



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

Independent colleges for 16 to 18 year olds

132 Providers of independent education or training for 16 to 18 year olds

- (1) Regulations may provide for any provision of this Chapter to apply in relation to an independent post-16 college as it applies in relation to an independent educational institution, subject to such modifications as may be prescribed.
- (2) For this purpose, “an independent post-16 college” means an institution in England—
 - (a) at which relevant education or training is provided for—
 - (i) five or more persons who are not under compulsory school age, including at least one who is over compulsory school age but is under the age of 18, or
 - (ii) at least one student to whom subsection (4) applies who is over compulsory school age but is under the age of 18,
 - (b) which is not—
 - (i) an independent educational institution,
 - (ii) a school maintained by a [^{F1}local authority],
 - (iii) a special school not so maintained, ^{F2}...
 - [^{F3}(iiiia) an institution solely or principally concerned with the provision of higher education, or]

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- (iv) an institution in receipt of funding from the [^{F4}[^{F5}Secretary of State]^{F6}...], and
 - (c) which is outside the further education [^{F7}sector].
- (3) In subsection (2)(a), “relevant education or training” provided for a person means education or training which—
- (a) is provided for the person for at least 16 hours a week, for at least 4 weeks, during an academic year, and
 - (b) is not education or training provided in connection with facilities for adventure activities (within the meaning of section 1 of the Activity Centres (Young Persons' Safety) Act 1995 (c. 15) (adventure activities: licensing)).
- (4) This subsection applies to a person—
- (a) for whom [^{F8}an EHC plan is maintained], or
 - (b) for whom [^{F9}an EHC plan was] maintained immediately before—
 - (i) the person ceased to be a pupil at his or her last school [^{F10}or (if later) the person ceased to be a student at his or her last post-16 institution], or
 - (ii) the institution [^{F11}in England mentioned in subsection (2)] started providing relevant education or training for the person.
- (5) Regulations may—
- (a) provide that a specified institution or an institution of a specified description is not an independent post-16 college;
 - (b) provide that time spent on a specified activity or on an activity of a specified description is or is not to be treated as time during which education or training is provided for the purposes of this section;
 - (c) amend subsection (3)(a) so as to substitute a different number of hours or weeks for the number of hours or weeks for the time being mentioned there.
- (6) In this section—
- “an academic year” means a period of 12 months ending with 31 August;
 - [^{F12}“post-16 institution” has the meaning given by section 83(2) of the Children and Families Act 2014;]
 - “specified” means specified in regulations under this section.

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)**
- F2** Word in s. 132(2)(b)(iii) omitted (1.8.2019) by virtue of [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **11(a)(i)**
- F3** S. 132(2)(b)(iiia) inserted (1.8.2019) by [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **11(a)(ii)**
- F4** Words in s. 132(2)(b)(iv) substituted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a), **Sch. 1 para. 85** (with art. 2(3))
- F5** Words in s. 132(2)(b)(iv) substituted (1.4.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), **Sch. 16 para. 44**; S.I. 2012/924, art. 2
- F6** Words in s. 132(2)(b)(iv) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(g), **Sch. 14 para. 64**

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- F7** Word in s. 132(2)(c) substituted (1.8.2019) by [The Higher Education and Research Act 2017 \(Further Implementation etc.\) Regulations 2019 \(S.I. 2019/1027\)](#), regs. 1, **11(b)**
- F8** Words in s. 132(4)(a) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 87(a)**; S.I. 2014/889, art. 7(a)
- F9** Words in s. 132(4)(b) substituted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 87(b)**; S.I. 2014/889, art. 7(a)
- F10** Words in s. 132(4)(b)(i) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 87(c)**; S.I. 2014/889, art. 7(a)
- F11** Words in s. 132(4)(b)(ii) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 87(d)**; S.I. 2014/889, art. 7(a)
- F12** Words in s. 132(6) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), s. 139(6), **Sch. 3 para. 87(e)**; S.I. 2014/889, art. 7(a)

Commencement Information

- I1** S. 132 in force at 19.6.2009 for specified purposes by [S.I. 2009/1513](#), **art. 2(2)**

133 Regulations under section 132: supplementary

(1) Regulations under section 132(1) applying—

- (a) section 120, or
- (b) any of the provisions mentioned in—
 - (i) section 124(1), or
 - (ii) section 125(1),

in relation to an independent post-16 college must also apply any provision conferring a right of appeal against a decision or order made under that provision.

(2) No draft of any regulations under section 132(1) may be laid before Parliament unless the Secretary of State has first consulted—

- (a) the Chief Inspector, and
- (b) such other persons as the Secretary of State considers appropriate, about the proposal to make the regulations.

Commencement Information

- I2** S. 133 in force at 19.6.2009 for specified purposes by [S.I. 2009/1513](#), **art. 2(2)**

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\(3\)](#)