

**2005 No. 2034(C.87)**

**EDUCATION, ENGLAND AND WALES**

**The Education Act 2005 (Commencement No.1 and Savings and Transitional Provisions) Order 2005**

*Made* - - - -

*21st July 2005*

In exercise of the powers conferred by sections 120(2) and 125(4) of the Education Act 2005<sup>(a)</sup>, the Secretary of State for Education and Skills hereby makes the following Order:

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Education Act 2005 (Commencement No.1 and Savings and Transitional Provisions) Order 2005.

(2) In this Order “the 2005 Act” means the Education Act 2005.

**Provisions coming into force**

**2.** The following provisions of Schedule 7 to the 2005 Act shall come into force on 1st August 2005—

paragraph 3(6);

paragraph 4(4);

paragraph 12 for the purpose of making regulations under the substituted paragraph 6A(4) in Schedule 26 to the School Standards and Framework Act 1998 <sup>(b)</sup>; and

paragraph 20 for the purpose of making regulations under the substituted paragraph 13A(2) in Schedule 26 to the School Standards and Framework Act 1998.

**3.** The following provisions of the 2005 Act shall come into force on 1st September 2005—

sections 1 to 18;

sections 48 and 49; and

Schedule 1.

**4.** The following provisions of the 2005 Act shall come into force in relation to England only on 1st September 2005—

sections 44 and 45;

section 46 to the extent that it relates to the paragraphs of Schedule 5 specified below;

section 47;

section 51;

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<sup>(a)</sup> 2005 c.18.  
<sup>(b)</sup> 1998 c.31

section 54;  
section 58;  
section 60;  
section 61 to the extent that it relates to the paragraphs of Schedule 9 specified below;  
section 105 to the extent that it inserts subsections (1), (2) and (5) of section 28A in the Education Act 2002(a);  
sections 115 and 116;  
section 117 to the extent that it relates to the paragraphs of Schedule 18 specified below;  
section 118;  
section 123 to the extent that it relates to the provisions of Schedule 19 specified below;  
in Schedule 5—  
    paragraph 1;  
    paragraph 2(1) and (2);  
    paragraph 2(3), except to the extent that it substitutes subsection (2)(b) in section 113(2) of the Learning and Skills Act 2000(b);  
    paragraph 3(1) to (7);  
    paragraph 3(8), except to the extent that it substitutes sub-paragraph (1)(b), sub-paragraph (2)(b)(ii) and (3)(b) in paragraph 6 of Schedule 7 to the Learning and Skills Act 2000;  
    paragraph 3(9), except to the extent that it substitutes paragraph 7(2)(b) in Schedule 7 to the Learning and Skills Act 2000;  
    paragraph 3(10) and (11);  
    paragraph 3(12), except to the extent that it substitutes sub-paragraph (1)(b) in paragraph 11 of Schedule 7 to the Learning and Skills Act 2000;  
    paragraph 3(13);  
    paragraph 3(14), except to the extent that it substitutes sub-paragraph (1)(b), sub-paragraph (2)(b)(ii) and sub-paragraph (3)(b) in paragraph 13 of Schedule 7 to the Learning and Skills Act 2000; and  
    paragraph 3(15);  
Schedule 8;  
in Schedule 9—  
    paragraphs 8 to 14;  
    paragraph 15(1);  
    paragraph 15(2), except to the extent that it substitutes subsection (4)(a)(ii) in section 15 of the School Standards and Framework Act 1998;  
    paragraph 15(3);  
    paragraph 15(4), except to the extent that it substitutes subsection (6)(a)(ii) in section 15 of the School Standards and Framework Act 1998;  
    paragraphs 16 to 21; and  
    paragraphs 28 to 30;  
in Schedule 18, paragraphs 1, 6 and 15; and  
in Schedule 19, Part 1, the repeal of the entries relating to—  
    the Education Act 1996;

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(a) 2002 c.32  
(b) 2000 c.21

the School Inspections Act 1996;  
the Education Act 1997;  
the Learning and Skills Act 2000, except in relation to the repeal of section 81;  
the Education Act 2002; and  
the School Standards and Framework Act 1998, except in relation to the repeal of the provisions in Schedule 26.

