



# Children Act 1989

## 1989 CHAPTER 41

### PART XII

#### MISCELLANEOUS AND GENERAL

##### *Notification of children accommodated in certain establishments*

#### **85 Children accommodated by health authorities and local education authorities.**

(1) Where a child is provided with accommodation [<sup>F1</sup>in England] by any [<sup>F2</sup>..., Special Health Authority,]<sup>F4</sup> ... [<sup>F5</sup>National Health Service trust]<sup>F6</sup> or NHS foundation trust or by a local authority [<sup>F7</sup>in England] in the exercise of education functions] (“the accommodating authority”)—

- (a) for a consecutive period of at least three months; or
- (b) with the intention, on the part of that authority, of accommodating him for such a period,

the accommodating authority shall notify [<sup>F8</sup>the appropriate officer of] the responsible authority.

(2) Where subsection (1) applies with respect to a child, the accommodating authority shall also notify [<sup>F9</sup>the appropriate officer of] the responsible authority when they cease to accommodate the child.

[<sup>F10</sup>(2ZA) Where a child is provided with accommodation—

- (a) by a body which is not mentioned in subsection (1), and
  - (b) pursuant to arrangements made by the Secretary of State, [<sup>F11</sup>NHS England] or [<sup>F12</sup>an integrated care board] under the National Health Service Act 2006,
- subsections (1) and (2) apply in relation to the Secretary of State, [<sup>F11</sup>NHS England] or (as the case may be) [<sup>F13</sup>the integrated care board] as if it were the accommodating authority.]

[<sup>F14</sup>(2A) In a case where the child is [<sup>F15</sup>provided with accommodation in England by a local authority in England] in the exercise of education functions, subsections (1) and (2)

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apply only if the local authority providing the accommodation is different from the responsible authority.]

- (3) In this section “the responsible authority” means—
- (a) the local authority appearing to the accommodating authority to be the authority within whose area the child was ordinarily resident immediately before being accommodated; or
  - (b) where it appears to the accommodating authority that a child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.

[<sup>F16</sup>(3A) In this section and sections 86 and 86A “ the appropriate officer ” means—

- (a) in relation to a local authority in England, their director of children's services; and
- (b) in relation to a local authority in Wales, their [<sup>F17</sup>director of social services].]

- (4) Where [<sup>F18</sup>the appropriate officer of a][<sup>F19</sup>local authority in England has been notified under this section, or under section 120 of the Social Services and Well-being (Wales) Act 2014 (assessment of children accommodated by health authorities and education authorities)], [<sup>F20</sup>the local authority] shall—

- (a) take such steps as are reasonably practicable to enable them to determine whether the child’s welfare is adequately safeguarded and promoted while he is accommodated by the accommodating authority; and
- (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.

[<sup>F21</sup>(5) For the purposes of subsection (4)(b), if the child is not in the area of the local authority, they must treat him as if he were in that area.]

#### Textual Amendments

- F1** Words in s. 85(1) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **102(a)(i)**
- F2** Words in s. 85(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **102(a)(ii)**
- F3** Words in s. 85(1) substituted(1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III**, para. 118(9)(with Sch. 2 para. 6)
- F4** Words in s. 85(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 55(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-10Sch. Sch. para. 14)
- F5** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19\)](#), SIF 113:2), s. 66(1), **Sch. 9 para. 36(5)**
- F6** Words in s. 85(1) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), **Sch. 2 para. 37(10)(a)**
- F7** Words in s. 85(1) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **102(a)(iii)**
- F8** Words in s. 85(1) inserted (1.4.2011) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. **17(2)**, 44; S.I. 2010/2981, **art. 2(a)**
- F9** Words in s. 85(2) inserted (1.4.2011) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. **17(2)**, 44; S.I. 2010/2981, **art. 2(a)**
- F10** S. 85(2ZA) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 55(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-10Sch. Sch. para. 14)

