



# Education Act 2005

## 2005 CHAPTER 18

### PART 1

#### SCHOOL INSPECTIONS AND OTHER INSPECTIONS BY SCHOOL INSPECTORS

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

- C1** Pt. 1 applied in part (with modifications) (E.) (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), reg. 3, **Sch. 1 para. 21**
- C2** Pt. 1 applied (with modifications) (W.) (23.4.2007) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(Wales\) Regulations 2007\(S.I. 2007/1069\)](#), reg. 3, {Sch. 1 para. 11}
- C3** Pt. 1 applied (with modifications) (E.) (1.9.2005) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2005 \(S.I. 2005/2039\)](#), reg. 3, **Sch. 1 para. 11**

### CHAPTER 1

#### SCHOOL INSPECTORS AND SCHOOL INSPECTIONS: ENGLAND

##### *Her Majesty's Inspectorate for England*

## 1 Her Majesty's Inspectorate of Schools in England

**F1** .....

##### Textual Amendments

- F1** Ss. 1-4 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, Sch. 14 para. 99, **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5(ii)**

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## 2 Functions of Her Majesty's Chief Inspector of Schools in England

F2 .....

### Textual Amendments

**F2** Ss. 1-4 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, Sch. 14 para. 99, [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(ii\)](#)

## 3 Annual and other reports to Secretary of State

F3 .....

### Textual Amendments

**F3** Ss. 1-4 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, Sch. 14 para. 99, [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(ii\)](#)

## 4 Powers of entry etc. for purposes of section 2

F4 .....

### Textual Amendments

**F4** Ss. 1-4 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, Sch. 14 para. 99, [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(ii\)](#)

## *Inspections*

## 5 Duty to inspect certain schools at prescribed intervals

- (1) It is the duty of the Chief Inspector—
- (a) to inspect under this section every school in England to which this section applies, at such intervals as may be prescribed, and
  - (b) when the inspection has been completed, to make a report of the inspection in writing.
- (2) Subject to subsection (3), the schools to which this section applies are—
- (a) community, foundation and voluntary schools,
  - (b) community and foundation special schools,
  - (c) maintained nursery schools,
  - (d) Academies,
  - (e) city technology colleges,
  - (f) city colleges for the technology of the arts, and
  - (g) special schools which are not community or foundation special schools but are for the time being approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of special schools).
- (3) This section does not apply to any school—

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- (a) which is a closing school (as defined by subsection (4)), and
  - (b) in respect of which the Chief Inspector has decided, having regard to the date on which the closure is to take effect, that no useful purpose would be served by the school being inspected under this section.
- (4) In subsection (3)(a) a “closing school” means—
- (a) any community, foundation or voluntary school, community or foundation special school or maintained nursery school in respect of which proposals to discontinue the school have been approved, adopted or determined under any enactment,
  - (b) a foundation or voluntary school in respect of which the governing body have given notice of discontinuance under section 30 of the School Standards and Framework Act 1998 (c. 31),
  - (c) a community, foundation or voluntary or community or foundation special school in respect of which the Secretary of State has given a direction to discontinue the school under [<sup>F5</sup>section 17 or 68 of the Education and Inspections Act 2006] ,
  - (d) a city technology college, city college for the technology of the arts or Academy in respect of which notice of termination of an agreement made under section 482 of the Education Act 1996 has been given, or
  - (e) a special school which is not a community or foundation special school but is for the time being approved by the Secretary of State under section 342 of the Education Act 1996 and which the proprietor has decided to close.
- (5) It is the general duty of the Chief Inspector, when conducting an inspection under this section, to report on—
- (a) the quality of the education provided in the school,
  - (b) how far the education provided in the school meets the needs of the range of pupils at the school,
  - (c) the educational standards achieved in the school,
  - (d) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed effectively,
  - (e) the spiritual, moral, social and cultural development of the pupils at the school,  
<sup>F6</sup> . . .
  - (f) the contribution made by the school to the well-being of those pupils.
- (6) Subsection (1) has effect subject to section 9.
- (7) An inspection which is required under this section must not extend to—
- (a) denominational education, or
  - (b) the content of collective worship which falls to be inspected under section 48.

#### Textual Amendments

**F5** Words in s. 5(4)(c) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 71, 188, Sch. 7 para. 23; S.I. 2007/935, art. 5\(cc\)](#)

**F6** Word in s. 5(5)(e) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 154\(a\), 184, 188, Sch. 18 Pt. 5; S.I. 2007/935, art. 5\(ii\)](#)

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## 6 Duty to notify parents of section 5 inspection

- (1) If the appropriate authority for a school to which section 5 applies is notified by, or under arrangements made by, the Chief Inspector that the Chief Inspector is proposing to inspect the school under that section, the appropriate authority must take such steps as are reasonably practicable to notify—
  - (a) the registered parents of registered pupils at the school, and
  - (b) such other persons as may be prescribed,
 of the time when the inspection is to take place.
- (2) Any notification given under subsection (1)(a) must include a statement, in a form approved by the Chief Inspector, inviting the registered parents of registered pupils to inform the Chief Inspector of their views on matters relating to the school.
- (3) In subsection (1) “appropriate authority” means—
  - (a) in relation to a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, the school's governing body or, if the school does not have a delegated budget, the local education authority, and
  - (b) in relation to a school falling within any of paragraphs (d) to (g) of section 5(2), the proprietor of the school.

## 7 Duty to have regard to views of certain persons

In conducting an inspection of a school under section 5, the matters to which the Chief Inspector must have regard include any views expressed to him by any of the following persons—

- (a) the head teacher,
- (b) in the case of a maintained school, the governing body,
- (c) in the case of any other school, the proprietor of the school,
- (d) any person prescribed for the purposes of section 6(1)(b),
- (e) members of the staff of the school,
- (f) registered pupils at the school, and
- (g) the registered parents of registered pupils.

## [<sup>F7</sup>8 Other inspections

- (1) If requested to do so by the Secretary of State, the Chief Inspector must inspect and report on such school, or class of school, in England as is specified in the request.
- (2) The Chief Inspector may inspect any school in England in circumstances where he is not required to do so by section 5 or subsection (1) above.]

### Textual Amendments

- F7** S. 8 substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 100](#); [S.I. 2007/935](#), [art. 5\(w\)\(gg\)](#)

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## 9 Power of Chief Inspector to treat other inspection as section 5 inspection

If the Chief Inspector so elects in the case of any inspection under section <sup>F8</sup> . . . 8 of a school to which section 5 applies, that inspection is to be treated for the purposes of section 5(1) and of Chapter 2 as if it were an inspection under section 5.

### Textual Amendments

**F8** Words in s. 9 repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, Sch. 14 para. 101, [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(ii\)](#)

## 10 Power of entry etc. for purposes of inspection under section 5 or 8

- (1) When inspecting a school under section 5 or 8, the Chief Inspector has at all reasonable times—
- (a) a right of entry to the premises of the school,
  - (b) a right of entry to any other premises on which, by virtue of arrangements made by the school, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,are receiving part of their education from any person (“the provider”),
  - (c) a right of entry to any premises of the provider used in connection with the provision by him of that education,
  - (d) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions, and
  - (e) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
    - (ii) any other documents containing information relating to the provision of such education by the provider,which the Chief Inspector considers relevant to the discharge of his functions.
- (2) It is an offence intentionally to obstruct the Chief Inspector in relation to the inspection of a school for the purposes of section 5 or 8.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### Modifications etc. (not altering text)

- C4** S. 10(1)(a) applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), reg. 2, [Sch. para. 4\(2\)\(b\)](#)
- C5** S. 10(1)(d) applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), reg. 2, [Sch. para. 4\(2\)\(b\)](#)

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### *Publication of inspection reports*

## 11 Publication of inspection reports

- (1) The Chief Inspector may arrange for any report of an inspection carried out by him under any provision of this Chapter (whether the report is required by any such provision or is otherwise made in pursuance of his functions under that provision) to be published in such manner as he considers appropriate.
- (2) <sup>F9</sup> .....
- (3) <sup>F9</sup> .....
- (4) <sup>F9</sup> .....

#### Textual Amendments

**F9** S. 11(2)-(4) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, Sch. 14 para. 102, [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(gg\)\(ii\)](#)

### *<sup>F10</sup>Investigation of complaints*

#### Textual Amendments

**F10** Ss. 11A-11C and preceding cross-heading inserted (28.3.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 160, 188](#); S.I. 2007/935, [art. 3](#)

## 11A Power of Chief Inspector to investigate complaints about schools

- (1) The Chief Inspector may investigate a qualifying complaint if he thinks it is appropriate to do so—
  - (a) for the purpose of determining whether it is or may be appropriate to have regard to the matters raised by the complaint in carrying out any of his functions in relation to schools in England, and
  - (b) in particular, for the purpose of determining, in the light of the complaint—
    - (i) when to carry out an inspection under section 5 (insofar as the timing of such an inspection is within his discretion), and
    - (ii) whether it would be appropriate to carry out an inspection under section 8(2).
- (2) A complaint is a qualifying complaint if—
  - (a) it is about a matter relating to a relevant school and that matter—
    - (i) falls within a prescribed description, and
    - (ii) does not fall within any prescribed exception,
  - (b) it is made in writing to the Chief Inspector, and
  - (c) it is made by a person who satisfies prescribed conditions.
- (3) The conditions prescribed for the purposes of subsection (2)(c) may, in particular, require that the person has, before making the complaint to the Chief Inspector,

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taken advantage of other procedures of a prescribed description for dealing with the complaint.

- (4) Regulations may enable the Chief Inspector to determine that a condition prescribed for the purposes of subsection (2)(c) by virtue of subsection (3) is not to apply in relation to a person making a complaint.
- (5) In this section, “relevant school” means any of the schools mentioned in paragraphs (a) to (g) of section 5(2).

## **11B Investigations under section 11A**

- (1) This section applies where a qualifying complaint is made to the Chief Inspector by a person who is a registered parent of a registered pupil at the school to which the complaint relates.
- (2) If the Chief Inspector so requests for the purposes of an investigation of the complaint, the governing body of the school to which the complaint relates must provide him with—
  - (a) such information held by them as may be specified or described in the Chief Inspector's request, and
  - (b) such other information held by them as they consider may be relevant to the investigation.
- (3) If the complaint relates to a maintained school and the Chief Inspector so requests for the purposes of an investigation of the complaint, the local education authority who maintain the school must provide him with—
  - (a) such information held by them as may be specified or described in the Chief Inspector's request, and
  - (b) such other information held by them as they consider may be relevant to the investigation.
- (4) If, for the purposes of an investigation of the complaint, it appears to the Chief Inspector to be appropriate to hold a meeting for registered parents of registered pupils at the school to which the complaint relates—
  - (a) he must give notice to that effect to—
    - (i) the governing body of the school (unless the school falls within subparagraph (ii)), or
    - (ii) if the school is a maintained school which does not have a delegated budget, the local education authority who maintain the school, and
  - (b) on being so notified, the governing body or (as the case may be) the local education authority must co-operate with the Chief Inspector in the making of arrangements for the meeting.
- (5) In particular, the governing body or (as the case may be) the local education authority must if so requested by the Chief Inspector—
  - (a) allow the meeting to be held on the premises of the school,
  - (b) fix a date for the meeting which is consistent with any request made by the Chief Inspector for that purpose, and
  - (c) take such steps as are specified by the Chief Inspector to give—
    - (i) the registered parents of registered pupils at the school, and

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- (ii) if the school is a maintained school which has a delegated budget, the local education authority who maintain the school,
- such notice as the Chief Inspector may specify of the date, time and place of the meeting and of its purpose.
- (6) The following persons (in addition to the registered parents of registered pupils at the school) may attend a meeting held in pursuance of subsection (5)—
- (a) a representative of the governing body of the school, and
  - (b) if the school is a maintained school, a representative of the local education authority who maintain the school.
- (7) In this section—
- “governing body”, in relation to a relevant school which is not a maintained school, means the proprietor of the school;
- “maintain”, in relation to school, has the same meaning as in the School Standards and Framework Act 1998;
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
- “qualifying complaint” is to be read in accordance with section 11A(2);
- “relevant school” has the meaning given by section 11A(5).

## **11C Reports of investigations**

- (1) This section applies where, for the purposes of an investigation of a qualifying complaint to which section 11B applies the Chief Inspector—
- (a) requests information as mentioned in subsection (2) or (3) of that section, or
  - (b) gives notice in pursuance of subsection (4)(a) of that section that he considers it appropriate to hold a meeting for registered parents of registered pupils at the school to which the complaint relates.
- (2) The Chief Inspector may, if he considers it appropriate to do so, prepare a report of the outcome of the investigation by him of the complaint.
- (3) If the Chief Inspector prepares a report under subsection (2) he must send a copy of the report to—
- (a) the governing body of the school (unless the school falls within paragraph (b)), or
  - (b) if the school is a maintained school which does not have a delegated budget, the local education authority who maintain the school.
- (4) The body to whom a report is sent under subsection (3) must, if so requested by the Chief Inspector, provide a copy of the report to the registered parents of registered pupils at the school to which the complaint relates.
- (5) In this section, “governing body” and “qualifying complaint” have the same meaning as in section 11B.]

### *Interpretation of Chapter*

## **12 Interpretation of Chapter 1**

In this Chapter—



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“the Chief Inspector” means [<sup>F11</sup>Her Majesty's Chief Inspector of Education, Children's Services and Skills];

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State under this Chapter;

“well-being”, in relation to pupils at a school, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004 (c. 31).

#### Textual Amendments

**F11** Words in s. 12 substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 103](#); [S.I. 2007/935](#), [art. 5\(w\)\(gg\)](#)

## CHAPTER 2

### PROCEDURE FOR INSPECTIONS UNDER CHAPTER 1

#### *Inspections and reports: all schools*

### 13 Duties of Chief Inspector where school causes or has caused concern

- (1) If, on completion of a section 5 inspection of a school, the Chief Inspector is of the opinion—
  - (a) that special measures are required to be taken in relation to the school, or
  - (b) that the school requires significant improvement,he must comply with subsections (2) and (3).
- (2) The Chief Inspector must—
  - (a) send a draft of the report of the inspection—
    - (i) in the case of a maintained school, to the governing body, and
    - (ii) in the case of any other school, to the proprietor of the school, and
  - (b) consider any comments on the draft that are made to him within the prescribed period by the governing body or proprietor, as the case may be.
- (3) If, after complying with subsection (2), the Chief Inspector is of the opinion that the case falls within paragraph (a) or (b) of subsection (1)—
  - (a) he must without delay give a notice in writing, stating that the case falls within paragraph (a) or (b) of subsection (1)—
    - (i) to the Secretary of State,
    - (ii) in the case of a maintained school, to the local education authority, and
    - (iii) in the case of any other school, to the proprietor of the school, and
  - (b) he must state his opinion in the report of the inspection.
- (4) If a report of a section 5 inspection is made in circumstances where—

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- (a) in the latest report of an inspection of the school, the Chief Inspector stated that in his opinion special measures were required to be taken in relation to the school, but
  - (b) the Chief Inspector is of the opinion that special measures are not required to be taken in relation to the school,
- he must state his opinion in the report (whether or not he is required by subsection (3) (b) also to state the opinion that the school requires significant improvement).
- (5) If a report of a section 5 inspection is made in circumstances where—
- (a) in the latest report of an inspection of the school, the Chief Inspector stated that in his opinion the school required significant improvement, but
  - (b) the Chief Inspector is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school,
- he must state his opinion in the report.

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

- C6** S. 13(1)-(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- C7** S. 13(1)-(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C8** S. 13(1)-(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1

*Destination of reports and measures required: maintained schools*

**14 Destination of reports: maintained schools**

- (1) The Chief Inspector must ensure that a copy of the report of any section 5 inspection of a maintained school is sent without delay to the appropriate authority for the school.
- (2) The Chief Inspector must ensure that copies of the report are sent—
  - (a) to the head teacher of the school,
  - (b) to whichever of the local education authority and the governing body are not the appropriate authority,
  - (c) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority, and
  - (d) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (3) If the school provides full-time education suitable to the requirements of pupils over compulsory school age, the Chief Inspector must ensure that a copy of the report is also sent to the Learning and Skills Council for England.
- (4) The appropriate authority must—

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- (a) make a copy of any report sent to the authority under subsection (1) available for inspection by members of the public at such times and at such place as may be reasonable,
- (b) provide a copy of the report, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
- (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the report within such period following receipt of the report by the authority as may be prescribed.

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

- C9** S. 14(2) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(i) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C10** S. 14(2) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(i) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C11** S. 14(4) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(ii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C12** S. 14(4) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(ii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1

**15 Measures to be taken by local education authority**

- (1) [<sup>F12</sup>Subsection (2)] applies where, in a report of a section 5 inspection of a maintained school, the Chief Inspector stated either—
  - (a) that in his opinion special measures were required to be taken in relation to the school, or
  - (b) that in his opinion the school required significant improvement.