**5.** The following provisions of the 2005 Act shall come into force in relation to England and Wales on 1st September 2005—

section 61 to the extent that it relates to the paragraphs of Schedule 9 specified below;  
section 103;  
section 104;  
section 117 to the extent that it relates to the paragraphs of Schedule 18 specified below;  
section 123 to the extent that it relates to the provisions of Schedule 19 specified below;  
in Schedule 9, paragraphs 1 to 5, 23 and 26;  
in Schedule 18, paragraphs 2 to 4;  
in Schedule 19, Part 1, the repeal of the entries relating to—  
    the Parliamentary Commissioner Act 1967; and  
    the Protection of Children Act 1999;  
in Schedule 19, Part 4, the repeal of—  
    section 14(2) of, and paragraph 5 of Schedule 8 to, the Special Educational Needs and Disability Act 2001, and  
    paragraph 39(5) of Schedule 21 to the Education Act 2002.

**6.** The following provisions of the 2005 Act shall come into force in relation to England only on 3rd October 2005—

section 53 to the extent that it relates to the paragraphs of Schedule 7 specified below;  
section 59;  
section 106;  
section 123 to the extent that it relates to the provisions of Schedule 19 specified below;  
in Schedule 7—  
    paragraphs 6 to 8;  
    paragraph 10(1) to (5);  
    paragraph 10(6), except to the extent that it inserts sub-paragraph (5)(b) in paragraph 2 of Schedule 26 to the School Standards and Framework Act 1998;  
    paragraph 11;  
    paragraph 12, except to the extent that it substitutes paragraph 6B in Schedule 26 to the School Standards and Framework Act 1998;  
    paragraphs 13 to 19;  
    paragraph 20, except to the extent that it substitutes paragraph 13B in Schedule 26 to the School Standards and Framework Act 1998;  
    paragraph 21, except to the extent that it substitutes paragraph 14(2) in Schedule 26 to the School Standards and Framework Act 1998;  
    paragraphs 22 and 23;  
    paragraph 24(1);  
    paragraph 24(2), except to the extent that it substitutes sub-paragraphs (1)(b) and (c) in paragraph 18 of Schedule 26 to the School Standards and Framework Act 1998;

paragraph 24(3), except to the extent that it substitutes sub-paragraph (4)(b) in paragraph 18 of Schedule 26 to the School Standards and Framework Act 1998; and in Schedule 19, Part 1, the repeal of the remaining provisions of the School Standards and Framework Act 1998.

**7.** The following provisions of the 2005 Act shall come into force in relation to England and Wales on 3rd October 2005—

section 53 to the extent that it relates to the paragraphs of Schedule 7 specified below; and  
in Schedule 7, paragraphs 1 to 4, insofar as they are not already in force.

**8.** The following provisions of the 2005 Act shall come into force in relation to England only on 1st November 2005—

section 101 to the extent that it relates to the paragraphs of Schedule 16 specified below;  
section 117 to the extent that it relates to the paragraphs of Schedule 18 specified below;  
section 123 to the extent that it relates to the provisions of Schedule 19 specified below;  
in Schedule 16, paragraphs 1 to 3, paragraph 4 to the extent that it inserts section 45AA in the School Standards and Framework Act 1998 and paragraphs 5 to 7;  
in Schedule 18, paragraphs 5, 7 to 12 and 14;  
in Schedule 19, Part 4, the repeal of—  
    subsections (5) and (6) of section 45A of the School Standards and Framework Act 1998;  
    sections 41(2) and 42 of and paragraph 124(3) of Schedule 21 to the Education Act 2002; and  
    paragraph 66 of Schedule 7 to the Local Government Act 2003.

**9.** The following provisions of the 2005 Act shall come into force in relation to England and Wales on 1st November 2005—

section 101 to the extent that it relates to the paragraph of Schedule 16 specified below; and  
in Schedule 16, paragraph 8.

**10.** The Schedule to this Order applies only in relation to England and shall have effect for the purposes of making transitional provision and savings in relation to the provisions to which it refers.

