



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 9

#### MISCELLANEOUS

##### *Investigation of complaints by Chief Inspector*

#### **160 Power of Chief Inspector to investigate complaints by parents about schools**

After section 11 of EA 2005 insert—

##### *“Investigation of complaints*

#### **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

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(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, 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 sub-paragraph (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,

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- (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
    - (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.

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(5) In this section, “governing body” and “qualifying complaint” have the same meaning as in section 11B.”

#### Commencement Information

**II** S. 160 in force at 28.3.2007 by [S.I. 2007/935](#), [art. 3](#)

### *Powers to facilitate innovation*

#### **161 Powers to facilitate innovation**

In Schedule 16—

- (a) Part 1 contains amendments of Chapter 1 of Part 1 of EA 2002 (powers to facilitate innovation), including amendments removing the restriction on the duration of the powers conferred by that Chapter; and
- (b) Part 2 contains a consequential amendment.

*References to “local education authority” or “children's services authority”*

#### **162 Power to repeal references to “local education authority” and “children's services authority” etc**

- (1) Subject to subsection (5), the Secretary of State may by order—
  - (a) make such provision as appears to him to be appropriate for the purpose of—
    - (i) repealing any reference in any statutory provision to a local education authority (however expressed) in so far as it relates to such an authority in England or such an authority in Wales, or to both, and
    - (ii) replacing it, where it appears to him to be appropriate, with a reference (however expressed) to, as the case may be, an English local authority or a Welsh local authority, or to both;
  - (b) make such provision as appears to him to be appropriate for the purpose of—
    - (i) repealing any reference in any statutory provision to a children's services authority (however expressed) in so far as it relates to a children's services authority in England or a children's services authority in Wales, or to both, and
    - (ii) replacing it, where it appears to him to be appropriate, with a reference (however expressed) to, as the case may be, an English local authority or a Welsh local authority, or to both;
  - (c) make such provision as appears to him to be appropriate in consequence of or in connection with any provision made by virtue of paragraph (a) or (b), or of both those paragraphs.
- (2) An order under subsection (1) may make provision modifying any enactment whenever passed or made (including this Act), and may, in particular, make provision—
  - (a) modifying references (however expressed) in any statutory provision to the functions of a local education authority, or the functions of a local authority (however defined) in its capacity as a local education authority, where the

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- references wholly or partly relate to a local education authority in England or a local education authority in Wales;
- (b) modifying statutory provisions which consist of or include provision requiring or authorising consultation, co-operation, communication or other action between a local education authority in England and an English local authority or between a local education authority in Wales and a Welsh local authority;
  - (c) modifying statutory provisions which consist of or include provision imposing a duty on a local education authority in England or on a local education authority in Wales where the duty imposed is similar to a duty imposed by that or any other statutory provision on, as the case may be, an English local authority or a Welsh local authority;
  - (d) modifying statutory provisions which consist of or include provision imposing a duty on an English local authority or on a Welsh local authority where the duty imposed is similar to a duty imposed by that or any other statutory provision on, as the case may be, a local education authority in England or a local education authority in Wales;
  - (e) repealing statutory provisions which are spent or have ceased to be of any practical utility.
- (3) The following powers to make provision by order under subsection (1) are exercisable by the Assembly as well as by the Secretary of State—
- (a) the power to make provision under paragraph (a) of that subsection in relation to any reference in any statutory provision to a local education authority (however expressed) in so far as it relates to such an authority in Wales,
  - (b) the power to make provision under paragraph (b) of that subsection in relation to any reference in any statutory provision to a children's services authority (however expressed) in so far as it relates to a children's services authority in Wales, and
  - (c) the power to make provision under paragraph (c) of that subsection in consequence of or in connection with any provision made by virtue of the powers under paragraph (a) or (b) of that subsection mentioned in paragraph (a) or (b) above, or by virtue of both those powers.
- (4) The Secretary of State must not make an order under subsection (1), except with the consent of the Assembly, which contains provision made wholly or partly by virtue of any of the powers to make provision under that subsection mentioned in any of paragraphs (a) to (c) of subsection (3).
- (5) An order under subsection (1) may make provision which is within the legislative competence of the Scottish Parliament only in consequence of provision made under such an order which is outside that competence.

[<sup>F1</sup>(5A) The Welsh Ministers may by order—

- (a) make such provision as appears to them to be appropriate for the purpose of—
  - (i) repealing any reference in a Measure of the National Assembly for Wales to a [local authority] (however expressed), and
  - (ii) replacing it, where it appears to them to be appropriate, with a reference (however expressed) to a Welsh local authority;
- (b) make such provision as appears to them to be appropriate in consequence of or in connection with any provision made by virtue of paragraph (a).]

