



Education and Inspections Act 2006

2006 CHAPTER 40

PART 10

GENERAL

178 Framework power relating to Wales

- (1) The Assembly may by regulations make provision relating to Wales about any of the following matters—
- (a) the categories of school that may be maintained by local education authorities;
 - (b) the establishment and discontinuance of schools maintained by local education authorities, their change from one category to another and their alteration in other respects;
 - (c) the admission of pupils to schools maintained by local education authorities;
 - (d) the curriculum in such schools;
 - (e) school attendance, the behaviour of pupils at school, school discipline and the exclusion of pupils from school (including the duties of parents in connection with those matters);
 - (f) the making of arrangements for the provision of education for persons of compulsory school age who have been excluded from schools or who for any other reason would not otherwise receive suitable education;
 - (g) entitlement to primary, secondary and further education and to training;
 - (h) the provision of services that are intended to encourage, enable or assist people—
 - (i) to participate effectively in education or training,
 - (ii) to take advantage of opportunities for employment, or
 - (iii) to participate effectively in the life of their communities;
 - (i) travel of persons receiving primary, secondary or further education or training to and from the schools or other places where they receive it;
 - (j) food and drink provided on school premises or provided for children at a place where they receive education or childcare.

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- (2) Regulations under subsection (1) may also make provision for any purpose connected with provision made under any of paragraphs (a) to (j) of that subsection.
- (3) Subsection (1) has effect subject to section 179.
- (4) Subject to that section, the provision that may be made under subsection (1) includes any provision that could be made by Act of Parliament.
- (5) The inclusion in this Act of any provision in relation to Wales about any of the matters mentioned in subsection (1)(a) to (j) does not affect the powers conferred on the Assembly by this section (which may accordingly be exercised so as to repeal or amend that provision).
- (6) Expressions used in this section and in EA 1996 have the same meaning in this section as in that Act.

179 Restrictions on framework power conferred by section 178

- (1) The power conferred by section 178 does not include power—
 - (a) to make any provision imposing or increasing taxation;
 - (b) to make provision taking effect from a date earlier than that of the making of the instrument containing the provision;
 - (c) to confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal;
 - (d) to create any new indictable offence;
 - (e) except in relation to any of the matters mentioned in section 178(1)(e), to create any new summary offence;
 - (f) to create (in relation to any of those excepted matters) any new summary offence that is punishable with imprisonment or with a fine exceeding level 3 on the standard scale;
 - (g) to make provision extending otherwise than to England and Wales;
 - (h) to make provision applying in relation to England, except with the consent of the Secretary of State.
- (2) Subsection (1)(c) does not preclude the modification of a power to legislate conferred otherwise than under section 178, or the extension of any such power to purposes of the like nature as those for which it was conferred.
- (3) A power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of subsection (1)(c).
- (4) Paragraphs (d) and (e) of subsection (1) do not preclude the modification of existing offences.
- (5) The power conferred by section 178(1)(e) may not, except with the consent of the Secretary of State, be exercised so as to make provision about any of the following—
 - (a) the use of force,
 - (b) powers of search,
 - (c) powers to seize, detain or dispose of property, or
 - (d) the functions of chief officers of police or persons under their direction or control.

- (6) The power conferred by section 178(1)(h) may not, except with the consent of the Secretary of State, be exercised so as to make provision about the functions of any of the following—
- (a) a chief officer of police,
 - (b) a police authority,
 - (c) a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43), or
 - (d) a youth offending team established under section 39 of the Crime and Disorder Act 1998 (c. 37).
- (7) The power conferred by section 178(1)(i) may not be exercised so as to make provision about—
- (a) a matter falling within any of the exceptions specified in paragraph 10 of Part 1 of Schedule 7 to the Government of Wales Act 2006 (c. 32), or
 - (b) the registration of local bus services.

