

EDUCATION AND INSPECTIONS ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 1: Education Functions of Local Authorities

Section 1: Duties in relation to high standards and the fulfilment of potential

22. This section re-enacts, with amendments, section 13A of the 1996 Act, which was inserted by the 1998 Act and which places a general duty on local education authorities to promote high standards. The substituted section 13A will now require local education authorities to exercise their functions with a view to promoting the fulfilment by every child of his educational potential, and, in the case of local education authorities in England, with a view to ensuring fair access to educational opportunity, as well as with a view to promoting high standards. The reference to every child in new section 13A(1)(c) is a reference to those children set out in *subsection (2)*. Section 13A(3) defines “child” for the purposes of this section.

Section 2: Duties in relation to diversity and choice

23. This section amends section 14 of the 1996 Act, inserting a new subsection (3A) to require local education authorities in England, when exercising their functions on the provision of schools in their area under that section, to do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

Section 3: Duty to consider parental representations

24. This section inserts a new section 14A into the 1996 Act to require local education authorities in England to respond to parental representations in relation to the exercise of their functions under section 14 of that Act (as amended by section 2). Local education authorities must consider what action to take in response to such representations and provide a statement to the parent setting out any action which the authority propose to take in response or, where relevant, their reasons for taking no action, in each case having regard to guidance from the Secretary of State. The guidance to authorities will set out how local education authorities might reasonably respond to parental representations on the opportunities for choice and the diversity of schools in their area.

Section 4: Duty to identify children not receiving education

25. This section amends Chapter 2 of Part 6 of the 1996 Act (school attendance), by inserting a new section before section 437. This new section requires all local education authorities to make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are not receiving a suitable education.
26. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than by being at school (for example, at home, privately, or in alternative provision).

*These notes refer to the Education and Inspections Act 2006
(c.40) which received Royal Assent on 8 November 2006*

27. This section moves the definition of “suitable education”, previously in section 437(8) of the 1996 Act, to the new inserted section 436A, and amends a cross-reference to that definition. The definition itself is unchanged.
28. The section also provides that local education authorities must have regard to statutory guidance issued by the Secretary of State in relation to England, and the National Assembly in relation to Wales, in making arrangements to enable them to identify children missing education.

Section 5: School improvement partners

29. This section requires local education authorities in England to appoint school improvement partners (SIP) to each of the maintained schools in their area in line with a commitment in the White Paper: *Higher Standards, Better Schools for All* (Cm.6677). Maintained nursery schools are not included within the scope of this duty. SIPs will act on behalf of the local education authority, providing challenge and support to a school in order to help improve the attainment and outcomes of pupils.
30. *Subsection (2)* provides that only persons who have been accredited by the Secretary of State or by persons appointed by the Secretary of State can be appointed as SIPs by the authority for the purposes of this section.
31. *Subsections (3) and (4)* enable the Secretary of State to prescribe other requirements relating to the appointment of SIPs and to confer functions on local education authorities and school governing bodies in relation to SIPs in line with Departmental policies. If authorities consistently appointed SIPs in a way that did not meet the non-statutory Departmental policies relating to SIPs, these regulation-making powers could be used to enforce them. However, it is not intended to exercise these regulation-making powers at the outset; they are provided by way of a reserve power.
32. *Subsection (5)* enables the Secretary of State by regulations to provide for persons employed or engaged by local education authorities before the commencement of this section to be taken to have been appointed as SIPs.

Section 6: Functions in respect of recreation etc

33. This section inserts new sections 507A and 507B in the 1996 Act, while also amending existing section 508 to apply only in respect of Wales. In England the duty under section 508(1) is re-enacted, in relation to children under 13, in new section 507A.
34. The new section 507B of the 1996 Act imposes a duty on local education authorities to promote the well-being of persons aged 13 – 19 (and of persons aged up to 25 with learning difficulties) by securing access for them to sufficient educational and recreational leisure-time activities and facilities, so far as is reasonably practicable. The section provides that an authority can fulfil this duty by providing activities and facilities, assisting others to do so, or by making other arrangements to facilitate access, which can include the provision of transport, financial assistance or information. Furthermore, local education authorities are required to supply and keep up to date information regarding those leisure-time activities and facilities that are available locally.
35. In performing its duty under new section 507B the authority is required to ascertain from young people in the authority’s area their views on existing provision and the need for any additional provision, and to take those views into account.
36. Before taking any action the authority is also required to take steps to assess whether it is beneficial for other agencies and individuals to provide services in its place and, where appropriate, to secure that those services are provided by such agencies or individuals.

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37. Section 507B also includes the power to levy charges and places a requirement on authorities to have regard to any guidance given by the Secretary of State when exercising their functions under the section.

Schedule 1: Amendments relating to section 6

38. *Paragraph 1* amends paragraph 1 of Schedule 4C to the Disability Discrimination Act 1995 by amending the definition of “recreational or training facilities” in the substituted section 28R to include facilities secured by local education authorities in England under the new provisions inserted by section 6 as well as facilities secured by an authority in Wales under section 508 of the 1996 Act.
39. The Schedule also makes amendments to four sections of the 1996 Act: sections 312, 508, 510 and 547.
40. *Paragraph 3* amends section 312(2) so that it excludes section 507B from the definition of ‘special educational needs’ provided in section 312. This is because section 507B applies part of the definition of “learning difficulty” in section 13 of the Learning and Skills Act 2000, rather than the definition in section 312 of the 1996 Act.
41. *Paragraph 4* amends section 508, *subsections (1) and (1A)* to ensure their application to Wales only.
42. *Paragraph 5* amends section 510 (provision of clothing) so that the local education authority has the power to provide articles of clothing to users of facilities for physical training secured under sections 507A or 507B.
43. *Paragraph 6* amends section 547 which addresses nuisance or disturbance on premises. *Subsection (2A)(a)* of the section is amended so as to include premises provided by the local education authority under section 507A or 507B, thereby ensuring that any person unlawfully present on the premises and causing or permitting nuisance or disturbance to the annoyance of persons who lawfully use the premises is guilty of an offence and is liable to be fined. Section 547 also ensures that a police constable or person authorised by the local education authority may remove from the premises any person they have reasonable cause to suspect of committing or having committed an offence under the section.