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[<sup>F1</sup>(5B) An order under subsection (5A) may make provision modifying any enactment whenever passed or made, and may, in particular, make provision of the kind specified in paragraphs (a) to (e) of subsection (2).]

(6) In this section—

“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);

“English local authority” means—

- (a) a county council in England,
- (b) a metropolitan district council,
- (c) a non-metropolitan district council for an area for which there is no county council,
- (d) a London borough council,
- (e) the Common Council of the City of London, or
- (f) the Council of the Isles of Scilly;

“modify” includes amend or repeal;

“statutory provision” means—

- (a) any provision of this or any other Act, including any Act passed after this Act, and
- (b) any provision of subordinate legislation, including any such legislation made under, or after the passing of, this Act;

“Welsh local authority” means a county council or county borough council in Wales.

[<sup>F2</sup>(7) In interpreting paragraphs (a) to (e) of subsection (2) for the purposes of subsection (5B), “statutory provision” also includes any provision of a Measure of the National Assembly for Wales, including any Measure passed after the Education (Wales) Measure 2009.]

#### Textual Amendments

- F1** S. 162(5A)(5B) substituted for s. 162(5A) (E.W.) (9.12.2009) by [Education \(Wales\) Measure 2009 \(nawm 5\), s. 26\(2\), Sch. para. 11](#)
- F2** S. 162(7) inserted (E.W.) (9.12.2009) by [Education \(Wales\) Measure 2009 \(nawm 5\), s. 26\(2\), Sch. para. 12](#)

#### Commencement Information

- I2** S. 162 in force at 8.1.2007, see s. 188(2)

### *Provision of advice by adjudicator*

## 163 Provision of advice by adjudicator

In section 25 of SSFA 1998 (adjudicators) after subsection (3) insert—

“(3A) When asked to do so by the Secretary of State, an adjudicator must give advice to the Secretary of State on such matters relating to the admission of pupils to relevant schools as the Secretary of State may specify.

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- (3B) The adjudicator may, for the purposes of providing such advice to the Secretary of State, request any of the following persons to provide him with such information held by them as the adjudicator may specify—
- (a) the admission authority (within the meaning of Chapter 1 of Part 3) of a community, foundation or voluntary school;
  - (b) the proprietor of any other relevant school.
- (3C) A person so requested by the adjudicator to provide information must comply with the request.
- (3D) In subsections (3A) and (3B), “relevant school” means a school in England falling within any of paragraphs (a) to (f) of section 5(2) of the Education Act 2005.”

#### Commencement Information

**I3** S. 163 in force at 8.1.2007 by [S.I. 2006/3400](#), [art. 3\(f\)](#)

#### *Information about children receiving publicly-funded education*

### **164 Information about children receiving funded education outside school**

After section 537A of EA 1996 (provision of information about individual pupils) insert—

#### **“537B Provision of information about children receiving funded education outside school**

- (1) Regulations may make provision requiring a person who provides funded education to provide to the relevant person such individual child information as may be prescribed.
- (2) In subsection (1), “the relevant person” means one or more of the following—
- (a) the Secretary of State, and
  - (b) any prescribed person.
- (3) Where any person within paragraph (b) of subsection (2) receives information by virtue of subsection (1), the Secretary of State may require that person to provide any such information—
- (a) to him, or
  - (b) to any prescribed person.
- (4) The Secretary of State may provide any individual child information—
- (a) to any information collator,
  - (b) to any prescribed person, or
  - (c) to any person falling within a prescribed category.
- (5) Any information collator—
- (a) may provide any individual child information—
    - (i) to the Secretary of State,