[<sup>F13</sup>(2) The local education authority must—

- (a) consider what action to take in the light of the report,
- (b) consider what arrangements to make for the purpose of informing registered parents of the proposed action, ascertaining their views on the proposed action and taking account of those views,
- (c) consider whether those arrangements are to include the appointment of a specified person for that purpose,
- (d) prepare a written statement—
  - (i) of the action they propose to take, and the period within which they propose to take that action, or, if they do not propose to take such action, of their reasons for not doing so, and
  - (ii) of the arrangements they propose to make for the purpose mentioned in paragraph (b), and
- (e) send a copy of the statement prepared under paragraph (d) to—
  - (i) the Chief Inspector,

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- (ii) in the case of a voluntary aided school, the person who appoints the foundation governors and (if different) the appropriate appointing authority, and
  - (iii) such other persons as the Secretary of State may specify.
- (2A) Subsection (2B) applies where—
- (a) the local education authority have prepared a statement under subsection (2) in relation to a school,
  - (b) it appears to the Secretary of State, on the basis of a report of an interim inspection of the school by the Chief Inspector, that the case has become urgent, and
  - (c) no subsequent inspection of the school has been made under section 5.
- (2B) The Secretary of State may by notice require the local education authority to—
- (a) consider the action to be taken in the light of the report of the interim inspection and the arrangements to be made for the purpose mentioned in subsection (2)(b),
  - (b) prepare a written statement—
    - (i) of the action they propose to take, and the period within which they propose to take that action, or, if they do not propose to take such action, of their reasons for not doing so, and
    - (ii) of the arrangements they propose to make for the purpose mentioned in subsection (2)(b), and
  - (c) send a copy of the statement to the Secretary of State and to the persons mentioned in subsection (2)(e)(i) to (iii).
- (2C) For the purposes of subsections (2A) and (2B) an “interim inspection” is an inspection under section 8 in respect of which no election under section 9 is made.]
- (3) It is the duty of the local education authority to prepare [<sup>F14</sup>a statement under subsection (2) or (2B)] within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if—
    - (i) the report states that the Chief Inspector is of the opinion that special measures are required to be taken in relation to the school, and
    - (ii) the Secretary of State is of the opinion that the urgency of the case requires a shorter period,
 such shorter period as the Secretary of State may direct;
- but this subsection does not relieve the local education authority of any duty to prepare a statement which has not been performed within that period.
- [<sup>F15</sup>(4) In performing their functions under subsections (2)(a), (b), (c) and (d) and (2B)(a) and (b), the local education authority must have regard to any guidance given from time to time by the Secretary of State.]

#### Textual Amendments

**F12** Words in s. 15(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 1\(2\)](#); [S.I. 2007/935](#), [art. 5\(j\)\(cc\)](#)

**F13** S. 15(2)-(2C) substituted (1.4.2007) for s. 15(2) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 1\(3\)](#); [S.I. 2007/935](#), [art. 5\(j\)\(cc\)](#)

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- F14** Words in s. 15(3) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 71, 188, **Sch. 7 para. 1(4)**; S.I. 2007/935, **art. 5(j)(cc)**
- F15** S. 15(4) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 71, 188, **Sch. 7 para. 1(5)**; S.I. 2007/935, **art. 5(j)(cc)**

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

- C13** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2005/2034, **art. 4**; S.I. 2006/1338, **art. 3**, Sch. 1
- C14** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2005/2034, **art. 4**; S.I. 2006/1338, **art. 3**, Sch. 1
- C15** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2005/2034, **art. 4**; S.I. 2006/1338, **art. 3**, Sch. 1
- C16** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2005/2034, **art. 4**; S.I. 2006/1338, **art. 3**, Sch. 1

*Destination of reports and measures required: non-maintained schools*

**16 Destination of reports: non-maintained schools**

- (1) The Chief Inspector must ensure that a copy of the report of any section 5 inspection of a school other than a maintained school is sent without delay to the proprietor of the school.
- (2) In the case of a special school which is not a community or foundation special school, the proprietor must without delay send a copy of any report sent to him under subsection (1) to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.
- (3) The proprietor of the school must—
  - (a) make any report sent to him under subsection (1) available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the report within such period following receipt of the report by the proprietor as may be prescribed.

**17 Statement to be prepared by proprietor of school**

- (1) <sup>F16</sup>Subsection (1A) applies]Where there is sent to the proprietor of a school other than a maintained school a report of a section 5 inspection in which the Chief Inspector states—
  - (a) that he is of the opinion that special measures are required to be taken in relation to the school, or
  - (b) that he is of the opinion that the school requires significant improvement,

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F17 .....

[<sup>F18</sup>(1A) The proprietor must—

- (a) consider what action to take in the light of the report,
- (b) consider what arrangements to make for the purpose of informing registered parents of the proposed action, ascertaining their views on the proposed action and taking account of those views,
- (c) consider whether those arrangements are to include the appointment of a specified person for that purpose, and
- (d) prepare a written statement—
  - (i) of the action the proprietor proposes to take, and the period within which he proposes to take that action, or, if he does not propose to take such action, of his reasons for not doing so, and
  - (ii) of the arrangements he proposes to make for the purpose mentioned in paragraph (b).

(1B) Subsection (1C) applies where—

- (a) the proprietor of a school has prepared a statement under subsection (1A) in relation to the school,
- (b) it appears to the Secretary of State, on the basis of a report of an interim inspection of the school by the Chief Inspector, that the case has become urgent, and
- (c) no subsequent inspection of the school has been made under section 5.

(1C) The Secretary of State may by notice require the proprietor to—

- (a) consider the action to be taken in the light of the report of the interim inspection and the arrangements to be made for the purpose mentioned in subsection (1A)(b), and
- (b) prepare a written statement—
  - (i) of the action the proprietor proposes to take, and the period within which he proposes to take that action, or, if he does not propose to take such action, of his reasons for not doing so, and
  - (ii) of the arrangements the proprietor proposes to make for the purpose mentioned in subsection (1A)(b)".

(1D) For the purposes of subsections (1B) and (1C) an “interim inspection” is an inspection under section 8 in respect of which no election under section 9 is made.]

(2) It is the duty of the proprietor of the school to prepare the statement within the period allowed by this subsection, that is—

- (a) such period as may be prescribed, or
- (b) if—
  - (i) the report states that the Chief Inspector is of the opinion that special measures are required to be taken in relation to the school, and
  - (ii) the Secretary of State is of the opinion that the urgency of the case requires a shorter period,

such shorter period as the Secretary of State may direct;

but this subsection does not relieve the proprietor of the school of any duty to prepare a statement which has not been performed within that period.

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- (3) Where [<sup>F19</sup>a statement under subsection (1A) or (1C)] has been prepared by the proprietor of the school, he must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,
  - [<sup>F20</sup>(aa) in the case of a statement under subsection (1C), to the Secretary of State,]  
and
  - (b) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) In the case of a special school which is not a community or foundation special school, the proprietor of the school must, before the end of the prescribed period, send a copy of any such statement prepared by him to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.
- [<sup>F21</sup>(5) In performing his functions under subsections (1A)(a), (b), (c) and (d) and (1C)(a) and (b), the proprietor must have regard to any guidance given from time to time by the Secretary of State.]

#### Textual Amendments

- F16** Words in s. 17(1) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 2\(2\)\(a\)](#); S.I. 2007/935, [art. 5\(j\)\(cc\)](#)
- F17** Words in s. 17(1)(b) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 184, 188, [Sch. 7 para. 2\(2\)\(b\)](#), [Sch. 18 Pt. 4](#); S.I. 2007/935, [art. 5\(cc\)\(ii\)](#)
- F18** S. 17(1A)-(1D) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 2\(3\)](#); S.I. 2007/935, [art. 5\(j\)\(cc\)](#)
- F19** Words in s. 17(3) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 2\(4\)\(a\)](#); S.I. 2007/935, [art. 5\(j\)\(cc\)](#)
- F20** S. 17(3)(aa) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 2\(4\)\(b\)](#); S.I. 2007/935, [art. 5\(j\)\(cc\)](#)
- F21** S. 17(5) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 188, [Sch. 7 para. 2\(5\)](#); S.I. 2007/935, [art. 5\(j\)\(cc\)](#)

### *Interpretation of Chapter*

## 18 Interpretation of Chapter 2

In this Chapter—

“the appropriate appointing authority”, in relation to a voluntary aided school, means—

(a) the appropriate diocesan authority, if it is a Church of England school<sup>F22</sup> . . . or a Roman Catholic Church school, or

(b) in any other case, the person who appoints the foundation governors;

“the appropriate authority”, in relation to a maintained school, means the school's governing body or, if the school does not have a delegated budget, the local education authority;

“the Chief Inspector” means [<sup>F23</sup>Her Majesty's Chief Inspector of Education, Children's Services and Skills];

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

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- “prescribed” means prescribed by regulations;  
“regulations” means regulations made by the Secretary of State under this Chapter;  
“section 5 inspection” means an inspection under section 5.

#### **Textual Amendments**

- F22** Words in s. 18 in the definition of "the appropriate appointing authority" repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 71, 184, 188, [Sch. 7 para. 24](#); Sch. 18 Pt. 4; S.I. 2007/935, [art. 5\(w\)\(cc\)\(ii\)](#)
- F23** Words in s. 18 in the definition of "the Chief Inspector" substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 104](#); S.I. 2007/935, [art. 5\(w\)\(gg\)](#)

### **CHAPTER 3**

#### SCHOOL INSPECTORS AND SCHOOL INSPECTIONS: WALES

##### *Her Majesty's Inspectorate for Wales*

#### **19 Her Majesty's Inspectorate of Education and Training in Wales**

- (1) Her Majesty may by Order in Council appoint a person to the office of Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru (“the Chief Inspector”).
- (2) Her Majesty may by Order in Council appoint persons as Her Majesty's Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.
- (3) Any person appointed as one of Her Majesty's Inspectors of Education and Training in Wales is to serve, in accordance with the terms and conditions on which he is appointed, as a member of the staff of the Chief Inspector.
- (4) The Chief Inspector holds and vacates office in accordance with the terms of his appointment, but—
  - (a) must not be appointed for a term of more than five years,
  - (b) may at any time resign by giving written notice to the Assembly, and
  - (c) may be removed from office by Her Majesty on the ground of incapacity or misconduct.
- (5) The previous appointment of a person as Chief Inspector does not affect his eligibility for appointment.
- (6) If the Assembly considers that any of the powers conferred by subsection (1), (2) and (4)(c) ought to be exercised, the Assembly must advise the Secretary of State on any recommendation to be made to Her Majesty as to the exercise of the power.
- (7) The terms of a person's appointment under subsection (2) are to be determined by the Chief Inspector with the approval of the Assembly.
- (8) Schedule 2 makes further provision about the Chief Inspector and his staff.



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## **20 Functions of Chief Inspector**

- (1) The Chief Inspector has the general duty of keeping the Assembly informed about—
  - (a) the quality of the education provided by schools in Wales,
  - (b) how far that education meets the needs of the range of pupils at those schools,
  - (c) the educational standards achieved in those schools,
  - (d) the quality of the leadership in and management of those schools, including whether the financial resources made available to those schools are managed efficiently,
  - (e) the spiritual, moral, social and cultural development of pupils at those schools, and
  - (f) the contribution made by those schools to the well-being of those pupils.
- (2) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters as may be specified in the Assembly's request, and
  - (b) inspect and report on such school, or class of school, in Wales as may be so specified.
- (3) In addition, the Chief Inspector has the following specific duties—
  - (a) establishing and maintaining the register mentioned in section 25(1);
  - (b) giving guidance to inspectors registered in that register, and such other persons as he considers appropriate, in connection with inspections of schools in Wales under section 28 and the making of reports of such inspections;
  - (c) keeping under review the system of inspecting schools under that section and, in particular, the standard of such inspections and of the reports made by registered inspectors;
  - (d) keeping under review the extent to which any requirement imposed by or under this Part, or any other enactment, on any registered inspector, local education authority, proprietor of a school or governing body in relation to inspections of schools in Wales is complied with;
  - (e) promoting efficiency in the conduct and reporting of inspections of schools in Wales by encouraging competition in the provision of services by registered inspectors.
- (4) The Chief Inspector may at any time give advice to the Assembly on any matter connected with schools, or a particular school, in Wales.
- (5) The Chief Inspector is to have such other functions in connection with schools in Wales, including functions with respect to the training of teachers for such schools, as may be assigned to him by the Assembly.
- (6) In exercising his functions, the Chief Inspector must have regard to such aspects of policy adopted or formulated by the Assembly as the Assembly may direct.
- (7) This section does not apply in relation to education which is brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21).

## **21 Annual and other reports to Assembly**

- (1) The Chief Inspector—
  - (a) must make an annual report to the Assembly,

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- (b) may make such other reports to the Assembly, with respect to matters which fall within the scope of his functions, as he considers appropriate, and
- (c) may arrange for any report made by him under this section to be published in such manner as he considers appropriate.

(2) The Assembly must publish any report that is made to it under subsection (1)(a).

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

C17 S. 21(1)(b) modified (1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 14(2) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 21); S.I. 2006/1338, art. 3, Sch. 1

## 22 Power of Assembly to establish advisory panel

- (1) The Assembly may by regulations—
  - (a) establish a panel for the purpose of providing advice to the Assembly on matters relating to the functions that are at any time exercisable by the Chief Inspector under this Part or any other enactment, and
  - (b) make provision as to the functions of the panel.
- (2) The regulations may in particular—
  - (a) make provision about the appointment of members of the panel,
  - (b) make provision for remuneration and allowances to be paid to members of the panel,
  - (c) require the panel and the Chief Inspector to co-operate with each other,
  - (d) require the panel to make reports to the Assembly.

## 23 Powers of entry etc. of Chief Inspector

- (1) For the purposes of the exercise of any function conferred by or under section 20, the Chief Inspector has at all reasonable times, in relation to any school in Wales—
  - (a) a right of entry to the premises of the school, and
  - (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for those purposes.
- (2) For the purposes of the exercise of any function conferred by or under section 20, the Chief Inspector has at all reasonable times—
  - (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by a school in Wales, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,
 are provided with part of their education by any person (“the provider”),
  - (b) a right of entry to any premises of the provider used in connection with the provision by him of that education, and
  - (c) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of that education, and
    - (ii) any other documents containing information so relating,

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which the Chief Inspector requires for those purposes.

- (3) It is an offence intentionally to obstruct the Chief Inspector—
  - (a) in the exercise of his functions in relation to the inspection of a school for the purposes of section 20(2)(b), or
  - (b) in the exercise of any right under subsection (1) or (2) for the purposes of the exercise of any other function.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **24 Power of Chief Inspector to arrange for inspections**

- (1) The Chief Inspector may cause any school in Wales to be inspected by one or more of Her Majesty's Inspectors of Education and Training in Wales (in this section referred to as “Inspectors”).
- (2) Where an inspection of a school in Wales is being conducted by a registered inspector under section 28, the Chief Inspector may arrange for that inspection to be monitored by one or more Inspectors.
- (3) An Inspector inspecting a school, or monitoring an inspection, under this section has at all reasonable times—
  - (a) a right of entry to the premises of the school,
  - (b) a right of entry to any other premises on which, by virtue of arrangements made by the school, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,are receiving part of their education from any person (“the provider”),
  - (c) a right of entry to any premises of the provider used in connection with the provision by him of that education,
  - (d) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions, and
  - (e) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
    - (ii) any other documents containing information relating to the provision of such education by the provider,which the Inspector considers relevant to the discharge of his functions.
- (4) It is an offence intentionally to obstruct any Inspector in the exercise of any of his functions under this section.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) An inspection of a school conducted under subsection (1) may not extend to any education of a kind brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21) that is provided by the school.

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### *Registered inspectors*

## **25 Registration of inspectors in Wales**

- (1) No person may conduct an inspection of any school in Wales under section 28 unless—
  - (a) he is a member of the Inspectorate, or
  - (b) he is registered as an inspector in a register kept by the Chief Inspector for the purposes of this Chapter.
- (2) The Chief Inspector may not register a person under this section unless, having regard to any conditions that he proposes to impose under subsection (4)(c), it appears to him that that person—
  - (a) is a fit and proper person for discharging the functions of a registered inspector, and
  - (b) will be capable of conducting inspections under this Chapter competently and effectively,and no person may be so registered if he falls within a category of persons prescribed for the purposes of this subsection.
- (3) An application for registration under this section—
  - (a) must be made in such manner, and be accompanied by such particulars, as the Chief Inspector may direct, and
  - (b) must be accompanied by the prescribed fee.
- (4) On an application duly made under this section the Chief Inspector may—
  - (a) register the applicant,
  - (b) refuse to register him, or
  - (c) register him subject to such conditions as the Chief Inspector considers it appropriate to impose.
- (5) The matters to which the Chief Inspector may have regard in deciding whether to register the applicant include, in particular—
  - (a) the extent to which the Chief Inspector proposes to exercise his discretion under subsection (1) of section 28 to secure that inspections under that section are conducted by members of the Inspectorate rather than registered inspectors, and
  - (b) the extent to which there is a need for registered inspectors in Wales.
- (6) Conditions under subsection (4)(c) may be conditions applying generally in relation to all cases, or particular classes of case, or such conditions together with specific conditions applying in the particular case.
- (7) Where a person is registered subject to conditions imposed under subsection (4)(c), he is to be taken to be authorised to act as a registered inspector only so far as those conditions permit.
- (8) The period for which any registration is to have effect is to be determined by the Chief Inspector and must be entered in the register kept by him.
- (9) Nothing in subsection (8) is to be taken as preventing a registered inspector from applying for a fresh registration to take effect immediately on the expiry of his current registration.

