



# Children, Schools and Families Act 2010

## 2010 CHAPTER 26

### PART 1

#### CHILDREN AND SCHOOLS

##### *Children with special educational needs etc*

#### **1 School inspections: pupils with disabilities or special educational needs**

In section 5 of EA 2005 (duty to inspect certain schools in England at prescribed intervals), after subsection (5) there is inserted—

“(5A) In reporting on how far the education provided in a mainstream school meets the needs of the range of pupils at the school, the Chief Inspector must in particular consider the needs of—

- (a) pupils who have a disability for the purposes of the Equality Act 2010;
- (b) pupils who have special educational needs.

In this subsection a “mainstream school” is a school within subsection (2)(a) or (2)(c) to (f).”

#### **Commencement Information**

**II** [S. 1](#) in force at 1.9.2010 by [S.I. 2010/1817](#), [art. 3](#)

#### **2 Right of appeal against determination by local authority not to amend statement**

After section 328 of EA 1996 (reviews of special educational needs) there is inserted—

##### **“328A Appeal against determination of local authority in England not to amend statement following review**

- (1) This section applies where a local authority in England—

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- (a) conduct a review of a statement in accordance with section 328(5)(b), and
  - (b) determine not to amend the statement.
- (2) The authority shall give written notice of the determination and of their reasons for making it to the parent of the child concerned.
  - (3) The parent may appeal to the Tribunal.
  - (4) Subsections (1A), (3), (4) and (5) of section 326 apply to an appeal under this section as they apply to an appeal under that section, but with the omission of subsection (3)(c).
  - (5) A notice under subsection (2) must inform the parent of the right of appeal and of the period within which the right may be exercised.
  - (6) A notice under subsection (2) must be given to the parent within the period of seven days beginning with the day on which the determination is made.”

#### Commencement Information

**I2** S. 2 in force at 1.9.2010 by S.I. 2010/1817, art. 3

VALID FROM 01/09/2011

#### *Exceptional provision for ill or excluded children etc*

### **3 Exceptional provision of education in short stay schools or elsewhere**

- (1) Section 19 of EA 1996 (exceptional provision of education in short stay schools or elsewhere) is amended as follows.
- (2) After subsection (1) there is inserted—
  - “(1A) In relation to England, subsection (1) does not apply in the case of a child—
    - (a) who will cease to be of compulsory school age within the next six weeks, and
    - (b) does not have any relevant examinations to complete.
 In paragraph (b) “relevant examinations” means any public examinations or other assessments for which the child has been entered.”
- (3) For subsection (3A) there is substituted—
  - “(3A) In relation to England, the education to be provided for a child in pursuance of arrangements made by a local authority under subsection (1) shall be—
    - (a) full-time education, or
    - (b) in the case of a child within subsection (3AA), education on such part-time basis as the authority consider to be in the child's best interests.
  - (3AA) A child is within this subsection if the local authority consider that, for reasons which relate to the physical or mental health of the child, it would

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not be in the child's best interests for full-time education to be provided for the child.”

(4) In subsection (3B)—

- (a) for “The education referred to in subsection (3A)” there is substituted “Regulations may provide that the education to be provided for a child in pursuance of arrangements made by a local authority in England under subsection (1) ”;
- (b) for “regulations” there is substituted “ the regulations ”.

### *Powers of governing bodies*

#### **4 Power to provide community facilities etc**

(1) In section 27 of EA 2002 (power of governing body to provide community facilities etc), after subsection (1) there is inserted—

“(1A) At least once in every school year the governing body of a maintained school in England shall consider whether, and if so how, they should exercise the power under subsection (1).”

(2) In section 50 of SSFA 1998 (effect of financial delegation), after subsection (3) there is inserted—

“(3A) In the case of a school in England—

- (a) subject to regulations under paragraph (b) below, subsection (3)(a) has effect as if amounts spent on providing facilities or services under section 27 of the Education Act 2002 (power of governing body to provide community facilities etc) were spent for purposes of the school;
- (b) regulations may impose restrictions as to the matters on which amounts may be spent under subsection (3)(a).”

(3) In subsection (4) of that section, for “In subsection (3) “purposes of the school”” there is substituted “ In the case of a school in Wales, “purposes of the school” in subsection (3) ”.

(4) In section 51A of SSFA 1998 (expenditure incurred for community purposes), in subsections (1) and (2), after “a maintained school” there is inserted “ in Wales ”.

#### **Commencement Information**

**I3** S. 4(2)(3)(4) in force at 1.4.2011 by S.I. 2010/1817, art. 4

#### **5 Power to form company to establish Academy, etc**

(1) The governing body of a maintained school in England may—

- (a) form, or participate in forming, a company to enter into [<sup>F1</sup>Academy arrangements ], and
- (b) do anything which appears to them to be necessary or expedient in connection with a proposal that [<sup>F2</sup>Academy arrangements] be entered into with a company formed (or proposed to be formed) by them under paragraph (a).

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References in this subsection to a company are to a company registered under the Companies Act 2006 as a company limited by guarantee.