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- (ii) to any other information collator, or
- (iii) to the person who provides the funded education for the child or children to whom the information relates, and
- (b) may, at such times as the Secretary of State may determine, provide such individual child information as may be prescribed—
  - (i) to any prescribed person, or
  - (ii) to any person falling within a prescribed category.
- (6) Any person holding any individual child information (other than the Secretary of State or an information collator) may provide that information to—
  - (a) the Secretary of State,
  - (b) any information collator, or
  - (c) any prescribed person.
- (7) No information received under or by virtue of this section shall be published in any form which includes the name of the child or children to whom it relates.
- (8) Regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Secretary of State is to be treated, for the purposes of any provision of such regulations or this section, as compliance with any requirement imposed by or by virtue of any such provision and relating to the provision of information to the Secretary of State.
- (9) In this section—
  - “child” means a person under the age of 19;
  - “funded education” means education provided under arrangements made by a local education authority in pursuance of the duties imposed by section 19(1) and (4) (duty to make special arrangements for provision of education for children of compulsory school age and young persons who may otherwise not receive suitable education), other than such education provided at a school;
  - “individual child information” means information relating to and identifying individual children for whom funded education is being or has been provided, whether obtained under subsection (1) or otherwise;
  - “information collator” means any body which, for the purposes of or in connection with the functions of the Secretary of State relating to funded education, is responsible for collating or checking information relating to children for whom such education is provided.”

#### Commencement Information

- I4** S. 164 in force at 28.3.2007 for E. by [S.I. 2007/935](#), [art. 2](#)
- I5** S. 164 in force at 1.9.2009 for W. by [S.I. 2009/1027](#), [art. 3\(b\)](#)

#### *Further education*

### **165 Power of members of staff of further education institutions to use force**

After section 85B of the Further and Higher Education Act 1992 (c. 13) insert—



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### **“85C Power of members of staff to use force**

- (1) A member of the staff of an institution which is within the further education sector may use such force as is reasonable in the circumstances for the purpose of preventing a student at the institution from doing (or continuing to do) any of the following, namely—
  - (a) committing any offence,
  - (b) causing personal injury to, or damage to the property of, any person (including the student himself), or
  - (c) prejudicing the maintenance of good order and discipline at the institution or among any of its students, whether during a teaching session or otherwise.
- (2) The power conferred by subsection (1) may be exercised only where—
  - (a) the member of the staff and the student are on the premises of the institution, or
  - (b) they are elsewhere and the member of the staff has lawful control or charge of the student.
- (3) Subsection (1) does not authorise anything to be done in relation to a student which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.
- (4) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.
- (5) In this section, “member of the staff”, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee.”

#### **Commencement Information**

**I6** S. 165 in force at 1.4.2007 for E. by [S.I. 2007/935, art. 4\(b\)](#)

### **166 Collaboration arrangements: maintained schools and further education bodies**

- (1) Regulations may enable—
  - (a) the governing body of a maintained school, whether alone or together with other such governing bodies, to make collaboration arrangements with one or more further education bodies;
  - (b) a further education body, whether alone or together with other further education bodies, to make collaboration arrangements with the governing body of a maintained school or the governing bodies of two or more such schools;
  - (c) a further education body to make collaboration arrangements with one or more further education bodies.
- (2) “Collaboration arrangements” are arrangements for any of the functions of any of the bodies who make the arrangements (“the collaborating bodies”) to be discharged jointly or by a joint committee of those bodies.

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- (3) Regulations may make provision as to—
- (a) the establishment by the collaborating bodies of a joint committee of those bodies for the purposes of discharging any functions in pursuance of collaboration arrangements made by them (“a joint committee”);
  - (b) the appointment of persons to serve on a joint committee (including provision as to the restrictions or other requirements relating to any such appointments) and their removal from office;
  - (c) the appointment of a clerk to a joint committee (including provision as to the restrictions or other requirements relating to any such appointment) and his removal from office;
  - (d) the appointment by a joint committee of one of their number to act as clerk for the purposes of a meeting where the clerk fails to attend;
  - (e) rights of persons to attend meetings of a joint committee;
  - (f) restrictions on persons taking part in proceedings of a joint committee;
  - (g) other matters relating to the constitution or procedure of a joint committee.
- (4) Regulations may make provision as to—
- (a) the functions of collaborating bodies which may or may not be discharged jointly, or by a joint committee, in pursuance of collaboration arrangements;
  - (b) the manner in which such functions are to be discharged jointly, or by a joint committee, in pursuance of collaboration arrangements;
  - (c) any other matters which are relevant to the discharge of functions by the collaborating bodies jointly, or as the case may be, by a joint committee in pursuance of such arrangements.
- (5) Regulations may provide that any enactment relating to—
- (a) the functions of the collaborating bodies which are to be discharged in pursuance of collaboration arrangements, or
  - (b) the governing bodies, or as the case may be the further education bodies, by whom those functions are to be discharged,
- is to have effect subject to all necessary modifications in its application in relation to those functions and the bodies by whom they are to be discharged.
- (6) In this section—
- “further education body” means—
- (a) a further education corporation (as defined by section 17(1) of the Further and Higher Education Act 1992 (c. 13)),
  - (aa) <sup>[F3]</sup>a sixth form college corporation (as defined in section 90 of that Act),] or
  - (b) the governing body of a designated institution (as defined by section 28(4) of that Act) which is a body incorporated by virtue of section 143(4) of the Learning and Skills Act 2000 (c. 21);
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
- “regulations” means regulations made by the Secretary of State (in relation to England) or the Assembly (in relation to Wales).

