



Education Act 1996

1996 CHAPTER 56

PART IV

SPECIAL EDUCATIONAL NEEDS

CHAPTER II

SCHOOLS PROVIDING FOR SPECIAL EDUCATIONAL NEEDS

[^{F1}Interpretation

Textual Amendments

- F1** Ss. 337, 337A and cross-heading substituted for s. 337 and cross-heading (30.3.2010) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 142(1)**, 173(4); S.I. 2010/1093, art. 2(a)

337 Special schools

^{F2}[^{F2}(1)] A school [^{F3}in England] is a special school if it is specially organised to make special educational provision for pupils with special educational needs, and it is—

- (a) maintained by a local authority,
- (b) an Academy school, or
- (c) a non-maintained special school.

[^{F4}(2) A school in Wales is a special school if it is specially organised to make additional learning provision for pupils with additional learning needs and it is maintained by a local authority.]

Status: Point in time view as at 31/03/2022.

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Textual Amendments

- F2** S. 337(1): s. 337 renumbered as s. 337(1) (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 4(10)(a)**; S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, **art. 2**); S.I. 2021/1243, **art. 3** (with arts. 4-23) (as amended by S.I. 2021/1428, **art. 2**); S.I. 2021/1244, **art. 3** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, **art. 3** (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, **art. 4**; S.I. 2022/894, **art. 3**; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, **art. 3** (with arts. 1(7), 4-22); S.I. 2022/897, **art. 3** (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3
- F3** Words in s. 337(1) inserted (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 4(10)(b)**; S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, **art. 2**); S.I. 2021/1243, **art. 3** (with arts. 4-23) (as amended by S.I. 2021/1428, **art. 2**); S.I. 2021/1244, **art. 3** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, **art. 3** (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, **art. 4**; S.I. 2022/894, **art. 3**; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, **art. 3** (with arts. 1(7), 4-22); S.I. 2022/897, **art. 3** (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3
- F4** S. 337(2) inserted (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 4(10)(c)**; S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, **art. 2**); S.I. 2021/1243, **art. 3** (with arts. 4-23) (as amended by S.I. 2021/1428, **art. 2**); S.I. 2021/1244, **art. 3** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, **art. 3** (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, **art. 4**; S.I. 2022/894, **art. 3**; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, **art. 3** (with arts. 1(7), 4-22); S.I. 2022/897, **art. 3** (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

337A Interpretation of Chapter

In this Chapter—

“a non-maintained special school” means a school that is approved under section 342;

^{F5} ...]

Textual Amendments

- F5** Words in s. 337A omitted (1.9.2021) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), **ss. 57(2)**, 100(3); S.I. 2021/373, art. 8(e)

Establishment etc. of special schools

^{F6}338

Textual Amendments

- F6** S. 338 omitted (1.4.1999) by virtue of 1998 c. 31, s. 140(1), **Sch. 30 para. 81** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**; ss. 338-341 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 81, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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F7339

Textual Amendments

F7 S. 339 repealed (1.4.1999 so far as relating to the omission of s. 339(2) and certain words in s. 339(4) (a) and 1.9.1999 otherwise) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 81, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**; S.I. 1999/2323, art. 2(1), **Sch. 1**

F8340

Textual Amendments

F8 S. 340 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.81, **Sch. 31** (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/704, **regs. 7, 8, 14(2)(g)**); S.I. 1999/2323, art. 2(1), **Sch. 1**

F9341

Textual Amendments

F9 S. 341 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 81, **Sch.31** (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/704, **regs. 8, 14(2)(g)** and S.I. 1999/2323, **art. 17(b)**); S.I. 1999/2323, art. 2(1), **Sch. 1**

[^{F10}Approval of non-maintained special schools]

Textual Amendments

F10 S. 342 and crossheading substituted for s. 342 (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 82** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

^{X1}[^{F11}342Approval of non-maintained special schools.

- (1) The [^{F12}Secretary of State] may approve under this section any school [^{F13}in England] which—
 - (a) is specially organised to make special educational provision for pupils with special educational needs, and
 - (b) is not a community or foundation special school [^{F14}or an Academy school], and may give ^{F15}... approval before or after the school is established.
- (2) Regulations may make provision as to the requirements which are to be complied with as a condition of approval under subsection (1) above.
- (3) Any school which was a special school immediately before 1st April 1994 shall be treated, subject to subsection (4) below, as approved under this section.
- (4) Regulations may make provision as to—