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## **26 Removal from register and imposition or variation of conditions**

- (1) If the Chief Inspector is satisfied that any of the conditions mentioned in subsection (2) is satisfied with respect to an inspector registered in the register, he may remove the name of that inspector from the register.
- (2) The conditions are that—
  - (a) he is no longer a fit and proper person for discharging the functions of a registered inspector under this Chapter;
  - (b) he is no longer capable of conducting inspections under this Chapter competently and effectively;
  - (c) there has been a significant failure on his part to comply with any condition imposed under section 25(4)(c) and subject to which his registration has effect;
  - (d) he has, without reasonable explanation, produced a report of an inspection which is, in whole or in part, seriously misleading.
- (3) If the Chief Inspector is satisfied—
  - (a) that he is authorised by subsection (2) to remove the name of an inspector from the register, or
  - (b) that it would otherwise be in the public interest to act under this subsection,he may vary any condition subject to which the registration of that inspector has effect or vary that registration by imposing a condition subject to which it will have effect.

## **27 Appeals in relation to registration**

- (1) Any person who is aggrieved by—
  - (a) the refusal of the Chief Inspector to renew his registration under section 25,
  - (b) the imposition or variation of any condition subject to which he is registered under that section, or
  - (c) the removal of his name from the register under section 26,may appeal against the Chief Inspector's decision to a tribunal constituted in accordance with Schedule 3.
- (2) Where—
  - (a) a decision to refuse to renew a person's registration under section 25 is expressed to be based on the ground—
    - (i) that there is a reduced need for registered inspectors in Wales, or
    - (ii) that there is no longer any need for registered inspectors in Wales, and
  - (b) the tribunal is satisfied that the decision was based on one of those grounds,the tribunal must confirm the decision to refuse renewal.
- (3) No decision of the Chief Inspector falling within (1)(b) or (c) is to have effect until—
  - (a) the disposal of any appeal against the decision which is duly made under this section, or
  - (b) the period within which an appeal may be made has expired without an appeal having been made.
- (4) Subsection (3) does not apply where the Chief Inspector—
  - (a) is satisfied that the circumstances of the case justify the decision in question taking effect immediately, or earlier than would otherwise be the case, and

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- (b) notifies the person concerned to that effect.
- (5) On determining any appeal under this section, the tribunal may—
  - (a) confirm, reverse or vary the decision appealed against, or
  - (b) remit the case to the Chief Inspector with directions as to the action to be taken by him.
- (6) Schedule 3 makes further provision with respect to tribunals constituted to hear appeals under this section.

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

**C18** S. 27 applied (with modifications) (16.5.2006) by **S.I. 2006/1338, art. 6, Sch. 4 para. 5**

*Inspections by registered inspectors and members of the Inspectorate*

**28 Duty to arrange regular inspections of certain schools**

- (1) It is the duty of the Chief Inspector to secure that every school in Wales to which this section applies is inspected under this section, at such intervals as may be prescribed, by an inspector registered under section 25 or by a member of the Inspectorate.
- (2) Subject to subsection (3), the schools to which this section applies are—
  - (a) community, foundation and voluntary schools,
  - (b) community and foundation special schools,
  - (c) maintained nursery schools, and
  - (d) special schools which are not community or foundation special schools but are for the time being approved by the Assembly under section 342 of the Education Act 1996 (c. 56) (approval of special schools).
- (3) This section does not apply to any school—
  - (a) which is a closing school (as defined by subsection (4)), and
  - (b) in respect of which the Chief Inspector has decided, having regard to the date on which the closure is to take effect, that no useful purpose would be served by the school being inspected under this section.
- (4) In subsection (3)(a) a “closing school” means—
  - (a) any community, foundation or voluntary school, community or foundation special school or maintained nursery school in respect of which proposals to discontinue the school have been approved, adopted [<sup>F24</sup>, confirmed] or determined under any enactment,
  - (b) a foundation or voluntary school in respect of which the governing body have given notice of discontinuance under section 30 of the School Standards and Framework Act 1998 (c. 31),
  - (c) a community, foundation or voluntary or community or foundation special school in respect of which the Assembly has given a direction to discontinue the school under section 19 or 32 of that Act, or
  - (d) a special school which is not a community or foundation special school but is for the time being approved by the Assembly under section 342 of the Education Act 1996 (c. 56) and which the proprietor has decided to close.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Education Act 2005 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) It is the general duty of any inspector conducting an inspection under this section to report on—
- (a) the quality of the education provided in the school,
  - (b) how far the education provided in the school meets the needs of the range of pupils at the school,
  - (c) the educational standards achieved in the school,
  - (d) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed effectively,
  - (e) the spiritual, moral, social and cultural development of the pupils at the school, and
  - (f) the contribution made by the school to the well-being of those pupils.
- (6) Subsection (1) has effect subject to section 32.
- (7) An inspection which is required under this section must not extend to—
- (a) denominational education,
  - (b) education which is brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21), or
  - (c) the content of collective worship which falls to be inspected under section 50.
- (8) Schedule 4 makes further provision with respect to inspections under this section.

#### Textual Amendments

- F24** Word in s. 28(4)(a) inserted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 96** (with art. 7)

### *Publication of inspection reports*

## 29 Publication of inspection reports

- (1) The Chief Inspector may, in the case of—
- (a) any report by a member of the Inspectorate of an inspection carried out by him under any provision of this Chapter (whether the report is required by any such provision or is otherwise made in pursuance of his functions under that provision), or
  - (b) any report of an inspection under section 28 made by a registered inspector, arrange for the report to be published in such manner as the Chief Inspector considers appropriate.
- (2) Without prejudice to the generality of—
- (a) section 21(1)(c), or
  - (b) subsection (1),
- the Chief Inspector may arrange for a report to which that provision applies to be published by electronic means.

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- (3) For the purposes of the law of defamation any report published by the Chief Inspector under either of those provisions is privileged unless the publication is shown to have been made with malice.
- (4) Subsection (3) does not limit any privilege subsisting apart from that subsection.

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

- C19** S. 29(2)-(4) applied ( 1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 13B(4) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 20); S.I. 2006/1338, art. 3, Sch. 1
- C20** S. 29(2)-(4) applied (1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 13B(4) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 20); S.I. 2006/1338, art. 3, Sch. 1
- C21** S. 29(2)-(4) applied (1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 13B(4) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 20); S.I. 2006/1338, art. 3, Sch. 1

*Receipts*

**30 Payment of fees into Consolidated Fund**

- (1) Any sums received by the Chief Inspector under—
- (a) section 25(3)(b), or
  - (b) paragraph 4(3) or 5(2) of Schedule 4,
- must be paid into the Consolidated Fund.
- (2) Subsection (1) has effect subject to paragraph 4 of Schedule 6 to the Government of Wales Act 1998 (c. 38) (Treasury power to direct that requirement for payment into Consolidated Fund not to apply in relation to specified sums received by the Chief Inspector).

*Interpretation of Chapter*

**31 Interpretation of Chapter 3**

- (1) In this Chapter—
- “the Chief Inspector” means Her Majesty's Chief Inspector of Education and Training in Wales;
- “member of the Inspectorate” means the Chief Inspector, any of Her Majesty's Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2;
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Assembly under this Chapter;
- “well-being”, in relation to pupils at a school, is a reference to their well-being having regard to the matters mentioned in section 25(2) of the Children Act 2004 (c. 31).
- (2) For the purposes of this Chapter any reference to a condition imposed under section 25(4)(c) includes a reference to a condition imposed under section 26(3).



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## CHAPTER 4

### PROCEDURE FOR INSPECTIONS UNDER CHAPTER 3

#### *Introductory*

#### **32 Inspections by members of the Inspectorate**

- (1) If the Chief Inspector so elects in the case of any inspection of a school by a member of the Inspectorate under section 20(2)(b) or 24(1), that inspection is to be treated for the purposes of the relevant provisions as if it were an inspection under section 28.
- (2) In subsection (1) “the relevant provisions” means sections 28(1) and (5) and 35 and—
  - (a) (in the case of an inspection of a maintained school) sections 38 to 40, and
  - (b) (in the case of an inspection of a school other than a maintained school), sections 41 and 42.

#### *Inspections and reports: all schools*

#### **33 Duty to report on section 28 inspections**

Where a section 28 inspection by a registered inspector or a member of the Inspectorate has been completed, the inspector must make in writing a report of the inspection and a summary of the report.

#### **34 Section 28 inspections by registered inspectors**

- (1) Where a section 28 inspection was conducted by a registered inspector and he is of the opinion—
  - (a) that special measures are required to be taken in relation to the school, or
  - (b) that the school requires significant improvement,he must submit a draft of the report of the inspection to the Chief Inspector.
- (2) If the Chief Inspector so requests, an inspector who has submitted a draft under subsection (1) must provide the Chief Inspector with such further information as the Chief Inspector may specify.
- (3) The Chief Inspector must inform an inspector who has submitted a draft under subsection (1) whether he agrees or disagrees with the inspector's opinion.
- (4) Where—
  - (a) the Chief Inspector informs the inspector that he disagrees with the inspector's opinion, but
  - (b) the inspector remains of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,the inspector may not make a report stating that opinion unless the terms in which he makes the report are substantially the same (except as to the statement required by subsection (6)(b)) as the draft or as a subsequent draft submitted to the Chief Inspector under this subsection.

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- (5) Where a subsequent draft is submitted under subsection (4), the Chief Inspector must inform the inspector whether he agrees or disagrees with the inspector's opinion.
- (6) A report made by a registered inspector who is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement must—
- (a) state his opinion, and
  - (b) state whether the Chief Inspector agrees or disagrees with his opinion.
- (7) If a report of an inspection of a school by a registered inspector is made in circumstances where—
- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school the person making the report stated that in his opinion such measures were required to be taken and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the registered inspector must state his opinion in the report (whether or not he is required by subsection (6) also to state the opinion that the school requires significant improvement).
- (8) If a report of an inspection of a school by a registered inspector is made in circumstances where—
- (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school the person making the report stated that in his opinion the school did require significant improvement and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the registered inspector must state his opinion in the report.

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

**C22** S. 34(1)-(6) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 7(2)(b) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2006/1338, art. 3, Sch. 1

**35 Reports of inspections by members of the Inspectorate**

- (1) Where on the completion of any inspection of a school under section 20(2)(b) or 24(1) by a member of the Inspectorate, that person is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, he must—
- (a) prepare in writing a report of the inspection and a summary of the report, and
  - (b) state his opinion in the report.
- (2) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—

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- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken in relation to the school and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must prepare a report of the inspection and a summary of the report and state his opinion in the report (whether or not he is required by subsection (1)(b) also to state the opinion that the school requires significant improvement).
- (3) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
- (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion the school did require significant improvement and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must prepare a report of the inspection and a summary of the report and state his opinion in the report.
- (4) A report of a section 28 inspection of a school by a member of the Inspectorate must, if he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, state his opinion.
- (5) If a report of a section 28 inspection of a school by a member of the Inspectorate is made in circumstances where—
- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must state his opinion in the report (whether or not he is required by subsection (4) also to state the opinion that the school requires significant improvement).
- (6) If a report of a section 28 inspection of a school by a member of the Inspectorate is made in circumstances where—
- (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion the school did require significant improvement and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,

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the member of the Inspectorate must state his opinion in the report.

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

**C23** S. 35(1) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2006/1338, art. 3, Sch. 1

**36 Timing of section 28 inspections by registered inspectors**

- (1) The carrying out of a section 28 inspection must be completed by the time allowed under subsection (2), and the making of the report required by section 33 must be completed within the period allowed under that subsection.
- (2) The time, and the period, allowed are such as may be prescribed, subject to any such extension of the period as the Chief Inspector may consider necessary to make; but the total period allowed must not exceed the prescribed period extended by three months.
- (3) In the case of an inspection of a maintained school, the Chief Inspector must give notice of any extension under subsection (2) to—
  - (a) the inspector,
  - (b) the local education authority in the case of a maintained school, and
  - (c) the governing body.
- (4) In the case of an inspection of a school falling within section 28(2)(d), the Chief Inspector must give notice of any extension under subsection (2) to—
  - (a) the inspector,
  - (b) the proprietor of the school, and
  - (c) the Assembly.
- (5) This section does not apply to a section 28 inspection carried out by a member of the Inspectorate.

*Destination of reports and measures required: maintained schools*

**37 Duty to notify where inspection shows maintained school causing concern**

- (1) Subsection (2) applies in relation to a maintained school where—
  - (a) following an inspection of the school under Chapter 3 by a member of the Inspectorate, that member has informed the Chief Inspector of his opinion—
    - (i) that special measures are required to be taken in relation to the school, or
    - (ii) that the school requires significant improvement, or
  - (b) the Chief Inspector agrees with the opinion of a registered inspector, expressed in a draft report submitted to the Chief Inspector under section 34(1)—
    - (i) that special measures are required to be taken in relation to the school, or
    - (ii) that the school requires significant improvement.
- (2) Where this subsection applies, the Chief Inspector must without delay give the Assembly and the local education authority notice in writing stating that the case falls within paragraph (a) or (b) of subsection (1).

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### **38 Destination of reports: maintained schools**

- (1) In the case of a report of a section 28 inspection of a maintained school, the person making the report must without delay send a copy of the report together with a summary of it to the appropriate authority for the school.
- (2) In a case where—
  - (a) a report of an inspection of a maintained school is made by a member of the Inspectorate, and
  - (b) he is required by section 35 to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,the member of the Inspectorate must send a copy of the report together with the summary of it to the appropriate authority for the school.
- (3) In any case, copies of the report and summary referred to in subsection (1) or (2) must be sent by the person who made the report—
  - (a) to the Chief Inspector (unless the report was made by a member of the Inspectorate),
  - (b) to the head teacher of the school,
  - (c) to whichever of the local education authority and the governing body are not the appropriate authority,
  - (d) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority, and
  - (e) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) The appropriate authority must—
  - (a) make a copy of any report and summary sent to the authority under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary within such period following receipt of the report by the authority as may be prescribed.
- (5) Subsection (6) applies to a report of an inspection of a maintained school if—
  - (a) the inspection was a section 28 inspection or was carried out by a member of the Inspectorate, and
  - (b) the school provides full-time education suitable to the requirements of pupils over compulsory school age.
- (6) The person making the report must send a copy (together with a copy of the summary, if there is one) to the <sup>F25</sup>Assembly .

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### Textual Amendments

- F25** Word in s. 38(6) substituted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 97** (with art. 7)

### Modifications etc. (not altering text)

- C24** S. 38(2) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21, Sch. 7 para. 13\(3\)\(b\)\(i\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C25** S. 38(2) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21, Sch. 7 para. 6\(3\)\(b\)\(i\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C26** S. 38(4) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21, Sch. 7 para. 13\(3\)\(b\)\(ii\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C27** S. 38(4) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21, Sch. 7 para. 6\(3\)\(b\)\(ii\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1

## 39 Statement to be prepared by appropriate authority for school

- (1) Where there is sent to the appropriate authority for a maintained school either—
- (a) a report of a section 28 inspection of the school, or
  - (b) a report of an inspection of the school by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
- the appropriate authority must 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.
- (2) It is the duty of the appropriate authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if—
    - (i) the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
    - (ii) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
    - (iii) the Assembly is of the opinion that the urgency of the case requires a shorter period,
 such shorter period as the Assembly may direct;
- but this subsection does not relieve the appropriate authority of any duty to prepare a statement which has not been performed within that period.
- (3) Subject to subsection (4), where such a statement has been prepared by the appropriate authority, they must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,

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- (b) to whichever of the governing body and the local education authority are not the appropriate authority, and
  - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) Where the report in question is a report of a section 28 inspection of a school, subsection (3)(a) does not require a copy of the statement to be sent to the Chief Inspector unless the report states that the person making it is of the opinion—
  - (a) that special measures are required to be taken in relation to the school, or
  - (b) that the school requires significant improvement.
- (5) If in the case of a maintained school—
  - (a) the statement is prepared in response to a report of an inspection of the school in which the person who made the report states that in his opinion special measures are required to be taken in relation to the school or that the school requires significant improvement, and
  - (b) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion,the appropriate authority must, before the end of the prescribed period, send a copy of the statement to the Assembly.
- (6) In the case of a school having foundation governors, the appropriate authority must also send a copy of the statement to the person who appoints them and (if different) to the appropriate appointing authority.
- (7) The appropriate authority must—
  - (a) make any statement prepared by them under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
  - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (8) The duty under subsection (7)(c) is to be taken to be satisfied by the appropriate authority if they—
  - (a) take such steps as are reasonably practicable to secure that every registered parent of a pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by them which—
    - (i) summarises the statement, and
    - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
  - (b) provide a copy of the statement to every registered parent of a registered pupil at the school who asks for one.
- (9) Where the governing body of a school have prepared a statement under this section, they must in the report under section 30 of the Education Act 2002 (c. 32) (governors' reports) state the extent to which the proposals set out in the statement (or, if there is more than one, the most recent statement) have been carried into effect.

