



Education Act 2002

2002 CHAPTER 32

PART 1

PROVISION FOR NEW LEGAL FRAMEWORKS

CHAPTER 1

POWERS TO FACILITATE INNOVATION

1 Purpose and interpretation of Chapter 1

- (1) The purpose of this Chapter is to facilitate the implementation by qualifying bodies of innovative projects that may—
 - (a) in the opinion of the Secretary of State, contribute to the raising of the educational standards achieved by children in England, or
 - (b) in the opinion of the National Assembly for Wales, contribute to the raising of the educational standards achieved by children in Wales.
- (2) In forming an opinion as to whether a project may contribute to the raising of the educational standards achieved by children in England or Wales, the Secretary of State or the National Assembly for Wales shall—
 - (a) have regard to the need for the curriculum for any school affected by the project to be a balanced and broadly based curriculum which promotes the spiritual, moral, cultural, mental and physical development of children and of society, and
 - (b) consider the likely effect of the project on all the children who may be affected by it.
- (3) In this Chapter—
 - “the Chief Inspector” means—
 - (a) in relation to England, Her Majesty’s Chief Inspector of Schools in England, and

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- (b) in relation to Wales, Her Majesty’s Chief Inspector of Education and Training in Wales;
“children” means persons under the age of nineteen;
“education legislation” means—
 - (a) the Education Acts (as defined by section 578 of the Education Act 1996 (c. 56)),
 - (b) the Learning and Skills Act 2000 (c. 21), and
 - (c) any subordinate legislation made under any of those Acts;
“qualifying body” means—
 - (a) a local education authority,
 - (b) an Education Action Forum,
 - (c) the governing body of a qualifying school, or
 - (d) the proprietor of any special school that is not maintained by a local education authority but is for the time being approved by the Secretary of State or the National Assembly for Wales under section 342 of the Education Act 1996;
“qualifying school” means—
 - (a) a community, foundation or voluntary school or a community or foundation special school,
 - (b) a maintained nursery school,
 - (c) a city technology college,
 - (d) a city college for the technology of the arts, or
 - (e) an Academy;
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

2 **Power to suspend statutory requirements etc.**

- (1) On the application of one or more qualifying bodies (“the applicant”), the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may for the purpose of this Chapter by order make provision—
 - (a) conferring on the applicant exemption from any requirement imposed by education legislation;
 - (b) relaxing any such requirement in its application to the applicant;
 - (c) enabling the applicant to exercise any function conferred by education legislation on any other qualifying body (either concurrently with or in place of that other body);
 - (d) making such modifications of any provision of education legislation, in its application to the applicant or any other qualifying body, as are in the opinion of the Secretary of State or the Assembly consequential on any provision made by virtue of any of paragraphs (a) to (c).
- (2) An order under this section shall have effect during a period specified in the order which, subject to section 3(2), must not exceed three years.
- (3) Before making an order under this section, the Secretary of State or the National Assembly shall, if he or it considers it appropriate to do so, consult the Chief Inspector.
- (4) No order under this section which relates to sections 119 to 129 may be made by the National Assembly for Wales without the consent of the Secretary of State.

- (5) The Secretary of State or the National Assembly for Wales shall refuse an application for an order under this section if it appears to the Secretary of State or the Assembly that the proposed order would be likely to have a detrimental effect on the education of children with special educational needs.
- (6) The Secretary of State or the National Assembly for Wales may from time to time give guidance as to the matters which the Secretary of State or the Assembly will take into account in determining whether to grant applications for orders under this section.
- (7) No order under this section, except an amending or revoking order made by virtue of section 3, may be made after the end of the period of four years beginning with the commencement date.
- (8) In subsection (7) “the commencement date” means—
 - (a) in relation to an order made by the Secretary of State, the day on which this section comes into force in relation to England, and
 - (b) in relation to an order made by the National Assembly for Wales, the day on which this section comes into force in relation to Wales.
- (9) The effect of an order under this section is to be disregarded in determining for the purposes of section 1 of the Regulatory Reform Act 2001 (c. 6) (power by order to make provision reforming law which imposes burdens) whether any provision of an Act falls within subsection (4)(b) of that section (provisions amended by subordinate legislation within previous two years).

3 Variation or revocation of orders under section 2

- (1) The power conferred on the Secretary of State and the National Assembly for Wales by section 2 includes—
 - (a) power by a further order made under that section on an application made for the purposes of that section by one or more qualifying bodies, to amend any order previously made under that section so as to extend—
 - (i) the requirements or functions in relation to which the order applies,
 - (ii) the qualifying bodies to which it applies, or
 - (iii) subject to subsection (2), the period during which it has effect, and
 - (b) power by a further order under that section, which may be made without any application from a qualifying body, to revoke any order previously made under that section.
- (2) An order made under section 2 by virtue of subsection (1)(a)(iii) of this section may, on one occasion only, extend the period for which a previous order under that section has effect by a period of not more than three years from the end of the period originally specified in the previous order.

4 Applications for orders under section 2

- (1) An application for the purposes of section 2 must be in such form, and contain such information, as may be required by the Secretary of State or, as the case may be, the National Assembly for Wales.
- (2) Before making such an application, the qualifying body shall—

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- (a) in the case of an Education Action Forum, consult each local education authority by whom any participating school, as defined by section 10(6)(b) of the School Standards and Framework Act 1998 (c. 31), is maintained,
 - (b) in the case of the governing body of a school maintained by a local education authority, consult that authority, and
 - (c) in any case, consult such persons (or other persons) as appear to the qualifying body to be appropriate, having regard to any guidance given from time to time by the Secretary of State or, as the case may be, the National Assembly for Wales.
- (3) The Secretary of State or the National Assembly for Wales may with the consent of the applicant include in an order under section 2 provisions different from those requested in the application.

5 Annual report

- (1) Where the Secretary of State has made any order under section 2 in any academic year, he shall—
- (a) prepare a report on all the orders made by him under that section in that academic year, and
 - (b) lay a copy of the report before each House of Parliament.
- (2) Where the National Assembly for Wales has made any order under section 2 in any academic year, the Assembly shall prepare and publish a report on all the orders made by the Assembly under that section in that academic year.
- (3) In this section “academic year” means a period beginning with 1st August and ending with the next 31st July.