



# Education Act 1996

## 1996 CHAPTER 56

### PART I

#### GENERAL

### CHAPTER I

#### THE STATUTORY SYSTEM OF EDUCATION

##### *Educational institutions*

## **5 Primary schools, secondary schools and middle schools.**

- (1) In this Act “primary school” means (subject to regulations under subsection (4)) a school for providing primary education, whether or not it also provides [<sup>F1</sup>part-time education suitable to the requirements of junior pupils or] further education.
- (2) In this Act “secondary school” means (subject to regulations under subsection (4)) a school for providing secondary education, whether or not it also provides further education.
- [<sup>F2</sup>(3) In this Act “middle school” means a school which, in pursuance of proposals published under any of the enactments specified in subsection (3A), has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—
  - (a) have attained a specified age below 10 years and six months, and
  - (b) are under a specified age above 12 years.
- (3A) The enactments mentioned in subsection (3) are—
  - (a) in relation to England—
    - (i) section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998,

*Status: Point in time view as at 01/10/2013.*

*Changes to legislation: Education Act 1996, Section 5 is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (ii) section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, and
- (iii) section 7, 10, 11 or 19 of the Education and Inspections Act 2006;
- (b) in relation to Wales,
  - [<sup>F3</sup>(i)] section 28 of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998[<sup>F4</sup>, and
  - (ii) section 48, 59 or 68 of the School Standards and Organisation (Wales) Act 2013]]
- (4) The Secretary of State shall make regulations for determining, or enabling him to determine, whether a middle school is to be treated for the purposes of this Act and the other enactments relating to education as a primary school or as a secondary school.
- (5) [<sup>F5</sup>The powers conferred by the enactments mentioned in subsection (3) (so far as relating to the establishment of middle schools) and the powers conferred by subsection] (4) above are exercisable—
  - (a) notwithstanding anything in this Act (and in particular section 1); but
  - (b) without prejudice to the exercise of any other power conferred by this Act.

#### Textual Amendments

- F1** Words in s. 5(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, [Sch. Pt. 1](#)
- F2** S. 5(3)(3A) substituted for s. 5(3) (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 7\(2\)](#); S.I. 2007/935, art. 7(o)
- F3** Words in s. 5(3A)(b) renumbered as s. 5(3A)(b)(i) (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 17\(2\)\(a\)](#); S.I. 2013/1800, art. 3(j)
- F4** S. 5(3A)(b)(ii) and word inserted (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 17\(2\)\(b\)](#); S.I. 2013/1800, art. 3(j)
- F5** Words in s. 5(5) substituted (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 12 para. 1\(3\)](#); S.I. 2006/2129, art. 4

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