



Education Act 2002

2002 CHAPTER 32

PART 3

MAINTAINED SCHOOLS

CHAPTER 1

GOVERNMENT OF MAINTAINED SCHOOLS

36 Staffing of foundation, voluntary aided and foundation special schools

- (1) This section applies to—
 - (a) foundation schools,
 - (b) voluntary aided schools, and
 - (c) foundation special schools.
- (2) Except as provided by regulations under subsection (4), any teacher or other member of staff who is appointed to work under a contract of employment at a school to which this section applies is to be employed by the governing body of the school.
- (3) The teaching staff of any school to which this section applies shall include—
 - (a) a person appointed as head teacher, or
 - (b) a person appointed to carry out the functions of the head teacher of the school—
 - (i) pending the appointment of a head teacher, or
 - (ii) in the absence of the head teacher.
- (4) Regulations may make further provision with respect to the staffing of schools to which this section applies.
- (5) Regulations under subsection (4) may, in particular—
 - (a) make provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff,

Changes to legislation: Education Act 2002, Section 36 is up to date with all changes known to be in force on or before 07 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

- (b) make provision with respect to the appointment of teachers and other staff to work at a school otherwise than under a contract of employment,
 - (c) make provision with respect to staff employed, or engaged otherwise than under a contract of employment, wholly or partly for the purposes of—
 - (i) the provision of facilities and services under section 27, or
 - (ii) any other activities which are not school activities but are carried on on the school premises under the management or control of the governing body,
 - (d) enable teachers and other staff to be employed by the [^{F1}local authority] in prescribed cases, and
 - (e) confer functions on [^{F2}local authorities], governing bodies and head teachers.
- (6) Regulations under subsection (4) shall have effect subject to section 58 of the School Standards and Framework Act 1998 (c. 31) (appointment and dismissal of certain teachers at schools with a religious character).
- (7) If at any time a school to which this section applies does not have a delegated budget by virtue of any suspension under^{F3}... Schedule 15 to, the School Standards and Framework Act 1998^{F4}, or section 66 of the Education and Inspections Act 2006^{F5}, or section 8 of the School Standards and Organisation (Wales) Act 2013,] regulations under subsection (4) shall have effect subject to the provisions of Part 2 of Schedule 2.
- (8) [^{F6}In discharging any function conferred by regulations under subsection (4), a [^{F1}local authority][^{F7}in Wales] or the governing body or head teacher of a maintained school [^{F8}in Wales] shall have regard to any guidance given from time to time—
- ^{F9}(a)
 - (b) ^{F10}... by the National Assembly for Wales.]

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** 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)**
- F3** Words in s. 36(7) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 6(4)(a)**; S.I. 2014/178, art. 2(f) (with art. 3)
- F4** Words in s. 36(7) inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 19(2)**, 82(3); S.I. 2012/84, art. 3
- F5** Words in s. 36(7) inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 6(4)(b)**; S.I. 2014/178, art. 2(f) (with art. 3)
- F6** S. 36(8) ceases to have effect (E.) (1.1.2016) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 16 para. 5(1)**; S.I. 2015/1732, art. 3(a)
- F7** Words in s. 36(8) inserted (1.1.2016) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 16 para. 5(2)(a)**; S.I. 2015/1732, art. 3(a)
- F8** Words in s. 36(8) inserted (1.1.2016) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 16 para. 5(2)(b)**; S.I. 2015/1732, art. 3(a)
- F9** S. 36(8)(a) and word omitted (1.1.2016) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 16 para. 5(2)(c)**; S.I. 2015/1732, art. 3(a)
- F10** Words in s. 36(8)(b) omitted (1.1.2016) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 16 para. 5(2)(d)**; S.I. 2015/1732, art. 3(a)

Changes to legislation: Education Act 2002, Section 36 is up to date with all changes known to be in force on or before 07 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

Commencement Information

- I1** S. 36 in force at 1.4.2006 for W. by [S.I. 2006/879, art. 4, Sch.](#)
- I2** S. 36(1)-(3)(6)-(8) in force at 1.9.2003 except in relation to W. by [S.I. 2003/1667, art. 4](#)
- I3** S. 36(4)(5) in force at 1.4.2003 except in relation to W. by [S.I. 2003/124, art. 4](#)

Changes to legislation:

Education Act 2002, Section 36 is up to date with all changes known to be in force on or before 07 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.

[View outstanding changes](#)

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](#)