

Changes to legislation: Education Act 1996, SCHEDULE 35B is up to date with all changes known to be in force on or before 16 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. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 35B

Section 508B

MEANING OF “ELIGIBLE CHILD” FOR PURPOSES OF SECTION 508B

Textual Amendments

- F1** Sch. 35B inserted (1.9.2007 for the insertion of Sch. 35B para. 1 for specified purposes and paras. 2-10, 14, 15 for all purposes, 1.9.2008 in so far as not already in force) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), **Sch. 8**; S.I. 2007/1801, art. 4(k); S.I. 2008/1971, art. 2(b)

- 1 For the purposes of section 508B (travel arrangements for eligible children) an “eligible child” means a child who falls within any of paragraphs 2 to 7 or 9 to 13.

Children with special educational needs, a disability or mobility problems

- 2 A child falls within this paragraph if—
- (a) he is of compulsory school age and is any of the following—
 - a child with special educational needs;
 - a disabled child;
 - a child with mobility problems,
 - (b) he is a registered pupil at a qualifying school which is within walking distance of his home,
 - (c) no suitable arrangements have been made by the [^{F2}local authority] for enabling him to become a registered pupil at a qualifying school nearer to his home, and
 - (d) having regard to whichever of the following are relevant—
 - his special educational needs;
 - his disability;
 - his mobility problems,he cannot reasonably be expected to walk to the school mentioned in paragraph (b).

Textual Amendments

- F2** 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))

- 3 A child falls within this paragraph if—
- (a) he is of compulsory school age and is any of the following—
 - a child with special educational needs;
 - a disabled child;

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- a child with mobility problems,
- (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and
- (c) having regard to whichever of the following are relevant—
 - his special educational needs;
 - his disability;
 - his mobility problems,
 he cannot reasonably be expected to walk to that place.

Children who cannot reasonably be expected to walk because of nature of routes

- 4 A child falls within this paragraph if—
- (a) he is of compulsory school age and is a registered pupil at a qualifying school which is within walking distance of his home,
 - (b) no suitable arrangements have been made by the ^[F2]local authority] for enabling him to become a registered pupil at a qualifying school nearer to his home, and
 - (c) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to the school mentioned in paragraph (a).

Textual Amendments

F2 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\(4\)\(5\)](#))

- 5 A child falls within this paragraph if—
- (a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and
 - (b) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to that place.

Children outside walking distance where no suitable alternative arrangements made

- 6 A child falls within this paragraph if—
- (a) he is of compulsory school age and is a registered pupil at a qualifying school which is not within walking distance of his home,
 - (b) no suitable arrangements have been made by the ^[F2]local authority] for boarding accommodation for him at or near the school, and
 - (c) no suitable arrangements have been made by the ^[F2]local authority] for enabling him to become a registered pupil at a qualifying school nearer to his home.

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Textual Amendments

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- 7 A child falls within this paragraph if—
- (a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
 - (b) that place is not within walking distance of his home,
 - (c) no suitable arrangements have been made by the ^[F2]local authority] for boarding accommodation for him at or near that place, and
 - (d) no suitable arrangements have been made by the ^[F2]local authority] for enabling him to become a registered pupil at a qualifying school nearer to his home.

Textual Amendments

- F2** 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))

- 8 (1) 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, and
 - ^[F3](c) the appropriate authority for the school has made arrangements for the provision of full-time education for him otherwise than at the school or at his home during the period of exclusion,]
- paragraph 6 has effect as if the place at which ^[F4]the education is provided] were a qualifying school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).
- (2) For the purposes of sub-paragraph (1)—
- (a) “relevant school” and “appropriate authority” have the same meaning as in section 444ZA (application of section 444 to alternative educational provision), and
 - ^[F5](b) in relation to a maintained school or a pupil referral unit, references in that sub-paragraph to exclusion are references to exclusion under ^[F6]section 51A] of the Education Act 2002.]

