



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART V

#### NURSERY EDUCATION

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

- C1** Pt. 5: Power to apply (with modifications) conferred (19.12.2002) by Education Act 2002 (c. 32), ss. 193(5), 216, (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1

#### *Nursery education*

##### **117 Definition of “nursery education”.**

In this Part “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

#### *General duty of local education authority*

##### **118 Duty of LEA as respects availability of nursery education.**

- (1) A local education authority shall secure that the provision (whether or not by them) of nursery education for children who—
- have not attained compulsory school age, but
  - have attained such age as may be prescribed,
- is sufficient for their area.

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- (2) In determining for the purposes of subsection (1) whether the provision of such education is sufficient for their area a local education authority—
  - (a) may have regard to any facilities which they expect to be available outside their area for providing such education; and
  - (b) shall have regard to any guidance given from time to time by the Secretary of State.

VALID FROM 01/10/2002

### [<sup>F1</sup>118A Duties of LEA in respect of childcare

- (1) A local education authority shall review annually the sufficiency of childcare provision for their area.
- (2) In carrying out a review for the purposes of subsection (1), a local education authority—
  - (a) may have regard to any facilities which they expect to be available outside their area for providing childcare; and
  - (b) shall have regard to any guidance given from time to time by the Secretary of State.
- (3) A local education authority shall also establish and maintain a service providing information to the public relating to the provision of childcare and related services in their area.
- (4) In relation to the function, form and content of a service established and maintained under subsection (3), a local education authority shall have regard to any guidance given from time to time by the Secretary of State.]

#### Textual Amendments

- F1** S. 118A inserted (1.10.2002 for E. and 31.3.2003 for W. ) by [Education Act 2002 \(c. 32\)](#), [ss. 149\(1\), 216](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#)); [S.I. 2002/3185](#), [art. 5](#), [Sch. Pt. II](#)

### *Early years development partnerships*

#### **119 Early years development partnerships.**

- (1) Every local education authority shall establish for their area a body to be known as an early years development partnership (“the partnership”).
- (2) In establishing the partnership and determining its constitution the authority shall have regard to any guidance given from time to time by the Secretary of State.
- (3) The authority may establish a sub-committee of the partnership for any part of their area.
- (4) The authority shall make arrangements—
  - (a) for the meetings and proceedings of the partnership and any such sub-committee, and

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- (b) for the partnership (and any such sub-committee) to be provided with accommodation and with such services as the authority consider appropriate.
- (5) The functions of the partnership shall be to work with the authority—
  - (a) in reviewing the sufficiency of the provision of nursery education for the authority’s area for the purposes of section 118, and
  - (b) in preparing early years development plans under section 120.
- (6) The Secretary of State may by order confer on early years development partnerships such additional functions as are specified in the order.

### *Early years development plans*

## **120 Early years development plans.**

- (1) Every local education authority shall, in conjunction with the early years development partnership for their area—
  - (a) prepare an early years development plan for their area, and
  - (b) prepare further such plans at such intervals as may be determined by or in accordance with regulations.
- (2) An early years development plan shall consist of—
  - (a) a statement of proposals, which sets out the authority’s proposals for complying with their duty under section 118, and
  - (b) annexes to that statement.
- (3) The statement of proposals must—
  - (a) deal with such matters, and relate to such period, as may be determined by or in accordance with regulations, and
  - (b) be approved by the Secretary of State under section 121.
- (4) In relation to the form and content of the annexes to the statement the authority shall have regard to any guidance given from time to time by the Secretary of State.

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

- C2** S. 120: functions not to be the sole responsibility of an authority's executive (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

## **121 Approval, modification and review of statement of proposals.**

- (1) Where an early years development plan has been prepared in accordance with section 120, the authority shall, by such date as may be determined by or in accordance with regulations, submit the plan to the Secretary of State for him to approve the authority’s statement of proposals under this section.
- (2) The Secretary of State may in the case of any statement submitted to him under this section—
  - (a) approve the statement in any of the following ways, namely wholly or in part, for a limited period of time, or subject to conditions;

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- (b) require the authority to make such modifications to the statement as he may specify; or
  - (c) reject the statement.
- (3) If the Secretary of State approves the statement—
  - (a) he shall notify the authority of his decision; and
  - (b) the authority shall implement the proposals set out in the statement, so far as approved by the Secretary of State, as from such date as he may determine.
- (4) If the Secretary of State requires the authority to make modifications or rejects the statement—
  - (a) he shall notify the authority of his decision and of his reasons for it; and
  - (b) the authority shall prepare a revised statement and submit it to the Secretary of State for his approval under this section by such date as he may determine.
- (5) Once the Secretary of State has approved an authority's statement of proposals under subsection (2), he shall keep under review the authority's proposals, as approved by him, and their implementation by the authority, and—
  - (a) where he is of the opinion that the statement should be modified (or further modified), he may withdraw his approval and require the authority to make such modifications to the statement as he may specify; and
  - (b) where he is of the opinion that the authority's statement is not being properly implemented by them, he may withdraw his approval for such period as he thinks fit.
- (6) If under subsection (5) the Secretary of State withdraws his approval of a statement of proposals—
  - (a) he shall notify the authority of his decision and of his reasons for it; and
  - (b) in a case falling within paragraph (a) of that subsection, the authority shall prepare a revised statement and submit it to him for his approval under this section by such date as he may determine.
- (7) Section 120 shall apply to the preparation of a revised statement under subsection (4) (b) or (6)(b), with such modifications (if any) as the Secretary of State may determine.
- (8) At any time after the Secretary of State has approved an authority's statement of proposals under subsection (2)—
  - (a) the authority may, with the agreement of the early years development partnership, submit modifications to the statement to the Secretary of State for his approval, and
  - (b) the Secretary of State may approve the modifications, whether in whole or in part, for a limited period of time, or subject to conditions, and
  - (c) if and to the extent that he approves those modifications, he shall notify the authority of his decision and—
    - (i) the statement shall have effect with the modifications, and
    - (ii) the authority shall implement their proposals as modified, as from such date as he may determine.
- (9) Once the Secretary of State has approved—
  - (a) an authority's statement of proposals under subsection (2), or
  - (b) the modification of an authority's statement of proposals under subsection (8),

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the authority shall publish their early years development plan (or their plan as so modified) in such manner and by such date as may be prescribed, and shall provide such persons as may be prescribed with copies of that plan or of a summary of that plan.