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- F11** Words in s. 85 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 1(1)(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F12** Words in s. 85(2ZA)(b) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 35(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F13** Words in s. 85(2ZA) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 35(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F14** S. 85(2A) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(10)(b)**
- F15** Words in s. 85(2A) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **102(b)**
- F16** S. 85(3A) inserted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(3)**, 44; S.I. 2010/2981, **art. 2(a)**
- F17** Words in s. 85(3A)(b) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **102(c)**
- F18** Words in s. 85(4) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(4)(a)**, 44; S.I. 2010/2981, **art. 2(a)**
- F19** Words in s. 85(4) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **102(d)**
- F20** Words in s. 85(4) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(4)(b)**, 44; S.I. 2010/2981, **art. 2(a)**
- F21** S. 85(5) added (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(5)**, 44; S.I. 2010/2981, **art. 2(a)**

#### Commencement Information

- II** S. 85 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 86 [F22 Children accommodated in care homes or independent hospitals.]

- (1) Where a child is provided with accommodation [F23 in England] in any [F24 care home or independent hospital]—
- (a) for a consecutive period of at least three months; or
- (b) with the intention, on the part of the person taking the decision to accommodate him, of accommodating him for such period,
- the person carrying on [F25 the establishment in question] shall notify [F26 the appropriate officer of] the local authority within whose area [F27 the establishment] is carried on.
- (2) Where subsection (1) applies with respect to a child, the person carrying on [F28 the establishment] shall also notify [F29 the appropriate officer of] that authority when he ceases to accommodate the child in [F28 the establishment] .
- (3) Where [F30 the appropriate officer of a local authority has] been notified under this section, [F31 the local authority] shall—
- (a) take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated in [F32 the establishment in question] ; and
- (b) consider the extent to which (if at all) they should exercise any of their functions under this Act with respect to the child.
- (4) If the person carrying on any [F33 care home or independent hospital] fails, without reasonable excuse, to comply with this section he shall be guilty of an offence.

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- (5) A person authorised by a local authority [<sup>F34</sup>in England] may enter any [<sup>F24</sup>care home or independent hospital] within the authority's area for the purpose of establishing whether the requirements of this section have been complied with.
- (6) Any person who intentionally obstructs another in the exercise of the power of entry shall be guilty of an offence.
- (7) Any person exercising the power of entry shall, if so required, produce some duly authenticated document showing his authority to do so.
- (8) Any person committing an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

- F22** S. 86: sidenote substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(20)(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F23** Words in s. 86(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **103(a)**
- F24** Words in s. 86(1)(5) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 14(20)(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**); S.I. 2002/920, **art. 3(3)(d)** (with art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F25** Words in s. 86(1) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(7)(a)**, 44; S.I. 2010/2981, {art. 2(a)}
- F26** Words in s. 86(1) inserted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(7)(b)**, 44; S.I. 2010/2981, {art. 2(a)}
- F27** Words in s. 86(1) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(7)(c)**, 44; S.I. 2010/2981, {art. 2(a)}
- F28** Words in s. 86(2) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(8)(a)**, 44; S.I. 2010/2981, {art. 2(a)}
- F29** Words in s. 86(2) inserted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(8)(b)**, 44; S.I. 2010/2981, {art. 2(a)}
- F30** Words in s. 86(3) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(9)(a)**, 44; S.I. 2010/2981, {art. 2(a)}
- F31** Words in s. 86(3) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(9)(b)**, 44; S.I. 2010/2981, {art. 2(a)}
- F32** Words in s. 86(3)(a) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(9)(c)**, 44; S.I. 2010/2981, {art. 2(a)}
- F33** Words in s. 86(4) substituted (1.4.2011) by Children and Young Persons Act 2008 (c. 23), **ss. 17(10)**, 44; S.I. 2010/2981, {art. 2(a)}
- F34** Words in s. 86(5) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **103(b)**

#### Commencement Information

- I2** S. 86 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### [<sup>F35</sup>86A Visitors for children notified to local authority <sup>F36</sup> ...