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- (a) the requirements which are to be complied with by a school while approved under this section, and
 - (b) the withdrawal of approval from a school (including approval treated as given under subsection (3)) at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (5) Without prejudice to the generality of subsections (2) and (4), the requirements which may be imposed by the regulations include requirements—
- (a) which call for arrangements to be approved by the [^{F16}Secretary of State] , or
 - (b) as to the organisation of any special school as a primary school or as a secondary school.
- [Regulations shall make provision for securing that, so far as practicable, every pupil^{F17}(5A) attending a school in England that is approved under this section—
- (a) receives religious education unless withdrawn from receiving such education in accordance with the wishes of the pupil's parent, and
 - (b) attends religious worship unless withdrawn from attendance at such worship—
 - (i) in the case of a sixth-form pupil, in accordance with the pupil's own wishes, and
 - (ii) in any other case, in accordance with the wishes of the pupil's parent.
- (5B) In subsection (5A) “a sixth-form pupil” means a pupil who—
- (a) has ceased to be of compulsory school age, and
 - (b) is receiving education suitable to the requirements of pupils over compulsory school age.]
- ^{F18}(6)]

Editorial Information

- X1** S. 342: With effect from 1.9.1999 s. 342 became subsumed by new cross-heading "Approval of non-maintained special schools". Versions of this provision as it stood at any time before that date cannot be accessed directly by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 1.9.1999 or navigate via the Chapter II heading.

Textual Amendments

- F11** S. 342 and cross-heading substituted for s. 342 (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 82** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F12** Words in s. 342(1) substituted (1.9.2021) by **Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), ss. 57(3)(a)(i)**, 100(3); S.I. 2021/373, art. 8(e)
- F13** Words in s. 342(1) inserted (1.9.2021) by **Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), ss. 57(3)(a)(ii)**, 100(3); S.I. 2021/373, art. 8(e)
- F14** Words in s. 342(1)(b) inserted (1.9.2014) by **Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 37**; S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)
- F15** Word in s. 342(1) repealed (30.3.2010) by **Education and Skills Act 2008 (c. 25), ss. 142(3)(b), 173(4), Sch. 2**; S.I. 2010/1093, art. 2(a)(c)
- F16** Words in s. 342(5)(a) substituted (1.9.2021) by **Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), ss. 57(3)(b)**, 100(3); S.I. 2021/373, art. 8(e)

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F17 S. 342(5A)(5B) inserted (30.3.2010) by Education and Skills Act 2008 (c. 25), ss. 143(2), 173(4); S.I. 2010/1093, art. 2(a)

F18 S. 342(6) omitted (1.9.2021) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), ss. 57(3)(c), 100(3); S.I. 2021/373, art. 8(e)

Modifications etc. (not altering text)

C1 S. 342: power to amend conferred (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 34(6)(a), 70(2); S.I. 2018/346, reg. 4(e)

C2 S. 342: power to amend conferred (1.4.2018) by Children and Social Work Act 2017 (c. 16), ss. 35(4)(a), 70(2); S.I. 2018/346, reg. 4(f)

^{F19}Non-maintained special schools in England: protection of pupils in an emergency

Textual Amendments

F19 S. 342A and cross-heading inserted (30.3.2010) by Education and Skills Act 2008 (c. 25), ss. 144, 173(4); S.I. 2010/1093, art. 2(a)

342A Application to justice of the peace: power to make regulations

- (1) Regulations may make provision conferring power on a justice of the peace, on the application of the Secretary of State, to make an order in an urgent case that a non-maintained special school in England should cease to be approved under section 342.
- (2) Regulations under this section may in particular make provision corresponding, with or without modifications, to that made in—
 - (a) section 120(2) to (7) of the Education and Skills Act 2008 (emergency orders in relation to registered independent educational institutions), or
 - (b) section 122 of that Act (notification).]

^{F20}Non-maintained special schools in England: appeals

Textual Amendments

F20 Ss. 342B, 342C and cross-heading inserted (30.3.2010) by Education and Skills Act 2008 (c. 25), ss. 145, 173(4); S.I. 2010/1093, art. 2(a)

342B Appeal against decision of Secretary of State

- (1) Regulations may make provision for an appeal against a decision of the Secretary of State—
 - (a) to withdraw approval from a non-maintained special school in England by virtue of section 342(4)(b) (failure to comply with prescribed requirement) otherwise than at the request of the proprietor;
 - (b) not to approve, not to approve a change to, or to withdraw approval from, relevant arrangements in relation to such a school.
- (2) In subsection (1)(b) “relevant arrangements” means arrangements that require the approval of the Secretary of State by virtue of section 342(5)(a).

