



# Education Act 2002

## 2002 CHAPTER 32

### PART 11

#### MISCELLANEOUS AND GENERAL

#### *General duties of <sup>F1</sup>local authorities] and governing bodies*

#### 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(3)**

#### 175 Duties <sup>F2</sup>... in relation to welfare of children

- (1) A [<sup>F3</sup>local authority] shall make arrangements for ensuring that [<sup>F4</sup>their education functions] are exercised with a view to safeguarding and promoting the welfare of children.
  - (2) The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.
  - (3) The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution.
- [<sup>F5</sup>(3A) The proprietor of a 16 to 19 Academy must make arrangements to ensure that the proprietor's functions relating to the conduct of the Academy are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the Academy.
- (3B) The Secretary of State may not—

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- (a) enter into an agreement with the proprietor of an institution in England for the provision of further education, unless the agreement requires the proprietor to comply with the safeguarding duties, or
- (b) give financial assistance under section 14 to the proprietor of an institution in England for the provision of further education unless the assistance is given on terms requiring the proprietor to comply with the safeguarding duties,

but this subsection does not restrict the Secretary of State's powers to enter into an agreement with, or give financial assistance to, an institution to which subsection (3) or (3A) applies.

(3C) “The safeguarding duties” are—

- (a) a duty to make arrangements to ensure that the proprietor's functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution, and
- (b) a duty to have regard to any guidance given from time to time by the Secretary of State in considering what arrangements are required.]

(4) [<sup>F6</sup>A person] mentioned in any of subsections (1) to [<sup>F7</sup>(3A)] shall, in considering what arrangements are required to be made by them under that subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(5) In this section—

“child” means a person under the age of eighteen;

“governing body”, in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

[<sup>F8</sup>“proprietor”, in relation to an institution that is not a school, means the person or body of persons responsible for the management of the institution.]

#### Textual Amendments

- F2** Words in s. 175 heading omitted (29.6.2021) by virtue of [Education and Training \(Welfare of Children\) Act 2021 \(c. 16\)](#), **ss. 1(6)**, 3(2)
- F3** 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)**
- F4** Words in s. 175(1) 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(11)**
- F5** S. 175(3A)-(3C) inserted (29.6.2021) by [Education and Training \(Welfare of Children\) Act 2021 \(c. 16\)](#), **ss. 1(3)**, 3(2)
- F6** Words in s. 175(4) substituted (29.6.2021) by [Education and Training \(Welfare of Children\) Act 2021 \(c. 16\)](#), **ss. 1(4)(a)**, 3(2)
- F7** Word in s. 175(4) substituted (29.6.2021) by [Education and Training \(Welfare of Children\) Act 2021 \(c. 16\)](#), **ss. 1(4)(b)**, 3(2)
- F8** Words in s. 175(5) inserted (29.6.2021) by [Education and Training \(Welfare of Children\) Act 2021 \(c. 16\)](#), **ss. 1(5)**, 3(2)

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

- C1** S. 175(2)(4) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 19A (as inserted (1.4.2013) by [The Pupil Referral Units \(Miscellaneous Amendments\) \(No.2\) \(England\) Regulations 2012](#) (S.I. 2012/3158), regs. 1, **3(3)**)

**Commencement Information**

- I1** S. 175 in force at 1.6.2004 except in relation to W. by [S.I. 2004/1318](#), **art. 2**  
**I2** S. 175 in force at 1.9.2006 for W. by [S.I. 2006/172](#), **art. 5**

**F9 176 Consultation with pupils**

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**Textual Amendments**

- F9** S. 176 repealed (1.4.2011) by [Children and Families \(Wales\) Measure 2010](#) (nawm 1), ss. 12(3), 75(3), **Sch. 2**; [S.I. 2010/2582](#), **art. 2**, **Sch. 1** (with **Sch. 2**, **Sch. 3**)

**Commencement Information**

- I3** S. 176 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 4**  
**I4** S. 176 in force at 1.9.2004 for W. by [S.I. 2004/1728](#), **art. 5**, **Sch. Pt. 2**

*Education and training outside schools*

**177 Meaning of “secondary education”**

- (1) Section 2 of the Education Act 1996 (c. 56) (definition of primary, secondary and further education) is amended as follows.
- (2) In subsection (2B) (which extends “secondary education” to include education received partly at a school and partly at another institution)—
  - (a) in paragraph (b), after “another institution” there is inserted “ or any other establishment ”, and
  - (b) after “other institution” there is inserted “ or establishment ”.
- (3) After subsection (6) there is inserted—

“(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.”
- (4) The Education Acts shall have effect in their application to persons receiving secondary education within section 2(2B) of the Education Act 1996 (c. 56) with such modifications as may be specified in an order under this subsection.
- (5) The power to make an order under subsection (4) is exercisable—
  - (a) in relation to England, by the Secretary of State, and
  - (b) in relation to Wales, by the National Assembly for Wales.

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#### Commencement Information

- I5** S. 177 not in force at Royal Assent, see s. 216; s. 177 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I6** S. 177 in force at 1.8.2004 for W. by [S.I. 2004/912](#), [art. 5](#), [Sch. Pt. 2](#)

### 178 Training and education provided in the workplace for 14 to 16 year olds

(1) The Learning and Skills Act 2000 (c. 21) is amended as follows.

<sup>F10</sup>(2) .....

<sup>F11</sup>(3) .....

(4) In section 83 (area inspections in Wales)—

- (a) in subsection (1)(a) for “16” there is substituted “ 15 ”, and
- (b) after subsection (10) there is inserted—

“(11) In subsection (1)(a) “persons who are aged 15” includes persons for whom education is being provided at a school who will attain that age in the current school year; and for this purpose “school” and “school year” have the same meaning as in the Education Act 1996.”

#### Textual Amendments

- F10** S. 178(2) repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\)](#) (England and Wales) Order 2010 (S.I. 2010/1080), [art. 1\(2\)\(a\)\(b\)](#), [Sch. 1 para. 47](#), [Sch. 2 Pt. 1](#) (with [art. 2\(3\)](#))
- F11** S. 178(3) repealed (1.4.2007) by [Education and Inspections Act 2006](#) (c. 40), [s. 188\(3\)](#), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5\(ii\)](#)

#### Commencement Information

- I7** S. 178(1)(2) in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I8** S. 178(1)(4) in force at 1.8.2003 for W. by [S.I. 2003/1718](#), [art. 4](#), [Sch. Pt. 1](#)
- I9** S. 178(2) in force at 2.1.2008 for W. by [S.I. 2007/3611](#), [art. 4\(1\)](#), [Sch. Pt. 1](#)
- I10** S. 178(3) in force at 20.1.2003 except in relation to W. by [S.I. 2002/2952](#), [art. 2](#) (with savings and transitional provisions in [Sch.](#))
- I11** S. 178(4) in force at 6.11.2006 except in relation to W. by [S.I. 2006/2895](#), [art. 2](#)

### <sup>F12</sup>179 Rights of entry in relation to inspections

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#### Textual Amendments

- F12** S. 179 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005](#) (c. 18), [s. 125\(4\)](#), [Sch. 19 Pt. 1](#); [S.I. 2005/2034](#), [art. 4](#); [S.I. 2006/1338](#), [art. 3](#), [Sch. 1](#) (with [Sch. 4 para. 6](#))

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## 180 Inspections of [F<sup>1</sup>local authorities]: rights of entry etc.