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

- C28** S. 39 applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 13(3)(b)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C29** S. 39 applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 6(3)(b)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1

**40 Statement to be prepared by local education authority**

- (1) This section applies in circumstances where—
- (a) in a report of an inspection of a maintained school the governing body of which have a delegated budget, the person who made the report stated that in his opinion—
    - (i) special measures were required to be taken in relation to the school, or
    - (ii) the school required significant improvement, and
  - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion, and
  - (c) either—
    - (i) the local education authority have received a copy of a statement prepared under section 39 in response to the report, or
    - (ii) the period prescribed for the purposes of subsection (3) of that section has expired.
- (2) The local education authority must—
- (a) prepare a written statement of any action they propose to take in the light of the report, and the period within which they propose to take such action, or, if they do not propose to take any such action, of their reasons for not doing so, and
  - (b) send a copy of the statement prepared under paragraph (a), together with their comments on any statement prepared under section 39 of which they have received a copy, to the Assembly and the Chief Inspector and, in the case of a voluntary aided school—
    - (i) to the person who appoints the foundation governors, and
    - (ii) (if different) to the appropriate appointing authority.
- (3) It is the duty of the local education authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if the Assembly is of the opinion that the urgency of the case requires a shorter period, such shorter period as the Assembly may direct;
- but this subsection does not relieve the local education authority of any duty to prepare a statement which has not been performed within that period.



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

- C30** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 13(3)(b)(iv) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2006/1338, art. 3, Sch. 1
- C31** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 6(3)(b)(iv) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2006/1338, art. 3, Sch. 1
- C32** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 13(3)(b)(iv) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2006/1338, art. 3, Sch. 1
- C33** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 6(3)(b)(iv) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2006/1338, art. 3, Sch. 1

*Destination of reports and measures required: non-maintained schools*

**41 Destination of reports: non-maintained schools**

- (1) In the case of a report of a section 28 inspection of a school other than a maintained school, the person making the report must without delay—
- (a) send a copy of the report together with the summary of it—
    - (i) to the proprietor of the school, and
    - (ii) (unless the person making it is a member of the Inspectorate) to the Chief Inspector, and
  - (b) if the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement and either—
    - (i) that person is a member of the Inspectorate, or
    - (ii) the report states that the Chief Inspector agrees with his opinion,send a copy of the report and summary to the Assembly.
- (2) In a case where—
- (a) a report of an inspection of a school other than a maintained school is made by a member of the Inspectorate, and
  - (b) he is required by section 35(1)(b) to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
- he must send a copy of the report together with the summary of it to the proprietor of the school and to the Assembly.
- (3) In the case of a special school which is not a community or foundation special school, the proprietor of the school must without delay send a copy of any report and summary sent to him under subsection (1) or (2) to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.
- (4) The proprietor of the school must—
- (a) make any report and summary sent to him under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,

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- (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
- (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary within such period following receipt of the report by the authority as may be prescribed.

#### **Commencement Information**

- II** S. 41 partly in force; s. 41 not in force at Royal Assent, see s. 125; s. 41 in force for certain purposes at 1.9.2006 by [S.I. 2006/1338](#), [art. 4\(1\)](#), [Sch. 2](#) (subject to [art. 4\(2\)](#))

## **42 Statement to be prepared by proprietor of school**

- (1) Where there is sent to the proprietor of a school other than a maintained school—
- (a) a report of a section 28 inspection of the school, or
  - (b) a report of an inspection of the school made by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
- the proprietor of the school must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (2) It is the duty of the proprietor to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if—
    - (i) the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
    - (ii) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
    - (iii) the Assembly is of the opinion that the urgency of the case requires a shorter period,
 such shorter period as the Assembly may direct;
- but this subsection does not relieve the proprietor of the school of any duty to prepare a statement which has not been performed within that period.
- (3) Where such a statement has been prepared by the proprietor of the school, he must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,
  - (b) to the Assembly, and
  - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) In the case of a special school which is not a community or foundation special school, the proprietor of the school must, before the end of the prescribed period, send a copy

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of any such statement prepared by him to any local education authority that is paying fees in respect of the attendance of a registered pupil at the school.

- (5) The proprietor of the school must—
- (a) make any statement prepared by him under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
  - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (6) The duty under subsection (5)(c) is to be taken to be satisfied by the proprietor of the school if he—
- (a) takes such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by the proprietor which—
    - (i) summarises the statement, and
    - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
  - (b) provides a copy of the statement to every registered parent of a registered pupil at the school who asks for one.

#### Commencement Information

- I2** S. 42 partly in force; s. 42 not in force at Royal Assent, see s. 125; s. 41 in force for certain purposes at 1.9.2006 by S.I. 2006/1338, [art. 4\(1\)](#), [Sch. 2](#) (subject to [art. 4\(2\)](#))

### *Interpretation of Chapter*

#### **43 Interpretation of Chapter 4**

In this Chapter—

“the appropriate appointing authority”, in relation to a voluntary aided school, means—

- (a) the appropriate diocesan authority, if it is a Church in Wales school, a Church of England school or a Roman Catholic Church school, or
- (b) in any other case, the person who appoints the foundation governors;

“the appropriate authority”, in relation to a maintained school, means the school's governing body or, if the school does not have a delegated budget, the local education authority;

“the Chief Inspector” means Her Majesty's Chief Inspector of Education and Training in Wales;

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“member of the Inspectorate” means the Chief Inspector, any of Her Majesty's Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2;

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“prescribed” means prescribed by regulations;  
“regulations” means regulations made by the Assembly under this Chapter;  
“section 28 inspection” means an inspection under section 28.

## CHAPTER 5

### SCHOOLS CAUSING CONCERN

#### 44 Categories of schools causing concern

- (1) For the purposes of this Part, special measures are required to be taken in relation to a school if—
- (a) the school is failing to give its pupils an acceptable standard of education, and
  - (b) the persons responsible for leading, managing or governing the school are not demonstrating the capacity to secure the necessary improvement in the school.
- (2) For the purposes of this Part, a school requires significant improvement if, although not falling within subsection (1), it is performing significantly less well than it might in all the circumstances reasonably be expected to perform.

#### Commencement Information

- I3** S.44 wholly in force at 1.9.2006; s. 44 not in force at Royal Assent see s. 125; s. 44 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 44 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

#### 45 Cases where Secretary of State or Assembly may direct closure of school

In section 19 of the School Standards and Framework Act 1998 (c. 31) (power of Secretary of State to direct closure of school), for subsection (1) substitute—

“(1) If at any time section 15 applies to a maintained school by virtue of subsection (6) of that section (school requiring special measures), the Secretary of State may give a direction to the local education authority requiring the school to be discontinued on a date specified in the direction.”

#### Commencement Information

- I4** S.45 wholly in force at 1.9.2006; s. 45 not in force at Royal Assent see s. 125; s. 45 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 45 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

#### 46 Sixth forms requiring significant improvement

Schedule 5 contains amendments of the Learning and Skills Act 2000 (c. 21) relating to schools requiring significant improvement in relation to their sixth forms.

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#### Commencement Information

- I5** S.46 partly in force; s. 46 not in force at Royal Assent see s. 125; s. 46 in force for E. for certain purposes at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 46 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## CHAPTER 6

### OTHER INSPECTIONS: ENGLAND AND WALES

#### *Inspection of religious education*

#### **47 Meaning of “denominational education”**

In this Part “denominational education”, in relation to a school, means religious education which—

- (a) is required by section 80(1)(a) or 101(1)(a) of the Education Act 2002 (c. 32) to be included in the school's basic curriculum, but
- (b) is not required by any enactment to be given in accordance with an agreed syllabus.

#### Commencement Information

- I6** S.47 wholly in force at 1.9.2006; s. 47 not in force at Royal Assent see s. 125; s. 47 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 47 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

#### **48 Inspection of religious education: England**

- (1) It is the duty of the governing body of any voluntary or foundation school in England which has been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character to secure that—
  - (a) any denominational education given to pupils, and
  - (b) the content of the school's collective worship,are inspected under this section.
- (2) An inspection under this section is to be conducted by a person chosen—
  - (a) in the case of a voluntary controlled school, by the foundation governors after consultation with any person prescribed for the purposes of this subsection in relation to the religion or religious denomination that is specified in relation to the school under section 69(4) of the School Standards and Framework Act 1998, and
  - (b) in any other case, by the governing body after consultation with any person so prescribed.
- (3) Inspections under this section must be carried out at such intervals as may be prescribed.
- (4) It is the general duty of a person conducting an inspection under this section—

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- (a) to report on the quality of the denominational education provided by the school for any pupils to whom denominational education is given by the school, and
  - (b) to report on the content of the school's collective worship,
- and any such person may report on the spiritual, moral, social and cultural development of pupils at the school.
- (5) A person conducting an inspection under this section may do so with the assistance of such other persons chosen by him as are in his opinion fit and proper persons for carrying out the inspection.
- (6) In this section and section 49—
- “collective worship” means collective worship required by section 70 of the School Standards and Framework Act 1998 (c. 31);
  - “prescribed” means prescribed by regulations made by the Secretary of State.

#### **49 Procedure for inspections under section 48**

- (1) An inspection under section 48 must be carried out within such period as may be prescribed.
- (2) When the inspection has been completed, the person conducting the inspection must, before the end of the period prescribed for the purposes of this subsection, prepare in writing a report of the inspection.
- (3) The person conducting the inspection must, without delay, send the report to the governing body of the school concerned.
- (4) The governing body must—
  - (a) make any such report available for inspection by members of the public, at such times and at such a place as may be reasonable,
  - (b) take such steps as are reasonably practicable to secure that every parent of a registered pupil at the school—
    - (i) for whom the school provides denominational education, or
    - (ii) who takes part in acts of collective worship the content of which falls to be inspected under section 48,
 as the case may be, receives a copy of the report as soon as is reasonably practicable, and
  - (c) provide a copy of the report, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply) to any other person who asks for one.

#### **50 Inspection of religious education: Wales**

- (1) It is the duty of the governing body of any voluntary or foundation school in Wales which has been designated under section 69(3) of the School Standards and Framework Act 1998 by the Assembly as having a religious character to secure that—
  - (a) any denominational education given to pupils, and
  - (b) the content of the school's collective worship,
 are inspected under this section.
- (2) An inspection under this section is to be conducted by a person chosen—

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- (a) in the case of a voluntary controlled school, by the foundation governors after consultation with any person prescribed for the purposes of this subsection in relation to the religion or religious denomination that is specified in relation to the school under section 69(4) of the School Standards and Framework Act 1998 (c. 31), and
  - (b) in any other case, by the governing body after consultation with any person so prescribed.
- (3) The person chosen need not be registered as an inspector under section 25.
- (4) Inspections under this section must be carried out at such intervals as may be prescribed.
- (5) It is the general duty of a person conducting an inspection under this section—
  - (a) to report on the quality of the denominational education provided by the school for any pupils to whom denominational education is given by the school, and
  - (b) to report on the content of the school's collective worship,and any such person may report on the spiritual, moral, social and cultural development of pupils at the school.
- (6) A person conducting an inspection under this section may do so with the assistance of such other persons chosen by him as are in his opinion fit and proper persons for carrying out the inspection.
- (7) Schedule 6 makes further provision with respect to inspections under this section.
- (8) In this section (and that Schedule)—
  - “collective worship” means collective worship required by section 70 of the School Standards and Framework Act 1998;
  - “prescribed” means prescribed by regulations made by the Assembly.

### *LEA inspections*

## **51 Power of LEA to inspect maintained school for specific purpose**

- (1) Where—
  - (a) for the purpose of enabling them to exercise any function of theirs, a local education authority require information about any matter in connection with a school which is maintained by them, and
  - (b) it is not reasonably practicable for them to obtain the information in any other manner,they may cause an inspection of the school to be made by one or more of their officers for the purpose of obtaining the information.
- (2) An officer of a local education authority inspecting a school under this section has at all reasonable times a right of entry to the premises of the school.

#### **Commencement Information**

**I7** S. 51 wholly in force; s. 51 not in force at Royal Assent see s. 125; s. 51 in force for E. at 1.9.2005 by S.I. 2005/2034, **art. 4**; S. 51 in force for W. at 1.9.2006 by S. I. 2006/1338, **art. 3**, Sch. 1

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## 52 Provision of inspection services by LEAs in Wales

- (1) Any local education authority in Wales may provide a school inspection service for schools within their area.
- (2) In this section “school inspection service”, in relation to any local education authority in Wales, means a service providing for the inspection of schools under section 28 or 50 by officers of the authority.
- (3) Any school inspection service provided by a local education authority in Wales may, in addition to providing for the inspection of schools which are maintained by them, provide for the inspection of schools which are not maintained by them.
- (4) Any school inspection service provided by a local education authority in Wales must be operated by the authority in such a way as can reasonably be expected to ensure that the full cost of providing the service is recovered by way of charges made by the authority to those using the service.
- (5) The Assembly may by regulations—
  - (a) make provision as to the making of tenders by local education authorities in Wales (as required by paragraph 2 of Schedule 4),
  - (b) make provision with respect to the accounts to be kept by local education authorities in connection with any school inspection services provided by them, and
  - (c) make such incidental and supplemental provision with respect to school inspection services provided by local education authorities as the Assembly considers appropriate.

*Inspection of child minding, day care and nursery education*

## 53 Inspection of child minding, day care and nursery education

Schedule 7 contains amendments relating to the inspection of child minding, day care for children and nursery education.

### Commencement Information

- 18** S. 53 partly in force; s. 53 not in force at Royal Assent see s. 125; s. 53 in force for certain purposes for E. and in force for certain purposes for E.W. at 3.10.2005 by [S.I. 2005/2034](#), arts. {6}, {7}; S. 53 in force for certain purposes for W. and in force for certain purposes for E.W. at 1.9.2006 by [S. I. 2006/1338](#), arts. {3}, {4}, Schs. 1, 2

*Inspection of independent schools*

## 54 Inspection of independent schools

Schedule 8 contains amendments relating to the inspection of independent schools.



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#### Commencement Information

- 19** S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 125; s. 54 in force for E. at 1.9.2005 by S.I. 2005/2034, **art. 4**; S. 54 in force for W. at 1.9.2006 by S. I. 2006/1338, **art. 3**, Sch. 1

### *Inspection of careers services in Wales*

## **55 Inspection of careers services in Wales**

- (1) This section applies to relevant services provided in Wales in pursuance of arrangements made or directions given by the Assembly under section 10 of the Employment and Training Act 1973 (c. 50).
- (2) The Chief Inspector has the general duty of keeping the Assembly informed about the quality of the relevant services provided in Wales in accordance with such arrangements or directions.
- (3) In subsections (4) to (7) “a service provider” means a person who provides, or arranges for the provision of, relevant services in accordance with such arrangements or directions.
- (4) The Chief Inspector must inspect any service provider under this section at prescribed intervals.
- (5) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters relating to the provision of relevant services in Wales in pursuance of such arrangements or directions as may be specified in the Assembly's request, or
  - (b) inspect any service provider under this section.
- (6) The Chief Inspector may at any time—
  - (a) give advice to the Assembly relating to the provision of relevant services in Wales in pursuance of such arrangements or directions, or
  - (b) inspect any service provider under this section.
- (7) An inspection of any service provider under this section is to consist of a review of the way in which he is discharging his responsibilities under or by virtue of the arrangements or directions in question, having regard to any guidance given by the Assembly with respect to the provision of relevant services.
- (8) In this section and sections 56 and 57—
  - “the Chief Inspector” means Her Majesty's Chief Inspector for Education and Training in Wales;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made by the Assembly;
  - “relevant services” has the same meaning as in sections 8 and 9 of the Employment and Training Act 1973 (provision of careers services).

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## **56 Inspection of services related to careers services in Wales**

- (1) This section applies if a person (“a relevant provider”) who provides a relevant service to which section 55 applies also provides in Wales education, training or an advisory service—
  - (a) in pursuance of arrangements made by the Assembly under section 2 of the Employment and Training Act 1973 (c. 50), or
  - (b) with the assistance of a grant or loan made under section 12(1) of the Industrial Development Act 1982 (c. 52).
- (2) The Chief Inspector has the general duty of keeping the Assembly informed about the quality of any education, training or advisory services falling within subsection (1) provided by relevant providers in Wales.
- (3) The Chief Inspector must inspect any relevant provider under this section at prescribed intervals.
- (4) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters relating to the provision of education, training or advisory services falling within subsection (1) by relevant providers, or
  - (b) inspect any relevant provider under this section.
- (5) The Chief Inspector may at any time—
  - (a) give advice to the Assembly relating to the provision of education, training or advisory services falling within subsection (1) by relevant providers, or
  - (b) inspect any relevant provider under this section.
- (6) An inspection of any relevant provider under this section is to consist of a review of the way in which he is providing the education, training or advisory service falling within subsection (1)(a) or (b).

## **57 Inspections under sections 55 and 56: further provisions**

- (1) This section applies to any inspection under section 55 or 56.
- (2) The inspection must be conducted by one or more of the following—
  - (a) any of Her Majesty's Inspectors of Education and Training in Wales, or
  - (b) any additional inspector authorised under paragraph 2 of Schedule 2;
 but such an inspector or inspectors may be assisted by such other persons (whether or not members of the Chief Inspector's staff) as the Chief Inspector thinks fit.
- (3) In conducting the inspection, the inspector or inspectors must act in accordance with any instructions or guidelines given from time to time by the Assembly.
- (4) The inspector conducting the inspection, and any person assisting him by virtue of subsection (2), have at all reasonable times—
  - (a) a right of entry to any premises where the relevant services, or as the case requires the education, training or advisory services falling within section 56(1), are provided, and
  - (b) a right to inspect, and take copies of, any records or other documents kept by the person being inspected, which he requires for the purposes of the inspection.

