



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 4

#### REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

### CHAPTER 1

#### INDEPENDENT EDUCATIONAL INSTITUTIONS IN ENGLAND

#### *Emergencies*

#### **120 Application to justice of the peace for order**

- (1) The Secretary of State may apply to a justice of the peace for—
  - (a) an order imposing a relevant restriction on the proprietor of a registered independent educational institution, or
  - (b) an order that such an institution be removed from the register.
- (2) If it appears to the justice that a student at the institution in question is suffering or is likely to suffer significant harm, the justice may make the order.
- (3) An application under this section may be made without notice.
- (4) An order under this section must be in writing.
- (5) A copy of an order under this section must be served on the proprietor of the institution by the Secretary of State as soon as reasonably practicable after the order is made.
- (6) An order under this section has effect from the time the copy is served on the proprietor (and, accordingly, in the case of an order under subsection (1)(b), the Secretary of State must not remove the institution from the register in pursuance of the order before that time).

**Changes to legislation:** *Education and Skills Act 2008, Cross Heading: Emergencies is up to date with all changes known to be in force on or before 25 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*

- (7) For the purposes of this section, “harm” has the same meaning as in the Children Act 1989 (c. 41) and the question of whether harm is significant is to be determined in accordance with section 31(10) of that Act.

**Commencement Information**

**II** S. 120 in force at 5.1.2015 by S.I. 2014/3364, art. 2(o)

**121 Relevant restriction imposed by justice of the peace: supplementary**

- (1) This section applies where the proprietor of an institution is subject to a relevant restriction imposed by an order of a justice of the peace under section 120(1)(a).
- (2) If the proprietor fails to comply with the relevant restriction, the proprietor is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or to both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), for “51 weeks” in subsection (2) substitute “six months”.

**Commencement Information**

**I2** S. 121 in force at 5.1.2015 by S.I. 2014/3364, art. 2(p)

**122 Order of justice of the peace: notification**

- (1) The Secretary of State must comply with this section as soon as reasonably practicable after an order is made under section 120 against the proprietor of an institution.
- (2) The Secretary of State must serve on the proprietor—
  - (a) a copy of any written statement in support of the application for the order, and
  - (b) notice of the right of appeal conferred by section 126.
- (3) In the case of an order made against the proprietor of a special institution, the Secretary of State must notify the following that the order has been made—
  - (a) the <sup>F1</sup>local authority] in whose area the institution is situated;
  - (b) any other <sup>F1</sup>local authority] that the Secretary of State, after reasonable enquiry, is aware has specified the institution in a statement of special educational needs in respect of a student at the institution.
- (4) In this section “a special institution” means an institution that is specially organised to make special educational provision for students with special educational needs.

**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 \(S.I. 2010/1158\)](#), [Sch. 2 para. 15\(2\)](#)

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**Commencement Information**

**I3** S. 122 in force at 5.1.2015 by S.I. 2014/3364, art. 2(q)

**Changes to legislation:**

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**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. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)