



Education Act 2002

2002 CHAPTER 32

PART 4

POWERS OF INTERVENTION

Local education authorities

60 Powers of Secretary of State to secure proper performance of LEA's functions

(1) Section 497A of the Education Act 1996 (c. 56) (power to secure proper performance of functions of local education authority) is amended as follows.

(2) For subsection (1) there is substituted—

“(1) This section applies to a local education authority's functions under this Act and to other functions (of whatever nature) which are conferred on them in their capacity as a local education authority.”

(3) In subsection (2), for “(3) or (4)” there is substituted “(4), (4A) or (4B)”.

(4) After subsection (2) there is inserted—

“(2A) The Secretary of State may also exercise his powers under subsection (4), (4A) or (4B) where—

- (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a local education authority in respect of any function to which this section applies, and
- (b) he is satisfied that it is likely that if no further direction were given under subsection (4), (4A) or (4B) on the expiry or revocation of the previous direction the authority would fail in any respect to perform that function to an adequate standard (or at all).”

(5) Subsection (3) is omitted.

(6) For subsection (4) there is substituted—

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“(4) The Secretary of State may under this subsection give the authority or an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed on behalf of the authority by such person as is specified in the direction; and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified.”

(7) After subsection (4) there is inserted—

“(4A) The Secretary of State may under this subsection direct that the function shall be exercised by the Secretary of State or a person nominated by him and that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of the function.

(4B) The Secretary of State may under this subsection (whether or not he exercises the power conferred by subsection (4) or (4A) in relation to any function) give the authority or an officer of the authority such other directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed to an adequate standard.”

(8) For subsection (5) there is substituted—

“(5) Where the Secretary of State considers it expedient that—

- (a) in the case of directions given under subsection (4), the person specified in the directions, or
- (b) in the case of directions given under subsection (4A), the Secretary of State or a person nominated by him,

should perform other functions to which this section applies in addition to the function to which subsection (2) or (2A) applies, the directions under subsection (4) or (4A) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.”

(9) In subsection (6), for paragraph (b) there is substituted—

“(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.”

(10) In subsection (7), for “(3) or (4)” there is substituted “(4), (4A) or (4B)”.

61 Power to secure proper performance: duty of authority where directions contemplated

After section 497A of the Education Act 1996 (c. 56) there is inserted—

“497AA Power to secure proper performance: duty of authority where directions contemplated

Where, in relation to any function to which section 497A applies, the Secretary of State—

- (a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and

- (b) has notified the local education authority that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.”

62 Power to secure proper performance: further provisions

- (1) Section 497B of the Education Act 1996 is amended as follows.
- (2) In subsection (1), for the words from “section 497A(4)” to “those directions” there is substituted “section 497A(4) or (4A) to a local education authority or to an officer of such an authority, the specified person”.
- (3) After that subsection there is inserted—
 - “(1A) In this section “the specified person” means—
 - (a) in relation to directions under section 497A(4), the person specified in the directions, and
 - (b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him.”

63 Power to require LEA to obtain advisory services

- (1) This section applies where—
 - (a) in relation to one or more schools maintained by a local education authority, section 15 of the School Standards and Framework Act 1998 (c. 31) (cases where local education authority may exercise powers of intervention) applies by virtue of either of the following provisions of that section—
 - (i) subsection (4) (school with serious weaknesses), or
 - (ii) subsection (6) (school requiring special measures), and
 - (b) it appears to the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) that the local education authority—
 - (i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,
 - (ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or
 - (iii) maintain a disproportionate number of schools falling within that paragraph.
- (2) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct the local education authority to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class so specified, for the provision to the authority or the governing body of any school maintained by them (or both), of specified services of an advisory nature.
- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
- (4) In this section “school” means a maintained school within the meaning of Chapter 2 of Part 1 of the School Standards and Framework Act 1998 (c. 31).

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- (5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State or, as the case may be, of the National Assembly for Wales, by a mandatory order.

64 Provisions supplementary to section 63

- (1) Where section 63 applies in relation to a local education authority and the Secretary of State or the National Assembly for Wales has notified the authority that he or it is contemplating the giving of a direction under that section, the authority shall give the Secretary of State or the Assembly, and any person authorised by the Secretary of State or the Assembly for the purposes of this subsection, such assistance, in connection with the proposed contract or other arrangement, as the authority are reasonably able to give.
- (2) Where a direction under section 63 is given to a local education authority, the relevant person shall be entitled, for the purposes of providing the advisory services, to exercise the powers conferred by subsections (3) to (6).
- (3) The relevant person shall have at all reasonable times—
- (a) a right of entry to the premises of the authority, and
 - (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the provision of the advisory services.
- (4) Section 497B(3) of the Education Act 1996 (c. 56) (right of access to computers etc) applies in relation to the exercise by the relevant person of the right conferred by subsection (3) as it applies to the exercise by the specified person (within the meaning of that section) of the right conferred by section 497B(2) of that Act.
- (5) Without prejudice to subsection (3), the authority shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give.
- (6) Subsection (3) applies in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
- (a) the governing body of any such school shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give, and
 - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (7) In this section—
- “the advisory services” means the services to be provided in pursuance of the direction under section 63;
- “documents” and “records” each include information recorded in any form;
- “the relevant person” means—
- (a) the person specified under section 63(2), or
 - (b) where the direction specifies a class of persons, the person with whom the local education authority enter into the contract or other arrangement required by the direction,

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and includes any person assisting that person in the provision of the advisory services.