For section 40 of the Education Act 1997 (c. 44) (inspector’s rights of entry etc.) there is substituted—

### “40 Inspector’s rights of entry etc.

- (1) This section applies where a [F<sup>3</sup>local authority] are inspected under section 38.
- (2) The inspector, and any person assisting him, shall have at all reasonable times a right of entry to—
  - (a) the premises of the [F<sup>3</sup>local authority],
  - (b) the premises of any school maintained by the authority, and
  - (c) any other premises at which relevant section 19 education is provided, other than premises which are or form part of a private dwelling house but are not a school.
- (3) The inspector, and any person assisting him, shall also have at all reasonable times a right to inspect and take copies of—
  - (a) any records kept by, and any other documents containing information relating to, the [F<sup>3</sup>local authority] or any school maintained by the authority, and
  - (b) any records kept by a person who provides relevant section 19 education that relate to the provision of that education, and any other documents containing information that so relates;which he considers relevant to the exercise of his functions.
- (4) Section 42 of the School Inspections Act 1996 (inspection of computer records) shall apply for the purposes of subsection (3) as it applies for the purposes of Part 1 of that Act.
- (5) Without prejudice to subsections (2) and (3), the [F<sup>3</sup>local authority] and the governing body of any school maintained by the authority—
  - (a) shall give the inspector and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give, and
  - (b) shall secure that all such assistance is also given by persons who work at the school.
- (6) It shall be an offence wilfully to obstruct the inspector or any person assisting him in the exercise of his functions in relation to the inspection.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In this section—

“document” and “records” each include information recorded in any form; and

“relevant section 19 education” means education provided to a child by virtue of arrangements made by the [F<sup>3</sup>local authority] under section 19 of the Education Act 1996 (exceptional provision of education at schools or otherwise).”

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### 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\(3\)](#)
- F3** 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

- I12** S. 180 wholly in force at 19.12.2002; s. 180 not in force at Royal Assent, see s. 216; s. 180 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4, Sch.](#)); s. 180 in force for W. at 19.12.2002 by [S.I. 2002/3185](#), [art. 4, Sch. Pt. I](#)

## *Allowances in respect of education or training*

### **181 Allowances in respect of education or training**

- (1) Regulations may make provision authorising or requiring the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) to pay an allowance to or in respect of any eligible person who is over compulsory school age, in connection with his undertaking education or training of a prescribed description.
- (2) The relevant education or training must not be higher education.
- (3) Regulations may, in particular, make provision—
  - (a) for determining whether a person is an eligible person in relation to any allowance,
  - (b) prescribing information that must be supplied by or on behalf of any person before any allowance can be paid or continue to be paid to or in respect of him,
  - (c) prescribing the period by reference to which any allowance of a periodic nature is to be paid,
  - (d) prescribing the maximum allowance payable to or in respect of any person in respect of any period,
  - (e) prescribing the maximum period during which an allowance may be payable to or in respect of any person,
  - (f) where the amount of an allowance may vary to any extent according to a person's circumstances, for determining, or providing for the determination by the Secretary of State or the National Assembly for Wales of, the amount required or authorised to be paid to or in respect of him,
  - (g) specifying whether any allowance in respect of any person is to be paid to him, to a parent of his or to any other person,
  - (h) for any allowance under this section to be made available on such terms and conditions as may be prescribed, or determined under the regulations by the Secretary of State or the National Assembly for Wales, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined,
  - (i) requiring the payment of an allowance to be suspended or terminated in any such circumstances,
  - (j) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals),

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- (k) imposing obligations on the governing body of any maintained school or institution within the further education sector in relation to cases where the school or institution is providing the education or training referred to in subsection (1).
- (4) In this section and section 182—
- “governing body”—
- (a) in relation to a pupil referral unit, means the [<sup>F3</sup>local authority] who maintain the unit, and
- (b) in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a pupil referral unit.

#### Textual Amendments

- F3** 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

- I13** S. 181 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)
- I14** S. 181 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), [art. 4](#)

## 182 Learning agreements

- (1) For the purposes of this section, a “learning agreement” is a document which—
- (a) specifies conditions which—
- (i) relate to the attendance or conduct of, or completion of assigned tasks by, a person to whom an allowance is or may become payable (in this section referred to as “the student”), and
- (ii) are either prescribed by regulations or, if regulations so provide, determined in accordance with any prescribed requirements by the person providing the relevant education or training,
- (b) contains a declaration by the student relating to compliance with those conditions, and
- (c) deals with such other matters as may be prescribed.
- (2) Regulations may require a learning agreement—
- (a) to be in the prescribed form, and
- (b) to be signed by the student and by or on behalf of such other persons as may be prescribed.
- (3) Without prejudice to the generality of section 181(3)(h), regulations may provide—
- (a) that a person is not eligible to receive an allowance unless the person providing the relevant education or training holds a learning agreement signed by him, and
- (b) that payment of an allowance is conditional on the person providing the relevant education or training from time to time determining that the student

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has complied with the learning agreement or has done so to a prescribed extent or in prescribed respects.

- (4) Regulations may—
- (a) enable or require a learning agreement to specify targets relating to the attendance, conduct or attainments of the student, and
  - (b) enable or require the Secretary of State or the National Assembly for Wales, in any case where the person providing the relevant education or training determines that targets have been met, to make additional payments of allowance to or in respect of the student.
- (5) Without prejudice to the generality of section 181(3)(k), regulations may impose obligations relating to learning agreements on—
- (a) the governing body of a maintained school, or
  - (b) the governing body of an institution within the further education sector.
- (6) Regulations may contain provision for determining the person by whom any relevant education or training is to be treated for the purposes of this section as being provided.
- (7) A learning agreement shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.
- (8) In this section—
- “allowance” means an allowance under section 181;
- “relevant education or training” means the education or training referred to in that section.

#### Commencement Information

**I15** S. 182 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)

**I16** S. 182 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), [art. 4](#)

### 183 Transfer of functions relating to allowances under section 181

- (1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations made by virtue of section 181 shall, to such extent as is specified in his determination, be exercisable instead by—
- <sup>F13</sup>(a) .....
  - (aa) <sup>F14</sup> ... <sup>F15</sup> ...
  - (b) [<sup>F3</sup>local authority].
- (2) If the National Assembly for Wales so determines, any function exercisable by the Assembly by virtue of regulations made by virtue of section 181 shall, to such extent as is specified in the Assembly’s determination, be exercisable instead by—
- <sup>F16</sup>(a) .....
  - (b) a [<sup>F3</sup>local authority].
- (3) A [<sup>F17</sup>person or] body by whom any function is for the time being exercisable by virtue of subsection (1) or (2) shall comply with any directions given by the Secretary of State, or as the case may be the National Assembly for Wales, as to the exercise of that function.

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- (4) Where any function is so exercisable by a [<sup>F3</sup>local authority], the function shall be taken to be a function of that authority—
- (a) for the purposes of section 70 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of local authorities),
  - (b) for the purposes of Part 2 of the 2000 Act (arrangements with respect to executives etc.), and
  - (c) subject to the provisions of section 13 of the 2000 Act, for the purposes of section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities).
- (5) In this section “the 2000 Act” means the Local Government Act 2000 (c. 22).

#### Textual Amendments

- F3** 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\(2\)](#)
- F13** [S. 183\(1\)\(a\)](#) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), [s. 115\(3\)\(g\)](#), [Sch. 14 para. 46\(a\)](#)
- F14** [S. 183\(1\)\(aa\)](#) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), [s. 82\(3\)](#), [Sch. 16 para. 19](#); [S.I. 2012/924](#), [art. 2](#)
- F15** Word in [s. 183\(1\)\(aa\)](#) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), [s. 115\(3\)\(g\)](#), [Sch. 14 para. 46\(b\)](#)
- F16** [S. 183\(2\)\(a\)](#) omitted (1.4.2006) by virtue of [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), [art. 1\(1\)](#), [Sch. 1 para. 88](#) (with [art. 7](#))
- F17** Words in [s. 183\(3\)](#) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), [art. 1\(2\)\(a\)](#), [Sch. 1 para. 48\(b\)](#) (with [art. 2\(3\)](#))

#### Commencement Information

- I17** [S. 183](#) in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)
- I18** [S. 183](#) in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), [art. 4](#)

### 184 Delegation of functions relating to allowances

- (1) The Secretary of State or the National Assembly for Wales may make arrangements for any person or body specified in the arrangements to exercise on his or its behalf, to such extent as is so specified, any function exercisable by him or the Assembly by virtue of regulations made by virtue of section 181 (including any such function in relation to appeals).
- (2) Any arrangements made under subsection (1) shall not prevent the Secretary of State, or as the case may be the National Assembly for Wales, from exercising the function in question himself or itself.

