



Education Act 2002

2002 CHAPTER 32

PART 11

MISCELLANEOUS AND GENERAL

Allowances in respect of education or training

181 Allowances in respect of education or training

- (1) Regulations may make provision authorising or requiring the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) to pay an allowance to or in respect of any eligible person who is over compulsory school age, in connection with his undertaking education or training of a prescribed description.
- (2) The relevant education or training must not be higher education.
- (3) Regulations may, in particular, make provision—
 - (a) for determining whether a person is an eligible person in relation to any allowance,
 - (b) prescribing information that must be supplied by or on behalf of any person before any allowance can be paid or continue to be paid to or in respect of him,
 - (c) prescribing the period by reference to which any allowance of a periodic nature is to be paid,
 - (d) prescribing the maximum allowance payable to or in respect of any person in respect of any period,
 - (e) prescribing the maximum period during which an allowance may be payable to or in respect of any person,
 - (f) where the amount of an allowance may vary to any extent according to a person's circumstances, for determining, or providing for the determination by the Secretary of State or the National Assembly for Wales of, the amount required or authorised to be paid to or in respect of him,
 - (g) specifying whether any allowance in respect of any person is to be paid to him, to a parent of his or to any other person,

Status: Point in time view as at 01/04/2012.

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- (h) for any allowance under this section to be made available on such terms and conditions as may be prescribed, or determined under the regulations by the Secretary of State or the National Assembly for Wales, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined,
 - (i) requiring the payment of an allowance to be suspended or terminated in any such circumstances,
 - (j) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals),
 - (k) imposing obligations on the governing body of any maintained school or institution within the further education sector in relation to cases where the school or institution is providing the education or training referred to in subsection (1).
- (4) In this section and section 182—
- “governing body”—
 - (a) in relation to a pupil referral unit, means the [^{F1}local authority] who maintain the unit, and
 - (b) in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a pupil referral unit.

Textual Amendments

F1 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**

Commencement Information

I1 S. 181 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), **art. 5, Sch. Pt. II**

I2 S. 181 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 4**

182 Learning agreements

- (1) For the purposes of this section, a “learning agreement” is a document which—
- (a) specifies conditions which—
 - (i) relate to the attendance or conduct of, or completion of assigned tasks by, a person to whom an allowance is or may become payable (in this section referred to as “the student”), and
 - (ii) are either prescribed by regulations or, if regulations so provide, determined in accordance with any prescribed requirements by the person providing the relevant education or training,
 - (b) contains a declaration by the student relating to compliance with those conditions, and
 - (c) deals with such other matters as may be prescribed.
- (2) Regulations may require a learning agreement—
- (a) to be in the prescribed form, and

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- (b) to be signed by the student and by or on behalf of such other persons as may be prescribed.
- (3) Without prejudice to the generality of section 181(3)(h), regulations may provide—
 - (a) that a person is not eligible to receive an allowance unless the person providing the relevant education or training holds a learning agreement signed by him, and
 - (b) that payment of an allowance is conditional on the person providing the relevant education or training from time to time determining that the student has complied with the learning agreement or has done so to a prescribed extent or in prescribed respects.
- (4) Regulations may—
 - (a) enable or require a learning agreement to specify targets relating to the attendance, conduct or attainments of the student, and
 - (b) enable or require the Secretary of State or the National Assembly for Wales, in any case where the person providing the relevant education or training determines that targets have been met, to make additional payments of allowance to or in respect of the student.
- (5) Without prejudice to the generality of section 181(3)(k), regulations may impose obligations relating to learning agreements on—
 - (a) the governing body of a maintained school, or
 - (b) the governing body of an institution within the further education sector.
- (6) Regulations may contain provision for determining the person by whom any relevant education or training is to be treated for the purposes of this section as being provided.
- (7) A learning agreement shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.
- (8) In this section—
 - “allowance” means an allowance under section 181;
 - “relevant education or training” means the education or training referred to in that section.

Commencement Information

- I3** S. 182 in force at 1.9.2003 for W. by [S.I. 2003/1718, art. 5, Sch. Pt. II](#)
- I4** S. 182 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667, art. 4](#)

183 Transfer of functions relating to allowances under section 181

- (1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations made by virtue of section 181 shall, to such extent as is specified in his determination, be exercisable instead by—
 - (a) the Chief Executive of Skills Funding,
 - (aa) ^{F2}... or
 - (b) [^{F1}local authority].