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- (5) It is an offence intentionally to obstruct—
  - (a) the inspector conducting the inspection, or
  - (b) any person assisting him by virtue of subsection (2),in the exercise of his functions in relation to the inspection.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Where the inspection has been completed, the Chief Inspector must—
  - (a) prepare a written report on the inspection within a prescribed period,
  - (b) send a copy of the report to—
    - (i) the person inspected,
    - (ii) the Assembly,
    - (iii) any prescribed person, and
    - (iv) any other person whom he considers appropriate, and
  - (c) publish the report in the prescribed manner or, if none is prescribed, in such manner as the Chief Inspector considers appropriate.
- (8) Subsections (3) and (4) of section 29 (which relate to defamation) apply to the publication of a report under this section as they apply to the publication of a report under either of the provisions mentioned in subsection (2) of that section.
- (9) Regulations may require the person inspected to prepare a written statement in response to the report of the inspection.
- (10) Regulations under subsection (9) may—
  - (a) prescribe the matters to be dealt with in the statement,
  - (b) prescribe the period within which it must be prepared, and
  - (c) require the person who prepared it to send copies of the statement to prescribed persons and to publish it in the prescribed manner.

## CHAPTER 7

### SUPPLEMENTARY

#### 58 Inspection of computer records

A person authorised by any provision of this Part to inspect records or other documents—

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
- (b) may require—
  - (i) the person by whom or on whose behalf the computer is or has been so used, or
  - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in a legible form).

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

- C34** S. 58 applied (6.4.2007) by [Childcare Act 2006 \(c. 21\)](#), [ss. 77\(6\)](#), 109; S.I. 2007/1019, [art. 4](#)
- C35** S. 58 applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), [reg. 2](#), [Sch. para. 2\(b\)](#)  
 S. 58 applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), [reg. 2](#), [Sch. para. 4\(2\)\(b\)](#)
- C36** S. 58 applied (1.9.2005 for E. and 1.9.2006 for W.) by [2002 c. 32, s. 164\(6\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), [ss. 54, 125](#), [Sch. 8 para. 3](#)); S.I. 2005/2034, [art. 4](#), S.I. 2006/1338, {art. 3}, Sch. 1
- C37** S. 58 applied (1.9.2005 for E. and 1.9.2006 for W.) by [2002 c. 32, s. 162B\(3\)](#) (as inserted by [Education Act 2005 \(c. 18\)](#), [ss. 54, 125](#), [Sch. 8 para. 2](#)); S.I. 2005/2034, [art. 4](#), S.I. 2006/1338, {art. 3}, Sch. 1
- C38** S. 58 applied (3.10.2005 for E. and 1.9.2006 for W.) by [1998 c. 31 Sch. 26 para. 18\(3\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), [ss. 53, 119, 125](#), [Sch. 7 para. 24\(3\)](#)); S.I. 2005/2034, [art. 6](#), S.I. 2006/1338, {art. 3}, Sch. 1

#### Commencement Information

- I10** S. 58 wholly in force at 1.9.2006; s. 58 not in force at Royal Assent see s. 125; s. 58 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 58 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), Sch. 1

## 59 Combined reports

- (1) For the purposes of this section “the inspection enactments” are—
- (a) this Part,
  - (b) Part 10A of the Children Act 1989 (c. 41) (child minding and day care for children ),
  - (c) section 122 of, and Schedule 26 to, the School Standards and Framework Act 1998 (c. 31) (inspection of nursery education ), and
  - (d) Chapter 1 of Part 10 of the Education Act 2002 (c. 32) (regulation of independent schools).
- (2) Where, following inspections conducted under two or more inspection enactments by one person or two or more different persons, that person is (or those persons are) required to make a report under each of those enactments, nothing in any of those enactments is to be regarded as preventing him (or them) from—
- (a) including those reports in a single document (“a combined report”), and
  - (b) to such extent as he considers (or they consider) appropriate, combining the substantive reports required by those enactments.

[<sup>F26</sup>(2A) Subsection (2) does not apply so as to authorise the making of a combined report by the Chief Inspector for England (as to which section 152 of the Education and Inspections Act 2006 applies instead).]

- (3) Where a combined report is made, any reference in the inspection enactments to the publication of a report, or to the giving, or making available, to any person of a copy of a report is to be read so far as necessary as a reference to the publication of the combined report, or to the giving or making available to that person of a copy of the combined report.
- (4) The Chief Inspector [<sup>F27</sup>for Wales] may arrange for a combined report to be published in any manner he considers appropriate, but this subsection does not limit any duty as to publication imposed by any of the inspection enactments.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Education Act 2005 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F28</sup>(5) In this section—

“the Chief Inspector for England” means Her Majesty's Chief Inspector of Education, Children's Services and Skills; and

“the Chief Inspector for Wales” means Her Majesty's Chief Inspector of Education and Training in Wales.]

#### Textual Amendments

- F26** S. 59(2A) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 105\(2\)](#); [S.I. 2007/935](#), [art. 5\(w\)\(gg\)](#)
- F27** Words in s. 59(4) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 105\(3\)](#); [S.I. 2007/935](#), [art. 5\(w\)\(gg\)](#)
- F28** S. 59(5) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 105\(4\)](#); [S.I. 2007/935](#), [art. 5\(w\)\(gg\)](#)

#### Commencement Information

- I11** S. 59 wholly in force at 1.9.2006; s. 59 not in force at Royal Assent see s. 125; s. 59 in force for E. at 3.10.2005 by [S.I. 2005/2034](#), [art. 6](#); s. 59 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## 60 Repeal of School Inspections Act 1996

The School Inspections Act 1996 (c. 57) (which is superseded by the provisions of this Part) shall cease to have effect.

#### Commencement Information

- I12** S. 60 wholly in force at 1.9.2006; s. 60 not in force at Royal Assent see s. 125; s. 60 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 60 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## 61 Further amendments relating to school inspection

Schedule 9 contains further amendments related to the provisions of this Part.

#### Commencement Information

- I13** S. 61 partly in force; s. 61 not in force at Royal Assent see s. 125; s. 61 in force for certain purposes for E. and for certain purposes for E.W. at 1.9.2005 by [S.I. 2005/2034](#), arts. {4}, {5}; s. 61 in force for certain purposes for W. and for certain purposes for E.W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [4](#), [Schs. 1, 2](#)

## 62 Power of Assembly to change inspection framework for Wales

(1) The Assembly may by order—

(a) make provision in relation to Wales corresponding to—

- (i) that made in relation to England by any English inspection provision, or
- (ii) that which could be made in relation to England by regulations under any English inspection provision,

*Status: Point in time view as at 01/04/2007.*

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- (b) repeal any Welsh inspection provision which does not correspond to an English inspection provision, and
  - (c) make such provision as the Assembly thinks fit in connection with any provision made by virtue of paragraph (a) or (b).
- (2) In relation to section 39 (statement to be prepared by appropriate authority for maintained school), the power conferred by paragraph (b) of subsection (1) includes power, instead of repealing the section, to limit the cases in which it applies.
- (3) The powers conferred by paragraphs (a) and (c) of subsection (1) include power to amend or repeal any enactment (whenever passed or made), including any provision of this Act.
- (4) For the purposes of this section—
- (a) an English inspection provision is any provision of—
    - (i) Chapters 1 and 2,
    - (ii) sections 48 and 49 (denominational education in England),
    - (iii) Schedule 26 to the School Standards and Framework Act 1998 (c. 31) (nursery education), so far as relating to England, or
    - (iv) sections 162A and 162B of the Education Act 2002 (c. 32) (independent schools in England),
  - (b) a Welsh inspection provision is any provision of—
    - (i) Chapters 3 and 4,
    - (ii) section 50 and Schedule 6 (denominational education in Wales),
    - (iii) section 52 (provision of inspection services by local education authorities in Wales),
    - (iv) Schedule 26 to the School Standards and Framework Act 1998 (nursery education), so far as relating to Wales, or
    - (v) sections 163 and 164 of the Education Act 2002 (independent schools in Wales).
- (5) In this section “enactment” includes an enactment comprised in subordinate legislation, within the meaning of the Interpretation Act 1978 (c. 30).

## **63 Interpretation of Part 1**

- (1) In this Part—
- “Church of England school”, “Church in Wales school”, “Roman Catholic Church school” and “appropriate diocesan authority”, in each case, have the meaning given by section 142 of the School Standards and Framework Act 1998 (c. 31);
  - “delegated budget” has the same meaning as in section 49 of the School Standards and Framework Act 1998;
  - “denominational education” has the meaning given by section 47.
- (2) References in this Part to special measures being, or not being, required to be taken in relation to a school are to be read in accordance with section 44(1).
- (3) References in this Part to a school requiring, or not requiring, significant improvement are to be read in accordance with section 44(2).

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*Status: Point in time view as at 01/04/2007.*

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## PART 2

### SCHOOL ORGANISATION

#### 64 Proposals not requiring consent of Secretary of State

- (1) Section 28 of the School Standards and Framework Act 1998 (proposals for establishment or alteration of community, foundation or voluntary school) is amended as follows.
- (2) Omit subsection (1A) and, in subsection (2), the words “(otherwise than pursuant to a notice under section 70 of the Education Act 2002)”.
- (3) After subsection (2) insert—
  - “(2A) Subsections (1)(a) and (2)(a) do not apply to any proposal to establish a secondary school which is to be maintained by a local education authority in England.
  - (2B) For the purposes of subsection (2A), “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.”
- (4) Omit subsection (4).

#### 65 Publication of proposals with consent of Secretary of State

After section 28 of the School Standards and Framework Act 1998 insert—

**“28A Proposals for establishment of community, foundation or voluntary school maintained by English LEA**

- (1) A local education authority in England may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 66 of the Education Act 2005) a new community or foundation school.
- (2) Any persons (referred to in this Part as “promoters”) may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 66 of the Education Act 2005) a new foundation or voluntary school which is proposed to be maintained by a local education authority in England.
- (3) Proposals under this section must be proposals for a secondary school; and for this purpose “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.
- (4) Proposals under this section shall—
  - (a) contain such information, and
  - (b) be published in such manner,as may be prescribed.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Education Act 2005 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) Before publishing any proposals under this section, the relevant authority or promoters shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the relevant authority or promoters shall have regard to any guidance given from time to time by the Secretary of State.
- (6) The relevant authority or promoters shall send—
  - (a) a copy of any proposals published under this section, and
  - (b) such information in connection with those proposals as may be prescribed,
 to the school organisation committee for the area of the local education authority who it is proposed should maintain the school.
- (7) Schedule 6 has effect in relation to—
  - (a) the procedure for dealing with proposals under this section and their implementation, and
  - (b) the provision of premises or other assistance in connection with their implementation.
- (8) Where any proposals published under this section relate to a school which is proposed to be situated in an area other than that of the local education authority who it is proposed should maintain the school, the provisions of subsection (6) and Schedule 6 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (9) In this section “the relevant authority or promoters” means the local education authority mentioned in subsection (1) or the promoters mentioned in subsection (2) (as the case may be).”

#### Commencement Information

**I14** S. 65 wholly in force at 1.9.2006; s. 65 not in force at Royal Assent see s. 125; s. 65 partly in force at 1.8.2006 by S.I. 2006/2129, art. 3 and s. 65 in force at 1.9.2006 insofar as not already in force by the said S.I. 2006/2129, art. 4

## 66 Proposals for new secondary schools in England

- (1) A local education authority in England may publish a notice under this section inviting proposals for the establishment of any school falling within subsection (2) as a secondary school.
- (2) The following schools fall within this subsection—
  - (a) a foundation school;
  - (b) a voluntary school;
  - (c) an Academy.
- (3) A notice under this section must—
  - (a) identify a possible site for the school,
  - (b) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
  - (c) specify such other matters as may be prescribed, and



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- (d) be published in the prescribed manner.
- (4) Before publishing a notice under this section, the local education authority must consult any prescribed persons, and such other persons as appear to the authority to be appropriate, about such of the relevant matters as may be prescribed or (if none are prescribed) about such of the relevant matters as appear to the authority to be appropriate.
- (5) In subsection (4) “the relevant matters” means the matters to be specified under subsection (3)(a) and (c) in the notice.
- (6) Regulations may prescribe requirements to be met by the local education authority in relation to consultation under subsection (4).
- (7) Proposals made pursuant to a notice under this section must—
- (a) contain the prescribed information, and
  - (b) be submitted to the local education authority before the date specified in the notice.
- (8) After the date specified in a notice published by a local education authority under this section the authority—
- (a) must publish under this section any proposals submitted pursuant to the notice in accordance with subsection (7), and
  - (b) may publish under this section proposals of their own for the establishment of a community or foundation school as a secondary school.
- (9) Regulations may prescribe—
- (a) the time within which proposals under this section must be published,
  - (b) the manner in which they must be published, and
  - (c) the information which proposals within subsection (8)(b) must contain.
- (10) Regulations may require the local education authority to take prescribed steps for the purpose of promoting public awareness of any proposals published by them under this section.
- (11) For the purposes of this section “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.
- (12) Schedule 10 contains provisions in relation to the consideration, approval and implementation of proposals under this section.
- (13) Where any proposals published under this section relate to a school which is proposed to be situated in an area other than that of the local education authority who published the notice under this section, the provisions of Schedule 10 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (14) Section 70 of, and Schedule 8 to, the Education Act 2002 (c. 32) (proposals for additional secondary schools) shall cease to have effect.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Education Act 2005 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Commencement Information

**I15** S. 66 wholly in force at 1.9.2006; s. 66 not in force at Royal Assent see s. 125; s. 66(6)(10)(13) in force at 1.8.2006 and s. 66 in force at 1.9.2006 insofar as not already in force by S.I. 2006/2129, arts. 3, 4

## 67 Rationalisation of school places in England

Schedule 11 contains provisions enabling the Secretary of State to direct local education authorities in England, or the governing bodies of schools maintained by them, to bring forward proposals for the rationalisation of school places, and for such proposals to be made by him.

## 68 Proposals for establishment of federated school

(1) Proposals under—

- (a) section 28, 28A or 31 of the School Standards and Framework Act 1998 (c. 31),
- (b) section 113A of the Learning and Skills Act 2000 (c. 21),
- (c) section 193 of the Education Act 2002,
- (d) section 66 of this Act, or
- (e) paragraph 7 of Schedule 11 to this Act,

for the establishment of a new school may relate to the establishment of the school as a federated school.

(2) In this section “federated school” has the meaning given by section 24(2) of the Education Act 2002.

### Modifications etc. (not altering text)

**C39** S. 68 restricted (temp.) (1.9.2006) by The Education Act 2005 (Commencement No. 2 and Transitional Provisions and Savings) Order 2006, (S.I. 2006/2129), {art. 7}

## 69 LEA not to establish school on opposite side of Welsh border

No proposals may be published under any enactment—

- (a) for the establishment of a school in Wales which is proposed to be maintained by a local education authority in England, or
- (b) for the establishment of a school in England which is proposed to be maintained by a local education authority in Wales.

## 70 Proposals for discontinuance of rural primary school

(1) Section 29 of the School Standards and Framework Act 1998 (proposals for discontinuance of community, foundation, voluntary or maintained nursery school) is amended as follows.

(2) For subsection (4) substitute—

“(4A) The matters to which the relevant body shall have regard in formulating any proposals under this section in relation to a rural primary school include—

*Status: Point in time view as at 01/04/2007.*

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- (a) the likely effect of the discontinuance of the school on the local community,
  - (b) the availability, and likely cost to the local education authority, of transport to other schools,
  - (c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase, and
  - (d) any alternatives to the discontinuance of the school;
- and in considering these matters the relevant body shall have regard to any guidance given from time to time by the Secretary of State.
- (4B) Before publishing any proposals under this section which relate to a rural primary school, the relevant body shall consult—
- (a) the registered parents of registered pupils at the school,
  - (b) where the relevant body are the governing body of the school, the local education authority,
  - (c) in a case where the local education authority are a county council in England, any district council for the area in which the school is situated,
  - (d) any parish council or community council for the area in which the school is situated, and
  - (e) such other persons as appear to the relevant body to be appropriate.
- (4C) Before publishing any other proposals under this section the relevant body shall consult such persons as appear to them to be appropriate.
- (4D) In discharging their duty under subsection (4B) or (4C) the relevant body shall have regard to any guidance given from time to time by the Secretary of State.”
- (3) After subsection (9) insert—
- “(9A) In this section “rural primary school” means a primary school designated as such for the purposes of this section by an order made by the Secretary of State.”

#### Commencement Information

**116** S. 70 partly in force; s. 70 not in force at Royal Assent, see s. 125; s. 70 in force for E. at 1.9.2006 by S.I. 2006/2129, art. 5

## 71 Proposals relating to maintained special school

In section 31 of the School Standards and Framework Act 1998 (c. 31) (proposals in respect of community or foundation special school), for subsection (4) substitute—

- “(4A) Before publishing any proposals under this section to make any prescribed alteration to a school, or to discontinue a school, the relevant body shall consult—
- (a) the registered parents of registered pupils at the school,
  - (b) any local education authority which maintain a statement under section 324 of the Education Act 1996 (statement of special educational needs) in respect of a registered pupil at the school, and

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- (c) such other persons as appear to the relevant body to be appropriate.
- (4B) Before publishing any proposals under this section to establish a new school, the relevant body shall consult such persons as appear to them to be appropriate.
- (4C) In discharging their duty under subsection (4A) or (4B) the relevant body shall have regard to any guidance given from time to time by the Secretary of State.”