- (1) This section applies if the appropriate officer of a local authority [<sup>F37</sup>in England]—

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- (a) has been notified with respect to a child under section 85(1) or 86(1) [<sup>F38cc</sup>, or under section 120(2)(a) of the Social Services and Well-being (Wales) Act 2014]; and
  - (b) has not been notified with respect to that child under section 85(2) [<sup>F39</sup>, 86(2), or under section 120(2)(b) of the Social Services and Well-being (Wales) Act 2014, as the case may be].
- (2) The local authority must, in accordance with regulations made under this section, make arrangements for the child to be visited by a representative of the authority (“a representative”).
  - (3) It is the function of a representative to provide advice and assistance to the local authority on the performance of their duties under section 85(4) or, as the case may be, 86(3).
  - (4) Regulations under this section may make provision about—
    - (a) the frequency of visits under visiting arrangements;
    - (b) circumstances in which visiting arrangements must require a child to be visited; and
    - (c) additional functions of a representative.
  - (5) Regulations under this section are to be made by the Secretary of State <sup>F40</sup> ....
  - (6) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.
  - (7) In this section “ visiting arrangements ” means arrangements made under subsection (2). ]

#### Textual Amendments

- F35** S. 86A inserted (1.1.2010 for certain purposes and 1.4.2011 otherwise) by Children and Young Persons Act 2008 (c. 23), ss. 18, 44; S.I. 2009/3354, art. 2; S.I. 2010/2981, art. 2(b)
- F36** Words in s. 86A heading omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 104(e)
- F37** Words in s. 86A(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 104(a)
- F38** Words in s. 86A(1)(a) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 104(b)
- F39** Words in s. 86A(1)(b) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 104(c)
- F40** Words in s. 86A(5) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 104(d)

#### 87 [<sup>F41</sup>Welfare of children in boarding schools and colleges.]

[<sup>F42</sup>(1) Where a school or college provides accommodation for any child, it shall be the duty of the relevant person to safeguard and promote the child’s welfare.

[ For the purposes of this section and sections 87A to 87D, a school or college provides <sup>F43</sup>(1A) accommodation for a child if—

- (a) it provides accommodation for the child on its own premises, or

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- (b) it arranges for accommodation for the child to be provided elsewhere (other than in connection with a residential trip away from the school).]
- (2) Subsection (1) does not apply in relation to a school or college which is a children's home or care home.
- (3) Where accommodation is provided for a child by any school or college the appropriate authority shall take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while [F44 accommodation for the child is provided] by the school or college.
- [ Where accommodation is provided for a child by a school or college in England, the
- <sup>F45</sup>(3A) Secretary of State may at any time (including a time when the duty under subsection (3) is suspended by virtue of section 87A) direct the Chief Inspector for England to take the steps referred to in subsection (3).
- (3B) Where accommodation is provided for a child by a school or college in Wales, the Welsh Ministers may, at any time when the duty under subsection (3) is suspended by virtue of section 87A, take the steps referred to in subsection (3).]
- (4) Where [F46 the Chief Inspector for England is] of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or [F47 college in England, he shall]—
- (a) in the case of a school other than an independent school [F48, an alternative provision Academy that is not an independent school] or a special school, notify the [F49 local authority] for the area in which the school is situated;
- (b) in the case of a special school which is maintained by a [F49 local authority], notify that authority;
- (c) in any other case, notify the Secretary of State.
- (4A) Where the National Assembly for Wales are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or college [F50 in Wales], they shall—
- (a) in the case of a school other than an independent school or a special school, notify the [F49 local authority] for the area in which the school is situated;
- (b) in the case of a special school which is maintained by a [F49 local authority], notify that authority.
- (5) Where accommodation is, or is to be, provided for a child by any school or college, a person authorised by the appropriate authority may, for the purpose of enabling that authority to discharge [F51 any of its functions] under this section, enter at any time premises which are, or are to be, premises of the school or college.]
- (6) Any person [F52 exercising] the power conferred by subsection (5) may carry out such inspection of premises, children and records as is prescribed by regulations made by the Secretary of State for the purposes of this section.
- (7) Any person exercising that power shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (8) Any person authorised by the regulations to inspect records—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
- (b) may require—

