



Education and Skills Act 2008

2008 CHAPTER 25

PART 4

REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

CHAPTER 1

INDEPENDENT EDUCATIONAL INSTITUTIONS IN ENGLAND

Failure to meet standards

114 Action plans

- (1) This section applies to a registered independent educational institution if the Secretary of State is satisfied, taking into account relevant evidence, that one or more of the independent educational institution standards is or are not being met in relation to the institution.
- (2) In subsection (1) “relevant evidence” means—
 - (a) the report of an inspection carried out by the Chief Inspector or an independent inspectorate, or
 - (b) any other evidence in respect of the institution.
- (3) The Secretary of State may require the proprietor of a registered independent educational institution to which this section applies to submit an action plan to the Secretary of State for approval.
- (4) In this Chapter “an action plan” means a plan specifying—
 - (a) the steps that will be taken to meet a standard or standards, and
 - (b) the time by which each step will be taken.
- (5) Any requirement imposed under this section to submit an action plan must be imposed by serving a notice on the proprietor of the institution in question—

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- (a) identifying the standard or standards that the Secretary of State is satisfied is or are not being met in relation to the institution, and
 - (b) specifying a date by which the action plan must be submitted.
- (6) Where an action plan is submitted in pursuance of a requirement imposed under this section (whether or not by the date specified in the notice), the Secretary of State may—
- (a) approve it, with or without modifications, or
 - (b) reject it.
- (7) Where the Secretary of State rejects an action plan, the Secretary of State may impose a further requirement under this section to submit an action plan.
- (8) An action plan that has been approved may be varied at any time by the proprietor of the institution in question with the agreement of the Secretary of State.

115 Power of Secretary of State to take enforcement action

- (1) This section applies to a registered independent educational institution if the Secretary of State is satisfied, taking into account relevant evidence, that one or more of the independent educational institution standards is or are not being met in relation to the institution.
- (2) In subsection (1) “relevant evidence” means—
- (a) the report of an inspection carried out by the Chief Inspector or an independent inspectorate, or
 - (b) any other evidence in respect of the institution.
- (3) The Secretary of State may take enforcement action under section 116 against the proprietor of a registered independent educational institution to which this section applies if either of the following conditions is met.
- (4) The first condition is that—
- (a) the Secretary of State has, during the period of three years before the enforcement action is taken, required the proprietor of the institution to submit one or more action plans under section 114, and
 - (b) any action plan required as mentioned in paragraph (a)—
 - (i) has not been submitted, and the date specified by the Secretary of State under section 114(5)(b) has passed,
 - (ii) was submitted but was rejected, or
 - (iii) was approved but was subsequently not complied with.
- (5) The second condition is that—
- (a) at least two years before the enforcement action is taken the Secretary of State required the proprietor of the institution to submit an action plan,
 - (b) at least one inspection of the institution has been carried out, by the Chief Inspector or an independent inspectorate approved under section 106 in relation to the institution, since that requirement was imposed, and
 - (c) the Secretary of State has not at any time since that requirement was imposed been satisfied that the institution was meeting all of the independent educational institution standards.

116 Enforcement action available to Secretary of State

- (1) Where the Secretary of State is entitled under section 115(3) to take enforcement action against the proprietor of an institution, the Secretary of State may—
 - (a) impose a relevant restriction on the proprietor, or
 - (b) remove the institution from the register.
- (2) The Secretary of State must notify the proprietor of the institution in question of any decision to take enforcement action under subsection (1).
- (3) A decision to take enforcement action under subsection (1) does not have effect during the period in which—
 - (a) an appeal may be brought under section 124 or 125 against the decision, or
 - (b) where such an appeal has been brought, the appeal has not been determined, withdrawn or otherwise disposed of.

117 “Relevant restriction”

- (1) In this Chapter a “relevant restriction” imposed on the proprietor of a registered independent educational institution is a requirement that the proprietor take one or more of the following steps by a specified time or by specified times—
 - (a) to cease to use any part of the institution’s premises for all purposes or specified purposes;
 - (b) to close any part of the institution’s operation;
 - (c) to cease to admit any new students or new students of specified descriptions.
- (2) In subsection (1) “specified” means—
 - (a) in the case of a relevant restriction imposed by the Secretary of State under section 116(1)(a), specified by the Secretary of State;
 - (b) in the case of a relevant restriction imposed by an order of a justice of the peace under section 120, specified in the order;
 - (c) in the case of a relevant restriction imposed by an order of the Tribunal under section 124, 125 or 126, specified in the order.

118 Relevant restriction imposed by Secretary of State: supplementary

- (1) This section applies where the proprietor of an institution is subject to a relevant restriction imposed by the Secretary of State under section 116(1)(a).
- (2) If the proprietor fails to comply with the relevant restriction the proprietor is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or to both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), for “51 weeks” in subsection (2) substitute “six months”.
- (4) The proprietor may apply to the Secretary of State for the restriction to be varied or revoked.
- (5) On an application under subsection (4) the Secretary of State must—

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- (a) vary or revoke the restriction as requested in the application, if the Secretary of State is satisfied that it is appropriate to do so because of any change of circumstance, and
 - (b) in any other case, refuse to do so.
- (6) The Secretary of State must notify the proprietor of the decision made under subsection (5).
- (7) A decision to vary or revoke the restriction has effect as from the date on which the proprietor receives notice of it.