the proposals to be published not later than such date as is specified in the order, and
 - (b) require the body publishing the proposals to send a copy of the published proposals and such information in connection with those proposals as may be prescribed by the order, to the Assembly.
- (5) Proposals made in pursuance of an order containing a direction under subsection (2)(c) to (e) must contain such information and be published in such manner as is prescribed by regulations.
- (6) Regulations may, in respect of proposals made in pursuance of such an order, make provision for—
- (a) consultation on the proposals;

- (b) the making of comments on or objections to the proposals;
 - (c) withdrawal of the proposals;
 - (d) modification of the proposals;
 - (e) approval of the proposals by the Assembly;
 - (f) implementation of the proposals by the body or bodies that made them.
- (7) Without prejudice to the generality of subsection (6), regulations under that subsection may include provision equivalent to that made by or under Part 2 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) in relation to proposals of the kind mentioned in subsection (2)(a) or (b).
- (8) Where proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of an order containing a direction under subsection (2) (b) are approved or, as the case may be, determined to be implemented under that Schedule, then, despite anything in Part 3 of that Schedule, the local education authority shall defray the cost of implementing the proposals.
- (9) In this section—
- “powers to make proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority to publish proposals under section 28, 29 or 31 of the School Standards and Framework Act 1998;
 - “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a) of that Act;
 - “regional provision” has the same meaning as in section 191;
 - “special education functions” has the same meaning as in that section.

193 Powers of Assembly to make proposals to secure regional provision

- (1) Where—
- (a) the National Assembly for Wales has made an order containing directions under section 192(2), and
 - (b) either—
 - (i) any proposals have been published in pursuance of the order, or
 - (ii) the time allowed under the order for the publication of the proposals has expired,the Assembly may make any such proposals as might have been made, in accordance with any direction contained in the order, by the body or bodies to which it was addressed.
- (2) Proposals under this section shall contain such information and be published in such manner as the Assembly thinks fit.
- (3) The Assembly shall send a copy of any proposals under this section to—
- (a) each local education authority in Wales, and
 - (b) the governing body of each school to which the proposals relate.
- (4) Regulations may make provision about proposals under this section and, in particular, may make provision for—
- (a) consultation on the proposals;

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- (b) the making of comments on or objections to the proposals;
 - (c) modification of the proposals;
 - (d) implementation of the proposals by the bodies to which they relate.
- (5) Without prejudice to the generality of subsection (4), regulations under that subsection may include provision which applies or reproduces (with or without modification) any provisions of Part 5 or paragraph 17 of Schedule 7 to the School Standards and Framework Act 1998 (c. 31) (procedure for dealing with proposals by the Assembly under that Schedule).
- (6) Where proposals made and adopted by the Assembly under this section have effect (by virtue of subsection (5)) as if they were proposals made by the governing body of a foundation, voluntary or foundation special school under their powers to make proposals for the alteration of their school, and approved by the Assembly, then, despite anything in Part 3 of Schedule 6 to that Act, the local education authority shall defray the cost of implementing the proposals.

194 Welsh LEAs' powers to make regional provision

- (1) In section 14 of the Education Act 1996 (c. 56) (functions in respect of provision of primary and secondary schools), after subsection (4) there is inserted—
- “(4A) A local education authority for an area in Wales may secure that regional schools for providing—
- (a) primary education, and
 - (b) education that is secondary education by virtue of section 2(2)(a),
- are available for Wales or any part of Wales that includes the area of the authority.
- (4B) For this purpose a “regional school”, in relation to a local education authority, is a school maintained by that authority which provides education to meet both—
- (a) the needs of pupils with particular special educational needs in their area, and
 - (b) the needs of such pupils in the rest, or any other part, of Wales,
- whether or not the institution also provides education suitable to the requirements of other pupils.”
- (2) In section 318 of that Act (provision of goods and services in connection with special educational needs)—
- (a) in subsection (3) after “authority” there is inserted “in England”, and
 - (b) after subsection (3A) there is inserted—
- “(3B) A local education authority in Wales may supply goods and services to any authority in Wales or other person (other than a governing body within subsection (1)) for the purpose of assisting them in making for a child any special educational provision which any learning difficulty of the child calls for.”

195 The Special Educational Needs Tribunal for Wales

Schedule 18 (the Special Educational Needs Tribunal for Wales) shall have effect.