



# Education Act 1997

## 1997 CHAPTER 44

### PART I

#### ASSISTED PLACES SCHEME

F1 .....

#### Textual Amendments

F1 S. 1 repealed (1.9.1997) by 1997 c. 59, ss. 6(3), 7(3)(a), Sch. Pt.I (with s. 1(3))

### PART II

#### SCHOOL DISCIPLINE

#### *Responsibility for discipline*

F2 .....

#### Textual Amendments

F2 Ss. 2-3 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch.1

F3 .....

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**Textual Amendments**  
**F3** Ss. 2-3 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

*Power to restrain pupils*

**F4** **Power of members of staff to restrain pupils.**

.....

**Textual Amendments**  
**F4** S. 4 repealed (1.4.2007 for E., 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 4(d); S.I. 2010/2543, art. 2(m)

*Detention*

**F5** **Detention outside school hours lawful despite absence of parental consent.**

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**Textual Amendments**  
**F5** S. 5 repealed (1.4.2007 for E., 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 4(d); S.I. 2010/2543, art. 2(m)

*Exclusion of pupils from school*

**F6** .....

**Textual Amendments**  
**F6** Ss. 6-8 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

**F7** .....

**Textual Amendments**  
**F7** Ss. 6-8 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

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**F8** .....

**Textual Amendments**

**F8** Ss. 6-8 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

*LEA plans*

**F9** **LEA plans relating to children with behavioural difficulties.**

.....

**Textual Amendments**

**F9** S. 9 repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 3(b)

**PART III**

SCHOOL ADMISSIONS

**CHAPTER I**

COUNTY AND VOLUNTARY SCHOOLS

*Partially-selective schools*

**F10** .....

**Textual Amendments**

**F10** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

*Children permanently excluded from two or more schools*

**F11** .....

**Textual Amendments**

**F11** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

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F12 **12** .....

**Textual Amendments**

**F12** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

PROSPECTIVE

*Home-school partnership documents*

F13 **13** .....

**Textual Amendments**

**F13** Pt. III (ss. 10-14) repealed (1.2.1999 to the extent that it relates to the repeal of s. 13 of the amended Act) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(3), **Sch.1 Pt. III**

**CHAPTER II**

**GRANT-MAINTAINED SCHOOLS**

F14 **14** .....

**Textual Amendments**

**F14** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s.140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

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## PART IV

### BASELINE ASSESSMENTS AND PUPILS’ PERFORMANCE

#### <sup>F15</sup>CHAPTER I

##### BASELINE ASSESSMENTS

###### Textual Amendments

**F15** Pt. IV Ch. I repealed (2.9.2002 for E., 1.9.2011 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 204, 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2011/1952, art. 2(1)(2)(a)(c)

#### <sup>F15</sup>15 **Introductory**

.....

#### <sup>F15</sup>16 **Adoption of baseline assessment schemes.**

.....

#### <sup>F15</sup>17 **Assessment of pupils in accordance with scheme.**

.....

#### <sup>F15</sup>18 **Regulations for purposes of this Chapter.**

.....

## CHAPTER II

### PUPILS’ PERFORMANCE

#### **19 School performance targets.**

[(1) [<sup>F16</sup>The Welsh Ministers] may by regulations [<sup>F17</sup>the Welsh Ministers consider] appropriate for requiring the governing bodies of maintained schools [<sup>F18</sup>in Wales ] to secure that annual targets are set in respect of the performance of pupils—

- (a) in public examinations or in assessments for the purposes of the National Curriculum, in the case of pupils of compulsory school age; or
- (b) in public examinations or in connection with the attainment of other external qualifications, in the case of pupils of any age over that age.

(2) Regulations under this section may require—

- (a) such targets, and
- (b) the past performance of pupils in the particular examinations or assessments, or in connection with the attainment of the particular qualifications, to which such targets relate,

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to be published in such manner as is specified in the regulations.

[<sup>F19</sup>(3) In this section “maintained school” means—

- (a) a community, foundation or voluntary school, or
- (b) a community or foundation special school (other than one established in a hospital).]]

#### Textual Amendments

- F16** Words in s. 19(1) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 66(2)(a)**, 115(7); S.I. 2015/1732, art. 2(g)
- F17** Words in s. 19(1) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 66(2)(b)**, 115(7); S.I. 2015/1732, art. 2(g)
- F18** Words in s. 19(1) inserted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 66(2)(c)**, 115(7); S.I. 2015/1732, art. 2(g)
- F19** S. 19(3) substituted (1.9.1999) by [1998 c. 31](#), s. 140(1), **Sch. 30 para.213** (with [ss. 138\(9\)](#), [144\(6\)](#)); S.I. 1999/2323, art. 2(1), **Sch.1**

#### Modifications etc. (not altering text)

- C1** S. 19 ceases to have effect (E.) (1.10.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), **ss. 66(1)**, 115(7); S.I. 2015/1732, art. 2(g)

## 20 Provision of information about individual pupils' performance.

After section 537 of the <sup>M1</sup>Education Act 1996 there shall be inserted—

### “537A Provision of information about individual pupils' performance.

- (1) The Secretary of State may by regulations make provision requiring—
- (a) the governing body of every school which is—
    - (i) maintained by a [<sup>F20</sup>local authority], or
    - (ii) a grant-maintained school, or
    - (iii) a special school which is not maintained by a [<sup>F20</sup>local authority], and
  - (b) the proprietor of each independent school,
- to provide to the Secretary of State such individual performance information relating to pupils or former pupils at the school as may be prescribed.
- (2) In this section “individual performance information” means information about the performance of individual pupils (identified in the prescribed manner)—
- (a) in any assessment made for the purposes of the National Curriculum or in accordance with a baseline assessment scheme (within the meaning of Chapter I of Part IV of the Education Act 1997);
  - (b) in any prescribed public examination;
  - (c) in connection with the attainment of any vocational qualification; or
  - (d) in any such other assessment or examination, or in connection with the attainment of any such other qualification, as may be prescribed.
- (3) The Secretary of State may provide any information received by him by virtue of subsection (1)—

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- (a) to any prescribed body or person, or
  - (b) to any body or person falling within a prescribed category.
- (4) Any body or person holding any individual performance information may provide that information to any body to which this subsection applies; and any body to which this subsection applies—
- (a) may provide any information received by it under this subsection—
    - (i) to the Secretary of State, or
    - (ii) to the governing body or proprietor of the school attended by the pupil or pupils to whom the information relates; and
  - (b) may, at such times as the Secretary of State may determine, provide to any prescribed body such information received by it under this subsection as may be prescribed.
- (5) Subsection (4) applies to any body which, for the purposes of or in connection with the functions of the Secretary of State relating to education, is responsible for collating or checking information relating to the performance of pupils—
- (a) in any assessment or examination falling within subsection (2)(a), (b) or (d), or
  - (b) in connection with the attainment of any qualification falling within subsection (2)(c) or (d).
- (6) No individual performance information received under or by virtue of this section shall be published in any form which includes the name of the pupil or pupils to whom it relates.
- (7) References in this section to the attainment of a qualification of any description include references to the completion of any module or part of a course leading to any such qualification.”

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**Textual Amendments**

**F20** 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. 8(2)**

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**Marginal Citations**

**M1** 1996 c. 56.

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**PART V**

SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

**CHAPTER I**

THE QUALIFICATIONS AND CURRICULUM AUTHORITY

*Establishment of the Authority*

**F21 21 The Qualifications and Curriculum Authority.**

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**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

*Functions of the Authority*

**F21 22 General function of Authority to advance education and training.**

.....

**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F21 23 Functions of the Authority in relation to curriculum and assessment.**

.....

**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F21 24 Functions of the Authority in relation to external vocational and academic qualifications.**

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**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F21 25 Other functions of the Authority.**

.....

**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F21 26 Supplementary provisions relating to discharge by Authority of their functions.**

.....

**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F21 26A Power of Authority to give directions**

.....