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#### Textual Amendments

- F3** Words in s. 166(6) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 104** (with art. 2(3))

#### Commencement Information

- I7** S. 166 in force at 1.4.2007 for E. by [S.I. 2007/935](#), **art. 4(b)**  
**I8** S. 166 in force at 30.6.2008 for W. by [S.I. 2008/1429](#), art. 3(1), **Sch. Pt. 1**

### *Early years provision*

#### **167 Consultation with young pupils**

In section 176 of EA 2002 (consultation with pupils), in subsection (3)—

- (a) in the definition of “maintained school”, for “or a community or foundation special school” substitute “, a community or foundation special school or a maintained nursery school”, and
- (b) omit the definition of “pupil” (which excludes children who are being provided with nursery education).

#### Commencement Information

- I9** S. 167 in force at 1.9.2007 for E. by [S.I. 2007/1801](#), **art. 3(f)**  
**I10** S. 167 in force at 31.10.2010 for W. by [S.I. 2010/2543](#), **art. 2(k)**

#### **168 Maintained nursery schools: amendment of sections 496 and 497 of EA 1996**

- (1) In section 496 of EA 1996 (power of Secretary of State to prevent unreasonable exercise of functions by [<sup>F4</sup>local authority] or governing body), in subsection (2)(b), for “or any community or foundation special school” substitute “, of any community or foundation special school, or of any maintained nursery school”.
- (2) In section 497 of EA 1996 (Secretary of State's general default powers), in subsection (2)(b), for “or any community or foundation special school” substitute “, of any community or foundation special school, or of any maintained nursery school”.

#### Textual Amendments

- F4** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

#### Commencement Information

- I11** S. 168 in force at 8.1.2007, see s. 188(2)

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### *Independent schools*

## **169 Prohibition on participation in management of independent school**

After section 167 of EA 2002 insert—

### *“Prohibition on participation in management of independent schools*

#### **167A Prohibition on participation in management of independent schools**

- (1) The appropriate authority may direct that a person—
  - (a) may not take part in the management of an independent school;
  - (b) may take part in the management of an independent school only in circumstances specified in the direction;
  - (c) may take part in the management of an independent school only if conditions specified in the direction are satisfied.
- (2) A direction under this section may be given in respect of a person only on one or more prescribed grounds connected with the suitability of persons to take part in the management of an independent school.
- (3) Regulations may prescribe the procedure for giving a direction under this section (including provision about notification of persons who are subject to directions).
- (4) The appropriate authority may vary or revoke a direction under this section in prescribed cases.
- (5) Regulations may prescribe the grounds on which a person subject to a direction under this section may seek to have it varied or revoked under subsection (4).
- (6) In this section and sections 167B to 167D, “appropriate authority” means—
  - (a) in relation to England, the registration authority or such other public authority as may be prescribed;
  - (b) in relation to Wales, the registration authority or such other public authority as may be prescribed.

#### **167B Directions under section 167A: appeals**

- (1) A person in respect of whom a direction has been given under section 167A may appeal to the Tribunal established under section 9 of the Protection of Children Act 1999—
  - (a) against the decision to give the direction;
  - (b) against a decision not to vary or revoke the direction.
- (2) Regulations may—
  - (a) provide that the Tribunal may not entertain an appeal under this section insofar as the appellant's case is inconsistent with his having been convicted of an offence;
  - (b) prescribe circumstances in which the Tribunal shall allow an appeal under this section;

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- (c) prescribe the powers available to the Tribunal on allowing an appeal under this section.

#### **167C Directions under section 167A: information**

- (1) The Secretary of State may provide to the appropriate authority any information relating to a person which is held by the Secretary of State in connection with his functions—
  - (a) under the Protection of Children Act 1999, except section 9 (the Tribunal);
  - (b) under Part 7 of the Care Standards Act 2000;
  - (c) under sections 142 to 144 of this Act;
  - (d) as registration authority under this Part.
- (2) The National Assembly for Wales may provide to the appropriate authority any information relating to a person which is held by the Assembly in connection with its functions as registration authority under this Part.
- (3) The Independent Barring Board may provide to the appropriate authority any information relating to a person which is held by the Board in connection with its functions and which appears to it to be relevant to the exercise by the appropriate authority of its functions under sections 167A to 167C.
- (4) The appropriate authority may provide to the Independent Barring Board, the General Teaching Council for England, the General Teaching Council for Wales, the Secretary of State or the National Assembly for Wales any information relating to a person which is held by the appropriate authority in connection with its functions under section 167A.

