

Education Act 1996

1996 CHAPTER 56

PART I

GENERAL

CHAPTER I

THE STATUTORY SYSTEM OF EDUCATION

General

1 The stages of education.

- (1) The statutory system of public education consists of three progressive stages: primary education, secondary education and further education.
- (2) This Part-
 - (a) confers functions on the Secretary of State and $[^{F1}$ local authorities] with respect to primary, secondary and further education; F2 ...
 - $F^{2}(b)$
- (3) Part I of the ^{M1}Further and Higher Education Act 1992 [^{F3}makes provision with respect to further education.].
- (4) Apart from section 10 (general duty of Secretary of State), nothing in this Act confers any functions with respect to higher education.

Textual Amendments

F1 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. 7(3) (with Sch. 2 para. 7(4)(5))

- F2 S. 1(2)(b) and preceding word repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 58, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1 (with savings in Sch. 7 paras. 2-4, 6, 7, 10, 12)
- **F3** Words in s. 1(3) substituted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 51** (with s. 150); S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

Modifications etc. (not altering text)

C1 S. 1(4) excluded by 2002 c. 32, s. 28A(5) (as inserted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), ss. 105, 125(4); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1)

Marginal Citations

M1 1992 c. 13.

2 Definition of primary, secondary and further education.

- [^{F4}(1) In this Act "primary education" means—
 - (a) full-time or part-time education suitable to the requirements of children who have attained the age of two but are under compulsory school age;
 - (b) full-time education suitable to the requirements of junior pupils of compulsory school age who have not attained the age of 10 years and six months; and
 - (c) full-time education suitable to the requirements of junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with junior pupils within paragraph (b).]
 - (2) In this Act "secondary education" means—
 - (a) full-time education suitable to the requirements of pupils of compulsory school age who are either—
 - (i) senior pupils, or
 - (ii) junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with senior pupils of compulsory school age; and
 - (b) (subject to subsection (5)) full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19 which is provided at a school at which education within paragraph (a) is also provided.
- [^{F5}(2A) Education is also secondary education for the purposes of this Act (subject to subsection (5)) if it is provided by an institution which—
 - (a) is maintained by a $[^{F6}$ local authority $][^{F7}$ or is an Academy], and
 - (b) is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19.
 - (2B) Where-
 - (a) a person is in full-time education,
 - (b) he receives his education partly at a school and, by virtue of arrangements made by the school, partly at another institution [^{F8} or any other establishment], and
 - (c) the education which he receives at the school would be secondary education if it was full-time education at the school,

the person's education, both at the school and at the other institution [^{F9}or establishment], is secondary education for the purposes of this Act (subject to subsection (5)).]

(3) Subject to subsection (5), in this Act "further education" means—

- (a) full-time and part-time education suitable to the requirements of persons who are over compulsory school age [^{F10}(including vocational, social, physical and recreational training)], and
- (b) organised leisure-time occupation provided in connection with the provision of such education,

except that it does not include secondary education or (in accordance with subsection (7)) higher education.

- (4) Accordingly, unless it is education within subsection (2)(b) [^{F11}or (2A)], full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19 is further education for the purposes of this Act and not secondary education.
- (5) For the purposes of this Act education provided for persons who have attained the age of 19 is further education not secondary education; but where a person—
 - (a) has begun a particular course of secondary education before attaining the age of 18, and
 - (b) continues to attend that course,

the education does not cease to be secondary education by reason of his having attained the age of 19.

- (6) In subsection (3)(b) "organised leisure-time occupation" means leisure-time occupation, in such organised cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.
- [^{F12}(6A) In the context of the definitions of secondary education and further education, references in this section to education include vocational, social, physical and recreational training.]
 - (7) References in this section to education do not include references to higher education.