**Textual Amendments**

**F21** Ss. 21-26A repealed (1.4.2010 for E., 1.11.2010 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 12 para. 13, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**CHAPTER II**

**[<sup>F22</sup>FUNCTIONS OF THE NATIONAL ASSEMBLY FOR WALES]**

**Textual Amendments**

**F22** Pt. V Ch. II heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 8** (with art. 7)

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F23  
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#### Textual Amendments

- F23** S. 27 crossheading omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 9** (with art. 7)

### <sup>F24</sup>27 **The Qualifications, Curriculum and Assessment Authority for Wales.**

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#### Textual Amendments

- F24** S. 27 omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 9** (with art. 7)

### *Functions of the [<sup>F25</sup>National Assembly for Wales]*

#### Textual Amendments

- F25** Words in s. 28 cross-heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 10** (with art. 7)

### **28 General function of [<sup>F26</sup>National Assembly for Wales] to advance education and training.**

- (1) The functions conferred on the [<sup>F27</sup>National Assembly for Wales] by this Part shall be exercised by [<sup>F28</sup>the National Assembly for Wales] for the purpose of advancing education and training in Wales.
- (2) [<sup>F29</sup>The National Assembly for Wales] shall exercise [<sup>F30</sup>its functions] under this Part with a view to promoting quality and coherence in education and training in relation to which [<sup>F31</sup>it has] functions under this Part.

#### Textual Amendments

- F26** Words in s. 28 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 10** (with art. 7)
- F27** Words in s. 28(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(a)(i)** (with art. 7)
- F28** Words in s. 28(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(a)(ii)** (with art. 7)

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- F29** Words in s. 28(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(b)(i)** (with art. 7)
- F30** Words in s. 28(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(b)(ii)** (with art. 7)
- F31** Words in s. 28(2) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 11(b)(iii)** (with art. 7)

**29 Functions of the [F32 National Assembly for Wales] in relation to curriculum and assessment.**

- (1) [F33 The National Assembly for Wales] shall have the functions set out in subsection (2) [F34 with respect to—
- (a) pupils at maintained schools in Wales who have not ceased to be of compulsory school age,
  - (b) pupils at maintained nursery schools in Wales, and
  - (c) children for whom funded nursery education is provided in Wales otherwise than at a maintained school or maintained nursery school.]

- (2) The functions are—
- (a) to keep under review all aspects of the curriculum for [F35 maintained schools or maintained nursery schools] and all aspects of school examinations and assessment;
  - [F36](b) .....
  - [F37](c) .....
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; [F38] ...
  - (f) [F38] .....

[F39(2A) In subsection (2) references to the curriculum for a maintained nursery school include references to the curriculum for any funded nursery education provided as mentioned in subsection (1)(c); and references to assessment in schools include references to assessment in funded nursery education.]

- (3) The Authority shall have, in relation to Wales, the function of developing learning goals and related materials for children who are [F40 under compulsory school age.]
- (4) The Authority shall have, in relation to Wales, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
- (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
  - (b) any other function which may be conferred on the Authority by the Secretary of State.

[F41(5) In this section—  
“assessment” includes examination and test;

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“funded nursery education” has the meaning given by section 98 of the Education Act 2002;

“maintained school” means—

- (a) any community, foundation or voluntary school, and
- (b) any community<sup>F42</sup> ... special school.

(6) In the definition of “maintained school”, the reference to a community, foundation or voluntary school or to a community<sup>F43</sup> ... special school, is a reference to such a school within the meaning of the School Standards and Framework Act 1998.]

[<sup>F44</sup>(7) In this section references to “school examinations and assessment” do not include examinations taken or assessments carried out for the purpose of the award of a qualification within the meaning of section 56 of the Qualifications Wales Act 2015.]

### Textual Amendments

- F32** Words in s. 29 heading substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 12** (with art. 7)
- F33** Words in s. 29(1) substituted (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(a)** (with art. 7)
- F34** Words in s. 29(1) substituted (19.12.2002) by [Education Act 2002 \(c. 32\)](#), **Sch. 17 para. 5(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F35** Words in s. 29(2)(a) substituted (19.12.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, **Sch. 17 para. 5(3)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F36** S. 29(2)(b) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(b)(i)** (with art. 7)
- F37** S. 29(2)(c) omitted (1.4.2006) by virtue of [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), art. 1(1), **Sch. 1 para. 13(b)(ii)** (with art. 7)
- F38** S. 29(2)(f) and preceding word repealed (19.12.2002) by [Education Act 2002 \(c. 32\)](#), ss. 189, 215(2), **Sch. 17 para. 5(3)(b)**, **Sch. 22 Pt. 2** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F39** S. 29(2A) inserted (19.12.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, **Sch. 17 para. 5(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F40** Words in s. 29(3) substituted (1.9.1999) by [1998 c. 31](#), s. 140(1), **Sch. 30 para. 215** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F41** S. 29(5)(6) substituted for s. 29(5) (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), **Sch. 12 para. 14**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F42** Words in s. 29(5) omitted (W.) (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 18(2)(a)**; S.I. 2013/1800, art. 3(j)
- F43** Words in s. 29(6) omitted (W.) (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 18(2)(b)**; S.I. 2013/1800, art. 3(j)
- F44** S. 29(7) inserted (21.9.2015) by [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 2(2)**; S.I. 2015/1687, art. 2 (with arts. 3-13)

### Modifications etc. (not altering text)

- C2** S. 29 modified (temp.) (1.4.2006) by [Qualifications, Curriculum and Assessment Authority for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3239\)](#), arts. 1(1), **7(4)** (with art. 7)

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**F47** **30** Functions of the [F45 National Assembly for Wales] in relation to [F46 relevant] qualifications

.....

**Textual Amendments**

- F45** Words in s. 30 heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 14** (with art. 7)
- F46** Word in s. 30 heading substituted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 15(8)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F47** S. 30 omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(a)**; S.I. 2015/1687, art. 2 (with arts. 3-13)

**F48** **31** Other functions of the Authority.

.....

**Textual Amendments**

- F48** S. 31 omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 16** (with art. 7)

**32** Supplementary provisions relating to discharge by [F49 the National Assembly for Wales of its functions] .

- (1) In carrying out [F50 its functions] under this Part [F51 the National Assembly for Wales] shall—
  - F52**(a) .....
  - F53**(b) .....
  - (c) so far as relevant, have regard to—
    - (i) the requirements of [F54 section 99 of the Education Act 2002] (general duties in respect of curriculum),
    - (ii) the [F55 reasonable] requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
    - [F56 (iii) the reasonable requirements of persons with learning difficulties.]
- (2) In carrying out those functions [F57 the National Assembly for Wales] shall in addition have regard to information supplied [F58 to it] by [F59 Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] or by any body designated by the Secretary of State for the purposes of this section.

**F60**(3) .....

**F61** [F62(3A)] .....

**F63**(4) .....

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<sup>F64</sup>(4A) .....

<sup>F65</sup>(5) .....

[<sup>F66</sup>(6) In this section “persons with learning difficulties” means—

- (a) children with special educational needs (as defined in section 312 of the Education Act 1996), and
- (b) other persons who—
  - (i) have a significantly greater difficulty in learning than the majority of persons of their age, or
  - (ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

(7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which the person is or will be taught is different from a language (or form of language) which has at any time been spoken in the person's home.]

