



# Education Act 2002

## 2002 CHAPTER 32

### PART 9

#### CHILDCARE AND NURSERY EDUCATION

##### *Childcare*

#### **149 Duties of LEA in respect of childcare**

- (1) After section 118 of the School Standards and Framework Act 1998 (c. 31) there is inserted—

##### **“118A Duties of LEA in respect of childcare**

- (1) A local education authority shall review annually the sufficiency of childcare provision for their area.
- (2) In carrying out a review for the purposes of subsection (1), a local education authority—
- (a) may have regard to any facilities which they expect to be available outside their area for providing childcare; and
  - (b) shall have regard to any guidance given from time to time by the Secretary of State.
- (3) A local education authority shall also establish and maintain a service providing information to the public relating to the provision of childcare and related services in their area.
- (4) In relation to the function, form and content of a service established and maintained under subsection (3), a local education authority shall have regard to any guidance given from time to time by the Secretary of State.”
- (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.

*Status: Point in time view as at 31/03/2004.*

*Changes to legislation: Education Act 2002, Part 9 is up to date with all changes known to be in force on or before 04 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)*

### Commencement Information

- II** 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

- (1) In section 119(5) of the School Standards and Framework Act 1998 (c. 31) (functions of early years development partnerships), after paragraph (a) there is inserted—
- “(ab) in reviewing the sufficiency of childcare provision for the authority’s area for the purposes of section 118A, and”.
- (2) In section 120 of that Act (early years development plans), in subsection (2) (content of plan), for paragraph (b) there is substituted—
- “(b) a statement which sets out the authority’s proposals for providing or promoting the provision of childcare for their area, and
- (c) background and supporting statements.”
- (3) For subsections (3) and (4) of that section there is substituted—
- “(3) The statement mentioned in subsection (2)(a) must deal with such matters, and relate to such period, as may be determined by or in accordance with regulations.
- (4) In relation to the form and content of the statements mentioned in subsection (2)(b) and (c) the authority shall have regard to any guidance given from time to time by the Secretary of State.”
- (4) In section 121 of that Act (approval, modification and review of statement of proposals)—
- (a) in subsection (1), the words “the authority’s statement of proposals” shall cease to have effect;
- (b) in subsection (2), for “statement” (in each place it occurs) there is substituted “ plan ”;
- (c) in subsection (3), for “statement” (where it first occurs) and for “proposals set out in the statement” there is substituted “ plan ”;
- (d) in subsection (4), for “statement” (in both places it occurs) there is substituted “ plan ”;
- (e) in subsection (5)—
- (i) for “statement of proposals” and for “proposals” (in the second place it occurs) there is substituted “ plan ”;
- (ii) for “their” there is substituted “ its ”; and
- (iii) in paragraphs (a) and (b), for “statement” (in each place it occurs) there is substituted “ plan ”;
- (f) in subsection (6)—
- (i) for “statement of proposals”, and
- (ii) in paragraph (b), for “statement”, there is substituted “ plan ”;

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- (g) in subsection (7), for “statement” there is substituted “ plan ”;
  - (h) in subsection (8)—
    - (i) for “statement of proposals” there is substituted “ plan ”;
    - (ii) in paragraph (a), for “statement” there is substituted “ plan ”; and
    - (iii) in paragraph (c), for “statement” and for “proposals” there is substituted “ plan ”; and
  - (i) in subsection (9), for “statement of proposals” (in both places it occurs) there is substituted “ plan ”.
- (5) Early years development partnerships are renamed “early years development and childcare partnerships” and early years development plans are renamed “early years development and childcare plans”; accordingly in Part 5 of that Act after “early years development” (in each place it occurs) there is inserted “ and childcare ”.

#### 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 Her Majesty’s Chief Inspector of Schools in England 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 Her Majesty’s Chief Inspector of Schools in England.

#### Commencement Information

- I5** S. 151 not in force at Royal Assent, see s. 216; s. 151(1) in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#)); s. 151(2) in force for W. at 19.12.2002 by [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. I](#)

## 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.

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#### **Commencement Information**

- I6** S. 152 partly in force; s. 152 not in force at Royal Assent, see s. 216; s. 152 in force for certain purposes for E. at 2.9.2002 by [S.I. 2002/2002, art. 4](#); s. 152 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.](#)); s. 152 in force for certain purposes for W. at 19.12.2002 by [S.I. 2002/3185, art. 4, Sch. Pt. I](#)

### *Nursery education*

#### **153 Powers of LEA in respect of funded nursery education**

- (1) This section applies where a local education authority, in pursuance of the duty imposed on them by section 118 of the School Standards and Framework Act 1998 (c. 31) (duty of LEA 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 local education authority—
  - (a) must, in making the arrangements, have regard to any guidance given from time to time by the Secretary of State, or (as respects local education authorities in Wales) 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
  - (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 local education authority under the arrangements.
- (4) In this section—
 

“maintained school” means a community, foundation or voluntary school, a community or foundation 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).

#### **Commencement Information**

- I7** S. 153 in force at 1.4.2003 except in relation to W. by [S.I. 2003/124, art. 4](#)

#### **154 Establishment or alteration of maintained nursery schools**

- (1) Section 28 of the School Standards and Framework Act 1998 (c. 31) (procedure on proposals to establish, alter or discontinue schools) is amended as follows.
- (2) In subsection (1) (local education authority to publish proposals to establish or alter certain schools), after paragraph (a) there is inserted—

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“(aa) to establish a new maintained nursery school, or”.

(3) In that subsection, after paragraph (c) there is inserted “or

(d) in the case of a local education authority in Wales, to make any prescribed alteration to a maintained nursery school”.

#### Commencement Information

**18** S. 154 in force at 31.3.2004 for W. by [S.I. 2004/912](#), [art. 4](#), [Sch. Pt. 1](#) (with [art. 6](#))

**19** S. 154(1)(2) in force at 1.6.2003 except in relation to W. by [S.I. 2003/1115](#), [art. 3](#) (with [art. 4](#))

### 155 Inspection of nursery education

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

#### Commencement Information

**110** 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.](#))

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

#### Commencement Information

**111** 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.](#))

**112** S. 156 in force at 31.3.2004 for W. by [S.I. 2004/912](#), [art. 4](#), [Sch. Pt. 1](#)

**Status:**

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**Changes to legislation:**

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