#### Commencement Information

- I19** [S. 184](#) in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), [art. 4](#)
- I20** [S. 184](#) in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)

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## 185 Supplementary provisions relating to transfer or delegation of functions

- (1) The Secretary of State or the National Assembly for Wales may make provision for enabling appeals—
  - (a) to be made with respect to such matters arising out of the exercise by virtue of section 183(1) or (2) or 184(1) by any person or body of any function of the Secretary of State or the Assembly as he or it may determine, and
  - (b) to be so made to a person or body appointed for the purpose by the Secretary of State or the Assembly.
- (2) The Secretary of State or the National Assembly for Wales may pay to any body or person by whom any function of his, or as the case may be of the Assembly, is exercisable by virtue of section 183(1) or (2) or 184(1)—
  - (a) such amounts as the Secretary of State or the Assembly considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person—
    - (i) in paying allowances under section 181, or
    - (ii) by way of administrative expenses,
 in, or in connection with, the exercise of that function;
  - (b) in a case where the function is exercisable by virtue of section 184(1), such remuneration as the Secretary of State or the Assembly may determine.
- (3) Any payment under subsection (2)(a) may be made subject to such terms and conditions as the Secretary of State or the National Assembly for Wales may determine; and any such conditions may in particular—
  - (a) require the provision of returns or other information before any such payment is made;
  - (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.
- (4) The Secretary of State or the National Assembly for Wales may pay to any person or body appointed by him or it under subsection (1) such remuneration or administrative expenses (or both) as he or it may determine.
- (5) In relation to any function which, by virtue of section 183(1) or (2) or 184(1) is exercisable to a specified extent, references in section 183(3) and (4) and this section to the exercise of that function are accordingly to its exercise to that extent.

### Commencement Information

- I21** S. 185 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667, art. 4](#)
- I22** S. 185 in force at 1.9.2003 for W. by [S.I. 2003/1718, art. 5, Sch. Pt. II](#)

### *Student loans*

## 186 Student loans

- (1) Regulations may make provision for—
  - (a) the repayment by the Secretary of State of amounts payable in respect of loans mentioned in paragraph (a), (b) or (c) of subsection (2);

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- (b) reducing or extinguishing the amounts payable in respect of loans mentioned in paragraph (a) or (b) of subsection (2).
- (2) The loans are—
- (a) loans received under arrangements made under section 1 of the Education (Student Loans) Act 1990 (c. 6) by eligible persons who fulfil prescribed conditions;
  - (b) loans received under arrangements made under section 22 of the Teaching and Higher Education Act 1998 (c. 30) by eligible persons who fulfil prescribed conditions;
  - (c) loans received for educational purposes under such other arrangements as may be prescribed by the regulations, including arrangements made outside England and Wales, by eligible persons who fulfil prescribed conditions.
- (3) The regulations may, in particular, make provision—
- (a) for determining whether a person is eligible for the purposes of the regulations;
  - (b) prescribing the circumstances and manner in which, and the times at which, payments are to be made, or amounts are to be reduced or extinguished;
  - (c) allowing retrospective adjustments for the purposes of the regulations, including provision allowing the Secretary of State to require reimbursement of repayments, or to alter the amounts reduced or extinguished;
  - (d) for imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to information to be given to the Secretary of State;
  - (e) for the reimbursement by the Secretary of State of costs incurred by persons or bodies in complying with any such requirements;
  - (f) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of the procedure to be followed in connection with the appeals).
- (4) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of the regulations (including any such function in relation to appeals).
- (5) Any arrangements made under subsection (4) shall not prevent the Secretary of State from exercising the function in question himself.
- (6) The Secretary of State may pay to any person or body by whom any function is exercisable by virtue of subsection (4) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that person or body in, or in connection with, the exercise of that function.
- (7) Any payment under subsection (6) may be made subject to such terms and conditions as the Secretary of State may determine.
- (8) Such conditions may in particular—
- (a) require the provision of returns or other information before any such payment is made;
  - (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.

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**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

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(9) In this section—

“prescribed” means prescribed by regulations;

“regulations” means regulations made under this section by the Secretary of State.

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

- C2** S. 186: functions made exercisable concurrently (30.9.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(2), **39(5)** (with art. 39(6))

*Education action zones*

**187 Education action zones**

Schedule 15 (which makes provision in relation to education action zones and Education Action Forums) shall have effect.

**Commencement Information**

- I23** S. 187 in force at 1.10.2002 for E. by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I24** S. 187 in force at 1.9.2003 so far as not already in force except in relation to W. by [S.I. 2003/1667](#), **art. 4**
- I25** S. 187 in force at 2.1.2008 for W. by [S.I. 2007/3611](#), [art. 4\(1\)](#), **Sch. Pt. 1**

*School inspections*

<sup>F18</sup>**188 School inspections**

.....

**Textual Amendments**

- F18** S. 188 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 19 Pt. 1**; [S.I. 2005/2034](#), [art. 4](#); [S.I. 2006/1338](#), [art. 3](#), [Sch. 1](#) (with [Sch. 4 para. 6](#))

*Qualifications*

**189 Amendments of Part 5 of Education Act 1997**

Schedule 17 (which contains amendments of Part 5 of the Education Act 1997 (c. 44) relating to the Qualifications and Curriculum Authority and the Qualifications, Curriculum and Assessment Authority for Wales) shall have effect.

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**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

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**Commencement Information**

**I26** S. 189 partly in force; s. 189 not in force at Royal Assent, see s. 216; s. 189 in force for certain purposes at 1.10.2002 by [S.I. 2002/2439](#), [art. 2](#) (with transitional provisions and savings in [Sch.](#)); s. 189 in force for certain further purposes at 19.12.2002 by [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. I](#)

**190** [<sup>F3</sup>Local authority] functions: qualifications

- (1) A [<sup>F3</sup>local authority] may award or authenticate academic and vocational qualifications, and may in particular—
  - (a) devise and administer a qualification or a course leading to a qualification,
  - (b) register candidates,
  - (c) set, administer and moderate examinations or other assessments, and
  - (d) require the payment of fees in respect of the exercise of the power.
- (2) A [<sup>F3</sup>local authority] may secure the exercise by any other person of such of the authority's powers under subsection (1) as the authority may specify.
- (3) A [<sup>F3</sup>local authority] may exercise their powers under this section by forming, or participating in forming, or being a member of, a body corporate.
- (4) The powers under this section shall be regarded as always having been within the powers of a [<sup>F3</sup>local authority]; and this section is without prejudice to the generality of the powers of a [<sup>F3</sup>local authority].

**Textual Amendments**

**F3** 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\(2\)](#)

*Special educational needs: Wales*

**<sup>F19</sup>191** Regional provision for special educational needs in Wales

.....

**Textual Amendments**

**F19** Ss. 191-193 omitted (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 21\(10\)](#); S.I. 2013/1800, art. 3(j)

**<sup>F19</sup>192** Directions to bring forward proposals to secure regional provision

.....

*Changes to legislation: Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

**F19** Ss. 191-193 omitted (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 21\(10\)](#); S.I. 2013/1800, art. 3(j)

### <sup>F19</sup>193 Powers of Assembly to make proposals to secure regional provision

.....

#### Textual Amendments

**F19** Ss. 191-193 omitted (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 21\(10\)](#); S.I. 2013/1800, art. 3(j)

### 194 Welsh [<sup>F1</sup>local authorities]' 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 [<sup>F3</sup>local 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 [<sup>F3</sup>local 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)—

- <sup>F20</sup>(a) .....
- (b) after subsection (3A) there is inserted—

“(3B) A [<sup>F3</sup>local 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.”

