



Education and Skills Act 2008

2008 CHAPTER 25

PART 4

REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

CHAPTER 1

INDEPENDENT EDUCATIONAL INSTITUTIONS IN ENGLAND

Supplementary

134 Proceedings for offences

No proceedings for an offence under this Chapter may be instituted except by or with the consent of the Secretary of State.

Commencement Information

II S. 134 in force at 12.10.2009 by S.I. 2009/1606, art. 4

135 Offences by bodies corporate

- (1) Where an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) any director, manager, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity,
- that person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

Changes to legislation: *Education and Skills Act 2008, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to a director of a body corporate.

Commencement Information

I2 S. 135 in force at 12.10.2009 by [S.I. 2009/1606](#), [art. 4](#)

136 Offences by unincorporated bodies

- (1) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (2) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.
- (3) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) apply as they do in relation to a body corporate.
- (4) Where an offence under this Chapter committed by an unincorporated body other than a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that person (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

Commencement Information

I3 S. 136 in force at 12.10.2009 by [S.I. 2009/1606](#), [art. 4](#)

137 Service of notice etc

For the purposes of this Chapter, any notice, order or other document required to be given to or served on the proprietor of a registered independent educational institution may be given to or served on the proprietor by delivering it to the registered address of the institution.

Commencement Information

I4 S. 137 in force at 1.9.2009 in so far as not already in force by [S.I. 2009/1606](#), [art. 3](#) (with [art. 5](#)) (which transitional provisions in [art. 5](#) are revoked (22.12.2014) by [S.I. 2014/3364](#), [art. 3\(3\)](#), Sch.)

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138 Interpretation of Chapter

(1) In this Chapter—

“an action plan” has the meaning given by section 114(4);

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

“early years provision” has the meaning given by section 96(2) of the Childcare Act 2006 (c. 21);

“independent educational institution standards” has the meaning given by section 94;

“an independent inspectorate” has the meaning given by section 106;

“a material change”, in relation to an independent educational institution, has the meaning given by section 101;

“proprietor”, in relation to an institution, means the person or body of persons responsible for the management of the institution;

“the register” means the register of independent educational institutions in England (see section 95);

“registered” means entered in the register;

“relevant restriction” has the meaning given by section 117;

“student” means—

(a) in relation to an independent school, a pupil (for the meaning of “pupil” see section 3 of the Education Act 1996 (c. 56));

(b) in relation to an institution within section 92(1)(b), a person for whom the institution provides part-time education within the meaning of that provision or full-time education;

“the Tribunal” has the meaning given by section 124(5).

(2) In section 98 the reference to the proprietor of an independent educational institution includes the proprietor of an institution that it is proposed should become an independent educational institution (and accordingly the information required by subsection (3) of that section, in the case of such a proprietor, is information about the institution as it is proposed to be).

Commencement Information

I5 S. 138(1) in force at 1.9.2009 for specified purposes by [S.I. 2009/1606, art. 3](#)

I6 S. 138(1) in force at 12.10.2009 for specified purposes by [S.I. 2009/1606, art. 4](#)

I7 S. 138(1) in force at 1.1.2011 for specified purposes by [S.I. 2010/2906, art. 2\(e\)](#) (with [art. 3\(3\)](#)) (which transitional provisions in art. 3 are revoked (22.12.2014) by [S.I. 2014/3364, art. 3\(3\), Sch.](#))

I8 [S. 138\(1\)](#) in force at 8.9.2014 for specified purposes by [S.I. 2014/2379, art. 2\(g\)](#) (with [art. 3\(1\)](#)) (which transitional provisions in art. 3 are revoked (22.12.2014) by [S.I. 2014/3364, art. 3\(3\), Sch.](#))

I9 [S. 138\(1\)](#) in force at 5.1.2015 in so far as not already in force by [S.I. 2014/3364, art. 2\(v\)](#)

I10 [S. 138\(2\)](#) in force at 5.1.2015 by [S.I. 2014/3364, art. 2\(v\)](#)

Changes to legislation:

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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. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)