#### Textual Amendments

- F49** Words in s. 32 heading substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 17** (with art. 7)
- F50** Words in s. 32(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(i)** (with art. 7)
- F51** Words in s. 32(1) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(ii)** (with art. 7)
- F52** S. 32(1)(a) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(iii)** (with art. 7)
- F53** S. 32(1)(b) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(a)(iii)** (with art. 7)
- F54** Words in s. 32(1)(c)(i) substituted (19.12.2002 for W., 1.3.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 70 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 2
- F55** Word in s. 32(1)(c)(ii) inserted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(2)(a)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F56** S. 32(1)(c)(iii) substituted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(2)(b)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F57** Words in s. 32(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(b)(i)** (with art. 7)
- F58** Words in s. 32(2) substituted (1.4.2006) by Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(b)(ii)** (with art. 7)
- F59** Words in s. 32(2) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, **Sch.**
- F60** S. 32(3) omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(b)**; S.I. 2015/1687, art. 2 (with arts. 3-12)

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- F61** S. 32(3A) omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(b)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F62** S. 32(3A) inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 7(3)** (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1
- F63** S. 32(4) omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(b)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F64** S. 32(4A) repealed (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(4)**, **Sch. 16 Pt. 4**; S.I. 2010/2413, art. 2(a)(b) (with arts. 3-5)
- F65** S. 32(5) omitted (1.4.2006) by virtue of Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 1(1), **Sch. 1 para. 18(g)** (with art. 7)
- F66** S. 32(6)(7) substituted for s. 32(6) (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 16(5)**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

<sup>F68</sup><sup>F67</sup> **32ZA Qualifications functions of Welsh Ministers: co-operation and joint working etc.**

.....

**Textual Amendments**

- F67** S. 32ZA inserted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 17**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)
- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)

<sup>F68</sup><sup>F69</sup> **32B Power of Welsh Ministers to give directions**

.....

**Textual Amendments**

- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F69** S. 32A substituted (31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 162(10)**, 173(3)(4); S.I. 2009/784, art. 2(a)

<sup>F68</sup><sup>F70</sup> **32AA Power of Welsh Ministers to impose monetary penalties**

.....

**Textual Amendments**

- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F70** Ss. 32AA-32AD inserted (1.5.2012) by Education Act 2011 (c. 21), **ss. 24(4)**, 82(3); S.I. 2012/924, art. 3

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**F68 32AB Monetary penalties: amount**

.....

**Textual Amendments**

**F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)

**F70** Ss. 32AA-32AD inserted (1.5.2012) by Education Act 2011 (c. 21), **ss. 24(4)**, 82(3); S.I. 2012/924, art. 3

**F68 32AC Monetary penalties: appeals**

.....

**Textual Amendments**

**F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)

**F70** Ss. 32AA-32AD inserted (1.5.2012) by Education Act 2011 (c. 21), **ss. 24(4)**, 82(3); S.I. 2012/924, art. 3

**F68 32AD Monetary penalties: interest and recovery**

.....

**Textual Amendments**

**F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)

**F70** Ss. 32AA-32AD inserted (1.5.2012) by Education Act 2011 (c. 21), **ss. 24(4)**, 82(3); S.I. 2012/924, art. 3

**F68 [F71] 32B Power of Welsh Ministers to withdraw recognition**

.....

**Textual Amendments**

**F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)

**F71** Ss. 32B, 32C inserted (1.11.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(3), **Sch. 12 para. 19**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

**F68 [F72] 32BA Costs recovery**

.....



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**Textual Amendments**

- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F72** Ss. 32BA-32BC inserted (1.5.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 24(6)**, 82(3); S.I. 2012/924, art. 3

**F68 32BB Costs recovery: appeals**

.....

**Textual Amendments**

- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F72** Ss. 32BA-32BC inserted (1.5.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 24(6)**, 82(3); S.I. 2012/924, art. 3

**F68 32BC] Costs: interest and recovery**

.....

**Textual Amendments**

- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F72** Ss. 32BA-32BC inserted (1.5.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 24(6)**, 82(3); S.I. 2012/924, art. 3

**F68[F71 32(S) Surrender of recognition**

.....

**Textual Amendments**

- F68** Ss. 32ZA-32C omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015 \(anaw 5\)](#), s. 60(2), **Sch. 4 para. 2(3)(c)**; S.I. 2015/1687, art. 2 (with arts. 3-12)
- F71** Ss. 32B, 32C inserted (1.11.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(3), **Sch. 12 para. 19**; S.I. 2010/2413, art. 2(a) (with arts. 3-5)

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### CHAPTER III

#### PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

##### *Dissolution of existing bodies*

#### <sup>F73</sup> **33 Dissolution of existing bodies.**

.....

##### **Textual Amendments**

**F73** S. 33 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

##### *Transfer of property and staff*

#### <sup>F74</sup> **34 Transfer of property.**

.....

##### **Textual Amendments**

**F74** S. 34 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 7**

#### <sup>F75</sup> **35 Transfer of staff.**

.....

##### **Textual Amendments**

**F75** S. 35 repealed (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 8 para. 8**; S.I. 2012/924, art. 2

##### *Levy on bodies awarding accredited qualifications*

#### <sup>F76</sup> **36 Levy on bodies awarding qualifications accredited by relevant body.**

.....

##### **Textual Amendments**

**F76** S. 36 repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 12 para. 21**, **Sch. 16 Pt. 4**; S.I. 2010/1151, art. 2, Sch. 1

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## CHAPTER IV

### CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

#### <sup>F77</sup>37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.

.....

#### Textual Amendments

**F77** S. 37 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

## PART VI

### INSPECTION OF [<sup>F78</sup>LOCAL AUTHORITIES] AND SCHOOL INSPECTIONS

#### Textual Amendments

**F78** 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. 8(3)

## CHAPTER I

### INSPECTION OF [<sup>F78</sup>LOCAL AUTHORITIES]

#### 38 Inspection of [<sup>F78</sup>local authorities] .

- (1) The Chief Inspector—
- (a) may, and
  - (b) if requested to do so by the Secretary of State, shall, arrange for any [<sup>F20</sup>local authority] to be inspected under this section.

<sup>F79</sup>(2) .....

[<sup>F80</sup>(2A) An inspection of a [<sup>F20</sup>local authority] in Wales under this section shall consist of a review of the way in which the authority are performing—

- [<sup>F81</sup>(a) any education function of theirs;]
- (b) the functions conferred on them under [<sup>F82</sup>section 25][<sup>F83</sup>of the Children Act 2004] so far as relating to education, training or youth support services (within the meaning of section 123 of the Learning and Skills Act 2000).]

(3) A request by the Secretary of State under this section may relate to one or more [<sup>F78</sup>local authorities], and shall specify both—

- (a) the [<sup>F20</sup>local authority] or authorities concerned, and
- (b) the functions of theirs to which the inspection is to relate.

(4) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (3).

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- (5) Any inspection under this section shall be conducted—
- (a) by one of Her Majesty’s Inspectors of Schools in <sup>F84</sup>... Wales, or
  - (b) by any additional inspector authorised under <sup>F85</sup>... [<sup>F86</sup>paragraph 2 of Schedule 2 to [<sup>F87</sup>the Education Act 2005]];
 

but he may be assisted by such other persons (whether or not members of the Chief Inspector’s staff) as the Chief Inspector thinks fit.
- (6) For the purposes of this section a [<sup>F20</sup>local authority] shall provide the Chief Inspector with such information as may be prescribed, and shall do so in such form and—
- (a) within such period following a request made by the Chief Inspector in any prescribed circumstances, or
  - (b) at such other times,
 

as regulations may provide.
- (7) In this section and sections 39 to [<sup>F88</sup>41A] “the Chief Inspector” means—
- <sup>F89</sup>(a) .....
  - (b) in relation to a [<sup>F20</sup>local authority] in Wales, [<sup>F90</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru];
 

and in those sections references to “the inspector” in relation to an inspection under this section are references to the person conducting the inspection.

