



# Education Act 2002

## 2002 CHAPTER 32

### PART 9

#### CHILDCARE AND NURSERY EDUCATION

##### *Childcare*

#### 149 Duties of [<sup>F1</sup>local authority] in respect of childcare

<sup>F2</sup>(1) .....

(2) Section 19(1) and (2) of the Children Act 1989 (c. 41) (duty of local authorities in England and Wales to conduct periodic reviews of child care) shall cease to have effect.

#### Textual Amendments

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [art. 1](#), [Sch. 2 para. 11\(2\)](#)

**F2** S. 149(1) repealed (1.4.2007 for E.) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 3 Pt. 2](#); S.I. 2007/1019, [art. 3](#)

#### Commencement Information

**I1** S. 149 wholly in force at 31.3.2003; s. 149 not in force at Royal Assent, see s. 216; s. 149 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#)) and in force for W. at 31.3.2003 by [S.I. 2002/3185](#), [art. 5](#), [Sch. Pt. II](#)

**I2** S. 149 in force at 31.3.2003 for W. by [S.I. 2002/3185](#), [art. 5](#), [Sch. Pt. II](#)

#### 150 Early years development and childcare partnerships and plans

<sup>F3</sup>(1) .....

<sup>F4</sup>(2) .....

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<sup>F4</sup>(3) .....

<sup>F4</sup>(4) .....

- (5) Early years development partnerships are renamed “early years development and childcare partnerships” <sup>F5</sup>...; accordingly in Part 5 of that Act after “early years development” (in each place it occurs) there is inserted “ and childcare ”.

#### Textual Amendments

- F3** S. 150(1) repealed (1.9.2008 for E.) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 3 Pt. 2**; S.I. 2008/2261, art. 2 (with [Sch. 1](#))
- F4** S. 150(2)-(4) repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **Sch. 5 Pt. 1**; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 3(b)
- F5** Words in s. 150(5) repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **Sch. 5 Pt. 1**; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 3(b)

#### Commencement Information

- I3** S. 150 wholly in force at 31.3.2003; s. 150 not in force at Royal Assent, see s. 216; s. 150 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4](#), [Sch.](#)) and in force for W. at 31.3.2003 by [S.I. 2002/3185](#), **art. 5**, **Sch. Pt. II**
- I4** S. 150 in force at 31.3.2003 for W. by [S.I. 2002/3185](#), **art. 5**, **Sch. Pt. II**

## 151 Childcare functions of Her Majesty’s Chief Inspector and National Assembly for Wales

- (1) The Secretary of State may by order confer on [<sup>F6</sup>Her Majesty's Chief Inspector of Education, Children's Services and Skills] such additional functions specified in the order as the Secretary of State considers necessary or expedient to enable Her Majesty’s Chief Inspector to approve persons in accordance with criteria determined by or under a scheme made under the Tax Credits Act 2002 (c. 21) for the approval of persons who are to be regarded as providing child care for the purposes of working tax credit.
- (2) The National Assembly for Wales shall have any additional function specified in an order made by it which it considers necessary or expedient to enable it to approve persons as mentioned in subsection (1); but the order may only specify a function corresponding to a function which, by virtue of that subsection, is exercisable by [<sup>F7</sup>Her Majesty's Chief Inspector of Education, Children's Services and Skills] .

#### Textual Amendments

- F6** Words in s. 151(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 72**; S.I. 2007/935, art. 5(gg)
- F7** Words in s. 151(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 14 para. 72**; S.I. 2007/935, art. 5(gg)

#### Commencement Information

- I5** S. 151(1) in force at 1.10.2002 for E. by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4](#), [Sch.](#));
- I6** S. 151(1) in force at 2.1.2008 for W. by [S.I. 2007/3611](#), **art. 4(1)**, **Sch. Pt. 1**

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## 152 Regulation of child minding and day care

Schedule 13 (which makes provision about the regulation of child minding and day care) shall have effect.