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- (i) the person by whom or on whose behalf the computer is or has been so used; or
  - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,  
to afford him such assistance as he may reasonably require.
- (9) Any person who intentionally obstructs another in the exercise of any power conferred by this section or the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- [<sup>F53</sup>(9A) Where [<sup>F54</sup>the Chief Inspector for England] or the National Assembly for Wales exercises the power conferred by subsection (5) in relation to a child, [<sup>F55</sup>that authority must] publish a report on whether the child's welfare is adequately safeguarded and promoted while [<sup>F56</sup>accommodation for the child is provided] by the school or college.
- (9B) Where [<sup>F57</sup>the Chief Inspector for England] or the National Assembly for Wales publishes a report under this section, it must—
  - (a) send a copy of the report to the school or college concerned; and
  - (b) make copies of the report available for inspection at its offices by any person at any reasonable time.
- (9C) Any person who requests a copy of a report published under this section is entitled to have one on payment of such reasonable fee (if any) as [<sup>F58</sup>the Chief Inspector for England] or the National Assembly for Wales (as the case may be) considers appropriate.]
- [<sup>F59</sup>(10) In this section and sections 87A to 87D—
  - “ the 1992 Act ” means the <sup>M1</sup> Further and Higher Education Act 1992;
  - “ appropriate authority ” means—
    - (a) in relation to England, [<sup>F60</sup>the Chief Inspector for England];
    - (b) in relation to Wales, the National Assembly for Wales;
  - [<sup>F61</sup>“ the Chief Inspector for England ” means Her Majesty's Chief Inspector of Education, Children's Services and Skills;]
  - “ college ” means an institution within the further education sector as defined in section 91 of the 1992 Act [<sup>F62</sup> or a 16 to 19 Academy ] ;
  - <sup>F63</sup> .....
  - “ further education corporation ” has the same meaning as in the 1992 Act;
  - [<sup>F49</sup>local authority] and “proprietor” have the same meanings as in the <sup>M2</sup> Education Act 1996
  - [<sup>F64</sup>“sixth form college corporation” has the same meaning as in the 1992 Act.]
- (11) In this section and sections 87A and 87D “ relevant person ” means—
  - (a) in relation to an independent school [<sup>F65</sup>or an alternative provision Academy that is not an independent school], the proprietor of the school;
  - (b) in relation to any other school, or an institution designated under section 28 of the 1992 Act, the governing body of the school or institution;
  - (c) in relation to an institution conducted by a further education corporation [<sup>F66</sup> or sixth form college corporation], the corporation.
  - [<sup>F67</sup>(d) in relation to a 16 to 19 Academy, the proprietor of the Academy.]

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- (12) Where a person other than the proprietor of an independent school [<sup>F68</sup> or an alternative provision Academy that is not an independent school] is responsible for conducting the school, references in this section to the relevant person include references to the person so responsible.]

### Textual Amendments

- F41** S. 87: sidenote substituted (1.4.2002 for E.) by 2000 c. 14, s. 116, **Sch. 4 para. 14(21)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**)
- F42** S. 87(1)-(5) substituted (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and 1.2.2003 (W.)) by 2000 c. 14, ss. 105(2), 122; S.I. 2001/3852, **art. 3(3)(a)(iii)(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**)); S.I. 2003/152, **art. 2(2)**
- F43** S. 87(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(a)**, 82(3); S.I. 2012/84, **art. 3**
- F44** Words in s. 87(3) substituted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(b)**, 82(3); S.I. 2012/84, **art. 3**
- F45** S. 87(3A)(3B) inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(c)**, 82(3); S.I. 2012/84, **art. 3**
- F46** Words in s. 87(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(2)(a)**; S.I. 2007/935, **art. 5(gg)**
- F47** Words in s. 87(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(2)(b)**; S.I. 2007/935, **art. 5(gg)**
- F48** Words in s. 87(4)(a) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), **art. 1, Sch. para. 2(a)** (with art. 3)
- F49** Words in s. 87(4)(4A)(10) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 37(11)**
- F50** Words in s. 87(4A) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(3)**; S.I. 2007/935, **art. 5(gg)**
- F51** Words in s. 87(5) substituted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(d)**, 82(3); S.I. 2012/84, **art. 3**
- F52** Words in s. 87(6) substituted (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and 1.2.2003 (W.)) by 2000 c. 14, ss. 105(3), 122; S.I. 2001/3852, **art. 3(3)(a)(iii)(7)(h)** (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, **art. 2** (with art. 4); S.I. 2005/3397, **art. 2**)); S.I. 2003/152, **art. 2(2)**
- F53** S. 87(9A)-(9C) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 111**; S.I. 2004/759, **art. 7**; S.I. 2004/873, **art. 2(e)**
- F54** Words in s. 87(9A) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F55** Words in s. 87(9A) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F56** Words in s. 87(9A) substituted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(2)(e)**, 82(3); S.I. 2012/84, **art. 3**
- F57** Words in s. 87(9B) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F58** Words in s. 87(9C) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(4)**; S.I. 2007/935, **art. 5(gg)**
- F59** S. 87(10)(11)(12) substituted for s. 87(10) (20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force and 1.2.2003 (W.)) by 2000 c. 14, ss. 105(4), 122; S.I. 2001/3852,