#### **167D Directions under section 167A: notification**

- (1) Where the appropriate authority in relation to England gives a direction under section 167A(1), or varies or revokes any such direction, it must notify—
  - (a) the registration authority in relation to England (unless the appropriate authority is the registration authority), and
  - (b) the registration authority in relation to Wales and (if different) the appropriate authority in relation to Wales.
- (2) Where the appropriate authority in relation to Wales gives a direction under section 167A(1), or varies or revokes any such direction, it must notify—
  - (a) the registration authority in relation to Wales (unless the appropriate authority is the registration authority), and
  - (b) the registration authority in relation to England and (if different) the appropriate authority in relation to England.”

#### **Commencement Information**

**I12** S. 169 in force at 12.10.2009 for W. by S.I. 2009/2545, art. 3(1)(a)

*Status: Point in time view as at 01/11/2010.*

*Changes to legislation: Education and Inspections Act 2006, Part 9 is up to date with all changes known to be in force on or before 21 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)*

## 170 Prohibition on participation in management: supplementary

- (1) In section 169 of EA 2002 (unsuitable persons), for the words from “any work” onwards substitute “work of a prescribed kind is subject to a direction, order or decision of a prescribed description made under any prescribed enactment having effect in any part of the United Kingdom”.
- (2) In section 113BA of the Police Act 1997 (c. 50) (suitability information relating to children), at the end of subsection (2) insert—
  - “(e) whether the applicant is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).”
- (3) In section 9 of the Protection of Children Act 1999 (c. 14) (the Tribunal), in subsection (2) after paragraph (b) insert—
  - “(ba) on an appeal under section 167B of the Education Act 2002;”.

### Commencement Information

**I13** S. 170 in force at 12.10.2009 for W. by S.I. 2009/2545, art. 3(1)(b)

## 171 Prohibition on participation in management: transitional provision

- (1) A person falls within this subsection if—
  - (a) immediately before the relevant day he is subject to a direction under section 142 of EA 2002 given on grounds prescribed for the purposes of this section, and
  - (b) prescribed conditions (which may include conditions relating to decisions taken on or after the relevant day by the [<sup>F5</sup>Independent Safeguarding Authority] under the Safeguarding Vulnerable Groups Act 2006) are satisfied in relation to him.
- (2) Regulations may provide that, as from a time specified in or determined in accordance with the regulations, persons who fall within subsection (1) are to be treated for prescribed purposes as if the direction given under section 142 of EA 2002 were a direction given by the appropriate authority under section 167A of that Act.
- (3) Regulations may make provision in connection with the determination of any appeal under subsection (1) of section 144 of EA 2002, or application for review under subsection (2) of that section, which is pending on the relevant day.
- (4) Regulations under subsection (3) may, in particular, provide for an appeal, or application for review, under section 144 of EA 2002 to be treated as an appeal under section 167B of that Act.
- (5) In this section—
  - “appropriate authority” has the same meaning as in section 167A of EA 2002;
  - “prescribed” means prescribed by regulations under this section;
  - “regulations” means regulations made—
    - (a) in relation to England, by the Secretary of State, or
    - (b) in relation to Wales, by the Assembly;

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“the relevant day” means the day on which section 167A of EA 2002 comes into force.

#### Textual Amendments

**F5** Words in s. 171 substituted (12.11.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss.**, 81(3)(l), 116(5)(a) 81(2)

#### Commencement Information

**I14** S. 171 in force at 12.10.2009 for W. by [S.I. 2009/2545](#), **art. 3(1)(e)**

## 172 Offences relating to independent schools

- (1) Part 10 of EA 2002 (independent schools) is amended as follows.
- (2) After section 168 insert—

### “168A Proceedings for offences

No proceedings for an offence under this Chapter shall be instituted except by or with the consent of the registration authority.

### 168B Offences by bodies corporate

- (1) Where an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as it applies to a director of a body corporate.

### 168C Offences by unincorporated bodies

- (1) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (2) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.
- (3) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates'

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Courts Act 1980 (procedure on charge of an offence against a corporation) apply as they do in relation to a body corporate.