#### Textual Amendments

- F20** 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. 8(2)**
- F79** S. 38(2) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 22(2), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F80** S. 38(2)(2A) substituted for s. 38(2) (1.4.2005 for E., 31.7.2008 for W.) by [Children Act 2004 \(c. 31\)](#), **ss. 51, 67(7)(e)**; S.I. 2005/394, **art. 2(2)(e)**; S.I. 2008/1904, **art. 2**
- F81** S. 38(2A)(a) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 8(4)**
- F82** Words in s. 38(2A)(b) substituted (1.4.2016) by [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), s. 56(2), **Sch. 4 para. 1**; S.I. 2016/86, art. 3
- F83** Words in s. 38(2A)(b) inserted (1.4.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 2 para. 28**; S.I. 2008/17, art. 3(b)
- F84** Words in s. 38(5)(a) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 22(3)(a), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F85** Words in s. 38(5)(b) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 22(3)(b), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F86** Words in s. 38(5)(b) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 9 para. 11**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F87** Words in s. 38(5)(b) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 22(3)(b)**; S.I. 2007/935, art. 5(gg)
- F88** Word in s. 38(7) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 22(4)(a)**; S.I. 2007/935, art. 5(gg)
- F89** S. 38(7)(a) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 22(4)(b), **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)
- F90** Words in s. 38(7)(a) substituted (1.1.2001) by [2000 c. 21](#), **s. 73(a)**; S.I. 2000/3230, art. 2, **Sch.**

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**Modifications etc. (not altering text)**

- C3** S. 38 modified (31.8.2008) by [Childcare Act 2006 \(c. 21\), ss. 28, 109\(2\)](#); S.I. 2008/17, art. 2(a)  
**C4** S. 38(5) applied (E.) (1.9.2005) by [Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\), reg. 1\(1\), Sch. para. 2\(a\)](#)

**39 Reports of inspections under s. 38 and action plan by <sup>F20</sup>local authority]**

- (1) Where an inspection under section 38 has been completed, the inspector shall make a written report on the matters reviewed in the course of the inspection, and shall send copies of the report to—
- any <sup>F20</sup>local authority] to which the inspection relates; and
  - the Secretary of State.
- (2) Where a <sup>F20</sup>local authority] receive a copy of a report under this section, they shall prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (3) The authority shall publish—
- the report, and
  - the statement prepared under subsection (2),
- within such period, and in such manner, as may be prescribed.
- (4) The Chief Inspector may arrange for any report under this section to be published in such manner as he considers appropriate<sup>F91</sup>; and <sup>F92</sup>... [<sup>F93</sup>section 29(2) to (4) of <sup>F94</sup>the Education Act 2005]] shall apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in <sup>F95</sup>... [<sup>F96</sup>section 29(2)].]

**Textual Amendments**

- F20** 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. 8\(2\)](#)
- F91** Words in s. 39(4) inserted (1.10.1998) by 1998 c. 31, s. 134(3) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, [Sch.1 Pt. I](#)
- F92** Words in s. 39(4) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 14 para. 23\(a\), Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F93** Words in s. 39(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 12\(a\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F94** Words in s. 39(4) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 14 para. 23\(b\)](#); S.I. 2007/935, art. 5(gg)
- F95** Words in s. 39(4) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 14 para. 23\(c\), Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F96** Words in s. 39(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 12\(b\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

**Modifications etc. (not altering text)**

- C5** S. 39: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by [Contracting Out \(Local Education Authority Functions\) \(England\) Order 2002 \(S.I. 2002/928\), art. 3, Sch. 3\(j\)](#)

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#### **[<sup>F97</sup>40 Inspector’s rights of entry etc.**

- (1) This section applies where a [<sup>F20</sup>local authority] are inspected under section 38.
- (2) The inspector, and any person assisting him, shall have at all reasonable times a right of entry to—
  - (a) the premises of the [<sup>F20</sup>local authority],
  - (b) the premises of any school maintained by the authority, and
  - (c) any other premises at which relevant section 19 education is provided, other than premises which are or form part of a private dwelling house but are not a school.
- (3) The inspector, and any person assisting him, shall also have at all reasonable times a right to inspect and take copies of—
  - (a) any records kept by, and any other documents containing information relating to, the [<sup>F20</sup>local authority] or any school maintained by the authority, and
  - (b) any records kept by a person who provides relevant section 19 education that relate to the provision of that education, and any other documents containing information that so relates;
 which he considers relevant to the exercise of his functions.
- (4) [<sup>F98</sup>Section 58 of the Education Act 2005] (inspection of computer records) shall apply for the purposes of subsection (3) as it applies for the purposes of Part 1 of that Act.
- (5) Without prejudice to subsections (2) and (3), the [<sup>F20</sup>local authority] and the governing body of any school maintained by the authority—
  - (a) shall give the inspector and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give, and
  - (b) shall secure that all such assistance is also given by persons who work at the school.
- (6) It shall be an offence wilfully to obstruct the inspector or any person assisting him in the exercise of his functions in relation to the inspection.
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In this section—
 

“document” and “records” each include information recorded in any form; and

“relevant section 19 education” means education provided to a child by virtue of arrangements made by the [<sup>F20</sup>local authority] under section 19 of the Education Act 1996 (exceptional provision of education at schools or otherwise).]

#### **Textual Amendments**

- F20** 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. 8(2)**
- F97** S. 40 substituted (1.10.2002 except in relation to W. and 19.12.2002 otherwise) by [Education Act 2002 \(c. 32\)](#), **ss. 180, 216**, (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), **art. 3**; [S.I. 2002/3185](#), **art. 4**

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**F98** Words in s. 40(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 9 para. 13](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

**Modifications etc. (not altering text)**

**C6** S. 40(2)(3)(5)-(7) applied (E.) (1.9.2005) by [Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), reg. 1(1), [Sch. para. 2\(a\)](#)

**<sup>F99</sup>41 Inspections involving collaboration of Audit Commission.**

.....

**Textual Amendments**

**F99** S. 41 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 24, [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)

**[<sup>F100</sup>41A Inspections involving collaboration of Auditor General for Wales**

- (1) If requested to do so by the Chief Inspector, the Auditor General for Wales may assist with any inspection under section 38 of a [<sup>F20</sup>local authority] in Wales; and subsections (2) to (5) below have effect where the Auditor General for Wales assists with any such inspection.
- (2) Section 40 shall apply to the Auditor General for Wales and to any authorised person as it applies to the inspector.
- (3) Any information obtained by virtue of section 40 by a person falling within one of the categories mentioned in subsection (4) may be disclosed for the purposes of the inspection, or the preparation or making of the report under section 39(1), to a person falling within the other category.
- (4) Those categories are—
  - (a) the Auditor General for Wales and any authorised person; and
  - (b) the inspector and any person assisting him.
- (5) Any report prepared under section 39(1) shall be prepared by the inspector acting in conjunction with the Auditor General for Wales.
- (6) The Auditor General for Wales shall not provide assistance under this section unless, before he does so, the Chief Inspector has agreed to pay [<sup>F101</sup>the Wales Audit Office a fee, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013 (which may not exceed the full cost incurred by the Auditor General in providing the assistance)].
- (7) In this section “authorised person” means a person authorised by the Auditor General for Wales for the purposes of this section.]

**Textual Amendments**

**F20** 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. 8\(2\)](#)

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**F100** S. 41A inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 19](#); S.I. 2005/558, art. 2, [Sch. 1](#)

**F101** Words in s. 41A(6) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 4](#) (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)

## CHAPTER II

### SCHOOL INSPECTIONS

#### <sup>F102</sup>42 **Miscellaneous amendments relating to school inspections.**

.....