180 Functions to be exercisable by National Assembly for Wales

- (1) Any function conferred on the Secretary of State by virtue of the amendments made by the provisions mentioned in subsection (2), so far as exercisable in relation to Wales, is to be taken to have been transferred to the Assembly by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38).
- (2) Those provisions are—
- section 4 (duty to identify children not receiving education);
 - sections 40 to 54 (school admissions);
 - section 56 (charges for music tuition);
 - section 86 (provision of food and drink on school premises etc);
 - section 164 (provision of information about children receiving funded education outside school);
 - section 168 (maintained nursery schools: amendment of sections 496 and 497 of EA 1996);
 - section 173 (special educational needs co-ordinators);
 - section 174 (time limits relating to statements of special educational needs);
 - Schedule 5 (funding of maintained schools).

181 Orders and regulations: general provisions

- (1) Any power to make an order or regulations conferred by this Act on the Secretary of State or the Assembly is exercisable by statutory instrument.
- (2) Any power of the Secretary of State or the Assembly to make an order or regulations under this Act includes power—
- (a) to make different provision for different cases or areas,
 - (b) to make provision generally or in relation to specific cases, and
 - (c) to make such incidental, supplementary, transitional or saving provision as the Secretary of State or the Assembly thinks fit.

182 Parliamentary control of orders and regulations

- (1) Subject to subsection (2), any statutory instrument containing regulations or an order made under this Act by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1) does not apply to—
 - (a) an order under section 15(7)(b) (designation of primary school as rural primary school for purposes of sections 15 and 16),
 - (b) an order under section 188(3) (commencement), or
 - (c) an instrument to which subsection (3) applies.
- (3) A statutory instrument which contains (alone or with other provisions)—
 - (a) an order under section 80 (power to repeal the school travel scheme provisions),
 - (b) an order under section 162 (power to repeal references to “local education authority” and “children’s services authority” etc) which amends or repeals any provision of a public general Act, or
 - (c) regulations under section 183 which amend or repeal any provision of an Act, may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

183 Power to make consequential and transitional provision etc

- (1) The Secretary of State may by regulations make—
 - (a) any supplementary, incidental or consequential provision, and
 - (b) any transitional or saving provision,
 that he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect, to any provision of this Act.
- (2) Regulations under this section may in particular—
 - (a) provide for any provision of this Act which comes into force before another provision has come into force to have effect, until that other provision has come into force, with specified modifications;
 - (b) amend or repeal any provision of—
 - (i) an Act passed before or in the same Session as this Act, or
 - (ii) subordinate legislation made before the passing of this Act.
- (3) Nothing in this section limits the power by virtue of section 181(2) to include transitional or saving provision in an order under section 188(3) (commencement).
- (4) The amendments that may be made by virtue of subsection (2)(b) are in addition to those that are made by, or may be made under, any other provision of this Act.

184 Repeals

The enactments specified in Schedule 18 (which include spent enactments) are repealed to the extent specified.

185 Financial provisions

- (1) There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by virtue of this Act by the Office for Standards in Education, Children’s Services and Skills or by a Minister of the Crown, and
 - (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.
- (2) There are to be paid into the Consolidated Fund—
- (a) sums received by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills by virtue of this or any other Act, and
 - (b) sums received by a Minister of the Crown by virtue of this Act.

186 Abbreviations of Acts

In this Act—

- “EA 1996” means the Education Act 1996 (c. 56);
- “EA 2002” means the Education Act 2002 (c. 32);
- “EA 2005” means the Education Act 2005 (c. 18);
- “SSFA 1998” means the School Standards and Framework Act 1998 (c. 31).

187 General interpretation

- (1) In this Act—
- “the Assembly” means the National Assembly for Wales;
 - “community or foundation special school” means a community special school or a foundation special school;
 - “enactment” includes an enactment comprised in subordinate legislation;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (2) Subject to subsection (4), EA 1996 and the provisions of this Act specified in subsection (3) are to be read as if those provisions were contained in EA 1996.
- (3) The provisions of this Act referred to in subsection (2) are—
- (a) section 5 (school improvement partners);
 - (b) Part 2 (establishment, alteration or discontinuance of schools in England);
 - (c) section 39 (general restriction on selection by ability);
 - (d) Part 4 (schools causing concern: England);
 - (e) Part 7 (discipline, behaviour and exclusion);
 - (f) section 166 (collaboration arrangements: maintained schools and further education bodies).
- (4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of EA 1996, the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.
- (5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of SSFA 1998.