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art. 3(3)(a)(iii)(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

**F60** Words in s. 87(10) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(5)(a); S.I. 2007/935, art. 5(gg)**

**F61** S. 87(10): definition of "the Chief Inspector for England" inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 16(5)(b); S.I. 2007/935, art. 5(gg)**

**F62** Words in s. 87(10) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 6(4)(a); S.I. 2012/924, art. 2**

**F63** S. 87(10): definition of "the Commission" repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, Sch. 14 para. 16(5)(c), **Sch. 18 Pt. 5; S.I. 2007/935, art. 5(gg)(ii)**

**F64** Words in s. 87(10) 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. 2(1)** {Sch. 1 para. 90(a)}

**F65** Words in s. 87(11)(a) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), art. 1, **Sch. para. 2(b)** (with art. 3)

**F66** Words in s. 87(11)(c) 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. 2(1)** {Sch. 1 para. 90(b)}

**F67** S. 87(11)(d) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 13 para. 6(4)(b); S.I. 2012/924, art. 2**

**F68** Words in s. 87(12) inserted (1.4.2012) by The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 (S.I. 2012/976), art. 1, **Sch. para. 2(c)** (with art. 3)

#### Modifications etc. (not altering text)

**C1** S. 87: transfer of functions (1.4.2004 for E.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. **110**; S.I. 2004/759, **art. 4(2)(a)**

S. 87: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. **148(3)**, 188; S.I. 2007/935, **art. 5(u)**

#### Commencement Information

**I3** S. 87 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

**M1** 1992 c. 13.

**M2** 1996 c. 56.

### [<sup>F69</sup> 87A Suspension of duty under section 87(3).

(1) The Secretary of State may appoint a person to be an inspector for the purposes of this section if—

- (a) that person already acts as an inspector for other purposes in relation to schools or colleges to which section 87(1) applies, and
- (b) the Secretary of State is satisfied that the person is an appropriate person to determine whether the welfare of children provided with accommodation by such schools or colleges is adequately safeguarded and promoted while [<sup>F70</sup>accommodation for the children is provided] by them.

(2) Where—

- (a) the relevant person enters into an agreement in writing with a person appointed under subsection (1),

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- (b) the agreement provides for the person so appointed to have in relation to the school or college the function of determining whether section 87(1) is being complied with, and
  - (c) the appropriate authority receive from the person mentioned in paragraph (b) (“the inspector”) notice in writing that the agreement has come into effect, the appropriate authority’s duty under section 87(3) in relation to the school or college shall be suspended.
- (3) Where the appropriate authority’s duty under section 87(3) in relation to any school or college is suspended under this section, it shall cease to be so suspended if the appropriate authority receive—
  - (a) a notice under subsection (4) relating to the inspector, or
  - (b) a notice under subsection (5) relating to the relevant agreement.
- (4) The Secretary of State shall terminate a person’s appointment under subsection (1) if—
  - (a) that person so requests, or
  - (b) the Secretary of State ceases, in relation to that person, to be satisfied that he is such a person as is mentioned in paragraph (b) of that subsection, and shall give notice of the termination of that person’s appointment to the appropriate authority.
- <sup>F71</sup>(4A) [ The Secretary of State may by regulations specify matters that must be taken into account in deciding whether to appoint a person to be an inspector for the purposes of this section in relation to schools or colleges in England, or to terminate the appointment of such a person under subsection (4)(b).]
- (5) Where—
  - (a) the appropriate authority’s duty under section 87(3) in relation to any school or college is suspended under this section, and
  - (b) the relevant agreement ceases to have effect,
 the inspector shall give to the appropriate authority notice in writing of the fact that it has ceased to have effect.
- (6) In this section references to the relevant agreement, in relation to the suspension of the appropriate authority’s duty under section 87(3) as regards any school or college, are to the agreement by virtue of which the appropriate authority’s duty under that provision as regards that school or college is suspended.]