- (2) The governing body of a maintained school in England—
  - (a) may be a member of a company which they have formed, or participated in forming, under subsection (1)(a), and
  - (b) may be a member of a company which is not within paragraph (a) but which is party to <sup>F3</sup>Academy arrangements ].
- (3) The power conferred by subsection (1)(b) includes, in particular, power—
  - (a) to incur expenditure;
  - (b) to enter into arrangements or agreements with any person.
- (4) This section is not to be read as limiting any powers that the governing body of a maintained school have otherwise than by virtue of this section.
- (5) In this section “maintained school” means a community, foundation or voluntary school or a community or foundation special school.

#### Textual Amendments

- F1** Words in s. 5(1)(a) substituted (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 26(2)(a)**; S.I. 2010/1937, art. 2, Sch. 1
- F2** Words in s. 5(1)(b) substituted (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 26(2)(b)**; S.I. 2010/1937, art. 2, Sch. 1
- F3** Words in s. 5(2)(b) substituted (29.7.2010) by Academies Act 2010 (c. 32), s. 19(2), **Sch. 2 para. 26(3)**; S.I. 2010/1937, art. 2, Sch. 1

#### Commencement Information

- I4** S. 5 in force at 19.7.2010 by S.I. 2010/1817, art. 2

## 6 Powers to assist etc proprietor of Academy and be a member of a foundation

- (1) Paragraph 3 of Schedule 1 to EA 2002 (powers of governing body) is amended as follows.
- (2) After sub-paragraph (2) there is inserted—
  - “(2A) The governing body of a maintained school in England (other than the governing body of a maintained nursery school) may provide advice and assistance to the proprietor of an Academy.
  - (2B) The governing body of a maintained school in England may be a member of the foundation of another maintained school in England.

In this sub-paragraph “foundation” has the meaning given by section 21(3) of the 1998 Act, except that it does not include a foundation established under that Act.”
- (3) In sub-paragraph (3)—
  - (a) in the words before paragraph (a), for “and (2)” there is substituted “, (2) and (2A) ”;
  - (b) in paragraph (f), after “sub-paragraph (2)” there is inserted “ or (2A) ”.

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### Commencement Information

**I5** S. 6 in force at 19.7.2010 by S.I. 2010/1817, art. 2

PROSPECTIVE

## 7 Power to propose new schools

After section 11 of EIA 2006 there is inserted—

### “11A Restriction on power of governing body to make proposals

- (1) The governing body of a maintained school may make proposals pursuant to a notice under section 7 or publish proposals under section 11(2) only if the governing body are for the time being designated for the purposes of this section—
  - (a) by the Secretary of State, or
  - (b) by a person authorised by the Secretary of State to designate governing bodies for those purposes.
- (2) The governing body of a maintained nursery school may not be designated for the purposes of this section.”

VALID FROM 15/04/2013

### *Local Safeguarding Children Boards*

## 8 Supply of information requested by LSCBs in England

After section 14A of CA 2004 (LSCBs in England: annual reports) there is inserted—

### “14B Supply of information requested by LSCBs

- (1) If a Local Safeguarding Children Board established under section 13 requests a person or body to supply information specified in the request to—
  - (a) the Board, or
  - (b) another person or body specified in the request,the request must be complied with if the first and second conditions are met and either the third or the fourth condition is met.
- (2) The first condition is that the request is made for the purpose of enabling or assisting the Board to perform its functions.
- (3) The second condition is that the request is made to a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of a function by the Board.

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- (4) The third condition is that the information relates to—
  - (a) the person or body to whom the request is made,
  - (b) a function or activity of that person or body, or
  - (c) a person in respect of whom a function is exercisable, or an activity is engaged in, by that person or body.
- (5) The fourth condition is that the information—
  - (a) is information requested by the Board from a person or body to whom information was supplied in compliance with another request under this section, and
  - (b) is the same as, or is derived from, information so supplied.
- (6) The information may be used by the Board, or other person or body to whom it is supplied under subsection (1), only for the purpose of enabling or assisting the Board to perform its functions.
- (7) A Local Safeguarding Children Board must have regard to any guidance given to it by the Secretary of State in connection with the exercise of its functions under this section.”

PROSPECTIVE

**F49 Supply of information requested by LSCBs in Wales**

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**Textual Amendments**

**F4** [S. 9](#) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014](#) (Consequential Amendments) Regulations 2016 (No. 413), regs. 2(1), [274](#)

VALID FROM 03/07/2013

**10 Review by Chief Inspector of performance of LSCBs in England**

After section 15 of CA 2004 (funding of LSCBs in England) there is inserted—

**“15A Review of LSCBs’ performance of functions**

- (1) The Secretary of State may by regulations make provision for the Chief Inspector to conduct a review of the performance of specified functions by a Local Safeguarding Children Board established under section 13.
- (2) The regulations may allow or require the Chief Inspector to conduct a review, or may require the Chief Inspector to do so in specified circumstances.
- (3) They may in particular make provision—
  - (a) about reports to be made on completion of a review;

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(b) requiring or facilitating the sharing or production of information for the purposes of a review.

(4) In this section—

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

“specified” means specified in regulations under this section.”

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