#### 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\(3\)](#)

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**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

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- F3** 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)**
- F20** S. 194(2)(a) omitted (1.9.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 16(4)(b)**; [S.I. 2014/889](#), **art. 7(a)** (with savings and transitional provisions in [S.I. 2014/2270](#) (as amended (1.4.2015) by [S.I. 2015/505](#)))

## 195 The Special Educational Needs Tribunal for Wales

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

### Commencement Information

- I27** S. 195 partly in force; s. 195 not in force at Royal Assent, see s. 216; s. 195 in force for certain purposes at 31.3.2003 by [S.I. 2002/3185](#), **art. 5, Sch. Pt. II** and for certain further purposes at 1.9.2003 by [S.I. 2002/3185](#), **art. 6, Sch. Pt. III**
- I28** S. 195 in force at 31.3.2003 for specified purposes by [S.I. 2002/3185](#), **art. 5, Sch. Pt. II**
- I29** S. 195 in force at 1.9.2003 for specified purposes by [S.I. 2002/3185](#), **art. 6, Sch. Pt. III**

### *Other provisions relating only to Wales*

## 196 Publication and provision of material

- (1) A [<sup>F3</sup>local authority] in Wales shall publish any qualifying material which the National Assembly for Wales provides to the authority for the purposes of this subsection.
- (2) A [<sup>F3</sup>local authority] in Wales shall provide to such persons as the Assembly may specify any qualifying material which the Assembly provides to the authority for the purposes of this subsection.
- (3) The governing body of any school maintained by a [<sup>F3</sup>local authority] in Wales shall provide to such persons as the Assembly may specify any qualifying material which the Assembly provides to the body for the purposes of this subsection.
- (4) For the purposes of this section, “qualifying material” is material the Assembly considers likely to—
  - (a) assist parents in choosing schools for their children,
  - (b) increase public awareness of the quality of education provided at schools, or a school, and of the educational standards achieved there, or
  - (c) assist in assessing the degree of efficiency with which the financial resources of schools, or a school, are managed.
- (5) No material published or provided under this section may name any individual to whom it relates.
- (6) The publication or provision of material by a [<sup>F3</sup>local authority] or governing body under this section shall be in such form and manner as may be prescribed.

### Textual Amendments

- F3** 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)**

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## 197 Partnership agreements and statements

- (1) The National Assembly for Wales may by regulations require any [<sup>F3</sup>local authority] in Wales to enter into a partnership agreement with the governing body of each school maintained by that authority, or each such school of a prescribed class.
- (2) For the purposes of this section, a partnership agreement is an agreement about how a [<sup>F3</sup>local authority] and the governing body of a school are to discharge their respective functions in relation to the school as regards—
  - (a) such matters as may be prescribed, and
  - (b) such other matters as the authority and the governing body may agree.
- (3) Where a [<sup>F3</sup>local authority] fail to reach agreement with the governing body of a school for the purposes of subsection (1), the authority may draw up a statement setting out how they and the governing body are to discharge their respective functions in relation to the school as regards the matters prescribed under subsection (2)(a).
- (4) Regulations under this section may—
  - (a) require the parties to a partnership agreement to review the agreement, and
  - (b) require a [<sup>F3</sup>local authority] that has drawn up a statement under this section and the governing body to which that statement relates to review the statement, at such intervals, or in such circumstances, as may be prescribed.
- (5) Following a review of a partnership agreement, the parties may agree—
  - (a) not to change the agreement,
  - (b) to amend the agreement in such a manner that it remains a partnership agreement, or
  - (c) to replace the agreement with a new partnership agreement,
 but, where they fail to do so, subsection (3) applies as it applies where a [<sup>F3</sup>local authority] and governing body fail to reach agreement for the purposes of subsection (1).
- (6) Following a review of a statement under subsection (3), the [<sup>F3</sup>local authority] and governing body in question may agree to replace the statement with a partnership agreement, but, where they fail to do so, the authority may amend the statement or draw up a new one (provided the amended or replacement statement is one that could have been drawn up under subsection (3)).
- (7) Regulations under this section may make provision for the time by which a [<sup>F3</sup>local authority] or governing body must comply with any requirement imposed on them by or under the preceding provisions of this section.
- (8) In the discharge of their functions in relation to a school maintained by a [<sup>F3</sup>local authority] in Wales—
  - (a) the authority, and
  - (b) the governing body and head teacher of the school,
 must have regard to any partnership agreement or statement under this section which for the time being has effect in relation to the school.

### Textual Amendments

- F3** 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\(2\)](#)

**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

#### Commencement Information

**I30** S. 197 in force at 1.9.2003 by [S.I. 2003/1718](#), art. 5, **Sch. Pt. II**

### 198 Transition from primary to secondary school

- (1) The National Assembly for Wales may require—
  - (a) the governing body of each secondary school maintained by a [<sup>F3</sup>local authority] in Wales, or of each such secondary school belonging to a class specified in the requirement, and
  - (b) the governing body of each of its feeder primary schools maintained by such an authority,  
jointly, to draw up plans to facilitate the transition from primary school to secondary school of pupils at those primary schools who are admitted to the secondary school.
- (2) In determining whether, for the purposes of this section, a particular school is to be regarded as a feeder primary school, in relation to a particular secondary school, regard is to be had to any guidance given, from time to time, by the Assembly.
- (3) Regulations may—
  - (a) provide for the Assembly to determine any disputes as to whether a particular school is a feeder primary school of a particular secondary school for the purposes of this section; and
  - (b) make provision about plans under this section, including provision which specifies the period within which such plans are to be drawn up and provision about the content, review and amendment of such plans.
- (4) In carrying out any functions conferred on them by or under this section, governing bodies must have regard to any guidance given, from time to time, by the Assembly.
- (5) In the discharge of their functions under any enactment, the governing body of a school maintained by a [<sup>F3</sup>local authority] in Wales, and the head teacher of that school, must have regard to any plans drawn up by the governing body under this section which for the time being have effect.

#### Textual Amendments

**F3** 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

**I31** S. 198 in force at 31.3.2004 by [S.I. 2004/912](#), art. 4, **Sch. Pt. 1**

#### *Provision of services*

### 199 Transport for persons over compulsory school age

Schedule 19 (transport for persons over compulsory school age) shall have effect.

**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

#### Commencement Information

- I32** S. 199 partly in force; s. 199 not in force at Royal Assent, see s. 216; s. 199 in force for E. at 20.1.2003 by [S.I. 2002/2952](#), [art. 2](#) (with savings and transitional provisions in [Sch.](#))
- I33** S. 199 in force at 20.1.2003 except in relation to W. by [S.I. 2002/2952](#), [art. 2](#)
- I34** S. 199 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), [art. 5](#), [Sch. Pt. II](#)

## 200 Remission of charges relating to residential trips

In section 457 of the Education Act 1996 (c. 56) (charges and remissions policies), in subsection (4) (entitlement to complete remission of charges in respect of board and lodging on a residential trip), for paragraph (b) there is substituted—

- “(b) the pupil’s parent is—
- (i) in receipt of income support,
  - (ii) in receipt of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995), or
  - (iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed,
- in respect of any period wholly or partly comprised in the time spent on the trip.”

