

EDUCATION ACT 2011

EXPLANATORY NOTES

OVERVIEW OF THE STRUCTURE OF THE ACT

11. The Act consists of ten Parts and 18 Schedules and is arranged as follows.

Part 1: Early years provision

12. **Part 1** of the Act makes it possible to introduce free early years provision for children of two years of age from disadvantaged backgrounds.

Part 2: Discipline

13. This Part extends the power of members of staff at schools and further education institutions to search pupils without their consent for an item that has been, or is likely to be, used to commit an offence or cause injury to the pupil or another, or damage property, and to search for items banned under the school rules. It reforms the process for reviews of permanent exclusions. It also repeals the duty on schools to give 24 hours' written notice of a detention to parents, and the duty on all schools to enter into a behaviour and attendance partnership with other schools in their area.

Part 3: School workforce

14. This Part abolishes three arm's length bodies – the General Teaching Council for England (GTCE), the Training and Development Agency for Schools (TDA) and the School Support Staff Negotiating Body (SSSNB). The Act provides for the relevant functions of the GTCE and the TDA to be undertaken by the Secretary of State and where appropriate by Welsh Ministers, and gives the necessary powers to make schemes for the transfer of staff from these bodies to the Secretary of State.
15. This Part also introduces restrictions on the public reporting of allegations made against teachers.

Part 4: Qualifications and the Curriculum

16. This Part requires sampled schools to take part in international education surveys when directed by the Secretary of State.
17. It amends the governance structure of the Office of Qualifications and Examinations Regulation (Ofqual) and revises its standards objective to include international comparison. It makes changes to the enforcement powers of Ofqual and of Welsh Ministers (as the regulator of qualifications in Wales).
18. This Part abolishes a further arm's length body, the Qualifications and Curriculum Development Agency (QCDA). The Act provides for the relevant functions of the QCDA to be transferred to the Secretary of State and gives the necessary powers to make schemes for the transfer of staff from this body to the Secretary of State.

19. It also amends legislation relating to provision of careers education and guidance and repeals the duty on local authorities, schools and governing bodies to secure access to the diploma entitlement for 16 to 18 year olds and pupils in the fourth key stage.

Part 5: Educational institutions: other provisions

20. This Part repeals certain duties on the governing bodies of maintained schools in England and repeals the duty on local authorities to appoint a school improvement partner for each maintained school.
21. It also makes changes to the duties of local authorities in relation to school admissions. In addition, the schools adjudicator will no longer be able to make modifications to a school's admissions arrangements in response to a complaint or a referral. Any body or person will be able to object to the adjudicator about a school's admission arrangements.
22. This Part introduces a cap on the amount local authorities and the governing bodies of maintained schools in England are allowed to charge for the provision of school meals, milk etc.
23. This Part also makes changes to the arrangements for the establishment of new schools by introducing a presumption that when local authorities set up new schools they will be Academies (including free schools).
24. This Part makes changes to the composition of school governing bodies and, with the related section in Part 6, makes it possible for one or more, but not all, of the schools in a federation to become an Academy without first having to go through the statutory process to leave the federation.
25. This Part provides for changes to the inspections framework for schools, and for the exemption of certain categories of school and further education institution from routine inspection by Her Majesty's Inspectorate, the Office for Standards in Education, Children's Services and Skills. Where a school or further education institution asks Ofsted to carry out an inspection in circumstances where such an inspection is not required, and Ofsted agrees to do so, this Part allows the Chief Inspector to charge the school or college for the cost of carrying out that inspection. It also makes changes to the inspection of boarding provision.
26. This Part makes provision for the Secretary of State to direct a local authority to issue a warning notice to a school on grounds of performance or safety concerns, and extends the Secretary of State's power to close schools to all schools eligible for intervention, rather than (as at present) only those deemed by Ofsted to be in need of special measures.
27. This Part repeals the power for parents to make complaints about schools to the Local Commissioner.
28. This Part also contains measures on school finance, and makes changes to what costs can be included in charges made by nursery schools (and schools with nursery classes) for early years provision that is not funded by the local authority. It enables the Secretary of State to issue directed revisions to local authority schemes for financing schools and requires the Secretary of State to consult local authorities and others before a direction is given. It also allows the governing bodies of maintained schools to fund the costs of premature retirement and dismissal of community staff from their budget shares, and allows pupil referral units to be funded by local authorities by way of a budget share, in the same way as maintained schools.
29. This Part repeals and amends a range of duties placed on further education corporations, including the ability of corporations to amend their own instrument and articles of governance, to dissolve themselves and transfer their property, rights and liabilities upon dissolution. This Part also contains provisions that provide voluntary sixth form colleges with the same protection afforded through previous legislation or directions.

