

# EDUCATION ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Educational Institutions: Other Provisions**

##### **Finance**

##### *Section 48: Determination of permitted charges*

229. *Section 48* amends section 456 of EA 1996 dealing with charges which maintained schools are permitted to make for “optional extras” provided by a school. Optional extras include education outside of school hours, entry for certain public examinations, some school transport, and board and lodging provided on residential trips.
230. Section 451 of EA 1996 prohibits charges for education for registered pupils during school hours, but regulations can be made under section 451(2A) to lift this prohibition on charging for early years provision where this is for a pupil who is below compulsory school age and is additional to the hours which must be made available free of charge pursuant to the duty on local authorities to secure a certain amount of early years provision free of charge (under section 7 of CA 2006). The Government intends to make these regulations and a school governing body will then be able to charge for early years provision as an optional extra.
231. *Subsection (2)* inserts a new provision into section 456 of EA 1996 clarifying that the charges for all optional extras can also include an amount attributable to the costs relating to the buildings and accommodation used, for example, heating and lighting costs, and maintenance. Currently, under section 456(4), the charges for all optional extras can include the costs of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra, and the use of non-teaching staff or teaching staff engaged under contracts for services for the purposes of providing the optional extra.
232. *Subsection (4)* inserts a new subsection (6A) into section 456 of EA 1996. The new subsection (6A) is only relevant where the optional extra is education which is early years provision. It provides that the charges for early years provision imposed by the school may include costs attributable to teaching staff who are employees of the school and who provide the early years provision. Currently this would be prohibited by section 456(5) and only the costs attributable to any self-employed staff with whom the school has contracted could be included. This will ensure that the key costs of providing early years provision over and above that delivered free of charge under section 7 of CA 2006 for children under compulsory school age can be reflected in the charges.