#### **Textual Amendments**

**F102** S. 42 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 1](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, [Sch. 1](#) (with [Sch. 4 para. 6](#))

## PART VII

### CAREERS EDUCATION AND GUIDANCE

#### <sup>F103</sup>42A **Provision of careers guidance in schools in England**

- (1) The responsible authorities for a school in England within subsection (2) must secure that all registered pupils at the school are provided with independent careers guidance during the relevant phase of their education.
- (2) A school is within this subsection if it provides secondary education and is one of the following—
  - (a) a community, foundation or voluntary school;
  - (b) a community or foundation special school (other than one established in a hospital);
  - (c) a pupil referral unit.
- (3) The responsible authorities for a school within subsection (2) are—
  - (a) in the case of a school within subsection (2)(a) or (b), its governing body;
  - (b) in the case of a pupil referral unit, the local authority that maintain it.
- (4) The responsible authorities must secure that careers guidance provided under subsection (1)—
  - (a) is presented in an impartial manner,
  - (b) includes information on options available in respect of 16 to 18 education or training, including apprenticeships, and
  - (c) is guidance that the person giving it considers will promote the best interests of the pupils to whom it is given.
- (5) Careers guidance provided to pupils at a school is independent for the purposes of this section if it is provided other than by—



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- (a) a teacher employed or engaged at the school, or
  - (b) any other person employed at the school.
- (6) For the purposes of this section the relevant phase of a pupil's education is the period—
- (a) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 14, and
  - (b) ending with the expiry of the school year in which the majority of pupils in the pupil's class attain the age of 16.
- (7) In this section—
- F104 ...
- “career” includes undertaking any training, education, employment or occupation;
- “careers guidance” means guidance about careers;
- “class”, in relation to a pupil, means—
- (a) the teaching group in which the pupil is regularly taught, or
  - (b) if the pupil is taught in different groups for different subjects, such one of those groups as is designated by the head teacher of the school or, in the case of a pupil at a pupil referral unit, by the teacher in charge of the unit;
- “16 to 18 education or training” means education or training suitable to the requirements of persons who have ceased to be of compulsory school age but have not attained the age of 18;
- “training” includes a voluntary or other placement apt to enable the development of any skill or competency (whether or not taking place at a time when the person concerned is still a registered pupil at a school in England).]

#### Textual Amendments

**F103** S. 42A inserted (1.2.2012 for specified purposes, 1.9.2012 in so far as not already in force) by [Education Act 2011 \(c. 21\)](#), **ss. 29(2)**, 82(3); [S.I. 2012/84](#), art. 3; [S.I. 2012/1087](#), art. 3

**F104** Words in s. 42A(7) omitted (2.1.2018) by virtue of [Technical and Further Education Act 2017 \(c. 19\)](#), **ss. 2(3)**, 47(2); [S.I. 2017/1055](#), reg. 3(c)

#### Modifications etc. (not altering text)

**C7** S. 42A applied (with modifications) (E.) (1.9.2013) by [The Careers Guidance in Schools Regulations 2013 \(S.I. 2013/709\)](#), regs. 1, 2

**C8** S. 42A(4)(b) excluded (E.) (1.9.2013) by [The Careers Guidance in Schools Regulations 2013 \(S.I. 2013/709\)](#), regs. 1, 3

#### [<sup>F105</sup> 42B Information about technical education: access to English schools

- (1) The proprietor of a school in England within subsection (2) must ensure that there is an opportunity for a range of education and training providers to access registered pupils during the relevant phase of their education for the purpose of informing them about approved technical education qualifications or apprenticeships.
- (2) A school is within this subsection if it provides secondary education and is one of the following—
  - (a) an Academy;
  - (b) an alternative provision Academy;

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- (c) a community, foundation or voluntary school;
  - (d) a community or foundation special school (other than one established in a hospital);
  - (e) a pupil referral unit.
- (3) The proprietor of a school in England within subsection (2) must prepare a policy statement setting out the circumstances in which education and training providers will be given access to registered pupils for the purpose of informing them about approved technical education qualifications or apprenticeships.
- (4) The proprietor must ensure that the policy statement is followed.
- (5) The policy statement must include—
- (a) any procedural requirements in relation to requests for access;
  - (b) grounds for granting and refusing requests for access;
  - (c) details of premises or facilities to be provided to a person who is given access.
- (6) The proprietor may revise the policy statement from time to time.
- (7) The proprietor must publish the policy statement and any revised statement.
- (8) The Secretary of State may by regulations make provision supplementing subsection (1), for example provision about who is to be given access to pupils, to which pupils they are to be given access and how and when.
- (9) For the purposes of this section the relevant phase of a pupil's education is the period—
- (a) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 13, and
  - (b) ending with the expiry of the school year in which the majority of pupils in the pupil's class attain the age of 18.
- (10) In this section “approved technical education qualification” means a qualification approved under section A2DA of the Apprenticeships, Skills, Children and Learning Act 2009.]

#### Textual Amendments

**F105** S. 42B inserted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), **ss. 2(2)**, 47(2); [S.I. 2017/1055](#), reg. 3(c)

### 43 Provision of careers education in schools [<sup>F106</sup>in Wales]

- (1) All registered pupils at a school [<sup>F107</sup>in Wales] to which this section applies must be provided, during the relevant phase of their education, with a programme of careers education.
- (2) This section applies to—
- [<sup>F108</sup>(a) community, foundation and voluntary schools;]
  - [<sup>F109</sup>(b) .....
  - [<sup>F110</sup>(c) community [<sup>F111</sup>... special schools (other than those established in hospitals);]
  - [<sup>F112</sup>(d) ..... ; and
  - (e) pupil referral units.

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F113(2A) .....

F113(2B) .....

(3) It is the duty of each of the following to secure that subsection (1) <sup>F114</sup> ... is complied with, namely—

(a) in the case of a school falling within subsection (2)(a) to (c), the governing body of the school and its head teacher,

<sup>F115</sup>(b) ....., and

(c) in the case of a pupil referral unit, the [<sup>F20</sup>local authority] maintaining the unit and the teacher in charge of it.

<sup>F116</sup>(4) .....

(5) For the purposes of this section the relevant phase of a pupil’s education is the period—

(a) beginning at the same time as the school year in which the majority of pupils in his class attain the age of 14; and

(b) ending with the expiry of the school year in which the majority of pupils in his class attain the age of 16.

(6) In this section—

“career” includes the undertaking of any training, employment or occupation or any course of education;

“careers education” means education designed to prepare persons for taking decisions about their careers and to help them implement such decisions;

“class” [<sup>F117</sup>has the same meaning as in section 42A;]

<sup>F118</sup> .....

<sup>F118</sup> .....

### Textual Amendments

- F20** 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. 8(2)**
- F106** Words in s. 43 heading inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(3)(g)**, 82(3); S.I. 2012/1087, art. 3
- F107** Words in s. 43(1) inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(3)(a)**, 82(3); S.I. 2012/1087, art. 3
- F108** S. 43(2)(a) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 217(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F109** S. 43(2)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 217(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F110** S. 43(2)(c) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 217(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F111** Words in s. 43(2)(c) omitted (W.) (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 18(3)**; S.I. 2013/1800, art. 3(j)
- F112** S. 43(2)(d) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 29(3)(b)**, 82(3); S.I. 2012/1087, art. 3
- F113** S. 43(2A)(2B) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 29(3)(c)**, 82(3); S.I. 2012/1087, art. 3
- F114** Words in s. 43(3) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 29(3)(d)(i)**, 82(3); S.I. 2012/1087, art. 3

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- F115** S. 43(3)(b) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), ss. 29(3)(d)(ii), 82(3); S.I. 2012/1087, art. 3
- F116** S. 43(4) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), ss. 29(3)(e), 82(3); S.I. 2012/1087, art. 3
- F117** Words in s. 43(6) substituted (1.9.2012) by Education Act 2011 (c. 21), ss. 29(3)(f)(i), 82(3); S.I. 2012/1087, art. 3
- F118** Words in s. 43(6) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), ss. 29(3)(f)(ii), 82(3); S.I. 2012/1087, art. 3

**Modifications etc. (not altering text)**

- C9** Ss. 43, 44 modified (1.8.2001) by S.I. 2001/1987, reg. 2
- C10** S. 43: functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by Contracting Out (Local Education Authority Functions) (England) Order 2002 (S.I. 2002/928) art. 3, {Sch. 3(k)}
- C11** S. 43 extended (E.) (1.9.2004) by Education (Extension of Careers Education) (England) Regulations 2003 (S.I. 2003/2645), regs. 1(1), 2

**44 Schools and other institutions [<sup>F119</sup>in Wales] to co-operate with careers advisers.**

- (1) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be provided with—
- (a) the name and address of every relevant pupil or student at the institution; and
  - (b) any information in the institution’s possession about any such pupil or student which the careers adviser needs in order to be able to provide him with advice and guidance on decisions about his career or with other information relevant to such decisions.
- (2) If the registered address of a parent of any such pupil is different from the pupil’s registered address, subsection (1)(a) requires the parent’s address to be provided as well.
- (3) Paragraph (a) or (as the case may be) paragraph (b) of subsection (1) does not, however, apply to any pupil or student to the extent that—
- (a) (where he is under [<sup>F120</sup>the age of 16]) a parent of his, or
  - (b) (where he has attained that age) he himself,
- has indicated that any information falling within that paragraph should not be provided to the careers adviser.
- (4) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any relevant pupil or student specified by him, access to that person—
- (a) on the institution’s premises, and
  - (b) at a reasonable time agreed by or on behalf of the head teacher, principal or other head of the institution,
- for the purpose of enabling him to provide that person with advice and guidance on decisions about his career and with any other information relevant to such decisions.
- (5) Such access shall include an opportunity for the careers adviser to interview that person about his career, if he agrees to be so interviewed.

