



# Education Act 2002

## 2002 CHAPTER 32

### PART 4

#### POWERS OF INTERVENTION

##### *Schools causing concern*

#### <sup>F1</sup>54 Duty to notify where inspection shows school causing concern

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##### Textual Amendments

- F1** S. 54 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, **Sch. 1** (with **Sch. 4** para. 6)

#### <sup>F2</sup>55 Cases in which powers of intervention exercisable

.....

##### Textual Amendments

- F2** Ss. 55-59 omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 6(6)**; S.I. 2014/178, art. 2(f) (with art. 3)

##### Commencement Information

- I1** S. 55 wholly in force at 19.12.2002; s. 55 not in force at Royal Assent, see s. 216; s. 55 in force for E. at 2.9.2002 by [S.I. 2002/2002](#), **art. 4** and in force for W. at 19.12.2002 by [S.I. 2002/3185](#), **art. 4**, **Sch. Pt. 1**

*Changes to legislation: Education Act 2002, Part 4 is up to date with all changes known to be in force on or before 09 April 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*

**F256 Power of Secretary of State to appoint additional governors or direct closure**

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**Textual Amendments**

**F2** Ss. 55-59 omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 6\(6\)](#); S.I. 2014/178, art. 2(f) (with art. 3)

**Commencement Information**

**I2** S. 56 wholly in force at 19.12.2002; s. 56 not in force at Royal Assent, see s. 216; s. 56 in force for E. at 2.9.2002 by [S.I. 2002/2002](#), [art. 4](#) and in force for W. at 19.12.2002 by [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#)

**F257 Power of [<sup>F3</sup>local authority] to provide for governing body to consist of interim executive members**

.....

**Textual Amendments**

**F2** Ss. 55-59 omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 6\(6\)](#); S.I. 2014/178, art. 2(f) (with art. 3)

**F3** 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\(2\)](#)

**Commencement Information**

**I3** S. 57 in force at 2.9.2002 for E. by [S.I. 2002/2002](#), [art. 4](#)

**I4** S. 57 in force at 2.1.2008 for W. by [S.I. 2007/3611](#), art. 4(1), [Sch. Pt. 1](#)

**F258 Power of Secretary of State to provide for governing body to consist of interim executive members**

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**Textual Amendments**

**F2** Ss. 55-59 omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), [Sch. 5 para. 6\(6\)](#); S.I. 2014/178, art. 2(f) (with art. 3)

**Commencement Information**

**I5** S. 58 in force at 2.9.2002 for E. by [S.I. 2002/2002](#), [art. 4](#)

**I6** S. 58 in force at 2.1.2008 for W. by [S.I. 2007/3611](#), art. 4(1), [Sch. Pt. 1](#)

**F259 Governing bodies consisting of interim executive members**

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#### Textual Amendments

- F2** Ss. 55-59 omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(6\)](#); S.I. 2014/178, art. 2(f) (with art. 3)

#### Commencement Information

- I7** S. 59 in force at 2.9.2002 for E. by [S.I. 2002/2002](#), [art. 4](#)  
**I8** S. 59 in force at 2.1.2008 for W. by [S.I. 2007/3611](#), art. 4(1), [Sch. Pt. 1](#)

[<sup>F4</sup>Local authorities]

#### Textual Amendments

- F4** 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\(3\)](#)

### 60 Powers of Secretary of State to secure proper performance of [<sup>F3</sup>local authority]'s functions

- (1) Section 497A of the Education Act 1996 (c. 56) (power to secure proper performance of functions of [<sup>F3</sup>local authority]) is amended as follows.

- (2) For subsection (1) there is substituted—

“(1) This section applies to a [<sup>F3</sup>local authority]'s functions under this Act and to other functions (of whatever nature) which are conferred on them in their capacity as a [<sup>F3</sup>local authority].”

- (3) In subsection (2), for “(3) or (4)” there is substituted “ (4), (4A) or (4B) ”.

- (4) After subsection (2) there is inserted—

“(2A) The Secretary of State may also exercise his powers under subsection (4), (4A) or (4B) where—

- (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a [<sup>F3</sup>local authority] in respect of any function to which this section applies, and
- (b) he is satisfied that it is likely that if no further direction were given under subsection (4), (4A) or (4B) on the expiry or revocation of the previous direction the authority would fail in any respect to perform that function to an adequate standard (or at all).”

- (5) Subsection (3) is omitted.

- (6) For subsection (4) there is substituted—

“(4) The Secretary of State may under this subsection give the authority or an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed on behalf of the authority by such person as is specified in the direction; and such directions may require that any contract or other arrangement made by the

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authority with that person contains such terms and conditions as may be so specified.”

(7) After subsection (4) there is inserted—

“(4A) The Secretary of State may under this subsection direct that the function shall be exercised by the Secretary of State or a person nominated by him and that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of the function.