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#### Textual Amendments

- F69** S. 87A substituted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(1), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, art. 2(2)
- F70** Words in s. 87A(1)(b) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 43(3)(a), 82(3); S.I. 2012/84, art. 3
- F71** S. 87A(4A) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 43(3)(b), 82(3); S.I. 2012/84, art. 3
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#### Modifications etc. (not altering text)

- C2** S. 87A: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 148(3), 188; S.I. 2007/935, art. 5(u)

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<sup>F72</sup> [ **87B Duties of inspectors under section 87A.**

- (1) The Secretary of State may impose on a person appointed under section 87A(1) (“an authorised inspector”) such requirements relating to, or in connection with, the carrying out under substitution agreements of the function mentioned in section 87A(2)(b) as the Secretary of State thinks fit.
- (2) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that there has been a failure to comply with section 87(1) in the case of a child provided with accommodation by the school [<sup>F73</sup>or college] to which the agreement relates, the inspector shall give notice of that fact
  - <sup>F74</sup>(a) in the case of a school other than an independent school [<sup>F75</sup>, an alternative provision Academy that is not an independent school] or a special school, to the [<sup>F76</sup>local authority] for the area in which the school is situated;
  - (b) in the case of a special school which is maintained by a [<sup>F76</sup>local authority], to that authority;
  - (c) in any other case, to the Secretary of State].
- (3) Where, in the course of carrying out under a substitution agreement the function mentioned in section 87A(2)(b), it appears to an authorised inspector that a child provided with accommodation by the school [<sup>F77</sup>or college] to which the agreement relates is suffering, or is likely to suffer, significant harm, the inspector shall—
  - (a) give notice of that fact to the local authority in whose area the school [<sup>F77</sup>or college] is situated, and
  - (b) where the inspector is required to make inspection reports to the Secretary of State, supply that local authority with a copy of the latest inspection report to have been made by the inspector to the Secretary of State in relation to the school [<sup>F77</sup>or college].
- <sup>F78</sup>(4) In this section “substitution agreement” means an agreement by virtue of which the duty of the appropriate authority under section 87(3) in relation to a school or college is suspended.]

**Textual Amendments**

- F72** Ss. 87A, 87B inserted (1.1.1996) by 1995 c. 40, s. 38: S.I. 1995/2835, **art. 2**
- F73** Words in s. 87B(2) inserted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(a), 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in **Sch. 1** of the commencing S.I. (as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2, 3**; S.I. 2002/3210, **art. 2** (with **art. 4**); S.I. 2005/3397, **art. 2**); S.I. 2003/152, **art. 2(2)**)
- F74** S. 87B(2)(a)(b)(c) substituted for the words “to the Secretary of State” in s. 87B(2) (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(b), 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in **Sch. 1** of the commencing S.I. (as amended by S.I. 2001/4150, **art. 5**; S.I. 2002/1493, **art. 5**; S.I. 2002/1790, **art. 2**; S.I. 2002/2001, **arts. 2, 3**; S.I. 2002/3210, **art. 2** (with **art. 4**); S.I. 2005/3397, **art. 2**); S.I. 2003/152, **art. 2(2)**)
- F75** Words in s. 87B(2)(a) inserted (1.4.2012) by **The Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012** (S.I. 2012/976), **art. 1, Sch. para. 3** (with **art. 3**)
- F76** Words in s. 87B(2) substituted (5.5.2010) by **The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010** (S.I. 2010/1158), **arts. 1, 5(1), Sch. 2 para. 37(12)**
- F77** Words in s. 87B(2)(3)(a)(b) inserted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(a), 122; S.I. 2001/3852, **art. 3(7)(h)** (subject to transitional provision in **Sch. 1** of the commencing S.I. (as

