



Education Act 1996

1996 CHAPTER 56

PART IX

ANCILLARY FUNCTIONS

CHAPTER I

ANCILLARY FUNCTIONS OF SECRETARY OF STATE

General functions

495 Determination of disputes.

- (1) Except where this Act expressly provides otherwise, any dispute between a local education authority and the governing body of a school as to the exercise of any power conferred or the performance of any duty imposed by or under this Act may be referred to the Secretary of State (despite any enactment which makes the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the governing body).
- (2) The Secretary of State shall determine any dispute referred to him under subsection (1).
- (3) Any dispute between two or more local education authorities as to which of them is responsible for the provision of education for any pupil shall be determined by the Secretary of State.

Modifications etc. (not altering text)

- C1** S. 495 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](#)
- C2** 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.

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- C3** S. 495(1) extended (1.11.1996) by 1988 c. 40, s. 219(2) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.77 (with ss. 1(4), 561, 562, Sch. 39))

496 Power to prevent unreasonable exercise of functions.

- (1) If the Secretary of State is satisfied (either on a complaint by any person or otherwise) that a body to which this section applies have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, he may give such directions as to the exercise of the power or the performance of the duty as appear to him to be expedient (and may do so despite any enactment which makes the exercise of the power or the performance of the duty contingent upon the opinion of the body).
- (2) The bodies to which this section applies are—
- (a) any local education authority, ^[F1]and]
 - ^[F2](b) the governing body of any community, foundation or voluntary school or any community or foundation special school.]

Textual Amendments

- F1** Word in s. 496(2)(a) inserted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 129(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
- F2** S. 496(2)(b) substituted (1.9.1999) for s. 496(2)(b)(c) by 1998 c. 31, ss. 140(1), 145(3), Sch. 30 para. 129(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

Modifications etc. (not altering text)

- C2** 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.
- C4** S. 496 modified (1.11.1996) by 1988 c. 40, s. 219(3) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 77 (with ss. 1(4), 561, 562, Sch. 39))
S. 496 modified (1.9.1998) by 1997 c. 44, s. 43(4); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV
S. 496 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
S. 496 modified (1.4.2001 (E.), 1.4.2002 (W.)) by 2000 c. 21, s. 113(3) (with s. 150); S.I. 2001/654, art. 2(2), Sch. Pt. II (with art. 3); S.I. 2001/2705, art. 2(1), Sch. Pt. I
- C5** S. 496 extended (1.11.1996) by 1992 c. 13, s. 56(3) (as added (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 112 (with ss. 1(4), 561, 562, Sch. 39))
S. 496 extended (1.11.1996) by 1992 c. 13, s. 57(6)(a) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 113 (with ss. 1(4), 561, 562, Sch. 39))
S. 496 extended (1.9.1999) by 1998 c. 31, s. 24, Sch. 4 para. 10 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
- C6** S. 496: power to apply conferred (1.10.1998) by 1998 c. 31, s. 105(7) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch. 1 Pt. I
- C7** S. 496 applied (7.8.2000 for E., 1.11.2000 for W.) by 2000 c. 22, s. 23, Sch. 1 para. 10(a); S.I. 2000/2187, art. 2(c); S.I. 2000/2948, art. 2
S. 496 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Primary Schools) (England) Regulations 2002 (S.I. 2002/2903), regs. 1(2), 8
S. 496 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Secondary Schools) (England) Regulations 2002 (S.I. 2002/2904), regs. 1(2), 8 (with reg. 9)
- C8** S. 496 continued (W.) (22.3.2001) by S.I. 2001/1274, art. 3(4)(a)

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- C9** S. 496 modified by 2000 c. 21, s. 113A(10) (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), **ss. 72(1)**, 216(4) (with **ss. 210(8)**, 214(4)); S.I. 2003/124, art. 4; S.I. 2004/1728, art. 4, Sch. Pt. 1)

497 General default powers.

- (1) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a body to which this section applies have failed to discharge any duty imposed on them by or for the purposes of this Act, he may make an order—
- (a) declaring the body to be in default in respect of that duty, and
 - (b) giving such directions for the purpose of enforcing the performance of the duty as appear to him to be expedient.
- (2) The bodies to which this section applies are—
- (a) any local education authority, [^{F3}and]
 - [^{F4}(b) the governing body of any community, foundation or voluntary school or any community or foundation special school.]
- (3) Any directions given under subsection (1)(b) shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.

Textual Amendments

- F3** Word in s. 497(2)(a) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 130(a)** (with **ss. 138(9)**, 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F4** S. 497(2)(b)(c) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 130(b)** (with **ss. 138(9)**, 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

Modifications etc. (not altering text)