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- (3) Regulations under this section must provide that an appeal brought by virtue of this section—
 - (a) lies to the First-tier Tribunal, and
 - (b) must be brought by the proprietor of the school in question.
- (4) The regulations may in particular make provision, in the case of an appeal brought by virtue of subsection (1)(a), prohibiting the Secretary of State from acting on a decision to withdraw approval during the period in which—
 - (a) an appeal against the decision could be brought, or
 - (b) where an appeal has been brought, the appeal has not been determined, withdrawn or otherwise disposed of.

342C Appeal against order of justice of peace

- (1) Regulations may make provision for an appeal against the making of an order by virtue of section 342A (order by justice of peace in an emergency).
- (2) The regulations must provide that an appeal brought by virtue of this section—
 - (a) lies to the First-tier Tribunal, and
 - (b) must be brought by the proprietor of the school in question.]

X2F21 **343**.....

Editorial Information

X2 S. 343: With effect from 1.9.1999, a new cross-heading "Approval of non-maintained special schools" was inserted before s. 342. Versions of s. 343 as it stood at any time before that date cannot now be accessed directly by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 1.9.1999 or navigate via the Chapter II heading.

Textual Amendments

F21 S. 343 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

Government etc. of special schools

F22 **344**.....

Textual Amendments

F22 S. 344 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch. 31** (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/2323, art. 5, Sch. 7 paras. 2, **10**); S.I. 1999/2323, art. 2(1), Sch. 1

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Maintained special school becoming grant-maintained

F23 345

Textual Amendments

F23 S. 345 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

Grouping of grant-maintained special schools

F24 346

Textual Amendments

F24 S. 346 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

Independent schools providing special education

F25 347 **Approval of independent schools.**

.....

Textual Amendments

F25 S. 347 repealed (1.9.2021) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), **ss. 58, 100(3)**; S.I. 2021/373, art. 8(e)

348 Provision of special education at non-maintained schools ^{F26}—Wales].

- (1) This section applies where—
 - (a) special educational provision in respect of a child with special educational needs is made at a school which is not a maintained school,
 - ^{F27}(aa) the child is in the area of a local authority in Wales,] and
 - (b) either the name of the school is specified in a statement in respect of the child under section 324 or the ^{F28}local authority] are satisfied—
 - (i) that his interests require the necessary special educational provision to be made for him at a school which is not a maintained school, and
 - (ii) that it is appropriate for the child to be provided with education at the particular school.
- (2) Where this section applies, the ^{F28}local authority] shall pay the whole of the fees payable in respect of the education provided for the child at the school, and if—
 - (a) board and lodging are provided for him at the school, and

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- (b) the authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless the board and lodging are also provided,

the authority shall pay the whole of the fees payable in respect of the board and lodging.

^{F29}[(3) In this section “maintained school” means a school maintained by a ^{F28}local authority].]

Textual Amendments

- F26** Word in s. 348 title inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 38(3)**; S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))
- F27** S. 348(1)(aa) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 38(2)**; S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))
- F28** 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))
- F29** S. 348(3) substituted (1.9.1999) for s. 348(3)(a)-(c) by 1998 c. 31, s. 140(1), **Sch. 30 para.84** (with ss. 138(9), 144(6))

Variation of deeds

349 Variation of trust deeds etc. by order.

- (1) The ^{F30}Secretary of State] may by order make such modifications of any trust deed or other instrument relating to a school as, after consultation with the governing body or other proprietor of the school, appear to ^{F31}the Secretary of State] to be necessary to enable the governing body or proprietor to meet any requirement imposed by^{F32}—
- (a) regulations under section 342 ^{F33}.... ^{F32}, or
- (b) Academy arrangements.]

^{F34}(1A)

- (2) Any modification made by an order under this section may be made to have permanent effect or to have effect for such period as may be specified in the order.

Textual Amendments

- F30** Words in s. 349(1) substituted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 4(12)(a)(i)**; S.I. 2021/373, art. 8(j)(vii)
- F31** Words in s. 349(1) substituted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 4(12)(a)(ii)**; S.I. 2021/373, art. 8(j)(vii)
- F32** Words in s. 349(1) inserted (29.7.2010) by [Academies Act 2010 \(c. 32\)](#), s. 19(2), **Sch. 2 para. 3**; S.I. 2010/1937, art. 2, Sch. 1
- F33** Words in s. 349(1) repealed (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), ss. 147(2)(c), 173(4), **Sch. 2**; S.I. 2009/1513, art. 3
- F34** S. 349(1A) omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 4(12)(b)**; S.I. 2021/373, art. 8(j)(vii)

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