#### Commencement Information

- I35** S. 200 partly in force; s. 200 not in force at Royal Assent, see s. 216; s. 200 in force for W. at 31.3.2003 by [S.I. 2002/3185](#), [art. 5](#), [Sch. Pt. II](#)
- I36** S. 200 in force at 31.3.2003 for W. by [S.I. 2002/3185](#), [art. 5](#), [Sch. Pt. II](#)
- I37** S. 200 in force at 6.4.2003 except in relation to W. by [S.I. 2003/124](#), [art. 5](#)

## 201 [<sup>F3</sup>Local authority] functions concerning school lunches, milk etc.

- (1) For section 512 of the Education Act 1996 (provision of meals etc. at schools maintained by [<sup>F1</sup>local authorities]) there is substituted—

### [<sup>F3</sup>“Local authority] functions concerning provision of meals, etc.

- (1) A [<sup>F3</sup>local authority] may provide—
- (a) registered pupils at any school maintained by the authority,
  - (b) other persons who receive education at such a school, and
  - (c) children who receive relevant funded nursery education,
- with milk, meals and other refreshments.
- (2) Where provision is made under subsection (1), it shall be made—
- (a) in a case within paragraph (a) or (b) of that subsection, either on the school premises or at any other place where education is being provided, and
  - (b) in a case within paragraph (c) of that subsection, at any place where education is being provided.

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**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

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- (3) A [F3local authority] shall exercise their power under subsection (1) to provide school lunches for any person within paragraph (a) or (c) of that subsection if—
- (a) any prescribed requirements are met,
  - (b) a request for the provision of school lunches has been made by or on behalf of that person to the authority, and
  - (c) either—
    - (i) that person is eligible for free lunches (within the meaning of section 512ZB(2)), or
    - (ii) in the case of a person within subsection (1)(a), it would not be unreasonable for the authority to provide the lunches.
- (4) Subject to section 114(2) of the School Standards and Framework Act 1998 (c. 31) (lunches provided by [F1local authorities] to meet nutritional standards), any school lunches provided by a [F3local authority] pursuant to subsection (3) may take such form as the authority think fit.
- (5) A [F3local authority] shall provide at any school maintained by them such facilities as they consider appropriate for the consumption of any meals or other refreshment brought to the school by registered pupils.
- (6) In this section—
- “prescribed” means prescribed by the Secretary of State by order;
  - “relevant funded nursery education”, in relation to a [F3local authority], means education provided by a person other than the governing body of a maintained school (within the meaning of section 20(7) of the School Standards and Framework Act 1998) or a maintained nursery school—
    - (a) under arrangements made with that person by the authority in pursuance of the duty imposed on the authority by section 118 of that Act (duty of [F3local authority] to secure sufficient nursery education), and
    - (b) in consideration of financial assistance provided by the authority under those arrangements;
  - “school lunch”—
    - (a) in relation to a pupil, means food made available for consumption by the pupil as his midday meal on a school day, and
    - (b) in relation to a child receiving relevant funded nursery education at an establishment other than a school, means food made available for consumption by the child as his midday meal on a day on which he receives that education,
- whether involving a set meal or the selection of items by him or otherwise;
- and references, in relation to a [F3local authority], to a school maintained by the authority are to a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school or a pupil referral unit maintained by the authority.

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### **512ZA Duty to charge for meals etc.**

- (1) A [<sup>F3</sup>local authority] shall charge for anything provided by them under subsection (1) or (3) of section 512.
- (2) A [<sup>F3</sup>local authority] shall charge every person the same price for the same quantity of the same item.
- (3) This section is subject to section 512ZB.

### **512ZB Provision of free school lunches and milk**

- (1) Where the [<sup>F3</sup>local authority] provide a school lunch in accordance with section 512(3) to a person who is eligible for free lunches, the authority shall provide the meal free of charge.
  - (2) For this purpose a person is eligible for free lunches if—
    - (a) he is within subsection (4), and
    - (b) a request that the school lunches be provided free of charge has been made by him or on his behalf to the authority.
  - (3) Where a [<sup>F3</sup>local authority] exercise their power under subsection (1) of section 512 to provide a person within paragraph (a) or (c) of that subsection with milk, the authority shall provide the milk free of charge if—
    - (a) the person is within subsection (4), and
    - (b) a request that the milk be provided free of charge has been made by him or on his behalf to the authority.
  - (4) A person is within this subsection if—
    - (a) his parent is—
      - (i) in receipt of income support,
      - (ii) in receipt of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995 (c. 18)),
      - (iii) in receipt of support provided under Part 6 of the Immigration and Asylum Act 1999 (c. 33), or
      - (iv) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 (c. 21) or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed, or
    - (b) he, himself, is—
      - (i) in receipt of income support,
      - (ii) in receipt of an income-based jobseeker’s allowance, or
      - (iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 (c. 21) or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed.
  - (5) In this section “prescribed” and “school lunch” have the same meaning as in section 512.”
- (2) In section 512A of that Act (transfer of functions under section 512 to governing bodies)—

**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

- (a) in subsection (2)—
    - (i) in paragraph (a) for “section 512(1A) and (1B)” there is substituted “ section 512(3) and (4) ”,
    - (ii) in paragraph (b) for “section 512(3)(a)” there is substituted “ section 512ZB(1) ”, and
    - (iii) in paragraph (c) for “section 512(3)(b)” there is substituted “ section 512ZB(3) ”, and
  - (b) in subsection (6) for “section 512(2)(b)” there is substituted “ section 512ZA(2) ”.
- (3) In section 114 of the School Standards and Framework Act 1998 (c. 31) (nutritional standards for school lunches for pupils at schools maintained by [<sup>F1</sup>local authorities])
- (a) in subsection (1), after “lunches for” there is inserted “ (a) ” and after “authorities” there is inserted “, or
    - (b) other persons who are provided with school lunches free of charge in accordance with section 512ZB of the Education Act 1996;”,
  - (b) in subsection (2), after “a school” there is inserted “ or for such other persons who are provided with school lunches free of charge ”, and
  - (c) in subsection (3)(b), at the beginning there is inserted “ in the case of lunches provided to registered pupils at schools maintained by [<sup>F1</sup>local authorities], ”.

#### 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(3)**
- F3** 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

- I38** S. 201 partly in force; s. 201 not in force at Royal Assent, see s. 216; s. 201(1) in force for certain purposes and s. 201(2)(3) in force for W. at 31.3.2003 by [S.I. 2002/3185](#), **art. 5, Sch. Pt. II**
- I39** S. 201 in force at 6.4.2003 for specified purposes except in relation to W. by [S.I. 2003/124](#), **art. 5** (with [art. 6](#))
- I40** S. 201(1) in force at 31.3.2003 for specified purposes for W. by [S.I. 2002/3185](#), **art. 5, Sch. Pt. II**
- I41** S. 201(2)(3) in force at 31.3.2003 for W. by [S.I. 2002/3185](#), **art. 5, Sch. Pt. II**

### Miscellaneous

#### 202 Further education institutions: records

- (1) Regulations may make provision about the compilation, retention and disclosure of educational records of further education institutions.
- (2) The regulations may, in particular, impose a function on—
  - (a) a [<sup>F3</sup>local authority], or
  - (b) the governing body of a further education institution.

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- (3) The regulations may, in particular, make a duty to provide a copy of a record conditional on the payment of a charge which does not exceed the cost of providing the copy.
- (4) In this section “further education institution” has the same meaning as in section 140.

#### Textual Amendments

**F3** 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

**I42** S. 202 in force at 1.8.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 3**

**I43** S. 202 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), **art. 5, Sch. Pt. II**

### 203 Further education institutions: hazardous material, etc.

- (1) The Secretary of State may by regulations require the governing body of a further education institution in England to prevent the use in the institution of specified equipment or specified materials without the approval of the Secretary of State.
- [<sup>F21</sup>(1A) The Secretary of State may by regulations require the proprietor of a 16 to 19 Academy to prevent the use in the Academy of specified equipment or specified materials without the approval of the Secretary of State.]
- (2) The Secretary of State may specify equipment or materials under this section only if he thinks the equipment or materials might endanger a person’s health or safety.
- (3) The National Assembly for Wales may by regulations require the governing body of a further education institution in Wales to prevent the use in the institution of specified equipment or specified materials without the approval of the Assembly.
- (4) The National Assembly for Wales may specify equipment or materials under this section only if it thinks the equipment or materials might endanger a person’s health or safety.
- (5) In this section “further education institution” means an institution within the further education sector [<sup>F22</sup>and “proprietor” has the same meaning as in the Education Act 1996].