**Commencement Information**

**I17** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 125; s. 71 in force for certain purposes for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1 and in force for certain purposes for E. at 1.9.2006 by S.I. 2006/2129, art. 5

**72 School organisation: further amendments**

Schedule 12 contains further amendments relating to proposals for the establishment, alteration or discontinuance of schools.

**Commencement Information**

**I18** S. 72 partly in force; s. 72 not in force at Royal Assent see s. 125; s. 72 in force for certain purposes at 1.9.2006 by S.I. 2006/2129, art. 4 and for certain further purposes for E. at 1.9.2006 by S.I. 2006/2129, art. 5

**73 Interpretation of Part 2**

In this Part—

“adjudicator” is to be read in accordance with section 25(3) of the School Standards and Framework Act 1998 (c. 31);

“prescribed” means prescribed by regulations;

“regulations” means regulations made under this Part by the Secretary of State;

“school organisation committee”, in relation to proposals, means the school organisation committee (as defined by section 24(4) of the School Standards and Framework Act 1998) for the area of the local education authority which published the proposals.

**PART 3**

TRAINING THE SCHOOL WORKFORCE

*The Training and Development Agency for Schools*

**74 The Training and Development Agency for Schools**

The body corporate originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency is to continue in existence but is to be known instead as the Training and Development Agency for Schools.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Education Act 2005 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 75 Functions of Agency

- (1) The Agency are to exercise the functions conferred on them by or under this Part or any other enactment.
- (2) The objectives of the Agency in exercising their functions are—
  - (a) to contribute to raising the standards of teaching and of other activities carried out by the school workforce,
  - (b) to promote careers in the school workforce,
  - (c) to improve the quality and efficiency of all routes into the school workforce, and
  - (d) to secure the involvement of schools in all courses and programmes for the initial training of school teachers.
- (3) In the exercise of their functions the Agency shall have regard, in particular, to the desirability of securing that the school workforce is well fitted and trained—
  - (a) to promote the spiritual, moral, behavioural, social, cultural, mental and physical development of children and young people,
  - (b) to contribute to their well-being, and
  - (c) to prepare them for the opportunities, responsibilities and experiences of later life.
- (4) In subsection (3)(b) “well-being”, in relation to children and young people, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004 (c. 31).
- (5) For the purposes of this Part, the school workforce consists of the following members—
  - (a) persons who work in schools, and
  - (b) persons not falling within paragraph (a) who are teachers or carry out work that consists of or includes teaching.

### Commencement Information

**I19** S. 75 wholly in force at 1.9.2005; s. 75(5) in force at Royal Assent and s. 75(1)-(4) in force at 1.9.2005 see s. 125(1)(b)(3)

## 76 Functions of Agency in relation to Wales

- (1) Subject to subsection (2), the functions of the Agency are exercisable in relation to England and Wales generally.
- (2) The Agency must not do anything in relation to Wales unless—
  - (a) the Agency have been requested to do so by the Assembly, and
  - (b) the Agency have given the Assembly notice that they are willing to do so.
- (3) Subsection (2) does not affect any function conferred on the Agency by section 94 or by regulations made under any of sections 132 to 140 of the Education Act 2002 (c. 32) (qualifications etc. of school teachers and persons providing further education).

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Education Act 2005 is up to date with all changes known to be in force on or before 11 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 77 Membership etc. of Agency

- (1) The Agency is to consist of such number of members appointed by the Secretary of State as the Secretary of State may determine, of whom one is to be appointed as chairman.
- (2) Schedule 13 has effect with respect to the Agency.

## 78 Powers of Agency to provide financial support

- (1) The Agency may provide to any person such financial support as the Agency think fit in furtherance of any of the objectives set out in section 75(2).
- (2) The persons to whom financial support may be provided include, in particular—
  - (a) members of the school workforce,
  - (b) persons training to be members of the school workforce,
  - (c) training providers, and
  - (d) employers or prospective employers of members of the school workforce.
- (3) In this Part “training provider” means a person who provides training for members of the school workforce.

### Commencement Information

**I20** S. 78 wholly in force at 1.9.2005; s. 78(3) in force at Royal Assent and s. 78(1)(2) in force at 1.9.2005  
 see s. 125(1)(b)(3)

## 79 Forms of financial support under section 78

- (1) Financial support under section 78 may be given by way of grants, loans or other payments.
- (2) Financial support under section 78 may be given subject to such terms and conditions as the Agency think fit.
- (3) The terms and conditions on which the Agency may make any grants, loans or other payments under section 78 may in particular—
  - (a) enable the Agency to require the repayment, in whole or in part, of sums paid by the Agency if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Agency in accordance with any of the terms and conditions remains unpaid.
- (4) The power of the Agency to impose conditions on the making of any grants, loans or other payments under section 78 to a training provider includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the provision by that training provider of relevant training of any description specified in the condition.
- (5) Where—
  - (a) a condition is imposed under subsection (4) in connection with any grant, loan or other payment made to a training provider (“T1”), and

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*Status: Point in time view as at 01/04/2007.*

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- (b) the grant, loan or other payment is to any extent made in respect of persons undertaking relevant training which is provided in whole or part by another training provider (“T2”),
- then, for the purposes of the condition, fees payable by such persons to T2 are to be regarded as fees charged by T1.
- (6) The terms and conditions on which the Agency make any grant, loan or other payment under section 78 to a training provider must not relate to the application by the training provider of any sums derived otherwise than from the Agency, but this subsection does not affect the power to impose conditions by virtue of subsection (4).
- (7) In exercising their functions under section 78 and this section the Agency must have regard—
- (a) generally, to any forecast of demand for members of the school workforce of a particular category that is notified to them by the Secretary of State, and
- (b) in relation to financial support for any training provider, to any assessment of the quality of the relevant training provided by that person—
- (i) made by the Chief Inspector for England, or
- (ii) to which the Agency think it appropriate to have regard or to which the Secretary of State directs them to have regard.
- (8) In this section “relevant training”, in relation to a training provider, means any training provided by the training provider for members of the school workforce.

## **80 Provisions supplementary to sections 78 and 79**

- (1) In exercising their functions in relation to the provision of financial support, the Agency must have regard to the desirability of not discouraging any training provider for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.
- (2) In exercising their functions in relation to the provision of financial support for training providers the Agency must have regard (so far as the Agency think it appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining what appears to the Agency to be an appropriate balance in the support given by the Agency between institutions which are of a denominational character and other training providers.
- (3) In exercising their functions the Agency must take such steps as appear to them appropriate to secure that any person who provides any training funded by the Agency makes available such information relating to the training, in such manner and to such persons, as the Agency may require.
- (4) Subsection (1) does not affect the power by virtue of section 79(4) to impose conditions prohibiting or restricting the charging of fees.

## **81 Grants to Agency by Secretary of State**

- (1) The Secretary of State may make grants to the Agency of such amounts and subject to such terms and conditions as he may determine.
- (2) Subsections (3) and (4) apply to the terms and conditions subject to which grants are made by the Secretary of State to the Agency, so far as they relate to the provision of financial support by the Agency to training providers.

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- (3) The terms and conditions—
- (a) may in particular impose requirements to be complied with in respect of every training provider, or every training provider falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any training provider to which the requirements apply before financial support of any amount or description so specified is provided by the Agency in respect of activities carried on by the training provider, but
  - (b) must not otherwise relate to the provision of financial support by the Agency in respect of activities carried on by any particular training provider or training providers.
- (4) The terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (5) The terms and conditions subject to which any grants are made by the Secretary of State to the Agency may in particular—
- (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.

## **82 Grants to Agency by Assembly**

- (1) The Assembly may make grants to the Agency of such amounts and subject to such terms and conditions as the Assembly may determine.
- (2) Subsections (3) and (4) apply to the terms and conditions subject to which grants are made by the Assembly to the Agency, so far as they relate to the provision of financial support by the Agency to training providers.
- (3) The terms and conditions—
- (a) may in particular impose requirements to be complied with in respect of every training provider, or every training provider falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any training provider to which the requirements apply before financial support of any amount or description so specified is provided by the Agency in respect of activities carried on by the training provider,
  - (b) may include a condition requiring the Agency to impose a specified condition falling within subsection (4) of section 79 in relation to any grants, loans or other payments made by the Agency under section 78 to a training provider specified by the Assembly in the condition under subsection (1), or a training provider of a class so specified, but
  - (c) may not otherwise relate to the provision of financial support by the Agency in respect of activities carried on by any particular training provider or training providers.
- (4) The terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.



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- (5) A condition imposed by virtue of subsection (3)(b) does not apply in relation to grants, loans or other payments made by the Agency in respect of any course which is a qualifying course for the purposes of section 28 of the Higher Education Act 2004 (c. 8).
- (6) The terms and conditions subject to which any grants are made by the Assembly to the Agency may in particular—
  - (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Assembly in accordance with any of the terms and conditions remains unpaid.

### **83 Non-funding functions of Agency**

- (1) The Agency may do anything which they think fit in furtherance of any of the objectives set out in section 75(2).
- (2) The power conferred by this section includes power to provide information, advice or other services to persons outside England and Wales.
- (3) The Agency may make such charges as they think fit for the provision under this section to any person of information, advice or other services.
- (4) This section—
  - (a) does not authorise the provision of financial support, and
  - (b) is subject to paragraph 1(2) of Schedule 13.

### **84 Directions by Secretary of State and Assembly**

- (1) In exercising their functions the Agency must comply with any directions under this section.
- (2) The Secretary of State may give general directions to the Agency about the exercise of their functions, except so far as those functions are exercisable in relation to Wales.
- (3) The Assembly may give general directions to the Agency about the exercise of their functions, so far as those functions are exercisable in relation to Wales in accordance with section 76.
- (4) Directions under this section are to be contained in an order made by the Secretary of State or the Assembly.

*Funding of teacher training by Higher Education Funding Council for Wales*

### **85 Qualifying activities and eligible institutions in relation to HEFCW funding**

- (1) The Higher Education Funding Council for Wales (in this Part referred to as “HEFCW”) are responsible for administering funds made available to them by the Assembly and others for the purpose of providing financial support for the carrying on by eligible institutions of qualifying activities.

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- (2) The activities qualifying for funding by HEFCW under this Part (“qualifying activities”) are—
- (a) the provision of teacher training,
  - (b) the provision of facilities, and the carrying on of other activities, by eligible institutions which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purposes of or in connection with activities within paragraph (a), and
  - (c) the provision by any person of services for the purposes of, or in connection with, such activities.
- (3) The institutions eligible for funding by HEFCW under this Part (“eligible institutions”) are—
- (a) any institution in Wales within the higher or further education sector,
  - (b) the Open University,
  - (c) any school in Wales, and
  - (d) and other institution or body in Wales designated by order of the Assembly, and any partnership or association of eligible institutions, or body established by one or more such institutions, for the purpose of carrying on qualifying activities.
- (4) For the purposes of subsection (3), an institution or body is in Wales if its activities are carried on, or principally carried on, in Wales.
- (5) In sections 86 to 91—
- (a) “qualifying activities” is to be read in accordance with subsection (2);
  - (b) “eligible institution” is to be read in accordance with subsection (3).

## **86 Grants, loans and other payments by HEFCW**

- (1) HEFCW may—
- (a) make grants, loans or other payments in respect of expenditure incurred or to be incurred by the governing body of an eligible institution for the purposes of activities qualifying for funding by HEFCW under this Part by virtue of section 85(2)(a) or (b), and
  - (b) make grants, loans or other payments in respect of expenditure incurred or to be incurred for the purposes of the provision of services as mentioned in section 85(2)(c),
- subject in each case to such terms and conditions as HEFCW think fit.
- (2) The terms and conditions on which HEFCW may make any grants, loans or other payments under this section may in particular—
- (a) enable HEFCW to require the repayment, in whole or in part, of sums paid by HEFCW if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to HEFCW in accordance with any of the terms and conditions remains unpaid.
- (3) The power of HEFCW to impose conditions on the making of any grants, loans or other payments under this section to an eligible institution includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the carrying out by that institution of qualifying activities.

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- (4) Where—
- (a) a condition is imposed under subsection (3) in connection with any grant, loan or other payment to an eligible institution, and
  - (b) the grant, loan or other payment is to any extent made in respect of persons undertaking training which is provided in whole or in part by another training provider,
- then, for the purposes of the condition, fees payable by such persons to the other training provider are to be regarded as fees charged by the eligible institution.
- (5) The terms and conditions must not relate to the application of any sums derived otherwise than from HEFCW, but this subsection does not affect the power to impose conditions by virtue of subsection (3).
- (6) In exercising their functions under this section HEFCW must have regard—
- (a) generally, to any forecast of demand for newly-qualified teachers that is notified to them by the Assembly, and
  - (b) in relation to any particular institution, to any assessment of the quality of the teacher training provided by that institution—
    - (i) made by the Chief Inspector for Wales, or
    - (ii) to which HEFCW think it appropriate to have regard or to which the Assembly directs them to have regard.

## **87 Provisions supplementary to section 86**

- (1) In exercising their functions in relation to the provision of financial support for qualifying activities, HEFCW must have regard to the desirability of not discouraging any institution for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.
- (2) Before exercising their discretion under section 86(1)(a) or (b) with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, HEFCW must consult such of the following bodies as appear to them to be appropriate to consult in the circumstances—
- (a) such bodies representing the interests of eligible institutions as appear to HEFCW to be concerned, and
  - (b) the governing body of any particular eligible institution which appears to HEFCW to be concerned.
- (3) In exercising their functions in relation to the provision of financial support for qualifying activities HEFCW must have regard (so far as they think it relevant to do so in the light of any other relevant considerations) to the desirability of maintaining—
- (a) what appears to them to be an appropriate balance in the support given to them as between institutions which are of a denominational character and other institutions, and
  - (b) any distinctive characteristics of any eligible institution for whose activities financial support is provided under this Part.
- (4) In exercising their functions HEFCW must take such steps as appear to them appropriate to secure that the governing body of any institution which provides a course of initial teacher training funded by HEFCW makes available such information relating to the course, in such manner and to such persons, as HEFCW may require.

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- (5) Subsection (1) does not affect the power by virtue of section 86(3) to impose conditions prohibiting or restricting the charging of fees.

## **88 Grants to HEFCW**

- (1) The Assembly may make grants to HEFCW of such amounts and subject to such conditions as the Assembly may determine.
- (2) The terms and conditions subject to which grants are made by the Assembly to HEFCW under this section—
- (a) may in particular impose requirements to be complied with in respect of every institution, or every institution falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any institution to which the requirements apply before financial support of any amount or description so specified is provided by HEFCW in respect of activities carried on by the institution, but
  - (b) may not otherwise relate to the provision of financial support by HEFCW in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (4) Such terms and conditions may in particular—
- (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Assembly in accordance with any of the terms and conditions remains unpaid.
- (5) Section 68 of the Further and Higher Education Act 1992 (c. 13) does not apply in relation to grants made to HEFCW under this section.

## **89 Power of HEFCW to carry out or commission research**

HEFCW may carry out or commission such research as they consider appropriate with a view to improving—

- (a) the training of teachers, or
- (b) the standards of teaching.

## **90 Supplementary and ancillary functions of HEFCW**

- (1) The Assembly may by order confer or impose on HEFCW such functions supplementary to their functions under this Part as the Assembly thinks fit.
- (2) For the purposes of subsection (1) a function is a supplementary function in relation to HEFCW if—
- (a) it is exercisable for the purposes of the exercise by the Assembly of functions of the Assembly under any enactment, and
  - (b) it relates to, or to the activities of, an eligible institution.

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- (3) Before making an order under subsection (1) the Assembly must carry out such consultation as appears to it to be appropriate.
- (4) HEFCW may carry out such activities ancillary to their functions under this Part as the Assembly may direct.

## 91 Directions by Assembly

- (1) In exercising their functions under this Part HEFCW must comply with any directions under this section.
- (2) The Assembly may give general directions to HEFCW about the exercise of their functions.
- (3) If it appears to the Assembly that the financial affairs of an eligible institution have been or are being mismanaged the Assembly may, after consulting HEFCW and the institution, give such directions to HEFCW about the provision of financial support in respect of the activities carried on by the institution as the Assembly considers necessary or expedient by reason of the mismanagement.
- (4) Directions under this section are to be contained in an order made by the Assembly.

### *Common provisions*

## 92 Joint exercise of functions

- (1) A funding agency and any other relevant funding body may exercise any of their functions jointly.
- (2) In subsection (1) “other relevant funding body” means the other funding agency, the Higher Education Funding Council for England, the Learning and Skills Council for England or the [F29]the Assembly to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000].
- (3) The Agency and any body specified in an order made by the Secretary of State for the purposes of this subsection may exercise their functions jointly.
- (4) The Assembly may by order authorise HEFCW to exercise their functions under this Part jointly with a body specified in the order, and the specified body to exercise its functions jointly with HEFCW.

### **Textual Amendments**

**F29** Words in s. 92(2) substituted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), [Sch. 1 para. 98](#), (with transitional provisions in art. 7)

## 93 Efficiency studies

- (1) A funding agency may arrange for the promotion or the carrying out by any person of studies designed to improve economy, efficiency and effectiveness in the management or operations of a qualifying person.