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amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2); S.I. 2003/152, **art. 2(2)**

**F78** S. 87B(4) substituted (1.4.2002 (E.) and 1.2.2003 (W.)) by 2000 c. 14, ss. 106(2)(c), 122; S.I. 2001/3852, art. 3(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2)); S.I. 2003/152, **art. 2(2)**

**Modifications etc. (not altering text)**

**C3** S. 87B: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 148(3), 188**; S.I. 2007/935, **art. 5(u)**

**[<sup>F79</sup> 87BA Quality assurance of inspectors under section 87A**

- (1) The Chief Inspector for England must, at intervals of no more than a year, prepare and send to the Secretary of State a report about inspectors who are appointed under section 87A in relation to schools or colleges in England.
- (2) In preparing a report under this section the Chief Inspector for England must have regard to such matters as the Secretary of State may direct.
- (3) The Secretary of State may in particular give directions about—
  - (a) matters to be taken into account in preparing a report, and
  - (b) the form and contents of a report.]

**Textual Amendments**

**F79** S. 87BA inserted (1.2.2012) by Education Act 2011 (c. 21), **ss. 43(4), 82(3)**; S.I. 2012/84, **art. 3**

**[<sup>F80</sup> 87C Boarding schools: national minimum standards.**

- (1) The Secretary of State may prepare and publish statements of national minimum standards for safeguarding and promoting the welfare of children for whom accommodation is provided [<sup>F81</sup>by] a school or college.
- (2) The Secretary of State shall keep the standards set out in the statements under review and may publish amended statements whenever he considers it appropriate to do so.
- (3) Before issuing a statement, or an amended statement which in the opinion of the Secretary of State effects a substantial change in the standards, the Secretary of State shall consult any persons he considers appropriate.
- (4) The standards shall be taken into account—
  - (a) in the making by the appropriate authority of any determination under section 87(4) or (4A);
  - (b) in the making by a person appointed under section 87A(1) of any determination under section 87B(2); and
  - (c) in any proceedings under any other enactment in which it is alleged that the person has failed to comply with section 87(1).]

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#### Textual Amendments

- F80** S. 87C inserted (1.7.2001 (W.) and 20.11.2001 (E.) for specified purposes and 1.4.2002 (E.) in so far as not already in force) by 2000 c. 14, s. 107; S.I. 2001/2190, art. 2, Sch.; S.I. 2001/3852, art. 3(3)(d)(ii)(7)(h)(subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2))
- F81** Word in s. 87C(1) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 43(5), 82(3); S.I. 2012/84, art. 3

#### Modifications etc. (not altering text)

- C4** S. 87C: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 148(3), 188; S.I. 2007/935, art. 5(u)

### [<sup>F82</sup> 87D Annual fee for boarding school inspections.

- (1) Regulations under subsection (2) may be made in relation to any school or college in respect of which the appropriate authority is required to take steps under section 87(3).
- (2) The Secretary of State may by regulations require the relevant person to pay the appropriate authority an annual fee of such amount, and within such time, as the regulations may specify.
- (3) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.]

#### Textual Amendments

- F82** S. 87D inserted (1.7.2001 (W.) and 20.11.2001 for specified purposes otherwise 1.4.2002 (E.)) by 2000 c. 14, s. 108; S.I. 2001/2090, art. 2(1), Sch.; S.I. 2001/3852, art. 3(3)(a)(iii)(7)(h) (subject to transitional provision in Sch. 1 of the commencing S.I. (as amended by S.I. 2001/4150, art. 5; S.I. 2002/1493, art. 5; S.I. 2002/1790, art. 2; S.I. 2002/2001, arts. 2, 3; S.I. 2002/3210, art. 2 (with art. 4); S.I. 2005/3397, art. 2))

#### Modifications etc. (not altering text)

- C5** S. 87D: transfer of functions (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 148(3), 188; S.I. 2007/935, art. 5(u)

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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. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 8(4)(k) inserted by 2021 c. 17 s. 52(1)
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)