Textual Amendments

- F4 S. 2(1) substituted (1.10.2002 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), ss. 156(2), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1
- F5 S. 2(2A)(2B) inserted (1.9.2000 for E. for certain purposes and 1.4.2001 otherwise for E.W.) by 2000
 c. 21, s. 110(1) (with s. 150); S.I. 2000/2114, art. 2(3), Sch. Pt. III; S.I. 2001/654, art. 2(2), Sch. Pt. II
 (with art. 3); S.I. 2001/1274, art. 2(1), Sch. Pt. I (with art. 3)
- F6 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. 7(2) (with Sch. 2 para. 7(4)(5))
- F7 Words in s. 2(2A)(a) inserted (26.7.2002) by Education Act 2002 (c. 32), ss. 65(3), 216(2), Sch. 7 para. 6(2) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 2
- F8 Words in s. 2(2B)(b) inserted (1.10.2002 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), ss. 177(2)(a), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 5, Sch. Pt. 2
- F9 Words in s. 2(2B) inserted (1.10.2002 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), ss. 177(2)(b), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 5, Sch. Pt. 2

- **F10** Words in s. 2(3)(a) repealed (1.10.2002 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 5, Sch. Pt. 2
- F11 Words in s. 2(4) inserted (1.10.2002 for E., 19.12.2002 for W.) by Education Act 2002 (c. 32), ss. 215(1), 216(4), Sch. 21 para. 33 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2002/3185, art. 4, Sch. Pt. 1
- F12 S. 2(6A) inserted (1.10.2002 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), ss. 177(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 5, Sch. Pt. 2

3 Definition of pupil etc.

- (1) In this Act "pupil" means a person for whom education is being provided at a school, other than—
 - (a) a person who has attained the age of 19 for whom further education is being provided, or
 - (b) a person for whom part-time education suitable to the requirements of persons of any age over compulsory school age is being provided.

[^{F13}and references to pupils in the context of the admission of pupils to, or the exclusion of pupils from, a school are references to persons who following their admission will be, or (as the case may be) before their exclusion were, pupils as defined by this subsection.]

- [^{F14}(1A) A person is not for the purposes of this Act to be treated as a pupil at a school merely because any education is provided for him at the school in the exercise of the powers conferred by section 27 of the Education Act 2002 (power of governing body of maintained school to provide community facilities etc.).]
 - (2) In this Act-

"junior pupil" means a child who has not attained the age of 12; and "senior pupil" means a person who has attained the age of 12 but not the age of 19.

(3) The definition of "pupil" in [^{F15}subsections (1) and (1A) also apply] (unless the context otherwise requires) for the purposes of any instrument made or having effect as if made under the Education Acts.

Textual Amendments

- **F13** Words in s. 3(1) inserted (1.9.1997) by 1997 c. 44, s. 57(1), Sch. 7 para. 9(2); S.I. 1997/1468, art. 2, Sch. 1 Pt. II
- F14 S. 3(1A) inserted (2.9.2002 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 34(2) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F15 Words in s. 3(3) substituted (2.9.2002 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 34(3) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

Modifications etc. (not altering text)

C2 S. 3: power to modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), Sch. 17 para. 5 (with ss. 88-90)

Educational institutions

4 Schools: general.

- [^{F16}(1) In this Act [^{F17}(subject to [^{F18}subsections (1A) to (1C)])] "school" means an educational institution which is outside the further education sector and the [^{F19}wider] higher education sector and is an institution for providing—
 - (a) primary education,
 - (b) secondary education, or
 - (c) both primary and secondary education,

whether or not the institution also provides [F20 part-time education suitable to the requirements of junior pupils or] further education.]

- [^{F21}(1A) An institution which—
 - (a) provides only early years provision (as defined by section 96(2) of the Childcare Act 2006), and
 - (b) is not a maintained nursery school,
 - is not a school.]
- $[^{F22}(1B) A 16 to 19 Academy is not a school.$
 - (1C) An alternative provision Academy is a school.]
 - (2) [^{F23}Nothing in subsection (1) shall be taken to preclude the making of arrangements under section 19(1) (exceptional educational provision) under which part-time education is to be provided at a school; and for] the purposes of this Act an educational institution that would fall within subsection (1) but for the fact that it provides part-time rather than full-time education shall nevertheless be treated as a school if that part-time education is provided under arrangements made under section 19(1) ^{F24}...
 - (3) For the purposes of this Act an institution is outside the further education sector if it is not—
 - (a) an institution conducted by a further education corporation established under section 15 or 16 of the ^{M2}Further and Higher Education Act 1992, or
 - (b) a designated institution for the purposes of Part I of that Act (defined in section 28(4) of that Act) [^{F25}, or
 - (c) a sixth form college]

and references to institutions within that sector shall be construed accordingly.