#### Textual Amendments

**F21** S. 203(1A) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 13(5)(a)**; [S.I. 2012/924](#), **art. 2**

**F22** Words in s. 203(5) inserted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 13 para. 13(5)(b)**; [S.I. 2012/924](#), **art. 2**

#### Commencement Information

**I44** S. 203 in force at 1.8.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 3**

**I45** S. 203 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), **art. 5, Sch. Pt. II**

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## 204 Baseline assessments

Chapter 1 of Part 4 of the Education Act 1997 (c. 44) (baseline assessments) shall cease to have effect.

### Commencement Information

- I46** S. 204 in force at 2.9.2002 for E. by [S.I. 2002/2002, art. 4](#)  
**I47** S. 204 in force at 1.9.2011 for W. by [S.I. 2011/1952, art. 2\(a\)](#)

## 205 Application of Part 5 of Education Act 1996 to nursery education

Section 410 of the Education Act 1996 (c. 56) (which excludes the application of Part 5 of that Act in relation to a nursery school or in relation to a nursery class at a primary school) shall cease to have effect.

### Commencement Information

- I48** S. 205 partly in force; s. 205 not in force at Royal Assent, see s. 216; s. 205 in force for certain purposes for E. at 1.10.2002 by [S.I. 2002/2439, art. 3](#) (with transitional provisions and savings in [art. 4, Sch.](#))  
**I49** S. 205 in force at 1.8.2008 for W. by [S.I. 2008/1728, art. 3, Sch. Pt. 2](#)

## 206 Nuisance or disturbance on educational premises

Schedule 20 (nuisance or disturbance on educational premises) shall have effect.

### Commencement Information

- I50** S. 206 partly in force; s. 206 not in force at Royal Assent, see s. 216; s. 206 in force for certain purposes for E. at 1.10.2002 by [S.I. 2002/2439, art. 3](#) (with transitional provisions and savings in [art. 4, Sch.](#))  
**I51** S. 206 in force at 1.9.2003 for W. by [S.I. 2003/1718, art. 5, Sch. Pt. II](#)

## 207 Recoupment: adjustment between <sup>F1</sup>local authorities]

- (1) Regulations may provide, in relation to cases where any provision for education to which this section applies is made by a <sup>F3</sup>local authority] (in this section referred to as “the providing authority”) in respect of a person who belongs to the area of another <sup>F3</sup>local authority], for requiring or authorising the other authority (in this section referred to as the “home authority”) to pay to the providing authority—
- (a) such amount as the authorities may agree, or
  - (b) failing agreement, such amount as may be determined by or under the regulations.
- (2) This section applies to <sup>F23</sup>—
- (a) primary education;
  - (b) secondary education;

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- (c) education provided under section 562C of the Education Act 1996 (detention of persons with special educational needs: appropriate special educational provision).]
- (3) The regulations may provide for the amounts payable by one authority to another—
- (a) to reflect the whole or any part of the average costs incurred by [<sup>F1</sup>local authorities] in the provision of education (whether in England and Wales as a whole or in any particular area or areas), and
  - (b) to be based on figures for average costs determined by such body or bodies representing [<sup>F1</sup>local authorities], or on such other figures relating to costs so incurred, as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate.
- (4) Regulations made under this section in relation to Wales by the National Assembly for Wales may provide for the amounts so payable, in such cases as may be specified in or determined in accordance with the regulations, to be such amounts as may be determined—
- (a) where the providing authority and the home authority are both in Wales, by the National Assembly for Wales, or
  - (b) where the providing authority is in Wales and the home authority is in England, by the Assembly with the consent of the Secretary of State.
- (5) Any dispute between [<sup>F1</sup>local authorities] in Wales as to whether one of them is entitled to be paid any amount by another under the regulations shall be determined by the National Assembly for Wales.
- (6) Any dispute between a providing authority in Wales and a home authority in England as to whether the providing authority is entitled to be paid any amount by the home authority under the regulations shall be determined by the National Assembly for Wales with the consent of the Secretary of State.
- (7) In this section references to provision for education include provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education.

#### 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(3)**
- F3** 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)**
- F23** Words in s. 207(2) substituted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 2 para. 14**; S.I. 2010/303, art. 6, Sch. 5

#### Commencement Information

- I52** S. 207 in force at 1.4.2003 except in relation to W. by [S.I. 2003/124](#), **art. 4**
- I53** S. 207 in force at 9.1.2004 for W. by [S.I. 2003/2961](#), **art. 7, Sch. Pt. IV**

## 208 Recoupment: special cases

- (1) In section 493 of the Education Act 1996 (c. 56) (recoupment: cross-border provisions) for subsection (2) there is substituted—

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“(2) Subsection (3) of section 207 of the Education Act 2002 (recoupment: adjustment between [<sup>F1</sup>local authorities] ) shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the reference to the National Assembly for Wales.

(2A) The regulations may provide for the amounts payable by one authority to another, in such cases as may be specified by or under the regulations, to be such amounts as may be determined by the Secretary of State.”

(2) The function of making regulations under section 494 of the Education Act 1996 (recoupment: excluded pupils), so far as exercisable in relation to Wales, is hereby transferred to the National Assembly for Wales.

(3) The function mentioned in subsection (2) is to be treated as having been transferred to the National Assembly for Wales by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38); and, accordingly, the transfer may be revoked or varied by an Order in Council under that section.

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**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(3)**

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**Commencement Information**

**I54** S. 208 in force at 1.4.2003 except in relation to W. by [S.I. 2003/124](#), **art. 4**  
**I55** S. 208 in force at 9.1.2004 for W. by [S.I. 2003/2961](#), **art. 7, Sch. Pt. IV**

<sup>F25</sup><sup>F24</sup>**208A** **Recoupment: adjustment between [<sup>F1</sup>local authorities] and the YPLA**

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**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(3)**  
**F24** S. 208A inserted (1.4.2010 for E., 1.4.2011 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3)(4), **Sch. 6 para. 55**; [S.I. 2010/303](#), art. 3, Sch. 2; [S.I. 2011/829](#), art. 2(e)  
**F25** S. 208A omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 20**; [S.I. 2012/924](#), art. 2

<sup>F26</sup>**209** **Paid chairmen for local learning and skills councils**

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**Textual Amendments**

**F26** S. 209 repealed (21.2.2008) by [Further Education and Training Act 2007 \(c. 25\)](#), s. 32(5), **Sch. 2**; [S.I. 2008/313](#), art. 2(j)

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### Commencement Information

**I56** S. 209 in force at 1.4.2003 by S.I. 2003/124, art. 3

### General

## 210 Orders and regulations

- (1) Subject to subsection (2), any power of the Secretary of State or [<sup>F27</sup>the Welsh Ministers] to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Subsection (1) does not apply to any order under—
  - (a) section 165 or 192, or
  - (b) paragraph 3(6) or 5 of Schedule 1.
- (3) No order shall be made by the Secretary of State under—
  - (a) section 80(3),
  - (b) section 82(4)(b),
  - <sup>F28</sup>(c) .....
  - (d) section 84(6),
  - (e) section 86, or
  - (f) section 125(4),

unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subject to subsections (5) and (6), a statutory instrument which contains any order or regulations made under this Act by the Secretary of State and is not subject to the requirement in subsection (3) that a draft of the instrument be laid before and approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to an order under—
  - (a) section 7(2),
  - (b) section [<sup>F29</sup>87(3)(c)],
  - (c) section 128(2), or
  - (d) section 216.
- (6) If an order under section 122 contains only provisions which in the opinion of the Secretary of State give effect without significant modification to recommendations of the School Teachers' Review Body—
  - (a) the order shall contain a statement to that effect, and
  - (b) subsection (4) shall not apply.
- <sup>F30</sup>(6A) Any statutory instrument containing regulations [<sup>F31</sup>[<sup>F32</sup>or an order]] made under section [<sup>F33</sup>32C(5)]<sup>F34</sup> ... <sup>F35</sup> ... by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales <sup>F36</sup>....
- <sup>F37</sup>(6AB) .....
- (6B) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any

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statutory instrument containing regulations or an order made in exercise of functions conferred upon the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.]