### Commencement Information

- I7** S. 152 in force at 2.9.2002 for specified purposes for E. by [S.I. 2002/2002, art. 4](#)  
S. 152 in force at 1.10.2002 for specified purposes for E. by [S.I. 2002/2439, art. 3](#) (with transitional provisions and savings in [art. 4, Sch.](#));  
S. 152 in force at 19.12.2002 for specified purposes for W. by [S.I. 2002/3185, art. 4, Sch. Pt. I](#)
- I8** S. 152 in force at 2.1.2008 for W. so far as not already in force by [S.I. 2007/3611, art. 4\(1\), Sch. Pt. 1](#)

### *Nursery education*

## 153 Powers of <sup>F1</sup>local authority] in respect of funded nursery education

- (1) This section applies where a <sup>F1</sup>local authority]<sup>F8</sup> in Wales], in pursuance of the duty imposed on them by section 118 of the School Standards and Framework Act 1998 (c. 31) (duty of <sup>F1</sup>local authority] as respects availability of nursery education), makes arrangements with a person (other than the governing body of a maintained school) for the provision by that person of nursery education in consideration of financial assistance provided by the authority under the arrangements.
- (2) The <sup>F1</sup>local authority]—
- (a) must, in making the arrangements, have regard to any guidance given from time to time by <sup>F9</sup>... the National Assembly for Wales, as to provision to be made in such arrangements in respect of the requirements to be met by the provider of the nursery education, and
- <sup>F10</sup>(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and]
- (b) must exercise their functions with a view to securing that the provider meets any requirements imposed on him by the arrangements.
- (3) Subject to any guidance given under subsection (2)(a), the requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the <sup>F1</sup>local authority] under the arrangements.
- (4) In this section—
- “maintained school” means a community, foundation or voluntary school, a community <sup>F11</sup>... special school or a maintained nursery school;
- “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), art. 1, Sch. 2 para. 11\(2\)](#)

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- F8** Words in s. 153(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 41(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F9** Words in s. 153(2)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 41(b), **Sch. 3 Pt. 2**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F10** S. 153(2)(ab) inserted (1.9.2021) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 9(2)**; S.I. 2021/373, art. 8(j)(xxi)
- F11** Words in s. 153(4) omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(8)**; S.I. 2013/1800, art. 3(j)

#### Commencement Information

- I9** S. 153 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, art. 4

## <sup>F12</sup> 154 Establishment or alteration of maintained nursery schools

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#### Textual Amendments

- F12** S. 154 omitted (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), **Sch. 5 para. 21(9)**; S.I. 2013/1800, art. 3(j)

## 155 Inspection of nursery education

Schedule 14 (which makes provision about the inspection of nursery education) shall have effect.

#### Commencement Information

- I10** S. 155 partly in force; s. 155 not in force at Royal Assent, see s. 216; s. 155 in force for certain purposes for E. at 2.9.2002 by S.I. 2002/2002, art. 4; s. 155 in force for certain further purposes for E. at 1.10.2002 by S.I. 2002/2439, art. 3 (with transitional provisions and savings in art. 4, Sch.)
- I11** S. 155 in force at 1.9.2004 for W. by S.I. 2004/1728, art. 5, **Sch. Pt. 2**

## 156 Meaning of “nursery school” and “primary education”

- (1) In section 6(1) of the Education Act 1996 (c. 56) (meaning of “nursery school”), after “used” there is inserted “wholly or”.
- (2) For section 2(1) of that Act there is substituted—
- “(1) In this Act “primary education” means—
- (a) full-time or part-time education suitable to the requirements of children who have attained the age of two but are under compulsory school age;
  - (b) full-time education suitable to the requirements of junior pupils of compulsory school age who have not attained the age of 10 years and six months; and
  - (c) full-time education suitable to the requirements of junior pupils who have attained the age of 10 years and six months and

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whom it is expedient to educate together with junior pupils within paragraph (b).”

**Commencement Information**

- I12** S. 156 not in force at Royal Assent, see s. 216; s. 156 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I13** S. 156 in force at 31.3.2004 for W. by [S.I. 2004/912](#), [art. 4](#), [Sch. Pt. 1](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by [S.I. 2004/571 Sch.](#)
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by [S.I. 2005/2570 art. 2](#)

**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. 27(1A) inserted by [2010 c. 26 s. 4\(1\)](#)
- s. 29(2A)-(2D) inserted by [2009 c. 22 s. 260\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by [2008 c. 25 s. 157](#)
- s. 8585A substituted for s. 85 by [2006 c. 40 s. 74\(1\)](#)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by [2011 c. 21 s. 31\(2\)](#)
- s. 85A(5) words substituted by [2009 c. 22 Sch. 12 para. 34](#)
- s. 86(1) s. 86 renumbered as s. 86(1) by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 86(2) inserted by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 88(2)-(7) inserted by [2006 c. 40 s. 74\(3\)](#)
- s. 88(7) repealed by [S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by [S.I. 2010/1158 Sch. 2 para. 11\(10\)\(b\)](#)
- s. 210A inserted by [2008 c. 25 Sch. 1 para. 79](#)