- [^{F26}(4) For the purposes of this Act an institution is outside the wider higher education sector if
 - (a) in relation to England, it is not a registered higher education provider within the meaning given by section 3(10) of the Higher Education and Research Act 2017, or
 - (b) in relation to Wales, it is not an institution within the higher education sector within the meaning given by section 91(5) of the Further and Higher Education Act 1992;

and references to institutions within the wider higher education sector are to be construed accordingly.]

Textual Amendments

- F16 S. 4(1) substituted (1.9.1997) by 1997 c. 44, s. 51; S.I. 1997/1468, art. 2, Sch. 1 Pt. II
- F17 Words in s. 4(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 95(2), 109(2); S.I. 2008/2261, art. 2 (with Sch. 1)
- **F18** Words in s. 4(1) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 9(2)(a)**; S.I. 2012/924, art. 2
- **F19** Word in s. 4(1) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, 7(2)(a)
- F20 Words in s. 4(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1
- **F21** S. 4(1A) inserted (1.9.2008) by Childcare Act 2006 (c. 21), ss. 95(3), 109(2); S.I. 2008/2261, art. 2 (with Sch. 1)
- F22 S. 4(1B)(1C) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 9(2)(b); S.I. 2012/924, art. 2
- **F23** Words in s. 4(2) substituted (1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 10(a)**; S.I. 1998/386, art.2, **Sch. 1 Pt. IV**
- F24 Words in s. 4(2) repealed (1.9.1998) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 10(b), Sch. 8; S.I. 1998/386, art. 2, Sch. 1 Pt. IV
- F25 S. 4(3)(c) and word 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. 97 (with art. 2(3))
- **F26** S. 4(4) substituted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **7(2)(b)**

Modifications etc. (not altering text)

C3 S. 4(1) restricted (1.9.2000 (E.) and 1.4.2001 (W.)) by 2000 c. 21, s. 110(3) (with s. 150); S.I. 2000/2114, art. 2(3), Sch. Pt. III; S.I. 2001/1274, art. 2(1), Sch. Pt. I

Marginal Citations

5 Primary schools, secondary schools and middle schools.

- (1) In this Act "primary school" means (subject to regulations under subsection (4)) a school for providing primary education, whether or not it also provides [^{F27}part-time education suitable to the requirements of junior pupils or] further education.
- (2) In this Act "secondary school" means (subject to regulations under subsection (4)) a school for providing secondary education, whether or not it also provides further education.
- [^{F28}(3) In this Act "middle school" means a school which, in pursuance of proposals published under any of the enactments specified in subsection (3A), has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—
 - (a) have attained a specified age below 10 years and six months, and
 - (b) are under a specified age above 12 years.
- (3A) The enactments mentioned in subsection (3) are—
 - (a) in relation to England—

M2 1992 c. 13.

- (i) section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998,
- (ii) section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, and
- (iii) section 7, 10, 11 or 19 of the Education and Inspections Act 2006;
- (b) in relation to Wales,
 - [^{F29}(i)] section 28 of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998[^{F30}, and
 - (ii) section 48, 59 or 68 of the School Standards and Organisation (Wales) Act 2013]]
- (4) The Secretary of State shall make regulations for determining, or enabling him to determine, whether a middle school is to be treated for the purposes of this Act and the other enactments relating to education as a primary school or as a secondary school.
- (5) [^{F31}The powers conferred by the enactments mentioned in subsection (3) (so far as relating to the establishment of middle schools) and the powers conferred by subsection] (4) above are exercisable—
 - (a) notwithstanding anything in this Act (and in particular section 1); but
 - (b) without prejudice to the exercise of any other power conferred by this Act.

