

# EDUCATION ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Educational Institutions: Other Provisions**

##### **Finance**

##### *Section 46: Local authorities' financial schemes*

224. Section 48 of SSFA 1998 requires each local authority to prepare and maintain a scheme which sets out the financial relationship between it and the schools it maintains. Regulations prescribe the matters which must be dealt with in local authority schemes, but do not prescribe their detailed content. Schedule 14 to SSFA 1998 allows a local authority to revise their scheme provided that they take into account any guidance given by the Secretary of State about the provisions the Secretary of State regards as appropriate for inclusion in the scheme; they consult the governing body and head teacher of every school maintained by them; and the revisions are approved by their schools forum.
225. [Section 46](#) amends Schedule 14 to SSFA 1998, enabling the Secretary of State to revise the whole or any part of a local authority scheme by giving a direction. It also requires the Secretary of State to consult the relevant local authority and such other persons as the Secretary of State thinks fit before a direction is given.

##### *Section 47: Payments in respect of dismissal, etc*

226. [Section 47](#) amends section 37 of EA 2002 which sets out how the costs of premature retirement, dismissal or securing the resignation of school staff in maintained schools are funded. Under current legislation, where a local authority incurs these costs in relation to school staff employed for community purposes, such as an adult education tutor, the costs must be recovered from the governing body of the school, unless the local authority agrees otherwise, but the costs cannot be met out of the school's budget share. This means that these costs must be met by the governing body out of grants which can be used for community purposes or other external income.
227. The amendment to section 37 provides that a local authority must still recover these costs from the governing body of a maintained school in England, but that they may be met by the governing body out of the school's budget share. This is subject to the governing body being satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement.
228. Section 4 of CSFA 2010 amended section 50 of SSFA 1998 to enable governing bodies of maintained schools to use their budget shares to finance the provision of community facilities or services under section 27 of EA 2002; this amendment came into force on 1 April 2011. Section 47 provides consistency in relation to the funding of the costs

of premature retirement, dismissal and securing the resignation of staff employed for community purposes.

***Section 48: Determination of permitted charges***

229. **Section 48** amends section 456 of EA 1996 dealing with charges which maintained schools are permitted to make for “optional extras” provided by a school. Optional extras include education outside of school hours, entry for certain public examinations, some school transport, and board and lodging provided on residential trips.
230. Section 451 of EA 1996 prohibits charges for education for registered pupils during school hours, but regulations can be made under section 451(2A) to lift this prohibition on charging for early years provision where this is for a pupil who is below compulsory school age and is additional to the hours which must be made available free of charge pursuant to the duty on local authorities to secure a certain amount of early years provision free of charge (under section 7 of CA 2006). The Government intends to make these regulations and a school governing body will then be able to charge for early years provision as an optional extra.
231. *Subsection (2)* inserts a new provision into section 456 of EA 1996 clarifying that the charges for all optional extras can also include an amount attributable to the costs relating to the buildings and accommodation used, for example, heating and lighting costs, and maintenance. Currently, under section 456(4), the charges for all optional extras can include the costs of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra, and the use of non-teaching staff or teaching staff engaged under contracts for services for the purposes of providing the optional extra.
232. *Subsection (4)* inserts a new subsection (6A) into section 456 of EA 1996. The new subsection (6A) is only relevant where the optional extra is education which is early years provision. It provides that the charges for early years provision imposed by the school may include costs attributable to teaching staff who are employees of the school and who provide the early years provision. Currently this would be prohibited by section 456(5) and only the costs attributable to any self-employed staff with whom the school has contracted could be included. This will ensure that the key costs of providing early years provision over and above that delivered free of charge under section 7 of CA 2006 for children under compulsory school age can be reflected in the charges.