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- (6) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any group of relevant pupils or students specified by him, access—
- (a) to that group of persons in the manner specified in subsection (4)(a) and (b), and
  - (b) to such of the institution’s facilities as can conveniently be made available for his use,
- for the purpose of enabling him to provide those persons with group sessions on any matters relating to careers or to advice or guidance about careers.
- (7) Any request made for the purposes of subsection (1), (4) or (6) must be made in writing to the head teacher, principal or other head of the institution in question.
- (8) This section applies to—
- (a) the schools [<sup>F121</sup>in Wales listed in section 43(2)(a) and (c)]; and
  - (b) institutions [<sup>F122</sup>in Wales] within the further education sector.
- [<sup>F123</sup>(9) It is the duty of the each of the following to secure that subsections (1), (4) and (6) are complied with—
- (a) the governing body of the school or institution;
  - (b) its head teacher, principal or other head.]
- (10) For the purposes of this section—
- (a) a pupil at a school [<sup>F124</sup>in Wales] is a relevant pupil—
    - (i) at any time during the period which is the relevant phase of his education for the purposes of section 43, or
    - (ii) if he is over compulsory school age and receiving secondary education; and
  - (b) a person is a relevant student at an institution [<sup>F125</sup>in Wales] within the further education sector if he is receiving at the institution either—
    - (i) full-time education, or
    - (ii) part-time education of a description commonly undergone by persons in order to fit them for employment.
- (11) For the purposes of this section—
- (a) “careers adviser” means a person who is employed by a body providing services in pursuance of arrangements made or directions given under section 10 of the <sup>M2</sup>Employment and Training Act 1973 and who is acting, in the course of his employment by that body, for the purposes of the provision of any such services; and
  - (b) a careers adviser has responsibilities for any persons if his employment by that body includes the provision of any such services for them.
- (12) In this section “career” has the same meaning as in section 43.

#### Textual Amendments

**F119** Words in s. 44 heading inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(4)(f)**, 82(3); [S.I. 2012/1087](#), [art. 3](#)

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**F120** Words in s. 43(3)(a) substituted (in force for specified purposes on 28.7.2000 and 1.4.2001 for E. and W.) by 2000 c. 21, s. 149, **Sch. 9 para. 72**; S.I. 2001/654, art. 2, **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

**F121** Words in s. 44(8)(a) substituted (1.9.2012) by Education Act 2011 (c. 21), **ss. 29(4)(a)**, 82(3); S.I. 2012/1087, art. 3

**F122** Words in s. 44(8)(b) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 29(4)(b)**, 82(3); S.I. 2012/1087, art. 3

**F123** S. 44(9) substituted (1.9.2012) by Education Act 2011 (c. 21), **ss. 29(4)(c)**, 82(3); S.I. 2012/1087, art. 3

**F124** Words in s. 44(10)(a) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 29(4)(d)**, 82(3); S.I. 2012/1087, art. 3

**F125** Words in s. 44(10)(b) inserted (1.9.2012) by Education Act 2011 (c. 21), **ss. 29(4)(e)**, 82(3); S.I. 2012/1087, art. 3

**Modifications etc. (not altering text)**

**C12** Ss. 43, 44 modified (1.8.2001) by S.I. 2001/1987, **reg. 2**

**Marginal Citations**

**M2** 1973 c. 35.

**45 Provision of careers information at schools and other institutions.**

- (1) Persons attending an educational institution to which this section applies must be provided with access to both—
- (a) guidance materials, and
  - (b) a wide range of up-to-date reference materials, relating to careers education and career opportunities.

- (2) This section applies to—

- (a) the schools [<sup>F126</sup>in Wales listed in section 43(2)(a) and (c)]; and
- (b) institutions within the further education sector.

<sup>F127</sup> .....

<sup>F128</sup>(2A) .....

<sup>F128</sup>(2B) .....

- [<sup>F129</sup>(3) It is the duty of each of the following to secure that subsection (1) is complied with—

- (a) the governing body of the school or institution;
- (b) its head teacher, principal or other head.]

- (4) The persons who under subsection (3) above are responsible for discharging that duty in relation to an institution shall seek assistance with discharging it from a body providing services in pursuance of arrangements made or directions given under section 10 of the <sup>M3</sup>Employment and Training Act 1973.

- (5) In this section “career” [<sup>F130</sup>and “careers education”] have the same meaning as in section 43.

- (6) Nothing in this section applies to any primary school.

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#### Textual Amendments

- F126** Words in s. 45(2)(a) substituted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(5)(a)**, 82(3); S.I. 2012/1087, [art. 3](#)
- F127** Words in s. 45(2) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 29(5)(b)**, 82(3); S.I. 2012/1087, [art. 3](#)
- F128** S. 45(2A)(2B) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 29(5)(c)**, 82(3); S.I. 2012/1087, [art. 3](#)
- F129** S. 45(3) substituted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(5)(d)**, 82(3); S.I. 2012/1087, [art. 3](#)
- F130** Words in s. 45(5) substituted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(5)(e)**, 82(3); S.I. 2012/1087, [art. 3](#)

#### Modifications etc. (not altering text)

- C13** S. 45 modified (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013 \(S.I. 2013/1793\)](#), **regs. 1(1)**, 3(d), 7(b)

#### Marginal Citations

- M3** 1973 c. 35.

### [<sup>F131</sup>45A Guidance as to discharge of duties]<sup>F132</sup> : schools in England]

- (1) The persons responsible for discharging a relevant duty in relation to a school in England falling within section [<sup>F133</sup>42A(2)] must, in discharging the duty, have regard to any guidance given from time to time by the Secretary of State.
- (2) A “relevant duty” means a duty under [<sup>F134</sup>section 42A(1) or (4) or 42B] .]

#### Textual Amendments

- F131** S. 45A inserted (1.9.2009) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 81(4)**, 173(4); S.I. 2009/1513, [art. 3](#)
- F132** Words in s. 45A heading inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(6)(c)**, 82(3); S.I. 2012/1087, [art. 3](#)
- F133** Word in s. 45A(1) substituted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(6)(a)**, 82(3); S.I. 2012/1087, [art. 3](#)
- F134** Words in s. 45A(2) substituted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), **ss. 2(4)**, 47(2); S.I. 2017/1055, [reg. 3\(c\)](#)

### [<sup>F135</sup>45B Provision of curriculum information]<sup>F136</sup> : Wales]

- (1) Subject to subsections (2) and (3), a service provider may demand from a person mentioned in subsection (6) such curriculum information as is specified in the demand.
- (2) A service provider must not demand any curriculum information unless the provider reasonably considers that the information would assist it in providing its services.
- (3) A service provider must not demand any curriculum information which identifies, or allows to be identified, any pupil or student.
- (4) A person mentioned in subsection (6) must comply with a demand made under subsection (1) by providing the service provider with the information demanded.

