

*These notes refer to the Education Act 2011 (c.21)
which received Royal Assent on 15 November 2011*

EDUCATION ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Direct Payments

Section 75: Direct payments: persons with special educational needs or subject to learning difficulty assessment

355. *Section 75* concerns direct payments for persons with special educational needs (SEN) or subject to learning difficulty assessment. *Subsection (1)* inserts new sections 532A to 532C into Chapter 2 of Part 9 (ancillary functions of local authorities) of EA 1996.
356. New section 532A creates a power for a local authority in England to make a direct payment for the purposes of securing goods and services in respect of a person for whom they maintain a statement of SEN; or a young person who is subject to a learning difficulty assessment by the authority. New section 532A(3) provides that direct payments can only be made in accordance with a pilot scheme made under section 532B.
357. New section 532B gives the Secretary of State the power to make pilot schemes by order, and stipulates certain matters that must be included in any pilot scheme.. Subsections (3) to (6) set out what the pilot scheme must make provision about, including who direct payments can be made to, how the amounts are to be calculated, and arrangements for monitoring the scheme. A pilot scheme may also include such other provision as the Secretary of State thinks appropriate. Subsections (7) to (10) provide that a pilot scheme may stipulate that goods and services purchased by a direct payment can be treated as provided or arranged by a local authority in pursuance of their relevant statutory duties, which are listed in subsection (9).
358. New section 532C requires that an order creating a pilot scheme must set out the local authorities that will take part in the scheme and how long it will last. The duration of an initial scheme is limited to a maximum of two years, but a scheme can be extended by order so long as it is not extended to continue past the date which is four years from the date this Act received Royal Assent..
359. *Subsection (2)* amends EA 1996 to provide that an order to create or amend a pilot scheme is subject to approval by each House of Parliament under the affirmative resolution procedure.
360. *Subsection (3)* provides that the new provisions inserted into EA 1996 by section 75 will be automatically repealed four years after Royal Assent of this Act.