(4B) The Secretary of State may under this subsection (whether or not he exercises the power conferred by subsection (4) or (4A) in relation to any function) give the authority or an officer of the authority such other directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed to an adequate standard.”

(8) For subsection (5) there is substituted—

“(5) Where the Secretary of State considers it expedient that—

- (a) in the case of directions given under subsection (4), the person specified in the directions, or
- (b) in the case of directions given under subsection (4A), the Secretary of State or a person nominated by him,

should perform other functions to which this section applies in addition to the function to which subsection (2) or (2A) applies, the directions under subsection (4) or (4A) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.”

(9) In subsection (6), for paragraph (b) there is substituted—

“(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.”

(10) In subsection (7), for “(3) or (4)” there is substituted “ (4), (4A) or (4B) ”.

#### Textual Amendments

**F3** 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\(2\)](#)

#### Commencement Information

**I9** S. 60 partly in force; s. 60 not in force at Royal Assent, see s. 216; s. 60 in force for E. at 26.7.2002 by [S.I. 2002/2002](#), [art. 3](#)

**I10** S. 60 in force at 1.8.2003 for W. by [S.I. 2003/1718](#), [art. 4](#), [Sch. Pt. I](#)

## 61 Power to secure proper performance: duty of authority where directions contemplated

After section 497A of the Education Act 1996 (c. 56) there is inserted—

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### **“497AA Power to secure proper performance: duty of authority where directions contemplated**

Where, in relation to any function to which section 497A applies, the Secretary of State—

- (a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and
- (b) has notified the [<sup>F3</sup>local authority] that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.”

#### **Textual Amendments**

- F3** 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\(2\)](#)

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

- C1** S. 61 modified (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), [Sch. 1 para. 18\(2\)](#)

#### **Commencement Information**

- I11** S. 61 in force at 26.7.2002 for E. by [S.I. 2002/2002](#), [art. 3](#)  
**I12** S. 61 in force at 1.8.2003 for W. by [S.I. 2003/1718](#), [art. 4](#), [Sch. Pt. I](#)

## **62 Power to secure proper performance: further provisions**

- (1) Section 497B of the Education Act 1996 is amended as follows.
- (2) In subsection (1), for the words from “section 497A(4)” to “those directions” there is substituted “ section 497A(4) or (4A) to a [<sup>F3</sup>local authority] or to an officer of such an authority, the specified person ”.
- (3) After that subsection there is inserted—
  - “(1A) In this section “the specified person” means—
    - (a) in relation to directions under section 497A(4), the person specified in the directions, and
    - (b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him.”

#### **Textual Amendments**

- F3** 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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#### Modifications etc. (not altering text)

- C2** S. 62 modified (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), **Sch. 1 para. 18(2)**

#### Commencement Information

- I13** S. 62 in force at 1.10.2002 for E. by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I14** S. 62 in force at 1.8.2003 for W. by [S.I. 2003/1718](#), **art. 4**, **Sch. Pt. I**

### [<sup>F5</sup>62A Power to require [<sup>F3</sup>local authority] in England to obtain advisory services

(1) This section applies where—

- (a) one or more schools maintained by a [<sup>F3</sup>local authority] in England are for the purposes of Part 4 of the Education and Inspections Act 2006 (schools causing concern: England) eligible for intervention by virtue of either of the following provisions of that Act—
  - (i) section 61 (school requiring significant improvement), or
  - (ii) section 62 (school requiring special measures), and
- (b) it appears to the Secretary of State that the [<sup>F3</sup>local authority] —
  - (i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,
  - (ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or
  - (iii) maintain a disproportionate number of schools falling within that paragraph.

[ This section also applies where it appears to the Secretary of State that—

- <sup>F6</sup>(1A) (a) a [<sup>F3</sup>local authority] in England maintain a disproportionate number of low-performing schools, and
- (b) the authority—
- (i) have not been effective or are unlikely to be effective in securing an improvement in the standards of performance of pupils at those schools, or
  - (ii) are unlikely to be effective in securing an improvement in the standards of performance of pupils at other schools which may in the future be low-performing schools.

(1B) In subsection (1A) “low-performing school” means a school at which the standards of performance of pupils are unacceptably low.

(1C) For the purposes of subsection (1B) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—

- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain;
- (b) where relevant, the standards previously attained by them;
- (c) the standards attained by pupils at comparable schools.]

(2) The Secretary of State may direct the [<sup>F3</sup>local authority] to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class

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- so specified, for the provision to the authority or the governing body of any school maintained by them (or both) of specified services of an advisory nature.
- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
- (4) In this section
- [<sup>F7</sup> “pupil” has the same meaning as in the Education Act 1996 (see sections 3 and 19(5) of that Act);]

“school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.
- (5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State, by a mandatory order.]