### *Inspection of nursery education*

## **122 Inspection of nursery education.**

- (1) Schedule 26 (inspections, etc. of providers of nursery education) shall have effect.
- (2) Schedule 1 to the <sup>M1</sup>Nursery Education and Grant-Maintained Schools Act 1996 (which is superseded by Schedule 26 to this Act) shall cease to have effect.
- (3) Any register of nursery education inspectors established by the Chief Inspector under Schedule 1 to that Act shall be treated as established by him under Schedule 26 to this Act; and accordingly anything done under Schedule 1 to that Act in connection with the registration of (or any refusal to register) any person in that register shall, if effective immediately before the commencement of this section, continue to have effect as if done under Schedule 26 to this Act.
- (4) In subsection (3) “the Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England or [<sup>F2</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru].

#### **Textual Amendments**

**F2** Words in s. 122(4) substituted (W.) (1.1.2001) by 2000 c. 21, s. 73(3)(a); S.I. 2000/3230, art. 2, Sch.

#### **Marginal Citations**

**M1** 1996 c. 50.

### *Further provisions relating to nursery education*

## **123 Children with special educational needs.**

- (1) It shall be the duty of—
  - (a) any local education authority or other person providing relevant nursery education, and
  - (b) any person employed by such an authority or other person, or otherwise engaged to provide his services, in the provision of such education,
 (except where a duty is already imposed by subsection (2) of section 313 of the <sup>M2</sup>Education Act 1996) to have regard to the provisions of the code of practice issued under that section (practical guidance in respect of the discharge of functions under Part IV of that Act).
- (2) That code of practice may include practical guidance in respect of the provision of relevant nursery education for children with special educational needs in circumstances where functions under Part IV of the <sup>M3</sup>Education Act 1996 do not fall to be discharged.

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- (3) But unless that code of practice includes provision made by virtue of subsection (2)—
- (a) the Secretary of State shall publish a document explaining how the practical guidance contained in that code applies in circumstances where functions under Part IV of the <sup>M4</sup>Education Act 1996 do not fall to be discharged, and
  - (b) the duty imposed by subsection (1) includes a duty to have regard to the provisions of that document.

[<sup>F3</sup>(3A) Subsection (3B) applies if—

- (a) a local education authority or other person providing relevant nursery education for a child makes special educational provision for him because it is considered that he has special educational needs;
- (b) no statement under section 324 of the Education Act 1996 is maintained for the child; and
- (c) his parent has not previously been informed under subsection (3B) of the special educational provision made for him.

(3B) The local education authority or other person concerned must inform the child’s parent that special educational provision is being made for him because it is considered that he has special educational needs.]

- (4) In this section “relevant nursery education” means nursery education which is provided—
- (a) by a local education authority, or
  - (b) by any other person who is in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a).

#### Textual Amendments

**F3** S. 123(3A)(3B) inserted (1.1.2002 for E. and 1.4.2002 for W.) by 2001 c. 10, ss. 7(2), 43(3) (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (which S.I. was amended by S.I. 2001/2614, art. 4); S.I. 2002/74, art. 5, Sch. Pt. II

#### Marginal Citations

**M2** 1996 c. 56.  
**M3** 1996 c. 56.  
**M4** 1996 c. 56.

## 124 Travel arrangements for children receiving nursery education otherwise than at school.

After section 509 of the <sup>M5</sup>Education Act 1996 there shall be inserted—

### “509A Travel arrangements for children receiving nursery education otherwise than at school.

- (1) A local education authority may provide a child with assistance under this section if they are satisfied that, without such assistance, he would be prevented from attending at any premises—
  - (a) which are not a school or part of a school, but

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- (b) at which relevant nursery education is provided,  
for the purpose of receiving such education there.
- (2) The assistance which may be provided for a child under this section consists of either—
- (a) making arrangements (whether for the provision of transport or otherwise) for the purpose of facilitating the child’s attendance at the premises concerned, or
- (b) paying the whole or any part of his reasonable travel expenses.
- (3) When considering whether to provide a child with assistance under this section in connection with his attendance at any premises, a local education authority may have regard (among other things) to whether it would be reasonable to expect alternative arrangements to be made for him to receive relevant nursery education at any other premises (whether nearer to his home or otherwise).
- (4) Where the assistance to be provided for a child under this section consists of making arrangements for the provision of transport, the authority may, if they consider it appropriate to do so, determine that the assistance shall not be so provided unless—
- (a) the child’s parent, or
- (b) the person providing the relevant nursery education concerned,  
agrees to make to the authority such payments in respect of the provision of the transport (not exceeding the cost to the authority of its provision) as they may determine.
- (5) In this section “relevant nursery education” means nursery education which is provided—
- (a) by a local education authority, or
- (b) by any other person—
- (i) who is in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a) of the School Standards and Framework Act 1998, or
- (ii) who is in receipt of grants under section 1 of the <sup>M6</sup>Nursery Education and Grant-Maintained Schools Act 1996.”

#### Marginal Citations

**M5** 1996 c. 56.

**M6** 1996 c. 50.

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