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- (2) A person promoting or carrying out such studies at the request of a funding agency may require the qualifying person concerned—
- (a) to provide him, or a person authorised by him, with such information, and
  - (b) to make available to him, or a person authorised by him, for inspection their accounts and such other documents,
- as he may reasonably require for that purpose.
- (3) In this section “qualifying person” means—
- (a) a training provider receiving financial support under this Part from the Agency, or
  - (b) the governing body of an eligible institution, as defined by section 85(3), receiving financial support under this Part from HEFCW.

#### **94 Duty to provide information**

- (1) The Agency—
- (a) must provide the Secretary of State (in such manner as he may from time to time determine) with such information or advice relating to matters for which they are responsible as he may from time to time require, and
  - (b) may provide the Secretary of State with such information or advice relating to such matters as they think fit.
- (2) The Agency must provide the Assembly (in such manner as the Assembly may from time to time determine) with such information or advice relating to matters for which the Agency are responsible by virtue of section 76(2) or by virtue of regulations made by the Assembly under any of sections 132 to 140 of the Education Act 2002 (c. 32) as the Assembly may from time to time require.
- (3) The Agency may provide the Assembly with such information or advice relating to other matters as the Agency think fit.
- (4) The Agency and HEFCW must give each other such information as they may require for the purposes of the exercise of their functions under any enactment.
- (5) The following must give the Agency or HEFCW such information as they may require for the purpose of the exercise of their functions under any enactment—
- (a) any person receiving, or who has received or applied for, any grant, loan or other payment under this Part;
  - (b) any local education authority.

#### *Provision of training in schools*

#### **95 Power of maintained schools to provide training for the school workforce**

- (1) The governing body of a maintained school may—
- (a) provide courses of initial or further training for school teachers,
  - (b) provide courses of training for other members of the school workforce, or
  - (c) join in partnership with other training providers, or (alone or jointly with other training providers) establish a body, for the purpose of providing training falling within paragraph (a) or (b).

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- (2) It is immaterial for the purposes of subsection (1) whether or not the training constitutes higher education.
- (3) In relation to an exercise of the powers conferred by subsection (1), the governing body has all the same supplementary and incidental powers as it has in relation to the conduct of the school.
- (4) Any exercise by the governing body of a maintained school of the powers conferred by this section is not to be treated, for the purposes of Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (financing of maintained schools) as being undertaken for the purposes of the school.
- (5) Section 80 of the School Standards and Framework Act 1998 (exercise of power to provide further education) does not apply in relation to any course of training that is provided under this section.
- (6) Nothing in this section is to be read as affecting the power of the governing body of a school, as an ordinary incident of the conduct of the school—
  - (a) to provide training for members of the school workforce who work at the school, or
  - (b) to participate in the provision of training for members of the school workforce as part of a course provided by another training provider.

### *Supplementary*

## **96 Interpretation of references to training**

- (1) References in this Part to training, in relation to teachers or other members of the school workforce (including references to the provision of training “for” teachers or other members of the school workforce), include—
  - (a) any training or education with the object of fitting persons to be teachers or other members of the school workforce, or to be better teachers or other members of the school workforce, and
  - (b) any assessment related to the award of any qualification or status as a teacher or other member of the school workforce.
- (2) References elsewhere in the Education Acts to training, in relation to teachers, include any training or education with a view to fitting persons to be teachers, or better teachers.

## **97 Institutions of a denominational character**

For the purposes of this Part an institution is of a denominational character if—

- (a) at least one quarter of the members of the governing body of the institution, or in the case of a school at least one-fifth, are persons appointed to represent the interests of a religion or religious denomination, or
- (b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned is to be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or
- (c) any of the property held for the purposes of the institution is held on trust for or in connection with—

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- (i) the provision of education, or
  - (ii) the conduct of an educational institution,
- in accordance with the tenets of a religion or religious denomination.

## 98 Further amendments relating to Part 3

Schedule 14 contains amendments related to the preceding provisions of this Part.

## 99 Transitional and transitory provisions relating to Part 3

Schedule 15 contains transitional and transitory provisions related to the preceding provisions of this Part.

### Commencement Information

**I21** S. 99 partly in force; s. 99 in force for certain purposes at Royal Assent, see s. 125(1)(b)

## 100 Interpretation of Part 3

(1) In this Part—

- “the Agency” means the Training and Development Agency for Schools;
- “the Chief Inspector for England” means [<sup>F30</sup>Her Majesty’s Chief Inspector of Education, Children’s Services and Skills];
- “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales;
- “denominational character”, in relation to an institution, is to be read in accordance with section 97;
- “a funding agency” means the Agency or HEFCW;
- “governing body”, in relation to an institution conducted by a company, is to be read in accordance with an order under subsection (2);
- “HEFCW” means the Higher Education Funding Council for Wales;
- “maintained school” means—
  - (a) a community, foundation or voluntary school,
  - (b) a community or foundation special school, or
  - (c) a maintained nursery school;
- “the school workforce” and “member of the school workforce” are to be read in accordance with section 75(5);
- “training”, in relation to members of the school workforce, is to be read in accordance with section 96(1);
- “training provider” has the meaning given by section 78(3).

(2) The Assembly may by order provide for references in sections 85 to 91 to the governing body of an institution, in relation to an institution which is conducted by a company, to be read as references to the governing body provided for in the instrument of government, or to the company, or to both.

(3) Other expressions, if used in this Part and the Education Act 1996 (c. 56), have the same meaning in this Part as in that Act.



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### Textual Amendments

- F30** Words in s. 100(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 106](#); [S.I. 2007/935](#), [art. 5\(w\)\(gg\)](#)

## PART 4

### MISCELLANEOUS

#### *Maintained schools*

### 101 Funding of maintained schools

Schedule 16 contains amendments relating to the funding by local education authorities of schools maintained by them.

### Commencement Information

- I22** [S. 101](#) partly in force; [s. 101](#) not in force at Royal Assent see [s. 125](#); [s. 101](#) in force for certain purposes for E. and for certain further purposes for E.W. at 1.11.2005 by [S.I. 2005/2034](#), arts. {8}, {9}

### 102 LEA targets: England

- (1) The Secretary of State may by regulations require local education authorities in England to set annual targets in respect of the educational performance—
  - (a) of pupils at schools maintained by them, and
  - (b) of any persons of compulsory school age (whether or not pupils at such schools) who are or have been looked after by them.
- (2) Regulations under this section may in particular—
  - (a) specify the matters in respect of which targets are required to be set;
  - (b) require proposed targets to be notified to the Secretary of State by a prescribed time;
  - (c) authorise the Secretary of State—
    - (i) to modify any proposed target notified to him, or
    - (ii) to require a local education authority to modify the proposed targets and to notify him of the proposed targets as modified;
  - (d) require the targets to be set by a prescribed time;
  - (e) require local education authorities to publish, in such manner as may be specified in the regulations, any targets which they set.
- (3) In subsection (1), “looked after” is to be read in accordance with section 22 of the Children Act 1989 (c. 41).

### 103 Removal of requirements for governors' reports and parents' meetings

- (1) In section 30 of the 2002 Act (governors' report and other information)—
  - (a) in subsections (1) and (2)(a), after “maintained school” insert “ in Wales ”,

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- (b) in subsections (3) and (4), after “maintained school” insert “ (in England or Wales) ”, and
  - (c) in the heading, insert “ (Wales) ” after “reports”.
- (2) In section 33 of the 2002 Act (annual parents' meetings)—
- (a) in subsection (1), after “maintained school” insert “ in Wales ”, and
  - (b) in the heading, after “meetings” insert “ : Wales ”.
- (3) The Assembly may by order—
- (a) repeal either or both of the following provisions of the 2002 Act—
    - (i) section 30(1) and (2) (as amended by subsection (1)(a) of this section), and
    - (ii) section 33 (as amended by subsection (2) of this section), and
  - (b) make such amendments of any other enactment as appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).

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

**C40** S. 103(1) restricted (E.) (1.9.2005) by [The Education Act 2005 \(Commencement No.1 and Savings and Transitional Provisions\) Order 2005 \(S.I. 2005/2034\)](#), art. 10, **Sch. para. 2**

## 104 School profiles

After section 30 of the 2002 Act insert—

### “30A School profiles

- (1) The governing body of a maintained school in England shall prepare and publish a document (a “school profile”) containing—
- (a) such information as the Secretary of State may provide to the governing body for inclusion in the profile,
  - (b) information provided by the governing body about such matters relating to the school as the Secretary of State may specify for the purposes of this paragraph, and
  - (c) such other information about the school as may be prescribed (which may include information to be provided by persons other than the Secretary of State).
- (2) Regulations may—
- (a) specify the time by which the school profile must be published,
  - (b) require the school profile to contain statements by the governing body as to prescribed matters,
  - (c) prescribe the form of the school profile and the manner in which it is to be published,
  - (d) require the governing body to give copies of the school profile to such persons as may be prescribed, and
  - (e) require the governing body to revise the school profile in accordance with the regulations at prescribed times and to publish the school profile as revised.

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- (3) In exercising any function conferred by or under this section, a governing body shall have regard to any guidance given from time to time by the Secretary of State.”

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

- C41** S. 104 restricted (E.) (1.9.2005) by [The Education Act 2005 \(Commencement No.1 and Savings and Transitional Provisions\) Order 2005 \(S.I. 2005/2034\)](#), art. 10, **Sch. para. 2**

**105 Provision and funding of higher education in maintained schools**

After section 28 of the 2002 Act insert—

**“28A Power of governing body to provide higher education**

- (1) Subject to subsection (2), the governing body of a maintained school shall have power to arrange the provision to pupils at the school (whether by teachers at the school or other persons) of courses falling within paragraph 1(g) or (h) of Schedule 6 to the Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level).
- (2) A governing body may exercise the power under subsection (1) in relation to a particular pupil only if they are satisfied that the provision to that pupil of the course in question will not to any significant extent interfere with the other education with which he is being provided at the school.
- (3) The National Assembly for Wales may give, or make arrangements for the giving of, financial assistance to any person in connection with the provision of courses mentioned in subsection (1) by the governing body of a maintained school in Wales.
- (4) Sections 15 and 16 apply to financial assistance given under subsection (3) as they apply to financial assistance given under section 14.
- (5) This section has effect notwithstanding section 1(4) of the Education Act 1996 (functions not conferred with respect to higher education).”

**Commencement Information**

- I23** S.105 partly in force; s. 105 not in force at Royal Assent see s. 125; s. 105 in force for certain purposes for E. at 1.9.2005 by [S.I. 2005/2034](#), art. 4; S. 105 in force for W. at 1.9.2006 by [S.I. 2006/1338](#), art. 3, Sch. 1

**106 Admission arrangements to make special provision for looked-after children**

In section 89 of the School Standards and Framework Act 1998 (c. 31) (procedure for determining admission arrangements) after subsection (1) insert—

- “(1A) Regulations may require the admission authorities for maintained schools to include in their admission arrangements such provision relating to the admission of children who are looked after by a local authority (within the

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meaning of section 22 of the Children Act 1989) as may be prescribed, which may in particular include provision for securing that, subject to sections 86(3) and (3A) and 87 (cases where duty to comply with parental preference does not apply), such children are to be offered admission in preference to other children.”

#### Commencement Information

**I24** S. 106 wholly in force at 1.9.2006; s. 106 not in force at Royal Assent see s. 125; s. 106 in force for E. at 3.10.2005 by [S.I. 2005/2034](#), [art. 6](#); s. 106 in force for W. at 1.9.2006 by [S.I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

### 107 Restrictions on disposal of land

Schedule 17 contains amendments of Schedule 22 to the School Standards and Framework Act 1998 (which makes provision as to the disposal of land held for the purposes of foundation, voluntary or foundation special schools and as to the property of maintained schools on their discontinuance).

#### *Information*

### 108 Supply of information: education maintenance allowances

- (1) This subsection applies to information which—
  - (a) is held for the purposes of functions relating to tax or tax credits—
    - (i) by the Commissioners of Inland Revenue, or
    - (ii) by a person providing services to the Commissioners of Inland Revenue, in connection with the provision of those services, or
  - (b) is held for the purposes of functions relating to social security—
    - (i) by the Secretary of State or a Northern Ireland department, or
    - (ii) by a person providing services to the Secretary of State or such a department, in connection with the provision of those services.
- (2) Information to which subsection (1) applies may be supplied to a person falling within subsection (3) for use for purposes relating to eligibility for education maintenance allowances.
- (3) The following persons fall within this subsection—
  - (a) the Secretary of State,
  - (b) the Learning and Skills Council for England,
  - (c) the Assembly,
  - (d) a Northern Ireland department,
  - (e) the Scottish Ministers, and
  - (f) any person providing services to the Secretary of State, the Learning and Skills Council for England, the Assembly, a Northern Ireland department or the Scottish Ministers.
- (4) Information received by virtue of subsection or this subsection (2) by a person other than the Scottish Ministers may be supplied to a person falling within subsection (5) for use for purposes relating to eligibility for education maintenance allowances.

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- (5) The following persons fall within this subsection—
- (a) the Assembly,
  - (b) a Northern Ireland department,
  - (c) the Scottish Ministers,
  - (d) any person by whom functions in relation to education maintenance allowances falling within subsection (8)(a) are exercisable by virtue of section 14 or 17 of the 2002 Act,
  - (e) any person by whom functions under regulations under section 181 of the 2002 Act are exercisable by virtue of section 183 or 184 of that Act, and
  - (f) any person providing services to the Assembly or a Northern Ireland department.
- (6) A person other than the Scottish Ministers may, in making any request for the supply to him of information by virtue of subsection (2) or (4), supply to any person who holds, or is to be supplied with, the information—
- (a) the name, address and date of birth of any person to whom the request relates (“the student”),
  - (b) the name, address and date of birth of—
    - (i) any parent of the student, or
    - (ii) any other person whose financial circumstances are relevant to the student's eligibility for an education maintenance allowance, and
  - (c) any other information (whether relating to the student, any parent of his or any person falling within paragraph (b)(ii)) which is required for the purpose of determining the student's eligibility for an education maintenance allowance.
- (7) This section does not limit the circumstances in which information may be supplied apart from this section.
- (8) In this section and section 109 “education maintenance allowance” means—
- (a) financial assistance under section 14 of the 2002 Act paid to or in respect of a person who is over compulsory school age in connection with his undertaking any course of education or training,
  - (b) an allowance under section 181 of the 2002 Act,
  - (c) an award under Article 51(1)(b) of the Education and Libraries (Northern Ireland) Order 1986 (No. 594/NI 3) paid to or in respect of a person who is over compulsory school age (within the meaning of that Order) in connection with his undertaking any course of education or training,
  - (d) an allowance under section 73(f) of the Education (Scotland) Act 1980 (c. 44) paid to or in respect of a relevant person attending a course of education, other than higher education, or
  - (e) financial assistance provided under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 (c. 37).
- (9) In subsection (8)(d)—
- “higher education” has the same meaning as in Part 2 of the Further and Higher Education (Scotland) Act 1992;
  - “relevant person” means a person who—
    - (a) is deemed to have attained the age of 16 years under section 33 of the Education (Scotland) Act 1980, and

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- (b) has not, on the first day of the term of the course of education, attained the age of 20 years.

### **109 Unauthorised disclosure of information received under section 108**

- (1) A person (“X”) who discloses information which he has received by virtue of subsection (2) or (4) of section 108 and which relates to a particular person commits an offence unless the information is disclosed—
- (a) in accordance with subsection (4) of that section,
  - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for education maintenance allowances,
  - (c) in accordance with an enactment or an order of a court,
  - (d) for the purpose of instituting, or otherwise for the purposes of, civil or criminal proceedings, or
  - (e) with consent given by or on behalf of the person to whom the information relates.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (3) A person guilty of an offence under subsection is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (4) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) The reference in subsection (1)(c) to an enactment includes a reference to an enactment comprised in, or in an instrument made under—
- (a) an Act of the Scottish Parliament, or
  - (b) any Northern Ireland legislation as defined in section 24(5) of the Interpretation Act 1978 (c. 30).

### **110 Supply of information: free school lunches etc.**

- (1) This subsection applies to information held for the purposes of functions relating to tax credits—
- (a) by the Commissioners of Inland Revenue, or
  - (b) by a person providing services to them, in connection with the provision of those services.
- (2) This subsection applies to information held for the purposes of functions relating to social security—
- (a) by the Secretary of State, or

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- (b) by a person providing services to him, in connection with the provision of those services.
- (3) Information to which subsection (1) or (2) applies may be supplied—
  - (a) to the Secretary of State, or any person providing services to him, or
  - (b) to the Assembly, or any person providing services to the Assembly,for use for the purpose of determining eligibility for free school lunches and milk.
- (4) Information to which subsection (2) applies may be supplied to a local education authority for use for that purpose.
- (5) Information received by virtue of subsection (3) may be supplied—
  - (a) to another person to whom it could have been supplied under that subsection, or
  - (b) to a local education authority,for use for that purpose.
- (6) The references in subsections (4) and (5)(b) to a local education authority include references to any person exercising on behalf of such an authority functions relating to eligibility for free school lunches and milk.
- (7) For the purposes of this section, a person is eligible for free school lunches and milk if school lunches and milk are required to be provided for him, on request, free of charge—
  - (a) in accordance with section 512ZB(2) and (3) of the Education Act 1996 (c. 56),
  - (b) in accordance with regulations under section 342 of that Act (non-maintained special schools), or
  - (c) in accordance with an agreement under section 482 of that Act (Academies, etc.).
- (8) In this section, “school lunch” has the same meaning as in section 512 of the Education Act 1996.
- (9) This section does not limit the circumstances in which information may be supplied apart from this section.