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- (5) A service provider may publish in whatever form it sees fit any curriculum information provided under subsection (4).
- (6) The persons referred to in subsection (1) are—
- (a) the governing body and head teacher of a school in Wales falling within section 43(2)(a); and
  - (b) the governing body and principal of an institution within the further education sector in Wales.
- (7) In this section—
- “curriculum information” means—
- (a) in relation to a school mentioned in subsection (6)(a), information about the curriculum for registered pupils at the school during the relevant phase of their education; and
  - (b) in relation to an institution within the further education sector, information about the courses of study and other education and training available at the institution;
- “pupil” means, in relation to a school mentioned in subsection (6)(a), a person receiving education at the school;
- “relevant phase” has the same meaning as in section 43(5);
- “service provider” means a person providing services in pursuance of arrangements made with, or directions given by, the Welsh Ministers under section 10 of the Employment and Training Act 1973, and “services” shall be construed accordingly; and
- “student” means, in relation to an institution within the further education sector, a person receiving education at the institution.]

#### Textual Amendments

**F135** S. 45B inserted (7.12.2009) by [Learning and Skills \(Wales\) Measure 2009 \(nawm 1\)](#), **ss. 45(2)**, 49(2); S.I. 2009/3174, art. 2(1)(p)

**F136** Word in s. 45B heading inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 29(7)**, 82(3); S.I. 2012/1087, art. 3

#### 46 Extension or modification of provisions of ss. 43 to 45.

- (1) The Secretary of State may by regulations extend the scope of operation of section <sup>[F137]</sup>42A, <sup>[F138]</sup>42B,] 43 or 44 by substituting for the period specified in section 42A(6), <sup>[F139]</sup>42B(9)] 43(5) or 44(10)(a)(i)] such other period as is specified.
  - (2) The Secretary of State may by regulations make provision for extending the scope of operation of section 43, 44 or 45 to primary schools or to any specified description of such schools.
- <sup>[F140]</sup>(2A) The Secretary of State may by regulations make provision for requiring—
- (a) the governing bodies of institutions in England within the further education sector, and
  - (b) the principals or other heads of such institutions,
- to secure that careers guidance is provided for any specified description of persons attending such institutions.]



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- (3) The Secretary of State may by regulations make provision for requiring—
- (a) the governing bodies of institutions [<sup>F141</sup>in Wales] within the further education sector, and
  - (b) the principals or other heads of such institutions,
- to secure that a programme of careers education is provided for any specified description of persons attending such institutions.
- (4) The Secretary of State may by regulations amend the definition of “careers adviser” set out in section 44(11)(a).
- (5) In this section—
- “careers education” has the same meaning as in section 43;
  - [<sup>F142</sup>“careers guidance” has the same meaning as in section 42A;]
  - “specified” means specified in the regulations in question.

#### Textual Amendments

- F137** Words in s. 46(1) substituted (1.2.2012 for specified purposes) by [Education Act 2011 \(c. 21\)](#), **ss. 29(8)(a)**, 82(3); S.I. 2012/84, art. 3
- F138** Word in s. 46(1) inserted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), **ss. 2(5)(a)**, 47(2); S.I. 2017/1055, reg. 3(c)
- F139** Word in s. 46(1) inserted (2.1.2018) by [Technical and Further Education Act 2017 \(c. 19\)](#), **ss. 2(5)(b)**, 47(2); S.I. 2017/1055, reg. 3(c)
- F140** S. 46(2A) inserted (1.2.2012 for specified purposes) by [Education Act 2011 \(c. 21\)](#), **ss. 29(8)(b)**, 82(3); S.I. 2012/84, art. 3
- F141** Words in s. 46(3)(a) inserted (1.2.2012 for specified purposes) by [Education Act 2011 \(c. 21\)](#), **ss. 29(8)(c)**, 82(3); S.I. 2012/84, art. 3
- F142** Words in s. 46(5) inserted (1.2.2012 for specified purposes) by [Education Act 2011 \(c. 21\)](#), **ss. 29(8)(d)**, 82(3); S.I. 2012/84, art. 3

## PART VIII

### MISCELLANEOUS AND GENERAL

#### *Exceptional educational provision*

- 47 Functions of [<sup>F78</sup>local authorities] as regards exceptional educational provision.**
- (1) Section 19 of the <sup>M4</sup>Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere) shall be amended as follows.
- (2) In subsection (1) (duty of [<sup>F20</sup>local authority] to make arrangements for provision of suitable full-time or part-time education, at school or otherwise, for excluded children etc.), the words “full-time or part-time” shall be omitted.
- (3) In subsection (4) (power of [<sup>F20</sup>local authority] to make arrangements for provision of suitable full-time or part-time education, otherwise than at school, for excluded young persons etc.), the words “full-time or part-time” shall be omitted.
- (4) After that subsection there shall be inserted—

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“(4A) In determining what arrangements to make under subsection (1) or (4) in the case of any child or young person a [F20]local authority] shall have regard to any guidance given from time to time by the Secretary of State.”

#### Textual Amendments

**F20** 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. 8(2)**

**F78** 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. 8(3)**

#### Marginal Citations

**M4** 1996 c. 56.

### *Management committees for pupil referral units*

#### **48 Management committees for pupil referral units.**

At the end of Schedule 1 to the Education Act 1996 (pupil referral units) there shall be added—

#### **Management committees**

“15 (1) Regulations may make provision—

- (a) for requiring any [F20]local authority] who maintain a pupil referral unit to establish a committee to act as the management committee for the unit; and
- (b) for that committee to discharge on behalf of the authority such of their functions in connection with the unit as are delegated by them to the committee in accordance with the regulations.

(2) Regulations under this paragraph may in particular make provision—

- (a) for enabling a [F20]local authority] to establish a joint committee to act as the management committee for two or more pupil referral units maintained by the authority;
- (b) for requiring the approval of the Secretary of State to be obtained before any such joint committee is established;
- (c) as to the composition of a management committee established under the regulations and—
  - (i) the appointment and removal of its members, and
  - (ii) their terms of office,

and in particular for requiring such a committee to include persons representing schools (including grant-maintained schools) situated in the area from which the unit or units in question may be expected to draw pupils;

- (d) for requiring or (as the case may be) prohibiting the delegation by a [F20]local authority] to a management committee of such functions in connection with pupil referral units as are specified in the regulations;

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- (e) for authorising a management committee to establish sub-committees;
- (f) for enabling (subject to any provisions of the regulations) a [<sup>F20</sup>local authority] or a management committee to determine to any extent the committee’s procedure and that of any sub-committee;
- (g) for limiting the personal liability of members of any such committee or sub-committee in respect of their acts or omissions as such members;
- (h) for applying to any such committee or sub-committee, with or without modification—
  - (i) any provision of the Education Acts, or
  - (ii) any provision made by or under any other enactment and relating to committees or (as the case may be) sub-committees of a local authority.”

**Textual Amendments**

**F20** 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. 8(2)**

*Teachers not under contract of employment and persons having access to those under 19*

**<sup>F143</sup>49 Power to make regulations: teachers not under contract of employment and persons having access to those under 19.**

.....

**Textual Amendments**

**F143** S. 49 repealed (31.3.2003 for W. for specified purposes, 1.6.2003 for E., 2.1.2008 for W. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), Sch. 21 para. 71, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/1115, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

*Costs of teachers’ premature retirement*

**<sup>F144</sup>50** .....

**Textual Amendments**

**F144** S. 50 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.218, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch.1**

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### *Definition of “school”*

#### **51 Definition of “school”.**

In section 4 of the Education Act 1996 (definition of “school”), for subsection (1) there shall be substituted—

“(1) In this Act “school” means an educational institution which is outside the further education sector and the higher education sector and is an institution for providing—

- (a) primary education,
- (b) secondary education, or
- (c) both primary and secondary education,

whether or not the institution also provides part-time education suitable to the requirements of junior pupils or further education.”