**Textual Amendments**

**F3** 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)**

**F5** S. 62A inserted (1.4.2007) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), **Sch. 7 para. 20**; [S.I. 2007/935](#), art. 5(cc)

**F6** S. 62A(1A)-(1C) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), **ss. 204(2)**, 269(4); [S.I. 2009/3317](#), art. 2, Sch.

**F7** Words in s. 62A(4) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), **ss. 204(3)**, 269(4); [S.I. 2009/3317](#), art. 2, Sch.

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

**C3** S. 62A applied (with modifications) (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007](#) (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 18(1)**

<sup>F9</sup>**63** Power to require [<sup>F3</sup>local authority][<sup>F8</sup>in Wales] to obtain advisory services

.....

**Textual Amendments**

**F3** 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)**

**F8** Words in s. 63 heading inserted (1.4.2007) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), **Sch. 7 para. 21(5)**; [S.I. 2007/935](#), art. 5(cc)

**F9** S. 63 omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013](#) (anaw 1), s. 100(4), **Sch. 5 para. 6(6)**; [S.I. 2014/178](#), art. 2(f) (with art. 3)

**Commencement Information**

**I15** S. 63 partly in force; s. 63 not in force at Royal Assent, see s. 216; s. 63 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in **art. 4, Sch.**)

**I16** S. 63 in force at 1.8.2003 for W. by [S.I. 2003/1718](#), art. 4, **Sch. Pt. I**



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## 64 Provisions supplementary to <sup>F10</sup>sections 62A and 63]

- (1) Where <sup>F11</sup>section 62A <sup>F12</sup>... applies in relation to a <sup>F3</sup>local authority] and the Secretary of State <sup>F13</sup>... has notified the authority that he <sup>F14</sup>...is contemplating the giving of a direction under that section, the authority shall give the Secretary of State <sup>F15</sup>..., and any person authorised by the Secretary of State <sup>F15</sup>... for the purposes of this subsection, such assistance, in connection with the proposed contract or other arrangement, as the authority are reasonably able to give.
- (2) Where a direction under <sup>F16</sup>section 62A <sup>F17</sup>... is given to a <sup>F3</sup>local authority], the relevant person shall be entitled, for the purposes of providing the advisory services, to exercise the powers conferred by subsections (3) to (6).
- (3) The relevant person shall have at all reasonable times—
  - (a) a right of entry to the premises of the authority, and
  - (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the provision of the advisory services.
- (4) Section 497B(3) of the Education Act 1996 (c. 56) (right of access to computers etc) applies in relation to the exercise by the relevant person of the right conferred by subsection (3) as it applies to the exercise by the specified person (within the meaning of that section) of the right conferred by section 497B(2) of that Act.
- (5) Without prejudice to subsection (3), the authority shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give.
- (6) Subsection (3) applies in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
  - (a) the governing body of any such school shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give, and
  - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (7) In this section—
 

“the advisory services” means the services to be provided in pursuance of the direction under <sup>F18</sup>section 62A <sup>F19</sup>...];

“documents” and “records” each include information recorded in any form;

“the relevant person” means—

  - (a) the person specified under <sup>F20</sup>section 62A(2) <sup>F19</sup>...], or
  - (b) where the direction specifies a class of persons, the person with whom the <sup>F3</sup>local authority] enter into the contract or other arrangement required by the direction,

and includes any person assisting that person in the provision of the advisory services.

### Textual Amendments

- F3** 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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- F10** Words in s. 64 heading substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 22\(4\)](#); S.I. 2007/935, art. 5(cc)
- F11** Words in s. 64(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 22\(2\)](#); S.I. 2007/935, art. 5(cc)
- F12** Words in s. 64(1) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(7\)\(a\)\(i\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F13** Words in s. 64(1) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(7\)\(a\)\(ii\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F14** Words in s. 64(1) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(7\)\(a\)\(iii\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F15** Words in s. 64(1) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(7\)\(a\)\(iv\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F16** Words in s. 64(2) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 22\(2\)](#); S.I. 2007/935, art. 5(cc)
- F17** Words in s. 64(2) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(7\)\(b\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F18** Words in s. 64(7) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 22\(3\)\(a\)](#); S.I. 2007/935, art. 5(cc)
- F19** Words in s. 64(7) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), [Sch. 5 para. 6\(7\)\(c\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F20** Words in s. 64(7) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 22\(3\)\(b\)](#); S.I. 2007/935, art. 5(cc)

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#### Commencement Information

- I17** S. 64 partly in force; s. 64 not in force at Royal Assent, see s. 216; s. 64 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I18** S. 64 in force at 1.8.2003 for W. by [S.I. 2003/1718](#), art. 4, [Sch. Pt. I](#)

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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. 45](#)[Sch. 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](#)