

EDUCATION AND SKILLS ACT 2008

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. In July 2007, the Government published *World Class Skills: Implementing the Leitch Review of Skills in England* which can be accessed at <http://www.dius.gov.uk/publications/leitch.html>. This document set out the Government's plans to improve the skill levels of young people and adults.
4. The Green Paper *Raising Expectations: staying in education and training post-16*, published in March 2007, dealt specifically with young people and set out, for consultation, proposals to raise to 18 the age until which young people must remain in education or training. The Green Paper and a summary of the responses can be found at: <http://www.dcsf.gov.uk/publications/raisingexpectations/index.shtml>. More detailed legislative proposals drawn up following the consultation were set out in November 2007 in the publication, *Raising Expectations: staying in education and training post-16 – from policy to legislation*, which can be found at <http://www.dcsf.gov.uk/14-19/documents/Raising%20Expectations.pdf>.
5. The purpose of the Act is, first, to change the statutory framework to put a duty on all young people in England to participate in education or training until the age of 18, with corresponding duties on local education authorities and employers to enable and support participation. Second, it amends legislation about the provision of adult education and training, and support for young people. Third, the Act changes the regulatory framework for inspection of independent educational institutions, non-maintained special schools and providers of initial teacher training. Fourth, the Act makes changes to the legislative competence of the National Assembly for Wales in the field of education and training. The Act also includes a number of miscellaneous provisions in relation to admissions, behaviour, National Curriculum assessment arrangements, considering the views of children, the Qualifications and Curriculum Authority (QCA) and schools forums.
6. The Act is organised into five Parts with two Schedules. Schedule 1 deals with minor and consequential amendments and Schedule 2 covers repeals and revocations. In summary, the Act:

Part 1: Duty to participate in education or training: England

- Places a duty on young people to participate in education or training until the age of 18 (or until attaining a level 3 qualification if earlier);
- Requires local education authorities to promote the effective participation of young people in their areas who are subject to the duty to participate;
- Allows for the sharing of information between the Secretary of State, certain public bodies and local education authorities to facilitate the provision of support services and enable local education authorities to identify young people who are not participating;
- Makes provision for duties on employers to enable young people who are their employees to participate;

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(c.25) which received Royal Assent on 26 November 2008*

- Sets out the circumstances in which a local education authority may issue a parenting contract or order to a parent of a young person who is failing to fulfil the duty to participate;
- Provides for local education authorities to issue attendance notices to young people who are not participating and to set up independent attendance panels to monitor the ensuing enforcement process and provide a mechanism for appeal;

Part 2: Support for participation in education or training: Young adults with learning difficulties and young people in England

- Places a duty on local education authorities to provide support services to young people to be known as Connexions. Connexions services are currently provided under a power available to the Secretary of State in section 114 of the Learning and Skills Act 2000;
- Places a duty on local education authorities to arrange for an assessment of a person with a statement of special educational needs at some time during the person's last year of schooling where the local education authority believes that person will leave school at the end of their last year of compulsory schooling or at some time during their current school year to receive post-16 education or training or higher education;
- Confers a power on local education authorities to arrange for an assessment where a person is in his or her last year of compulsory schooling or is over compulsory school age but under 25 years old, where he or she appears to the authority to have a learning difficulty and is likely to receive post-16 education or training or higher education;
- Amends the requirements on maintained secondary schools in England to require them to present careers information in an impartial manner and to provide careers advice which is in the best interests of the pupils;
- Makes explicit the duty on the Learning and Skills Council (LSC) to secure provision of proper facilities for apprenticeships for 16 to 18 year olds, and requires that the LSC secures provision of reasonable facilities for apprenticeships for those aged 19 and over;
- Introduces a requirement on local education authorities to have regard to journey times in preparing their transport statements for people of sixth form age to attend educational establishments;
- Requires local education authorities to co-operate with partners who are responsible for 14-19 education and training;

Part 3: Adult skills

- Places a duty on the LSC to secure the provision of proper facilities for education and training to enable adults to obtain a specified qualification at levels of attainment identified in the *Leitch Review of Skills* (level 1 literacy, entry level 3 numeracy and level 2);
- Places a duty on the LSC to ensure that learners will not be liable to pay fees for courses of study provided as a result of the duty to secure proper provision;
- Places a duty on the LSC to ensure the provision of sufficient financial resources for the purpose of paying tuition fees for people between 19 and 25 years old to attain their first level 3 qualification;
- Allows the Secretary of State, the devolved administrations and the Commissioners of Revenue and Customs to share information on tax and

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employment and benefit and training information for defined assessment functions;

Part 4: Regulation and inspection of independent educational provision in England

- Creates a new category of independent educational institution to which the regulatory regime for independent schools in England is extended. That regime (currently in Chapter 1 of Part 10 of the Education Act 2002) is restated with changes in Chapter 1 of this Part;
- Enables the Secretary of State to appoint an independent inspectorate to carry out inspections of registered independent educational institutions and requires the Chief Inspector to prepare a report about independent inspectorates;
- Provides the Secretary of State with the power to require an action plan from a proprietor of an independent educational institution where the standards are not being met;
- Provides a power for the Secretary of State to apply to a justice of the peace to impose an immediate restriction on an independent educational institution in an emergency where there is significant risk of harm to a student at the institution;
- Enables the Secretary of State to make regulations to apply any provisions of the regime for the regulation of independent educational institutions to independent post-16 colleges;
- Provides a right for sixth-form pupils in non-maintained special schools to opt out of religious worship;
- Provides a power to make regulations under which the Secretary of State could apply to a Justice of the Peace for an order to withdraw approval from a non-maintained special school in an emergency where there is significant risk of harm to a pupil at the institution;
- Amends section 347 of the Education Act 1996 which requires the Secretary of State to approve independent schools for the placement by local education authorities of pupils with statements of special educational needs, and to give his consent for the placement of such pupils in “non-approved” independent schools. The amendments alter the section so that the approval and consent for which it provides are only necessary for schools in Wales (where they are given by the Welsh Ministers);

Part 5: Miscellaneous and general

- Amends Part 1 of Schedule 5 to the Government of Wales Act 2006 (legislative competence of the National Assembly for Wales) so as to devolve additional powers to the Assembly in the field of education and training;
- Amends the School Standards and Framework Act 1998 to give young people the right to express a preference as to the school at which they wish to receive sixth form education, and also to appeal against a decision to refuse them a place at that school;
- Places a new duty on local education authorities to produce an annual report to the Schools Adjudicator on school admission arrangements in their areas, and requires the Schools Adjudicator to consider and act on any unlawful admission arrangements which come to his attention;
- Creates a power for governing bodies of maintained schools in England to direct pupils to learn outside the school premises to receive provision to improve their behaviour;

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- Extends the circumstances in which parents may be prosecuted for failure to ensure that their child attends school regularly, where a governing body has directed that child to learn offsite;
- Requires maintained schools and local authorities to implement National Curriculum assessment arrangements as they exist at a given time, rather than as they exist at the start of the school year;
- Requires maintained school governing bodies to invite and consider pupils' views on matters set out in regulations;
- Amends the Learning and Skills Act 2000 to remove the requirement for the Secretary of State or Welsh Ministers to give consent to all decisions of a designated body to approve qualifications as eligible to receive public funding;
- Creates additional functions for the QCA or Welsh Ministers to recognise bodies that wish to award or authenticate qualifications;
- Removes the legislative requirement for the Chief Inspector to notify providers of initial teacher training in England eight weeks before an inspection;
- Enables regulations to require schools forums to include non-schools representatives amongst their members.