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# Education Act 2002

## 2002 CHAPTER 32

### PART 10

#### INDEPENDENT SCHOOLS

#### CHAPTER 1

##### REGULATION OF INDEPENDENT SCHOOLS

VALID FROM 01/09/2003

##### *Enforcement of standards after registration*

#### **162 Changes to registered details**

- (1) The registration authority may remove a school from the register if—
  - (a) there is a material change in relation to the school, and
  - (b) the change has not been approved under this section or section 167.
- (2) For the purposes of subsection (1), “material change”, in relation to a school, means—
  - (a) a change of proprietor,
  - (b) a change of address, or
  - (c) a change to the school in respect of any of the matters referred to in section 160(2)(a) to (e).
- (3) Applications for approval under this section must be made in writing and, in the case of approval of a change of proprietor, must be made by the proposed new proprietor.
- (4) Where an application for approval is made under this section, the registration authority may require the Chief Inspector to—

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- (a) inspect the school, and
  - (b) report to the authority on the extent to which, if the change is made, any relevant standard is likely to continue to be met in relation to the school.
- (5) In subsection (4), “relevant standard” means any of the independent schools standards specified by the authority for the purposes of that subsection.
- (6) The registration authority shall, where an application for approval is made under this section—
- (a) approve the change, if the condition in subsection (7) is satisfied, and
  - (b) in any other case, refuse to approve it.
- (7) The condition in this subsection is that the authority is satisfied that, taking into account—
- (a) any report under subsection (4), and
  - (b) any other evidence relating to the independent school standards, those standards will continue to be met in relation to the school.

### **163 Power to inspect registered schools**

- (1) The registration authority may at any time—
- (a) require the Chief Inspector to inspect any registered school, or to secure its inspection by one or more registered inspectors, or
  - (b) arrange for the inspection of any registered school by a body approved by the registration authority for the purposes of this subsection.
- (2) The inspection of a school under this section shall relate to—
- (a) such of the independent school standards as are, at the time of the inspection, specified by the authority for the purposes of this section in relation to any category of school into which that school falls, or
  - (b) if the authority so determines, such of the independent school standards as the authority may specify in relation to that school.
- (3) A person who conducts an inspection under this section shall—
- (a) make a report to the registration authority on the extent to which the school meets the standard or standards to which the inspection relates, and
  - (b) if the registration authority so requires, arrange for the publication of the report in the prescribed manner.
- (4) A report published under subsection (3) is privileged for the purposes of the law of defamation unless the publication is shown to be made with malice (but without prejudice to any privilege subsisting apart from this subsection).

### **165 Failure to meet standards**

- (1) This section applies where, taking into account—
- (a) a report under section 163 in respect of a registered school, or
  - (b) any other evidence in respect of a registered school,
- the registration authority is satisfied that any one or more of the independent school standards is or are not being met in relation to the school.

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- (2) If the registration authority considers that there is a risk of serious harm to the welfare of pupils at the school, the authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (3) Where the registration authority does not make a determination under subsection (2), it shall serve a notice on the proprietor of the school—
  - (a) identifying the standard or standards in question, and
  - (b) requiring the proprietor to submit an action plan to the authority before the date specified in the notice (or such later date as the authority may specify after service of the notice).
- (4) For the purposes of this section, an action plan is a plan specifying—
  - (a) the steps that will be taken to meet a standard or standards, and
  - (b) the time by which each step will be taken.
- (5) Where an action plan is submitted in accordance with subsection (3) the registration authority may—
  - (a) reject it, or
  - (b) approve it, with or without modifications.
- (6) Where an action plan is required under subsection (3) but is not submitted in accordance with that subsection, or is so submitted but rejected, the registration authority may—
  - (a) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine, or
  - (b) make an order under subsection (8).
- (7) Where an action plan has been approved under subsection (5), but any step specified in the plan is not taken by the date specified in the plan (whether as originally approved or as varied under paragraph (a)), the registration authority may—
  - (a) substitute a later date for the taking of that step,
  - (b) make an order under subsection (8), or
  - (c) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
- (8) An order under this subsection is an order requiring the proprietor of the school to do one or more of the following no later than such date after the appeal period as may be specified in the order—
  - (a) to cease using any part of the school premises for all purposes or purposes specified in the order;
  - (b) to close any part of the school's operation;
  - (c) to cease to admit any new pupils, or new pupils of a description specified in the order.
- (9) If the proprietor of a school fails to comply with an order under subsection (8)—
  - (a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and
  - (b) the registration authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.