(4) Where an offence under this Chapter committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, he as well as the body is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.”

(3) In section 159 (unregistered schools), omit subsection (3).

(4) Sections 168B and 168C of EA 2002 do not have effect in relation to offences committed before the commencement of this section.

#### Commencement Information

**I15** S. 172 in force at 8.1.2007, see s. 188(2)

### *Special educational needs*

#### **173 Special educational needs co-ordinators**

In section 317 of EA 1996 (duties of governing body or [<sup>F4</sup>local authority] in relation to pupils with special educational needs) after subsection (3) insert—

“(3A) The governing body of a community, foundation or voluntary school or a maintained nursery school shall designate a member of the staff at the school (to be known as the “special educational needs co-ordinator”) as having responsibility for co-ordinating the provision for pupils with special educational needs.

(3B) Regulations may—

- (a) require the governing bodies of schools falling within subsection (3A) to ensure that special educational needs co-ordinators have prescribed qualifications or prescribed experience (or both), and
- (b) confer on the governing bodies of those schools other functions relating to special educational needs co-ordinators.”

#### Textual Amendments

**F4** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

#### Commencement Information

**I16** S. 173 in force at 8.1.2007 for E. by [S.I. 2006/3400](#), **art. 2(c)**



*Status: Point in time view as at 01/11/2010.*

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## **174 Time limits relating to statements of special educational needs**

- (1) Chapter 1 of Part 4 of EA 1996 (children with special educational needs) is amended as follows.
- (2) In Schedule 26 (making of assessments under section 323), in paragraph 3(3)(a) after “or 329A” insert “, or under regulations under sub-paragraph (1)(b),”.
- (3) In Schedule 27 (making and maintenance of statements under section 324)—
  - (a) in paragraph 5, for sub-paragraph (3) substitute—

“(3) Regulations may provide that, where a local education authority are under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty to make the statement, or any step required to be taken for or in connection with the performance of the duty or the maintenance of the statement (including any step in relation to the amendment of the statement) must, subject to prescribed exceptions, be performed within the prescribed period.”, and
  - (b) in paragraph 11, after sub-paragraph (2A) insert—

“(2B) Where the local education authority determine to cease to maintain a statement following a periodic review or a re-assessment review, regulations may provide that a notice under sub-paragraph (2)(a) must be given within the prescribed period beginning with the date of the review.”
- (4) Any regulations which were made under Schedule 26 or 27 to EA 1996 and are in force immediately before the commencement of this section are to have effect as from that time as if made under that Schedule as amended by subsection (2) or (3) (as the case may be).

### **Commencement Information**

**I17** S. 174 in force at 8.1.2007, see s. 188(2)

### *Other miscellaneous provisions*

## **175 Miscellaneous amendments relating to Wales**

Schedule 17 contains further amendments relating to Wales.

### **Commencement Information**

**I18** S. 175 in force at 30.6.2008 by [S.I. 2008/1429](#), art. 3(2), [Sch. Pt. 2](#)

## **F<sup>6</sup>176 Support schemes relating to education and training for persons aged 10 to 15**

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#### Textual Amendments

- F6** S. 176 repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a)(b), Sch. 1 para. 69, [Sch. 2 Pt. 1](#) (with art. 2(3))

#### Commencement Information

- I19** S. 176 in force at 1.4.2007 by [S.I. 2007/935](#), [art. 5\(y\)](#)

### 177 University bodies: amendment of section 29 of Leasehold Reform Act 1967

- (1) Section 29 of the Leasehold Reform Act 1967 (c. 88) (which enables university bodies in certain circumstances to reserve rights for future development in relation to land sold or let by them) is amended as follows.
- (2) In subsection (6), omit the words from “but a university body” to the end.
- (3) In subsection (6B), for the words from “includes” to the end substitute—
  - “(a) includes development by a related university body (within the meaning of section 28(6)(b) above); and
  - (b) must be development for the purposes (other than investment purposes) of the university body or any such related university body.”
- (4) Where immediately before the date on which this section comes into force—
  - (a) a university body have applied for consent under subsection (6) of section 29 of the Leasehold Reform Act 1967, and
  - (b) the application has yet to be determined,
 consent under that subsection shall continue to be required; and for that purpose the amendments made by subsections (2) and (3) above shall be disregarded.

#### Commencement Information

- I20** S. 177 in force at 8.1.2007, see s. 188(2)

**Status:**

Point in time view as at 01/11/2010.

**Changes to legislation:**

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