## SCHEDULE

Article 10

### TRANSITIONAL AND SAVING PROVISIONS

#### PART 1

##### Appeals and Reports of School Inspections

**1.** Despite the coming into force of the repeal of the School Inspections Act 1996 as provided for in article 4 of this Order—

- (a) the repeal of section 9 of and Schedule 2 to that Act shall not have effect in relation to any notice of appeal served on the tribunal before 1st September 2005;
- (b) where the latest report of an inspection of a school was under that Act and identified that special measures were required to be taken in relation to that school, that report shall be

treated as the report of an inspection which identified that special measures were required to be taken under Part 1 of the 2005 Act for the purposes of—

- (i) section 13(4)(a) of the 2005 Act; and
  - (ii) sections 14 to 19 of the School Standards and Framework Act 1998 (intervention in schools causing concern);
- (c) where the latest report of an inspection of the school was under that Act and identified that the school had serious weaknesses, that report shall be treated as the report of an inspection which identified that the school required significant improvement under Part 1 of the 2005 Act for the purposes of—
- (i) section 13(5)(a) of the 2005 Act; and
  - (ii) sections 14 to 19 of the School Standards and Framework Act 1998;
- (d) where the latest report of an inspection was under that Act and identified that the school has an inadequate sixth form, that report shall be treated as the report of an inspection which identified that the school requires significant improvement in relation to its sixth form for the purpose of section 113 of and Schedule 7 to the 2000 Act, as amended by section 46 of and Schedule 5 to the 2005 Act.

## PART 2

### Governors' Reports and the School Profile for Maintained Nursery Schools

2. Despite the coming into force, as provided for in article 5 of this Order, of—

- (a) section 103(1);
- (b) section 104;
- (c) in Schedule 18, paragraph 2; and
- (d) in Schedule 19, Part 4, the repeal of—
  - section 14 (2) of, and paragraph 5 of Schedule 8 to, the Special Educational Needs and Disability Act 2001; and
  - paragraph 39(5) of Schedule 21 to the Education Act 2002,

those provisions shall not apply to maintained nursery schools in England.

3. For the purposes of paragraph 4, “maintained nursery school” has the meaning given to it in section 39(1) of the 2002 Act.

## PART 3

### Funding of Maintained Schools

4. Despite the coming into force of paragraph 6(3)(d) of Schedule 16, as provided for in article 8 of this Order, the previous paragraph (g) of section 47(2) of the School Standards and Framework Act 1998 shall remain in force for the purpose of enabling regulation 28 of the Financing of Maintained Schools (England) Regulations 2004(a) to remain in force until those regulations are revoked.

21st July 2005

*Jacqui Smith*  
Minister of State  
Department for Education and Skills

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(a) S.I. 2004/3130.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force certain provisions of the Education Act 2005 on 1st August 2005, 1st September 2005, 3rd October 2005 and 1st November 2005. The provisions are listed in articles 2 to 9. Article 10 and the Schedule make transitional provision and savings.

Article 2 relates to provisions which contain regulation making powers for childminding and day care. Articles 3, 4 and 5 relate to provisions concerning school inspections, removal of requirements for governors' reports and parents' meetings, school profiles, provision and funding of higher education in maintained schools, admission arrangements to make special provisions for looked after children and attendance at alternative educational provision. Article 3 relates to provisions which apply to England only. Article 4 relates to provisions which are to come into force in relation to England only. Article 5 relates to provisions which are to come into force in relation to England and Wales.

Articles 6 and 7 relate to provisions concerning the inspection of childminding, day care and nursery education. Article 6 relates to provisions which are to come into force in relation to England only. Article 7 relates to provisions which are to come into force in relation to England and Wales.

Articles 8 and 9 relate to provisions concerning the funding of maintained schools.

Article 10 and the Schedule to the Order relate to transitional provisions and savings in relation to reports of school inspections under the School Inspections Act 1996 where the school has been identified as causing concern and governors' reports and the school profile for maintained nursery schools. Paragraph 6 of the Schedule saves the regulation making power in section 47(2)(g) of the School Standards and Framework Act 1998 for the purpose of allowing regulation 28 of the Financing of Maintained Schools (England) Regulations 2004 to remain in force until those regulations are revoked.



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STATUTORY INSTRUMENTS

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