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- (10) Where the proprietor of a school in respect of which an order is made under subsection (8) applies to the registration authority for the order to be varied or revoked, the authority shall—
- (a) vary or revoke the order as requested in the application, if it is satisfied that it is appropriate to do so because of any change of circumstance, and
  - (b) in any other case, refuse to do so.
- (11) The variation or revocation of an order under subsection (10) shall take effect as from the date on which the proprietor of the school is notified of it.
- (12) Where the registration authority has made a determination under this section to remove a school from the register on a particular date and no appeal is made against the determination under section 166, the authority shall remove the school from the register on that date.
- (13) For the purposes of this Chapter, the “appeal period” in relation to a determination or order is the period within which an appeal against it may be made under section 166.

## 166 Appeals

- (1) The proprietor of a registered school may appeal to the tribunal established under section 9 of the Protection of Children Act 1999 (c. 14) against—
- (a) a refusal under section 162 to approve a material change,
  - (b) a determination under section 165 to remove the school from the register,
  - (c) an order under section 165(8) requiring the taking of specified action, or
  - (d) a refusal under section 165(10) to vary or revoke such an order.
- (2) An appeal under subsection (1) must be made within the period of 28 days beginning with the day on which notice of the refusal, determination or order is served on the proprietor.
- (3) Where an appeal is made under subsection (1)(b) against a determination under section 165—
- (a) if the appeal is withdrawn or otherwise disposed of before it is determined by the tribunal under section 167, the registration authority may remove the school from the register on such date after the appeal period as it may determine, and
  - (b) in any other case the registration authority may only remove the school pursuant to the determination in accordance with section 167.
- (4) Where an appeal is made under subsection (1)(c) against an order under section 165(8), the order shall not have effect in relation to any time before the appeal is determined by the tribunal under section 167 or withdrawn or otherwise disposed of.
- (5) In the case of an appeal against a determination under section 165(2), if at any time the tribunal considers that there is a risk of serious harm occurring to the welfare of pupils before the determination of the appeal, it may by order provide that the school is to be regarded as not registered for the purposes of section 159 until the tribunal determines the appeal under section 167 (or revokes the order before so determining the appeal).

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## **167 Determination of appeals**

- (1) This section applies where an appeal is made under section 166 to the tribunal established under section 9 of the Protection of Children Act 1999 (c. 14).
- (2) In the case of an appeal against a refusal under section 162 to approve a material change, the tribunal may—
  - (a) uphold the refusal to approve, or
  - (b) itself approve the change.
- (3) In the case of an appeal against a determination under section 165 to remove the school from the register, the tribunal may—
  - (a) uphold the determination, or
  - (b) revoke the determination.
- (4) Where under subsection (3)(a) the tribunal upholds a determination, the registration authority shall remove the school from the register on such date as the tribunal may specify or, if it does not specify a date, on such date as the registration authority may determine.
- (5) Where under subsection (3)(b) the tribunal revokes a determination, it may order the proprietor of the school to do one or more of the following by such time as may be specified in the order—
  - (a) to cease using any part of the school premises for all purposes or purposes specified in the order;
  - (b) to close any part of the school's operation;
  - (c) to cease to admit any new pupils, or new pupils of a description specified in the order.
- (6) In the case of an appeal against an order under section 165(8) requiring the taking of specified action, the tribunal may—
  - (a) uphold the order,
  - (b) vary the order, or
  - (c) strike down the order.
- (7) In the case of an appeal against a refusal under section 165(10) to vary or revoke an order under section 165(8), the tribunal may—
  - (a) uphold the refusal, or
  - (b) if in any case it is satisfied that it is appropriate to do so because of any change of circumstance after the making of the order—
    - (i) vary the order in such manner as it thinks fit, or
    - (ii) revoke the order.
- (8) The tribunal may, on the application of the proprietor of a registered school, vary or revoke any order made by it under subsection (5) in relation to the school where it is satisfied that it is appropriate to do so because of any change of circumstance.
- (9) If the proprietor of a school fails to comply with an order of the tribunal under subsection (5)—
  - (a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and

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- (b) the tribunal may, on the application of the registration authority, authorise the registration authority to remove the school from the register on such date as the tribunal may determine.

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