188 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
 sections 86 and 87 (provision of food and drink on school premises etc.);
 section 109 (failure to secure school attendance), except subsection (8);
 section 111 (interpretation of Chapter 2 of Part 7);
 any provision of Part 8 (inspections) so far as it confers power to make subordinate legislation;
 section 161 (powers to facilitate innovation);
 section 180 (functions to be exercisable by Assembly);
 sections 181 and 182 (subordinate legislation);
 section 183 (power to make consequential and transitional provision etc.);
 sections 185 to 187, this section and sections 189 to 191;
 Schedule 16;
 Part 1 of Schedule 18, and section 184 so far as relating to that Part.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
 section 6 (functions of LEAs in England in respect of youth work, recreation etc.);
 section 52 (power of Assembly to make regulations about looked after children);
 section 58 (code of practice as to relationships between LEAs and maintained schools in England, etc.);
 section 162 (power to repeal references to “local education authority” and “children’s services authority”, etc.);
 section 168 (maintained nursery schools: amendment of sections 496 and 497 of EA 1996);
 section 172 (offences relating to independent schools);
 section 174 (time limits relating to statements of special educational needs);
 section 177 (university bodies: amendment of section 29 of Leasehold Reform Act 1967);
 sections 178 and 179 (framework power relating to Wales);
 Schedule 1;
 Part 2 of Schedule 18, and section 184 so far as relating to that Part.
- (3) The remaining provisions of this Act come into force in accordance with provision made by the appropriate authority (as defined by section 189) by order.

189 The appropriate authority by whom commencement order is made

- (1) This section has effect for determining who is the appropriate authority for the purposes of section 188(3).
- (2) In relation to the provisions specified in subsection (3), the appropriate authority is—
 (a) in relation to England, the Secretary of State, and
 (b) in relation to Wales, the Assembly.
- (3) Those provisions are—
 section 1 (duties in relation to high standards and fulfilment of potential);
 section 4 (duty to identify children not receiving education);

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in section 37 (staff at foundation or voluntary schools with religious character), subsections (1) and (2)(a);
section 38 (general duties of governing body of maintained school);
section 39 (general restriction on selection by ability);
section 40 (code for school admissions);
section 43 (duty of governing body to implement decisions relating to admissions);
section 44 (prohibition on interviews);
section 45 (admission arrangements for schools with religious character: consultation and objections);
section 47 (objections to admission arrangements);
section 53 (schools with pre-1998 arrangements for selection by ability or aptitude);
section 55 (right of sixth-form pupils to be excused from attendance at religious worship);
section 56 (charges for music tuition);
section 57 (school funding);
Chapter 1 of Part 7 (school discipline);
sections 97, 98 and 99 (parenting contracts and parenting orders);
section 102 (reintegration interviews);
section 108 (removal of excluded pupils to designated premises);
section 164 (provision of information about children receiving funded education outside school);
section 165 (power of members of staff of further education institutions to use force);
section 166 (collaboration arrangements: maintained schools and further education bodies);
section 167 (consultation with young pupils);
sections 169 to 171 (prohibition on participation in management of independent schools);
section 173 (special educational needs co-ordinators);
Schedule 5.

- (4) In relation to the provisions specified in subsection (5), the appropriate authority is the Assembly.
- (5) Those provisions are—
section 156 (removal of duty to inspect performance of certain Assembly functions);
section 175 (miscellaneous amendments relating to Wales);
Schedule 17;
the repeal in Part 5 of Schedule 18 of section 38 of the Children Act 2004 (c. 31), and section 184 so far as relating to that repeal.
- (6) In relation to a repeal contained in Part 6 of Schedule 18, and section 184 so far as relating to such a repeal, the appropriate authority is the appropriate authority for the purposes of section 188(3) in relation to the provision on which the repeal is consequential.

- (7) In relation to the other provisions to which section 188(3) applies, the appropriate authority is the Secretary of State.

190 Extent

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—
section 162;
sections 181 and 182;
sections 185 to 189, this section and section 191.
- (3) Any amendment or repeal made by this Act, other than any amendment made by paragraph 2 of Schedule 10, has the same extent as the enactment amended or repealed.

191 Short title

- (1) This Act may be cited as the Education and Inspections Act 2006.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of EA 1996.