- (7) Any power of the Secretary of State or [<sup>F38</sup>the Welsh Ministers] to make an order or regulations under this Act includes power—
- (a) to make different provisions for different cases or areas,
  - (b) to make provision generally or only in relation to specific cases, and
  - (c) to make such incidental, supplemental, saving or transitional provisions as the Secretary of State or [<sup>F39</sup>the Welsh Ministers think] fit.
- (8) Nothing in this Act shall be regarded as affecting the generality of subsection (7).

#### Textual Amendments

- F27** Words in s. 210(1) substituted (6.3.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 21(3)(a)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1
- F28** S. 210(3)(c) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 16(a), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F29** Words in s. 210(5)(b) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 1 para. 16(b)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F30** S. 210(6A)(6B) inserted (6.3.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 21(3)(b)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1
- F31** Words in s. 210(6A) inserted (7.12.2009) by [Learning and Skills \(Wales\) Measure 2009 \(nawm 1\)](#), **ss. 20(2)(a)**, 49(2); S.I. 2009/3174, art. 2(1)(j)
- F32** Words in s. 210(6A) omitted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by virtue of [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), **Sch. 2 para. 6(5)**
- F33** Word in s. 210(6A) substituted (14.7.2014) by [Education \(Wales\) Act 2014 \(anaw 5\)](#), s. 50(4), **Sch. 3 para. 1(6)**; S.I. 2014/1605, art. 2(d)
- F34** Words in s. 210(6A) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 21**; S.I. 2012/924, art. 2
- F35** Words in s. 210(6A) omitted (30.4.2021) by virtue of [Curriculum and Assessment \(Wales\) Act 2021 \(asc 4\)](#), s. 84(1), **Sch. 2 para. 46(2)(a)** (with savings and transitional provisions in S.I. 2022/111, regs. 1, 3)
- F36** Words in s. 210(6A) omitted (30.4.2021) by virtue of [Curriculum and Assessment \(Wales\) Act 2021 \(asc 4\)](#), s. 84(1), **Sch. 2 para. 46(2)(b)** (with savings and transitional provisions in S.I. 2022/111, regs. 1, 3)
- F37** S. 210(6AB) omitted (30.4.2021) by virtue of [Curriculum and Assessment \(Wales\) Act 2021 \(asc 4\)](#), s. 84(1), **Sch. 2 para. 46(3)** (with savings and transitional provisions in S.I. 2022/111, regs. 1, 3)
- F38** Words in s. 210(7) substituted (6.3.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 21(3)(c)(i)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1
- F39** Words in s. 210(7)(c) substituted (6.3.2009) by [Learner Travel \(Wales\) Measure 2008 \(nawm 2\)](#), **ss. 21(3)(c)(ii)**, 28(2); S.I. 2009/371, art. 2(1), Sch. Pt. 1

## 211 Wales

- (1) Subsection (2) applies where—
- (a) this Act confers a function (in this section referred to as “the new function”) on the Secretary of State by amendment of another Act, and
  - (b) any functions under that Act have before the passing of this Act been transferred to the National Assembly for Wales by an Order in Council

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under section 22 of the Government of Wales Act 1998 (c. 38) (transfer of Ministerial functions).

- (2) The new function, so far as exercisable in relation to Wales, is to be treated as having been transferred to the National Assembly for Wales by an Order in Council under section 22 of the Government of Wales Act 1998 and, accordingly, the transfer may be varied or revoked by an Order in Council under that section.
- (3) For the purposes of section 22 of the Government of Wales Act 1998, an Order in Council made by virtue of subsection (2) or section 208(3) is to be treated as if it were revoking or varying a previous Order in Council.
- (4) Subsection (2) does not apply in relation to the amendment made by section 208(1).

## 212 General interpretation

- (1) In this Act, unless the context otherwise requires—
  - “contract of employment” has the meaning given by section 230(2) of the Employment Rights Act 1996 (c. 18);
  - [<sup>F40</sup>“local authority” has the same meaning as in the Education Act 1996 (see section 579(1) of that Act);]
  - “the [<sup>F3</sup>local authority]”, in relation to a school maintained (or proposed to be maintained) by a [<sup>F3</sup>local authority], means that authority;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made under this Act by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales).
- (2) Subject to subsection (4), the Education Act 1996 (c. 56) and the provisions of this Act specified in subsection (3) are to be construed as if those provisions were contained in that Act.
- (3) The provisions of this Act referred to in subsection (2) are—
  - (a) Part 1 (provision for new legal frameworks),
  - (b) Part 2 (financial assistance for education and childcare),
  - (c) Part 3 (maintained schools),
  - (d) Part 5 (school organisation), except section 72 and Schedule 9,
  - (e) [<sup>F41</sup>Parts 6 and 7][<sup>F41</sup>Part 6] (the curriculum),
  - (f) in Part 8, sections 119 to 146,
  - (g) in Part 9, section 153,
  - (h) Part 10 (independent schools), and
  - (i) in this Part, sections 175 and 176, sections 181 to 185, sections 190 to 198 and section 207.
- (4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of the Education Act 1996 (c. 56), the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.
- (5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of the School Standards and Framework Act 1998 (c. 31).

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### Textual Amendments

- F3** 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)**
- F40** Words in s. 212(1) inserted (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(12)**
- F41** Words in s. 212(3)(e) substituted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), **reg. 1(3), Sch. 2 para. 6(6)**

## 213 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money provided by Parliament.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

## 214 Transitional provisions etc.

- (1) Regulations may at any time make such incidental, consequential, transitional or supplementary provision as appears to the Secretary of State, or as the case may be the National Assembly for Wales, to be necessary or expedient for the general purposes, or any particular purposes, of this Act or in consequence of any of its provisions or for giving full effect to it.
- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) for any provision of this Act which comes into force before—
    - (i) another such provision has come into force, or
    - (ii) anything falling to be done under another such provision has been done,to have effect, until that other provision has come into force or (as the case may be) that thing has been done, with such modifications as are specified in the regulations;
  - (b) for amending, repealing or revoking (with or without savings) any statutory provision passed or made before the passing of this Act, for applying any such provision (with or without modification) and for making savings or additional savings from the effect of any amendment or repeal made by this Act.
- (3) The amendments that may be made under subsection (2)(b) shall be in addition (and without prejudice) to those made by any other provision of this Act.
- (4) Nothing in this Act shall be read as prejudicing the generality of subsection (1).
- (5) In this section “statutory provision” has the same meaning as in Chapter 1 of Part 3.

## 215 Minor and consequential amendments and repeals

- (1) Schedule 21 (which contains minor and consequential amendments) shall have effect.

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- (2) The enactments specified in the first column of Schedule 22 (which include spent provisions) are repealed to the extent specified in the second column.