30. This Part also repeals the change of the name of pupil referral units to short stay schools. It amends provisions concerning the financing of pupil referral units.

Part 6: Academies

31. This Part amends Academies legislation. It allows the establishment of 16 to 19 Academies and alternative provision Academies and removes the requirement for Academies to have a specialism.
32. It makes some changes to the consultation requirements for the setting up of an Academy, and to the way a school in a federation becomes an Academy. This Part protects the existing position in relation to discrimination in employment practices for faith schools which convert to become Academies, but makes provision for this to be changed (by order of the Secretary of State) after conversion.
33. This Part makes changes to the legislation relating to school land, to increase the Secretary of State's ability to make land available for free schools.
34. This Part clarifies the law relating to local authorities powers to provide financial or other assistance to Academies.
35. It allows for schools adjudicators to consider and determine objections to Academies' admission arrangements. It also makes provision about the remission of fees that may be payable in respect of children attending boarding Academies.

Part 7: Post-16 education and training

36. This Part abolishes a further arm's length body, the Young People's Learning Agency for England (YPLA); it provides for the relevant functions of the YPLA to be transferred to the Secretary of State, and gives the necessary powers to make schemes for the transfer of staff from this body to the Secretary of State.
37. This Part replaces the duty on the Chief Executive of Skills Funding to secure an apprenticeship place for certain young people with a duty to fund apprenticeship training (through securing the provision of proper facilities) for certain groups who have secured an apprenticeship place. It also places a new duty on the Chief Executive of Skills Funding to make reasonable efforts to ensure employers participate in Apprenticeship training. This Part makes changes to the law relating to the issue of apprenticeship certificates.
38. This Part makes changes to the skills entitlements.
39. This Part gives a power to the Secretary of State to direct the Chief Executive of Skills Funding to consult with specified people or descriptions of persons on matters associated with the performance of the Chief Executive's functions.
40. [Part 7](#) also retains the commencement of raising the participation age legislation in 2013 (to age 17) and 2015 (to age 18) whilst removing the requirement to commence enforcement procedures on young people, parents and employers in relation to raising the participation age on a certain date.

Part 8: Direct payments

41. This Part makes provision regarding direct payments by local authorities in England for persons with special educational needs or subject to learning difficulty assessment.

Part 9: Student finance

42. This Part includes measures that form part of a package of higher education reforms announced in an oral statement in the House of Commons on 3 November 2010¹ and

¹ Higher Education Funding, 3 Nov 2010; Hansard: Column 924, available at <http://www.parliament.uk/business/publications/>

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

later refined in a written statement on 8 December 2010,² in response to the Browne Review.³ It will apply the tuition fees cap for full-time courses on a pro rata basis to part-time courses, and increases the cap on the interest rates that can be charged on new student loans.

Part 10: General

43. This Part contains supplementary provisions about orders and regulations, interpretation of the Act, financial provision, extent, commencement and the short title.

² Higher Education Funding and Student Finance, 8 Dec 2010; Hansard: Column 19WS, available at <http://www.parliament.uk/business/publications/>

³ *Securing a Sustainable Future for Higher Education: An Independent Review of Higher Education Funding & Student Finance*, 12 October 2010, available at www.independent.gov.uk/browne-report