
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made under the Education and Inspections Act 2006. Articles 2 to 7 contain the provisions of the Act to be commenced. Articles 2, 4 and 6 contain the provisions to be commenced in relation to England only, in respect of which the National Assembly for Wales has the power to commence in relation to Wales.

Sections 1 to 3 set out new duties relating to the education functions of local authorities. Section 1 is commenced in relation to England only. These duties relate to promoting high standards and the fulfilment of potential, diversity and choice and to considering parental representations.

Sections 7 to 32 set out a new regime in England relating to the establishment, discontinuance or alteration of schools, and Schedule 3 amends previous enactments to disapply them from England.

It is proposed that regulations to be made under section 31 of the Act will set out saving and transitional provisions in relation to proposals published before 25th May 2007 under previous enactments for the establishment, alteration, discontinuance or change of category of schools

Sections 33 and 34 set out new requirements as to foundations and as to the establishment of parent councils for certain foundation or foundation special schools.

Section 35 amends the definition of capital expenditure in respect of a voluntary aided school that applies for the purposes of Schedule 3 to the School Standards and Framework Act 1998 (“SSFA 1998”) as it applies to England.

Section 36 introduces Schedule 4 which makes amendments to the law relating to disposals and changes of use of land as contained in section 77 of SSFA 1998 and Schedule 22 to SSFA 1998.

Section 56 substitutes section 451(3) of EA 1996 to introduce a regulation making power in respect of charging for singing and musical instrument tuition.

Sections 59 to 73, Schedule 6 and Part 1 of Schedule 7 make amendments to the law in England relating to schools causing concern. The expressions “maintained school” and “eligible for intervention” are defined; a new category of eligibility, namely that of ‘requiring significant improvement’, replaces the category of ‘serious weaknesses’; the procedures for the issue of warning notices by LEAs are amended; provision is made for maintained schools to be eligible for intervention following a notice by the Chief Inspector that the school requires significant improvement or special measures; a new power is introduced enabling LEAs to direct governing bodies to take specified steps where a school is eligible for intervention; amendments are made in relation to schools causing concern; and there is a duty upon LEAs to have regard to guidance issued by the Secretary of State.

Existing provisions relating to appointment of additional governors, interim executive members, suspension of the right to a delegated budget, and power to direct closure of a school are re-enacted.

Part 2 of Schedule 7 provides that Chapter 4 of Part 1 of SSFA 1998 (Intervention in schools causing concern) will no longer apply in England but will continue to apply in Wales.

Section 74 (4) amends section 85 of the Education Act 2002 in relation to curriculum entitlements for the fourth key stage to create an entitlement for pupils at the fourth key stage who so elect to follow a course of study in science which will lead to an approved qualification or set of qualifications which will be specified in an order made by the Secretary of State by virtue of section 74 (4).

Section 76 inserts section 508A in the Education Act 1996 (“EA 1996”), which places a duty on local education authorities in England to promote sustainable home to school travel. The

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

partial commencement of section 84 commences the duty on local education authorities under section 509AD of EA 1996 to have regard to a person's religion or belief, but only in relation to their travel functions under section 508A and 509AA.

The partial commencement of section 77(1) enables the Secretary of State to make regulations modifying the application of section 508B of EA 1996 to clarify what is meant by 'home to school' travel in relation to pupils registered at more than one school, and to issue guidance under section 508D of EA 1996 in relation to the provision of home to school travel.

Commencement of sections 78 to 80 inserts section 508E and Schedule 35C of EA 1996 enabling local education authorities to make school travel schemes, makes provision for school travel schemes to be piloted, and for the school travel scheme provisions in EA 1996 to be repealed at the end of the pilot period. Section 83 amends sections 509AA to 509AC of EA 1996 and section 18 of the Learning and Skills Act 2000 to transfer certain functions from the Secretary of State to the Learning and Skills Council for England.

Sections 88 to 96 relate to school discipline, behaviour and exclusion. They establish a statutory power to enforce school discipline and more specific measures relating to excluded pupils and parental responsibility for the behaviour of children. These provisions also re-enact other existing legal provisions on the responsibilities of governing bodies for discipline and determination by the head teacher of a behaviour policy.

Sections 112 to 153, 155, and 157 to 158, Schedules 11, 12 to 14, 15 and Part 5 of Schedule 18 provide for the establishment of the Office for Standards in Education, Children's Services and Skills and a new office of Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector"). The new arrangements bring together the existing remit of HM Chief Inspector of Schools in England, the children's social care remit of the Commission for Social Care Inspection, the Children and Family Court Advisory and Support Service inspection remit of Her Majesty's Inspectorate of Court Administration and the inspection remit of the Adult Learning Inspectorate.

Section 160 gives the Chief Inspector power to investigate certain complaints about schools in order to decide whether to take any further action.

Section 164 provides for regulations that prescribe the persons and categories of persons who can exchange information about children receiving education outside school which is funded by the local authority.

Section 165 inserts a new section 85C into the Further and Higher Education Act 1992 and extends the power to use reasonable force to members of staff at institutions within the further education sector, in order to prevent a student at the institution from committing an offence, causing personal injury, damaging property or doing something that prejudices discipline at the institution.

Section 166 provides that regulations may enable the governing bodies of maintained schools to make collaboration arrangements with further education bodies, and further education bodies to make collaboration arrangements with schools and other further education bodies. Section 176 confers power on the Learning and Skills Council for England in relation to support schemes relating to education and training for 10 to 15 year olds.

Article 8 sets out transitional provisions and savings relating to the provisions of the Act that amend the law relating to schools causing concern, the law relating to disposals and changes of use of land as contained in section 77 of, and Schedule 22 to, SSFA 1998 and transport provision.