Textual Amendments

- F27 Words in s. 5(1) repealed (1.10.2002 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1
- **F28** S. 5(3)(3A) substituted for s. 5(3) (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 7(2); S.I. 2007/935, art. 7(o)
- F29 Words in s. 5(3A)(b) renumbered as s. 5(3A)(b)(i) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 17(2)(a); S.I. 2013/1800, art. 3(j)
- **F30** S. 5(3A)(b)(ii) and word inserted (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 17(2)(b); S.I. 2013/1800, art. 3(j)
- **F31** Words in s. 5(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 1(3)**; S.I. 2006/2129, art. 4

6 Nursery schools ^{F32}....

(1) A primary school is a nursery school if it is used [^{F33}wholly or] mainly for the purpose of providing education for children who have attained the age of two but are under [^{F34}compulsory school age].

.....

Textual Amendments

- **F32** Words in s. 6 title omitted (1.9.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 2(3)**; S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)
- **F33** Words in s. 6(1) inserted (1.10.2002 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), ss. **156(1)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1
- **F34** Words in s. 6(1) substituted (1.8.1998) by 1997 c. 44, s. 51(1), **Sch. 7 para. 11**; S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

F35 S. 6(2) omitted (1.9.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para.
 2(2); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505)

Compulsory education

7 Duty of parents to secure education of children of compulsory school age.

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (a) to his age, ability and aptitude, and
- (b) to any special educational needs [^{F36}(in the case of a child who is in the area of a local authority in England) or additional learning needs (in the case of a child who is in the area of a local authority in Wales)] he may have,

either by regular attendance at school or otherwise.

Textual Amendments

F36 Words in s. 7(b) inserted (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 4(2); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

8 Compulsory school age.

(1) Subsections (2) and (3) apply to determine for the purposes of any enactment whether a person is of compulsory school age.

[^{F37}(2) A person begins to be of compulsory school age—

- (a) when he attains the age of five, if he attains that age on a prescribed day, and
- (b) otherwise at the beginning of the prescribed day next following his attaining that age.]
- (3) A person ceases to be of compulsory school age at the end of the day which is the school leaving date for any calendar year—
 - (a) if he attains the age of 16 after that day but before the beginning of the school year next following,
 - (b) if he attains that age on that day, or
 - (c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age.

[^{F38}(4) The Secretary of State may by order—

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

Textual Amendments F37 S. 8(2) substituted (1.8.1998) by 1997 c. 44, s. 52(2); S.I. 1998/386, art. 2, Sch. 1 Pt.III F38 S. 8(4) substituted (1.8.1998) by 1997 c. 44, s. 52(3); S.I. 1998/386, art. 2, Sch. 1 Pt. III

Education in accordance with parental wishes

9 Pupils to be educated in accordance with parents' wishes.

In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of [^{F39}State and [^{F1}local authorities]] shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.

Textual Amendments

- **F1** 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. 7(3) (with Sch. 2 para. 7(4)(5))
- **F39** Words in s. 9 substituted (1.4.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 61** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

Changes to legislation:

Education Act 1996, Chapter I is up to date with all changes known to be in force on or before 07 May 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. View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters: Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(ba) substituted for s. 13(2)(aa)(b) by 2022 asc 1 Sch. 4 para. 8(2)
- s. 15A(3A) inserted by 2022 asc 1 Sch. 4 para. 8(3)
- s. 15B(3)(c) inserted by 2022 asc 1 Sch. 4 para. 8(4)
- s. 17A functions made exercisable concurrently by S.I. 2014/1012 art. 12(1)Sch. 2 para. 3
- s. 17A functions made exercisable concurrently by S.I. 2014/863 Sch. 2 para. 4
- s. 17A functions made exercisable concurrently by S.I. 2014/865 Sch. 2 para. 3
- s. 17A functions made exercisable concurrently by S.I. 2016/653 Sch. 3 para. 3
- s. 17A-17D inserted by 2009 c. 22 s. 45
- s. 17B-17D applied by 2009 c. 22 s. 86(8)
- s. 457(4)(i)-(iia) repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 457(4)(iii) words repealed by 2012 c. 5 Sch. 14 Pt. 1
- s. 508(4) inserted by 2022 asc 1 Sch. 4 para. 8(7)
- s. 537AA inserted by 2008 c. 25 Sch. 1 para. 8
- s. 548(7A)(7B) inserted by 2008 c. 25 Sch. 1 para. 9(5)
- s. 578(1) words repealed by 2005 c. 18 Sch. 19 Pt. 1