## **111 Unauthorised disclosure of information received under section 110**

- (1) A person (“X”) who discloses information which he has received by virtue of any of subsections (3) to (5) of section 110 and which relates to a particular person commits an offence unless the information is disclosed—
  - (a) in the case of information received by virtue of subsection (3) of that section, in accordance with subsection (5) of that section,
  - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for free school lunches and milk,
  - (c) in accordance with an enactment or an order of a court, or
  - (d) with consent given by or on behalf of the person to whom the information relates.
- (2) In subsection (1)(b), “eligibility for free school lunches and milk” is to be read in accordance with section 110(7).

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- (3) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (4) A person guilty of an offence under subsection (1) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (5) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4)(b) to 12 months is to be read as a reference to 6 months.

## 112 Power to provide that function of determining eligibility remains with LEA

In section 512A of the Education Act 1996 (c. 56) (transfer of functions under section 512 of that Act to governing bodies), in subsection (4), for paragraph (b) substitute—

- “(b) if the duty corresponds to the one mentioned in subsection (2)(b) or (c)—
- (i) the order may provide that, notwithstanding the other provisions of the order, the function of determining whether pupils at the school fall within section 512ZB(4) is to be exercisable by the local education authority, and
  - (ii) section 533(3) shall not apply to school lunches or milk provided by the governing body in pursuance of the order.”

## 113 Information about the school workforce: introductory

- (1) Subsections (2) and (3) apply for the purposes of section 114.
- (2) “Qualifying worker” means any person who—
  - (a) is employed at, or otherwise engaged to work at, a school,
  - (b) does not fall within paragraph (a) but provides, or assists in the provision of, education under a contract of employment or for services where the other party to the contract is—
    - (i) a children's services authority in England or Wales, or
    - (ii) a person exercising a function relating to the provision of education on behalf of such an authority, or
  - (c) provides education at a further education institution.
- (3) “Qualifying trainee” means a person (other than a qualifying worker as defined in subsection (2)) for whom training as a member of the school workforce is being provided.
- (4) In this section—
 

“contract of employment” has the meaning given by section 230(2) of the Employment Rights Act 1996 (c. 18);

“further education institution” means an institution which is—

  - (a) an institution (other than a school) which provides further education, or
  - (b) an institution within the further education sector;



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“member of the school workforce” has the same meaning as in Part 3.

- (5) In this section and section 114, “children's services authority in England ”and “children's services authority in Wales ”have the same meaning as in the Children Act 2004 ( c. 31).

## **114 Supply of information about school workforce**

- (1) Regulations may authorise or require—
- (a) the proprietor of a school,
  - (b) a children's services authority in England or Wales, or
  - (c) any prescribed person,
- to supply to the relevant person (as defined by subsection (2)) prescribed information relating to persons who are or have been qualifying workers or qualifying trainees, for use by the relevant person for a qualifying purpose.
- (2) In subsection (1) “the relevant person” means one or more of the following—
- (a) the Secretary of State,
  - (b) the Assembly, or
  - (c) any prescribed person.
- (3) Regulations may authorise the Secretary of State or the Assembly to supply to the other or to any prescribed person, for use for a qualifying purpose, prescribed information relating to persons who are or have been qualifying workers or qualifying trainees.
- (4) A person may not be prescribed for the purposes of subsection (1)(c), (2)(c) or (3) unless—
- (a) in the case of subsection (1)(c) or (2)(c), he appears to the person making the regulations to be exercising functions of a public nature, or
  - (b) in the case of subsection (3), he appears to the person making the regulations to be exercising such functions or carrying out research which relates to education or training and may be expected to be of public benefit.
- (5) For the purposes of this section, information is supplied to a person for use for a qualifying purpose if it is supplied to him for use for—
- (a) evaluation, planning, research or statistical purposes, or
  - (b) any other prescribed purpose.
- (6) Regulations may authorise a person falling within subsection (7) to supply to any prescribed person (“the recipient”) any information relating to persons who are or have been qualifying workers or qualifying trainees which—
- (a) has been lawfully held by the recipient, or
  - (b) is information which another person was, or could have been, required (whether by virtue of regulations under this section or otherwise) to supply to the recipient.
- (7) The following persons fall within this subsection—
- (a) the Secretary of State,
  - (b) the Assembly, and
  - (c) any prescribed person.
- (8) Regulations may—

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- (a) prohibit any person to whom information is supplied by virtue of this section from further disclosing the information otherwise than in prescribed circumstances, and
  - (b) provide that section 497 of the Education Act 1996 (c. 56) (default powers of Secretary of State or Assembly) is, in relation to the duties imposed by virtue of this section, to have effect as if—
    - (i) the reference in subsection (2)(a) of that section to a local education authority were a reference to a children's services authority in England or Wales, and
    - (ii) any reference to a body to which that section applies included a reference to a prescribed person.
- (9) This section does not limit the circumstances in which information is authorised or required to be supplied apart from this section.
- (10) In this section—
- “prescribed” means prescribed by regulations;
  - “regulations” means—
    - (a) in relation to England, regulations made by the Secretary of State, and
    - (b) in relation to Wales, regulations made by the Assembly.

#### *Attendance at alternative educational provision*

### **115 Power of governing body to make alternative provision for excluded pupils**

In section 29 of the 2002 Act (additional functions of governing body), in subsection (3) (power to require pupils to attend at other places for purpose of education) for “pupils in attendance at the school” substitute “registered pupils”.

#### **Commencement Information**

**I25** S. 115 wholly in force at 1.9.2006; s. 115 not in force at Royal Assent see s. 125; s. 115 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; S. 115 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

### **116 Failure of parent to secure regular attendance of child at alternative provision**

After section 444 of the Education Act 1996 insert—

#### **“444ZA Application of section 444 to alternative educational provision**

- (1) Where, in the case of a child of compulsory school age who is not a registered pupil at any school—
  - (a) a local education authority has made arrangements under section 19 for the provision of education for him otherwise than at a school or at his home, and
  - (b) notice in writing of the arrangements has been given to the child's parent,

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subsections (1) to (7) of section 444 have effect as if the place at which the education is provided were a school and the child were a registered pupil at that school.

- (2) Where—
- (a) a child of compulsory school age has been excluded from a relevant school,
  - (b) he remains for the time being a registered pupil at the school,
  - (c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training, and
  - (d) notice in writing of the requirement has been given to the child's parent,
- subsections (1) to (7) of section 444 have effect as if the place at which the child is required to attend were a school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).
- (3) In relation to a maintained school or a pupil referral unit—
- (a) the reference in subsection (2)(a) to exclusion is a reference to exclusion under section 52 of the Education Act 2002, and
  - (b) the requirement referred to in subsection (2)(c) is a requirement imposed under section 29(3) of that Act.
- (4) A child shall not be taken to have failed to attend regularly—
- (a) in a case falling within subsection (1), at the place at which education is provided for him, or
  - (b) in a case falling within subsection (2), at the place at which he is required to attend,
- unless he has failed to attend regularly since the giving of the notice mentioned in subsection (1)(b) or (2)(d).
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude the notice mentioned in subsection (1)(b) or (2)(d) from being given to a child's parent by any other effective method.
- (6) In proceedings for an offence under section 444 in a case falling within subsection (1) of this section, the parent shall be acquitted if he proves that the child is receiving suitable education otherwise than by regular attendance at a school or at the place mentioned in subsection (1).
- (7) In section 444 “leave”—
- (a) in relation to a place at which education is provided as mentioned in subsection (1) of this section, means leave granted by any person authorised to do so by the local education authority;
  - (b) in relation to a place at which a child is required to attend as mentioned in subsection (2)(c) of this section, means leave granted by any person authorised to do so by the appropriate authority for the school.
- (8) In this section—
- (a) “relevant school” means—
    - (i) a maintained school,
    - (ii) a pupil referral unit,
    - (iii) an Academy,

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- (iv) a city technology college, or
- (v) a city college for the technology of the arts;
- (b) “appropriate authority” means—
  - (i) in relation to a maintained school, the governing body,
  - (ii) in relation to a pupil referral unit, the local education authority, and
  - (iii) in relation to a school falling within paragraph (a)(iii), (iv) or (v), the proprietor of the school.”

**Commencement Information**

**I26** S. 116 wholly in force at 1.9.2006; s. 116 not in force at Royal Assent see s. 125; s. 116 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; S. 116 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

*Supplementary*

**117 Further amendments relating to Part 4**

Schedule 18 contains further amendments related to the provisions of this Part.

**Commencement Information**

**I27** S. 117 partly in force; s. 117 not in force at Royal Assent see s. 125; s. 117 in force at 1.9.2005 for E. for certain purposes and for E.W. for certain purposes by S.I. 2005/2034, arts. {4},{5} and at 1.11.2005 for E. for certain purposes by the said S.I. 2005/2034, art. 8; S. 117 in force for certain purposes for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

**118 Meaning of “the 2002 Act” in Part 4**

In this Part “the 2002 Act” means the Education Act 2002 (c. 32).

**Commencement Information**

**I28** S. 118 wholly in force at 1.9.2006; s. 118 not in force at Royal Assent see s. 125; s. 118 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; s. 118 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

**PART 5**

GENERAL

**119 Functions to be exercisable by National Assembly for Wales**

- (1) Any function conferred on the Secretary of State by the amendments made by the provisions mentioned in subsection (2), so far as exercisable in relation to Wales, is

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to be taken to have been transferred to the Assembly by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38).

- (2) Those provisions are—
- section 45 (power to direct closure of school);
  - section 70 (proposals for discontinuance of rural primary school);
  - section 71 (proposals relating to maintained special school);
  - section 106 (admission arrangements to make special provision for looked-after children);
  - Schedule 7 (inspection of child minding, day care and nursery education);
  - Schedule 16 (funding of maintained schools);
  - Schedule 17 (restrictions on disposal of land);
  - Schedule 18 (further amendments related to Part 4).

## **120 Subordinate legislation: general provisions**

- (1) Any power to make an order or regulations conferred by this Act on the Secretary of State or the Assembly is exercisable by statutory instrument.
- (2) Any power of the Secretary of State or the Assembly to make an order or regulations under this Act includes power—
- (a) to make different provision for different cases or areas,
  - (b) to make provision generally or in relation to specific cases, and
  - (c) to make such incidental, supplementary, saving or transitional provision as the Secretary of State or the Assembly thinks fit.
- (3) Regulations under Part 1 may, in particular, include provision for the designation by the Secretary of State or the Assembly, in accordance with the regulations, of particular schools or categories of school for the purposes of the application of particular provisions of the regulations in relation to such schools.
- (4) Any power conferred by this Act to give directions includes power, exercisable in the same manner and subject to the same conditions or limitations, to revoke or vary directions previously given.

## **121 Parliamentary control of subordinate legislation**

- (1) Any statutory instrument containing regulations or an order made by the Secretary of State under any provision of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1) does not apply to—
- (a) regulations to which subsection (3) applies, or
  - (b) an order made under section 125 (commencement).
- (3) A statutory instrument which contains (whether alone or with other provisions) regulations made by the Secretary of State under section 124 which amend or repeal any part of the text of an Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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## 122 General interpretation

- (1) In this Act “the Assembly” means the National Assembly for Wales.
- (2) Subject to subsection (4), the Education Act 1996 (c. 56) and the provisions of this Act specified in subsection (3) are to be read as if those provisions were contained in that Act.
- (3) The provisions of this Act referred to in subsection (2) are—
  - (a) Part 1 (school inspections);
  - (b) Part 2 (school organisation);
  - (c) section 102 (LEA targets: England);
  - (d) section 108 (supply of information: education maintenance allowances);
  - (e) section 110 (supply of information: free school lunches, etc.);
  - (f) section 114 (supply of information about school workforce).
- (4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of the Education Act 1996 (c. 56), the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.
- (5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of the School Standards and Framework Act 1998 (c. 31).

## 123 Repeals

Schedule 19 contains repeals.

### Commencement Information

- I29** S. 123 partly in force; s. 123 partly in force at 1.9.2005, see s. 125(3); s. 123 in force for E. for certain purposes at 1.9.2005, 3.10.2005 and 1.11.05 by S.I. 2005/2034, arts. {4}, {6}, {8} and in force for E.W. for certain purposes at 1.9.2005 by the said S.I. 2005/2405, art. 5; s. 123 in force for certain purposes for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1 and in force for certain purposes for E.W. at 1.9.2006 and at 1.4.2007 by the said S.I. 2006/1338, arts. {4}, {5}, Schs. 2, 3

## 124 Power to make further supplementary and consequential provision etc.

- (1) The Secretary of State may at any time by regulations make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitional, transitory or saving provision,
 as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of Parts 1 to 4 of this Act.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) amending or repealing any enactment passed before, or in the same Session as, this Act, and
  - (b) amending or revoking any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made before the passing of this Act.

*Status: Point in time view as at 01/04/2007.*

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- (3) In relation to Wales, the power to make regulations under subsection (1) is also exercisable by the Assembly.
- (4) Nothing in this Act is to be regarded as limiting the generality of subsection (1).

## 125 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
  - (a) in Part 1, sections 62 and 63;
  - (b) in Part 3—
    - section 75(5),
    - section 78(3),
    - sections 96 and 97,
    - section 100, and
    - paragraph 3 of Schedule 15 (and section 99 so far as relating to that paragraph);
  - (c) in this Part—
    - sections 119 to 122,
    - section 124,
    - this section, and
    - sections 126 to 128.
- (2) The following provisions of Part 4 come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - section 102,
  - sections 107 to 114, and
  - Schedule 17.
- (3) The following provisions come into force on 1st September 2005 or, if this Act is passed after 1st July 2005, at the end of the period of two months beginning with the day on which it is passed—
  - (a) Part 3 (including Schedules 13 to 15), except the provisions specified in subsection (1)(b), and
  - (b) Part 3 of Schedule 19 (and section 123 so far as relating to that Part of that Schedule).
- (4) The remaining provisions of this Act come into force in accordance with provision made by the appropriate authority (as defined in section 126) by order.

### Subordinate Legislation Made

- P1** S. 125(4) power partly exercised: different dates appointed for specified provisions by {S.I. 2005/2034}, arts. 2-9 (with transitional and saving provisions in art. 10, Sch.)
- P2** S. 125(4) power partly exercised: different dates appointed for specified provisions by {S.I. 2006/1338}, arts. 3-5 (with transitional provisions and savings in art. 6, Sch. 4)
- S. 125(4) power partly exercised: different dates appointed for specified provisions by {S.I. 2006/2129}, arts. 3-5 (with transitional provisions and savings in arts. 6, 7)

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## **126 The appropriate authority by whom commencement order is made**

- (1) This section has effect for determining who is the appropriate authority for the purposes of section 125(4).
- (2) In relation to Part 1, the appropriate authority is—
  - (a) the Secretary of State, for the following provisions—
    - Chapters 1 and 2 (including Schedule 1);
    - sections 48 and 49;
    - paragraphs 1 to 4 of Schedule 7 (and section 53 so far as relating to those paragraphs);
    - paragraphs 1 to 5, 23 and 26 of Schedule 9 (and section 61 so far as relating to those paragraphs),
  - (b) the Assembly, for the following provisions—
    - Chapters 3 and 4 (including Schedules 2 to 4);
    - section 50 (including Schedule 6);
    - section 52;
    - sections 55 to 57;
    - paragraph 5 of Schedule 7 (and section 53 so far as relating to that paragraph);
    - paragraphs 6, 7, 22, 24, 25 and 27 of Schedule 9 (and section 61 so far as relating to those paragraphs), and
  - (c) for the other provisions of the Part—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the Assembly.
- (3) In relation to Part 2, the appropriate authority is—
  - (a) for sections 70 and 71 and paragraph 9 of Schedule 12 (and section 72 so far as relating to that paragraph)—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the Assembly, and
  - (b) for the other provisions of the Part, the Secretary of State.
- (4) In relation to Part 4, the appropriate authority is—
  - (a) the Secretary of State, for the following provisions—
    - sections 103 and 104;
    - paragraph 8 of Schedule 16 (and section 101 so far as relating to that paragraph);
    - paragraphs 2 to 4 of Schedule 18 (and section 117 so far as relating to those paragraphs), and
  - (b) for the other provisions of the Part—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the Assembly.
- (5) In relation to section 123 and Schedule 19, the appropriate authority is—
  - (a) the Secretary of State, for a repeal contained in Part 2 of the Schedule, and
  - (b) for a repeal contained in Part 1 or 4 of the Schedule, the appropriate authority for the purposes of section 125(4) in relation to the provision on which the repeal is consequential.



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## **127 Extent**

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—  
sections 108 and 109 (supply of information: education maintenance allowances),  
section 124, so far as relating to those sections, and  
the other provisions of this Part except sections 119, 122 and 123.
- (3) Any amendment or repeal made by this Act has the same extent as the enactment amended or repealed.

## **128 Short title, etc.**

- (1) This Act may be cited as the Education Act 2005.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

**Status:**

Point in time view as at 01/04/2007.

**Changes to legislation:**

Education Act 2005 is up to date with all changes known to be in force on or before 11 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.