



Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

PART I

DEREGULATION

CHAPTER II

MISCELLANEOUS DEREGULATORY PROVISIONS

38 Inspection of independent schools.

After section 87 of the Children Act 1989 there shall be inserted—

“87A Suspension of duty under section 87(3)

- (1) The Secretary of State may appoint a person to be an inspector for the purposes of this section if—
 - (a) that person already acts as an inspector for other purposes in relation to independent schools to which section 87(1) applies, and
 - (b) the Secretary of State is satisfied that the person is an appropriate person to determine whether the welfare of children provided with accommodation by such schools is adequately safeguarded and promoted while they are accommodated by them.
- (2) Where—
 - (a) the proprietor of an independent school to which section 87(1) applies enters into an agreement in writing with a person appointed under subsection (1),

Status: This is the original version (as it was originally enacted).

- (b) the agreement provides for the person so appointed to have in relation to the school the function of determining whether section 87(1) is being complied with, and
 - (c) the local authority in whose area the school is situated receive from the person with whom the proprietor of the school has entered into the agreement notice in writing that the agreement has come into effect,

the authority's duty under section 87(3) in relation to the school shall be suspended.
- (3) Where a local authority's duty under section 87(3) in relation to any school is suspended under this section, it shall cease to be so suspended if the authority receive—
 - (a) a notice under subsection (4) relating to the person with whom the proprietor of the school entered into the relevant agreement, or
 - (b) a notice under subsection (5) relating to that agreement.
- (4) The Secretary of State shall terminate a person's appointment under subsection (1) if—
 - (a) that person so requests, or
 - (b) the Secretary of State ceases, in relation to that person, to be satisfied that he is such a person as is mentioned in paragraph (b) of that subsection,

and shall give notice of the termination of that person's appointment to every local authority.
- (5) Where—
 - (a) a local authority's duty under section 87(3) in relation to any school is suspended under this section, and
 - (b) the relevant agreement ceases to have effect,

the person with whom the proprietor of the school entered into that agreement shall give to the authority notice in writing of the fact that it has ceased to have effect.
- (6) In this section—
 - (a) "proprietor" has the same meaning as in the Education Act 1944, and
 - (b) references to the relevant agreement, in relation to the suspension of a local authority's duty under section 87(3) as regards any school, are to the agreement by virtue of which the authority's duty under that provision as regards that school is suspended.

87B Duties of inspectors under section 87A

- (1) The Secretary of State may impose on a person appointed under section 87A(1) ("an authorised inspector") such requirements relating to, or in connection with, the carrying out under substitution agreements of the function mentioned in section 87A(2)(b) as the Secretary of State thinks fit.
- (2) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that there has been a failure to comply with section 87(1) in the case of a child provided with accommodation by the school to which the agreement relates, the inspector shall give notice of that fact to the Secretary of State.

Status: This is the original version (as it was originally enacted).

- (3) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that a child provided with accommodation by the school to which the agreement relates is suffering, or is likely to suffer, significant harm, the inspector shall—
- (a) give notice of that fact to the local authority in whose area the school is situated, and
 - (b) where the inspector is required to make inspection reports to the Secretary of State, supply that local authority with a copy of the latest inspection report to have been made by the inspector to the Secretary of State in relation to the school.
- (4) In this section—
- (a) “proprietor” has the same meaning as in the Education Act 1944, and
 - (b) references to substitution agreement are to an agreement between an authorised inspector and the proprietor of an independent school by virtue of which the local authority’s duty in relation to the school under section 87(3) is suspended.”