### *Compulsory school age*

#### **52 Commencement of compulsory school age.**

(1) Section 8 of the <sup>M5</sup>Education Act 1996 (compulsory school age) shall be amended in accordance with subsections (2) and (3).

(2) For subsection (2) there shall be substituted—

“(2) A person begins to be of compulsory school age—

- (a) when he attains the age of five, if he attains that age on a prescribed day, and
- (b) otherwise at the beginning of the prescribed day next following his attaining that age.”

(3) For subsection (4) there shall be substituted—

“(4) The Secretary of State may by order—

- (a) provide that such days in the year as are specified in the order shall be, for each calendar year, prescribed days for the purposes of subsection (2);
- (b) determine the day in any calendar year which is to be the school leaving date for that year.”

F145(4) .....

F145(5) .....

#### **Textual Amendments**

**F145** S. 52(4)(5) repealed (1.10.1998) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para.218, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch.1**, Pt. I

#### **Commencement Information**

**II** S. 52, as partially repealed, wholly in force at 1.10.1998; s. 52 not in force at Royal Assent see s. 58(3); s. 52(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**; s. 52(1)-(3) in force at 1.8.1998 by S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

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**Marginal Citations**

**M5** [1996 c. 56.](#)

*General provisions*

**53 Stamp duty.**

- (1) Subject to subsection (2), stamp duty shall not be chargeable in respect of any transfer effected by virtue of section 30 or 34.
- (2) No instrument (other than a statutory instrument) made or executed in pursuance of either of the provisions mentioned in subsection (1) shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the <sup>M6</sup>Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the <sup>M7</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

**Marginal Citations**

**M6** [1982 c. 39.](#)

**M7** [1891 c. 39.](#)

**[<sup>F146</sup>53A. Stamp duty land tax**

- (1) For the purposes of stamp duty land tax, a land transaction effected by virtue of section 30 is exempt from charge.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this paragraph—
  - “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
  - “land transaction return” has the meaning given by section 76(1) of that Act.]

**Textual Amendments**

**F146** S. 53A inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 26**

**54 Orders and regulations.**

- (1) Any power of the Secretary of State to make orders or regulations under this Act <sup>F147</sup>... shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulations under this Act, except an order under section <sup>F148</sup>... 58, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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<sup>F149</sup>[<sup>F150</sup>(2A)] .....

- (3) Any order or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- (4) Without prejudice to the generality of subsection (3), any order or regulations under this Act may make in relation to Wales provision different from that made in relation to England.

#### Subordinate Legislation Made

- P1** S. 54(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)  
s. 54(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)  
S. 54(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)

#### Textual Amendments

- F147** Words in s. 54(1) repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), [Sch. 12 para. 22](#), [Sch. 16 Pt. 4](#); S.I. 2010/1151, art. 2, [Sch. 1](#)
- F148** Words in s. 54(2) omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015](#) (anaw 5), s. 60(2), [Sch. 4 para. 2\(4\)\(a\)](#); S.I. 2015/1687, art. 2 (with arts. 3-12)
- F149** S. 54(2A) omitted (21.9.2015) by virtue of [Qualifications Wales Act 2015](#) (anaw 5), s. 60(2), [Sch. 4 para. 2\(4\)\(b\)](#); S.I. 2015/1687, art. 2 (with arts. 3-12)
- F150** S. 54(2A) inserted (1.5.2012) by [Education Act 2011](#) (c. 21), [ss. 24\(7\)\(b\)](#), 82(3); S.I. 2012/924, [art. 3](#)

## 55 Financial provisions.

There shall be paid out of money provided by Parliament—

- (a) any sums required for the payment by the Secretary of State of grants under this Act;
- (b) any administrative expenses incurred by the Secretary of State in consequence of this Act; and
- (c) any increase attributable to this Act in the sums so payable under any other Act.

## 56 Construction.

- (1) In this Act—
  - “prescribed” means prescribed by regulations; and
  - “regulations” means regulations made by the Secretary of State under this Act.
- (2) This Act shall be construed as one with the <sup>M8</sup>Education Act 1996.
- (3) Where, however, an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of that Act, the meaning given for the purposes of that provision shall apply instead of the one given for the purposes of that Act.

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**Marginal Citations**

**M8** 1996 c. 56.

**57 Minor and consequential amendments, repeals etc.**

(1) The minor and consequential amendments set out in Schedule 7 shall have effect.

<sup>F151</sup>(2) .....

<sup>F152</sup>(3) .....

(4) The enactments specified in Schedule 8 are repealed to the extent specified.

**Textual Amendments**

**F151** S. 57(2) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.220, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), **Sch.3**

**F152** S. 57(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.220, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), **Sch.3**

**Commencement Information**

**I2** S. 57 partly in force; S. 57(1) partly in force at Royal Assent see s. 58(4); s. 57(4) in force for certain purposes at 4.4.1997 by S.I. 1997/1153, **art. 2**; s. 57(1)(4) in force for certain purposes at 14.6.1997, 1.9.1997 and 1.10.1997 and s. 57(2)(3) in force at 1.9.1997 by S.I. 1997/1468, **art. 2, Sch. 1, Pts. I, II, III**; s. 57(1)(4) in force for certain purposes at 1.9.2001 by S.I. 2001/1215, **art. 2**

**58 Short title, commencement and extent etc.**

(1) This Act may be cited as the Education Act 1997.

(2) This Act shall be included in the list of Education Acts set out in section 578 of the <sup>M9</sup>Education Act 1996.

(3) Subject to subsection (4), this Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions and for different purposes.

(4) The following provisions come into force on the day on which this Act is passed—

<sup>F153</sup>

.....

section 54,

paragraph 48(2) of Schedule 7 and section 57(1) so far as relating thereto, and this section.

(5) Subject to subsections (6) and (7), this Act extends to England and Wales only.

(6) The following provisions extend to Northern Ireland—

<sup>F154</sup>

.....

<sup>F155</sup>

.....

<sup>F156</sup>

.....

sections [<sup>F157</sup>35],

section 53,

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section 54,  
 this section,  
 F158 .....

- (7) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

#### Subordinate Legislation Made

- P2** S. 58(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)  
 S. 58(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)  
 S. 58(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)
- P3** S. 58(3) power partly exercised (26.3.2001): 1.9.2001 appointed for specified provisions by [S.I. 2001/1215](#), [art. 2](#)

#### Textual Amendments

- F153** Words in s. 58(4) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\)](#), [Sch. 30 para.221](#), [Sch. 31](#) (with [ss. 138\(9\)](#), [144\(6\)](#)); [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch.1](#)
- F154** Words in s. 58(6) repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [s. 269\(4\)](#), [Sch. 12 para. 23\(a\)\(i\)](#), [Sch. 16 Pt. 4](#); [S.I. 2010/1151](#), [art. 2](#), [Sch. 1](#)
- F155** Words in s. 58(6) repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [s. 269\(4\)](#), [Sch. 12 para. 23\(a\)\(ii\)](#), [Sch. 16 Pt. 4](#); [S.I. 2010/1151](#), [art. 2](#), [Sch. 1](#)
- F156** Words in s. 58(6) repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [s. 269\(4\)](#), [Sch. 12 para. 23\(a\)\(iii\)](#), [Sch. 16 Pt. 4](#); [S.I. 2010/1151](#), [art. 2](#), [Sch. 1](#)
- F157** Words in s. 58(6) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [s. 269\(4\)](#), [Sch. 12 para. 23\(b\)](#); [S.I. 2010/1151](#), [art. 2](#), [Sch. 1](#)
- F158** Words in s. 58(6) repealed (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [s. 269\(4\)](#), [Sch. 12 para. 23\(a\)\(iv\)](#), [Sch. 16 Pt. 4](#); [S.I. 2010/1151](#), [art. 2](#), [Sch. 1](#)

#### Marginal Citations

- M9** [1996 c. 56](#).



**Status:**

Point in time view as at 02/01/2018. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

Education Act 1997 is up to date with all changes known to be in force on or before 19 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.