- C2** 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.
- C10** S. 497 modified (1.11.1996) by 1988 c. 40, s. **219(3)** (as substituted (1.11.1996) by 1996 c. 56, **ss. 582(1)**, 583(2), Sch. 37 Pt. 1 para. 77 (with **ss. 1(4)**, 561, 562, **Sch. 39**))
S. 497 modified (1.9.1998) by 1997 c. 44, s. **43(4)**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV**
S. 497 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**
- C11** S. 497: power to apply conferred (1.10.1998) by 1998 c. 31, s. **105(7)** (with **ss. 138(9)**, 144(6)); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**
- C12** S. 497 applied (3.12.1998) by S.I. 1998/2876, **reg. 21**
S. 497 applied (7.8.2000 (E.), 1.11.2000 (W.)) by 2000 c. 22, s. 23, **Sch. 1 para. 10(b)**; S.I. 2000/2187, **art. 2(c)**, S.I. 2000/2948, art. 2
S. 497 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Primary Schools) (England) Regulations 2002 (S.I. 2002/2903), **regs. 1(2)**, **8**
S. 497 applied (E.) (20.1.2003) by The Education (Co-ordination of Admission Arrangements) (Secondary Schools) (England) Regulations 2002 (S.I. 2002/2904), **regs. 1(2)**, **8** (with **reg. 9**)
- C13** S. 497 extended (1.9.1999) by 1998 c. 31, s. 24, **Sch. 4 para. 10** (with **ss. 138(9)**, 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- C14** S. 497 modified by 2000 c. 21, s. 113A(10) (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), **ss. 72(1)**, 216(4) (with **ss. 210(8)**, 214(4)); S.I. 2003/124, art. 4; S.I. 2004/1728, art. 4, Sch. Pt. 1)

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[^{F5}497A Power to secure proper performance of LEA’s functions.

^{F6}[^{F7}(1) This section applies to a local education authority’s functions under this Act and to other functions (of whatever nature) which are conferred on them in their capacity as a local education authority.]

^{F8}(2) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a local education 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 (^{F9}(4), (4A) or (4B)).

^{F10}[The Secretary of State may also exercise his powers under subsection (4), (4A) or ^{F11}(2A) (4B) where—

- (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a local education 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).]

^{F12}(3) ^{F13}

^{F14}[^{F15}(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.]

^{F16}[The Secretary of State may under this subsection direct that the function shall be ^{F17}(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.

^{F16}(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.]

^{F18}[^{F19}(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

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^{F20}^{F21}(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.]

^{F22}(7) Any direction given under subsection [^{F23}(4), (4A) or (4B)] shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.]

Textual Amendments

- F5** 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**.
- F6** S. 497A(1) substituted (26.7.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 60(2), 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(1) substituted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(2), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F8** 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
- F9** Words in s. 497A(2) substituted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F10** 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
- F11** S. 497A(2A) inserted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(4), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F12** 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
- F13** S. 497A(3) omitted (26.7.2002 for E., otherwise prosp.) and repealed (1.10.2002 for E., otherwise prosp.) by virtue of Education Act 2002 (c. 32), ss. 60(5), 215(2), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2002/2439, art. 3
- F14** 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
- F15** S. 497A(4) substituted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(6), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F16** 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
- F17** S. 497A(4A)(4B) inserted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(7), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F18** 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
- F19** S. 497A(5) substituted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(8), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F20** 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
- F21** S. 497A(6)(b) substituted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(9), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3
- F22** 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
- F23** Words in s. 497A(7) substituted (26.7.2002 for E., otherwise prosp.) by Education Act 2002 (c. 32), ss. 60(10), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3

Modifications etc. (not altering text)

- C2** 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.

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C15 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

[^{F24} 497AA Power to secure proper performance: duty of authority where directions contemplated

Where, in relation to any function to which section 497A applies, the Secretary of State—

- (a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and
- (b) has notified the local education authority that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.]

Textual Amendments

F24 S. 497AA inserted (26.7.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 61, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I

F25 S. 497AA inserted (26.7.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 61, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I

Modifications etc. (not altering text)

C2 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.

[^{F26} 497B Power to secure proper performance: further provisions.

^{F27}(1) Where the Secretary of State gives directions under [^{F28}section 497A(4) or (4A) to a local education authority or to an officer of such an authority, the specified person] shall, in the performance of the function or functions specified in the directions, be entitled to exercise the powers conferred by this section.

^{F29}[In this section “the specified person” means—

- ^{F30}(1A) (a) in relation to directions under section 497A(4), the person specified in the directions, and
- (b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him.]

(2) The specified person shall have at all reasonable times—

- (a) a right of entry to the premises of the authority, and
- (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the performance of the specified function or functions.

(3) In exercising the right to inspect records or other documents under subsection (2), the specified person—

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- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used, or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in a legible form).
- (4) Without prejudice to subsection (2), the authority shall give the specified person all assistance in connection with the performance of the specified function or functions which they are reasonably able to give.
- (5) Subsection (2) shall apply in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
- (a) the governing body of any such school shall give the specified person all assistance in connection with the exercise of his functions which they are reasonably able to give; and
 - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (6) Any reference in this section to the specified person includes a reference to any person assisting him in the performance of the specified function or functions.
- (7) In this section “document” and “records” each include information recorded in any form.]

Textual Amendments

- F26** S. 497B 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**
- F27** Words in s. 497B(1) substituted (1.10.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 62(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F28** Words in s. 497B(1) substituted (1.10.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 62(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F29** S. 497B(1A) inserted (1.10.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 62(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I
- F30** S. 497B(1A) inserted (1.10.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 62(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I

Modifications etc. (not altering text)

- C2** 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.
- C16** S. 497B modified (12.1.1999) by S.I. 1998/3217, **reg.2(b)**
S. 497B modified (1.9.1999) by 1998 c. 31, s. 44(7), 145(3) (with ss. 138(9), 144(6))
- C17** S. 497B(3) applied (1.10.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. 64(4), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I

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C18 S. 497B(3) applied (1.10.2002 for E., 1.8.2003 for W.) by Education Act 2002 (c. 32), ss. **64(4)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I

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