#### Commencement Information

- I57** S. 215 partly in force; s. 215 not in force at Royal Assent, see s. 216; s. 215(2) in force for certain purposes for E. at 26.7.2002 by [S.I. 2002/2002, art. 3](#); s. 215 in force for certain further purposes for E. at 2.9.2002 by [S.I. 2002/2002, art. 4](#); s. 215 in force for certain purposes at 1.10.2002 by [S.I. 2002/2439, arts. 2, 3](#) (with [Sch.](#)); s. 215 in force for certain further purposes for E. at 20.1.2003 by [S.I. 2002/2952, art. 2](#) (with [art. 3, Sch.](#)); s. 215(1) in force for certain purposes for W. and s. 215(2) in force for certain purposes at 19.12.2002 by [S.I. 2002/3185, art. 4, Sch. Pt. I](#) (with [art. 7](#))
- I58** S. 215 in force at 20.1.2003 for specified purposes except in relation to W. by [S.I. 2002/2952, art. 2](#)
- I59** S. 215 in force at 31.3.2003 for specified purposes for W. by [S.I. 2002/3185, art. 5, Sch. Pt. II](#)
- I60** S. 215 in force at 1.4.2003 for specified purposes except in relation to W. by [S.I. 2003/124, art. 4](#)
- I61** S. 215 in force at 1.6.2003 for specified purposes except in relation to W. by [S.I. 2003/1115, art. 3](#)
- I62** S. 215 in force at 1.8.2003 for specified purposes by [S.I. 2003/1667, art. 2](#)
- I63** S. 215 in force at 1.8.2003 for specified purposes except in relation to W. by [S.I. 2003/1667, art. 3](#)
- I64** S. 215 in force at 1.9.2003 for specified purposes for W. by [S.I. 2003/1718, art. 5, Sch. Pt. II](#)
- I65** S. 215 in force at 1.9.2003 for specified purposes except in relation to W. by [S.I. 2003/1667, art. 4](#)
- I66** S. 215 in force at 1.10.2003 for specified purposes except in relation to W. by [S.I. 2003/1667, art. 5](#)
- I67** S. 215 in force at 4.12.2003 for specified purposes for W. by [S.I. 2003/2961, art. 5, Sch. Pt. II](#)
- I68** S. 215 in force at 1.1.2004 for specified purposes for W. by [S.I. 2003/2961, art. 6, Sch. Pt. III](#)
- I69** S. 215 in force at 9.1.2004 for specified purposes for W. by [S.I. 2003/2961, art. 7, Sch. Pt. IV](#)
- I70** S. 215 in force at 31.3.2004 for specified purposes for W. by [S.I. 2004/912, art. 4, Sch. Pt. 1](#)
- I71** S. 215 in force at 1.8.2004 for specified purposes for W. by [S.I. 2004/912, art. 5, Sch. Pt. 2](#)
- I72** S. 215 in force at 1.9.2004 for specified purposes for W. by [S.I. 2004/1728, art. 5, Sch. Pt. 2](#)
- I73** S. 215 in force at 31.5.2005 for specified purposes for W. by [S.I. 2005/1395, art. 4, Sch.](#)
- I74** S. 215 in force at 31.10.2005 for specified purposes for W. by [S.I. 2005/2910, art. 4, Sch.](#)
- I75** S. 215 in force at 1.4.2006 for specified purposes for W. by [S.I. 2006/879, art. 4, Sch.](#)
- I76** S. 215 in force at 6.11.2006 for specified purposes except in relation to W. by [S.I. 2006/2895, art. 2](#)
- I77** S. 215 in force at 2.1.2008 for specified purposes for W. by [S.I. 2007/3611, art. 4\(1\), Sch. Pt. 1](#)
- I78** S. 215 in force at 1.8.2008 in so far as relating to the provisions of Schedules 21 and 22 for specified purposes for W. by [S.I. 2008/1728, art. 3, Sch. Pt. 2](#)
- I79** S. 215(1) in force at 1.3.2003 for specified purposes except in relation to W. by [S.I. 2003/124, art. 2](#)
- I80** S. 215(1) in force at 1.8.2004 for specified purposes for W. by [S.I. 2004/1728, art. 4, Sch. Pt. 1](#)
- I81** S. 215(2) in force at 6.4.2003 for specified purposes except in relation to W. by [S.I. 2003/124, art. 5](#)
- I82** S. 215(2) in force at 1.8.2003 for specified purposes for W. by [S.I. 2003/1718, art. 4, Sch. Pt. I](#)
- I83** S. 215(2) in force at 1.9.2003 for specified purposes by [S.I. 2002/3185, art. 6, Sch. Pt. III](#)
- I84** S. 215(2) in force at 1.2.2006 for specified purposes for W. by [S.I. 2006/172, art. 4, Sch.](#)
- I85** S. 215(2) in force at 31.3.2008 for specified purposes for W. by [S.I. 2007/3611, art. 4\(2\), Sch. Pt. 2](#)
- I86** [S. 215\(2\)](#) in force at 1.9.2011 for specified purposes for W. by [S.I. 2011/1952, art. 2\(b\)](#)

## 216 Commencement

- (1) The following provisions shall come into force on the day on which this Act is passed—
- section 13,
  - section 52(7) to (10),
  - section 147,
  - section 186,

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**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

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section 190,  
sections 210 to 214, and  
this section and section 217.

- (2) The following provisions shall come into force in accordance with provision made by the Secretary of State by order—
- sections 65 to 69 and Schedule 7,
  - section 70 and Schedule 8,
  - section 71,
  - section 73,
  - Part 6,
  - sections 119 to 130 and Schedule 11,
  - section 209,
  - [<sup>F42</sup>paragraphs 1 to 4 and 9 of Schedule 17, and section 189 so far as relating to those paragraphs,]
  - paragraphs 14, 17, 18, 56, 91 and 119 of Schedule 21, and section 215(1) so far as relating to those paragraphs, and
  - Part 1 of Schedule 22, and section 215(2) so far as relating to that Part.
- (3) The following provisions shall come into force in accordance with provision made by the National Assembly for Wales by order—
- [<sup>F43</sup>Part 7,]
  - section 139,
  - sections 191 to 198 and Schedule 18,
  - paragraphs 5 to 8 of Schedule 17, and section 189 so far as relating to those paragraphs, and
  - Part 2 of Schedule 22, and section 215(2) so far as relating to that Part.
- (4) Subject to subsections (1) to (3), this Act shall come into force—
- (a) except in relation to Wales, in accordance with provision made by the Secretary of State by order, and
  - (b) in relation to Wales, in accordance with provision made by the National Assembly for Wales by order.
- (5) An order under this section may—
- (a) make provision generally or for specified purposes only,
  - (b) make different provision for different purposes, and
  - (c) contain such transitional provisions and savings as the person making the order thinks fit.

#### Subordinate Legislation Made

**PI** S. 216(4) power partly exercised: different dates appointed for specified provisions and certain purposes by {S.I. 2002/2002}, arts. 2-4 (as amended by S.I. 2002/2018); s. 216(4) power partly exercised 1.10.2002 appointed for specified provisions and certain purposes by S.I. 2002/2439, arts. 2, 3 (with transitional and saving provisions in Sch.); s. 216(4) power partly exercised: 20.1.2003 appointed for specified provisions and certain purposes by {S.I. 2002/2952}, art. 2 (with transitional and saving provisions in Sch.); s. 216(4) power partly exercised: different dates appointed for specified provisions and certain purposes by {S.I. 2002/3185}, arts. 4-6, Sch. (with transitional provisions and savings in art. 7)

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**Changes to legislation:** Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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

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#### Textual Amendments

- F42** Words in s. 216(2) repealed (1.4.2010 for E., 1.11.2010 for W.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a)
- F43** Words in s. 216(3) omitted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by virtue of [The Curriculum and Assessment \(Wales\) Act 2021 \(Consequential Amendments\) \(Primary Legislation\) Regulations 2022 \(S.I. 2022/744\)](#), reg. 1(3), **Sch. 2 para. 6(7)**

#### 217 Short title and extent

- (1) This Act may be cited as the Education Act 2002.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).
- (3) Any amendment or repeal in this Act has the same extent as the provision amended or repealed.
- (4) Except as provided by subsection (3), this Act extends to England and Wales only.

**Changes to legislation:**

Education Act 2002, Part 11 is up to date with all changes known to be in force on or before 03 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](#)