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- (2) If the National Assembly for Wales so determines, any function exercisable by the Assembly by virtue of regulations made by virtue of section 181 shall, to such extent as is specified in the Assembly’s determination, be exercisable instead by—
- ^{F3}(a)
- (b) a [^{F1}local authority].
- (3) A [^{F4}person or] body by whom any function is for the time being exercisable by virtue of subsection (1) or (2) shall comply with any directions given by the Secretary of State, or as the case may be the National Assembly for Wales, as to the exercise of that function.
- (4) Where any function is so exercisable by a [^{F1}local authority], the function shall be taken to be a function of that authority—
- (a) for the purposes of section 70 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of local authorities),
- (b) for the purposes of Part 2 of the 2000 Act (arrangements with respect to executives etc.), and
- (c) subject to the provisions of section 13 of the 2000 Act, for the purposes of section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities).
- (5) In this section “the 2000 Act” means the Local Government Act 2000 (c. 22).

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**
- F2** S. 183(1)(aa) omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 19**; S.I. 2012/924, art. 2
- F3** S. 183(2)(a) omitted (1.4.2006) by virtue of [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 1(1), **Sch. 1 para. 88** (with art. 7)
- F4** Words in s. 183(3) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 48(b)** (with art. 2(3))

Commencement Information

- I5** S. 183 in force at 1.9.2003 for W. by [S.I. 2003/1718](#), art. 5, **Sch. Pt. II**
- I6** S. 183 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667](#), **art. 4**

184 Delegation of functions relating to allowances

- (1) The Secretary of State or the National Assembly for Wales may make arrangements for any person or body specified in the arrangements to exercise on his or its behalf, to such extent as is so specified, any function exercisable by him or the Assembly by virtue of regulations made by virtue of section 181 (including any such function in relation to appeals).
- (2) Any arrangements made under subsection (1) shall not prevent the Secretary of State, or as the case may be the National Assembly for Wales, from exercising the function in question himself or itself.

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Commencement Information

- I7** S. 184 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667, art. 4](#)
I8 S. 184 in force at 1.9.2003 for W. by [S.I. 2003/1718, art. 5, Sch. Pt. II](#)

185 Supplementary provisions relating to transfer or delegation of functions

- (1) The Secretary of State or the National Assembly for Wales may make provision for enabling appeals—
- (a) to be made with respect to such matters arising out of the exercise by virtue of section 183(1) or (2) or 184(1) by any person or body of any function of the Secretary of State or the Assembly as he or it may determine, and
 - (b) to be so made to a person or body appointed for the purpose by the Secretary of State or the Assembly.
- (2) The Secretary of State or the National Assembly for Wales may pay to any body or person by whom any function of his, or as the case may be of the Assembly, is exercisable by virtue of section 183(1) or (2) or 184(1)—
- (a) such amounts as the Secretary of State or the Assembly considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person—
 - (i) in paying allowances under section 181, or
 - (ii) by way of administrative expenses,in, or in connection with, the exercise of that function;
 - (b) in a case where the function is exercisable by virtue of section 184(1), such remuneration as the Secretary of State or the Assembly may determine.
- (3) Any payment under subsection (2)(a) may be made subject to such terms and conditions as the Secretary of State or the National Assembly for Wales may determine; and any such conditions may in particular—
- (a) require the provision of returns or other information before any such payment is made;
 - (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.
- (4) The Secretary of State or the National Assembly for Wales may pay to any person or body appointed by him or it under subsection (1) such remuneration or administrative expenses (or both) as he or it may determine.
- (5) In relation to any function which, by virtue of section 183(1) or (2) or 184(1) is exercisable to a specified extent, references in section 183(3) and (4) and this section to the exercise of that function are accordingly to its exercise to that extent.

Commencement Information

- I9** S. 185 in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667, art. 4](#)
I10 S. 185 in force at 1.9.2003 for W. by [S.I. 2003/1718, art. 5, Sch. Pt. II](#)

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