Textual Amendments

- F3** Sch. 35B para. 8(1)(c) substituted (1.9.2012) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 52(2)**; S.I. 2012/2197, art. 2(c)
- F4** Words in Sch. 35B para. 8(1) substituted (1.9.2012) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 52(3)**; S.I. 2012/2197, art. 2(c)
- F5** Sch. 35B para. 8(2)(b) substituted (1.9.2012) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 52(4)**; S.I. 2012/2197, art. 2(c)

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F6 Words in Sch. 35B para. 8(2)(b) substituted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 1 para. 7; S.I. 2012/1087, art. 3 (with art. 4)

Children entitled to free school meals etc

- 9 A child falls within this paragraph if—
- (a) he has attained the age of 8 but not the age of 11,
 - (b) he is a registered pupil at a qualifying school which is more than two miles from his home,
 - (c) no suitable arrangements have been made by the ^[F2]local authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
 - (d) the appropriate condition is met in relation to him.

Textual Amendments

F2 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))

- 10 A child falls within this paragraph if—
- (a) he has attained the age of 8 but not the age of 11,
 - (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
 - (c) that place is more than two miles from his home, and
 - (d) the appropriate condition is met in relation to him.
- 11 A child falls within this paragraph if—
- (a) he has attained the age of 11,
 - (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than six miles, from his home,
 - (c) there are not three or more suitable qualifying schools which are nearer to his home, and
 - (d) the appropriate condition is met in relation to him.
- 12 A child falls within this paragraph if—
- (a) he has attained the age of 11,
 - (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than fifteen miles, from his home,
 - (c) his parent has expressed a wish, based on the parent's religion or belief, for him to be provided with education at that school,
 - (d) having regard to the religion or belief on which the parent's wish is based, there is no suitable qualifying school which is nearer to the child's home, and
 - (e) the appropriate condition is met in relation to him.
- 13 A child falls within this paragraph if—
- (a) he has attained the age of 11,
 - (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),

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- (c) that place is more than two miles, but not more than six miles, from his home, and
 - (d) the appropriate condition is met in relation to him.
- 14 (1) For the purposes of paragraphs 9 to 13, the appropriate condition is met in relation to a child if condition A or condition B is met.
- (2) Condition A is met if the child is within section 512ZB(4) (provision of free school lunches and milk).
- (3) Condition B is met if—
- (a) a parent of the child, with whom the child is ordinarily resident, is a person to whom working tax credit is awarded, and
 - (b) the award is at the rate which is the maximum rate for the parent's case or, in the case of an award to him jointly with another, at the rate which is the maximum rate for their case.

Meaning of “qualifying school” etc

- 15 (1) The definitions in sub-paragraphs (2) to (5) apply for the purposes of this Schedule.
- (2) “Qualifying school” in relation to a child means—
- (a) a community, foundation or voluntary school,
 - (b) a community or foundation special school,
 - (c) a school approved under section 342 (non-maintained special schools),
 - (d) a pupil referral unit,
 - (e) a maintained nursery school, or
 - (f) a city technology college, a city college for the technology of the arts^[F7], an Academy school or an alternative provision Academy].
- (3) In relation to a child with special educational needs, an independent school, other than a college or Academy falling within sub-paragraph (2)(f), is also a “qualifying school” if—
- (a) it is the only school named in the ^[F8]EHC plan maintained for the child], or
 - (b) it is one of two or more schools named in that ^[F9]plan] and of those schools it is the nearer or nearest to the child's home.
- (4) “Disabled child” means a child who has a disability for the purposes of the ^[F10]Equality Act 2010], and “disability” is to be construed accordingly.
- (5) “Walking distance” has the meaning given by section 444(5).
- (6) “Religion” and “belief” are to be read in accordance with section 509AD(3).
- (7) In the case of a child who is a registered pupil at both a pupil referral unit and at a school other than a unit, references in this Schedule to the school at which he is a registered pupil are to be read as references to the unit.]

Textual Amendments

- F7** Words in Sch. 35B para. 15(2)(f) substituted (1.4.2012) by [Education Act 2011 \(c. 21\), s. 82\(3\), Sch. 13 para. 9\(20\)](#); S.I. 2012/924, art. 2

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- F8** Words in Sch. 35B para. 15(3)(a) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 3 para. 61\(a\)](#); 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))
- F9** Word in Sch. 35B para. 15(3)(b) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 3 para. 61\(b\)](#); 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))
- F10** Words in Sch. 35B para. 15(4) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 40 (as inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), [Sch. 1 para. 5](#)) (see S.I. 2010/2317, art. 2)

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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](#)