



# Education Act 1996

## 1996 CHAPTER 56

### PART IX

#### ANCILLARY FUNCTIONS

#### CHAPTER I

##### ANCILLARY FUNCTIONS OF SECRETARY OF STATE

##### *General functions*

#### **[<sup>F2</sup>497A Power to secure proper performance of [<sup>F1</sup>local authority's education functions] .**

[<sup>F3</sup>(1) This section applies to [<sup>F4</sup>a local authority's education functions][<sup>F4</sup>the education functions of a local authority in England] .]

(2) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a [<sup>F5</sup>local authority] are failing in any respect to perform any function to which this section applies to an adequate standard (or at all), he may exercise his powers under subsection ([<sup>F6</sup>(4), (4A) or (4B)]).

[ The Secretary of State may also exercise his powers under subsection (4), (4A) or <sup>F7</sup>(2A) (4B) where—

- (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a [<sup>F5</sup>local 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).]

(3) <sup>F8</sup> .....

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- [<sup>F9</sup>(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.]
- [ The Secretary of State may under this subsection direct that the function shall be  
<sup>F10</sup>(4A) 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.
- [ So far as is appropriate in consequence of a direction given under subsection (4A),  
<sup>F11</sup>(4AA) a reference (however expressed) in an enactment, instrument or other document to a local authority is to be read as a reference to the person by whom the function is exercisable.
- (4AB) Subsection (4AC) applies if a direction given under subsection (4A) expires or is revoked without being replaced.
- (4AC) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the local authority to which the direction was given.]
- (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.]
- [<sup>F12</sup>(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.]
- (6) Any direction under this section may either—
- (a) have effect for an indefinite period until revoked by the Secretary of State, or
  - [<sup>F13</sup>(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.]
- (7) Any direction given under subsection [<sup>F14</sup>(4), (4A) or (4B)] shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.]
- [<sup>F15</sup>(8) This section is subject to sections 508I and 509AE (complaints about transport arrangements etc).]

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### Textual Amendments

- F1** Words in s. 497A title substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 7(9)(a)**
- F2** S. 497A inserted (1.10.1998) by [1998 c. 31, s. 8](#) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch.1 Pt. I**.
- F3** S. 497A(1) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 7(9)(b)**
- F4** Words in s. 497A(1) substituted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 2(6)**; S.I. 2014/178, art. 2(f) (with art. 3)
- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F6** Words in s. 497A(2) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(3), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F7** S. 497A(2A) inserted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(4), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F8** S. 497A(3) repealed (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 60(5), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F9** S. 497A(4) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(6), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F10** S. 497A(4A)(4B) inserted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(7), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F11** Ss. 497A(4AA)-(4AC) inserted (13.5.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 101(2), 139(4)**
- F12** S. 497A(5) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(8), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F13** S. 497A(6)(b) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(9), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F14** Words in s. 497A(7) substituted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 60(10), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F15** S. 497A(8) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 2 para. 9**; S.I. 2009/3317, art. 2, Sch. (with art. 3); S.I. 2010/303, art. 3, Sch. 2

### Modifications etc. (not altering text)

- C1** Ss. 495-498 modified (1.4.2003 for E.; 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 34(7), 216(4)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/2910, art. 4, Sch.
- C2** S. 497A applied (with modifications) (1.3.2005 for E.) by [Children Act 2004 \(c. 31\)](#), **s. 50(1)-(3), (5)(6), 67(7)(e)**; S.I. 2005/394, art. 2(1)(f)
- C3** S. 497A modified (1.9.1999) by [1998 c. 31, s. 44\(7\)](#) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C4** S. 497A applied (with modifications) (1.4.2007) by [Childcare Act 2006 \(c. 21\)](#), **s. 15(3)(5)(6), 109(2)**; S.I. 2007/1019, art. 3
- C5** S. 497A applied (with modifications) (31.8.2008) by [Childcare Act 2006 \(c. 21\)](#), **s. 29(3)(5)(6), 109(2)**; S.I. 2008/17, art. 2(a)
- C6** S. 497A: transfer of functions (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013 \(S.I. 2013/1721\)](#), arts. 1(2), **2(b)(iii)** (with art. 4)
- C7** S. 497A functions transferred (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), arts. 1(2), **10(2)(d)** (with arts. 10(3), 11, 12)

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**C8** S. 497A(2)(3)-(4B)(6)(7) modified (7.8.2013) by [The Transfer of Functions \(Youth Leisure-time Activities\) Order 2013 \(S.I. 2013/1721\)](#), arts. 1(2), **3(3)(c)** (with art. 4)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(ba) substituted for s. 13(2)(aa)(b) by [2022 asc 1 Sch. 4 para. 8\(2\)](#)
- s. 15A(3A) inserted by [2022 asc 1 Sch. 4 para. 8\(3\)](#)
- s. 15B(3)(c) inserted by [2022 asc 1 Sch. 4 para. 8\(4\)](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/1012 art. 12\(1\)Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/863 Sch. 2 para. 4](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/865 Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2016/653 Sch. 3 para. 3](#)
- s. 17A-17D inserted by [2009 c. 22 s. 45](#)
- s. 17B-17D applied by [2009 c. 22 s. 86\(8\)](#)
- s. 457(4)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 457(4)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 508(4) inserted by [2022 asc 1 Sch. 4 para. 8\(7\)](#)
- s. 537AA inserted by [2008 c. 25 Sch. 1 para. 8](#)
- s. 548(7A)(7B) inserted by [2008 c. 25 Sch. 1 para. 9\(5\)](#)
- s. 578(1) words repealed by [2005 c. 18 Sch. 19 Pt. 1](#)