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*Changes to legislation: Education and Skills Act 2008, SCHEDULE 1 is up to date with all changes known to be in force on or before 20 March 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)*

# SCHEDULES

## SCHEDULE 1

Section 169

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

#### REGULATION AND INSPECTION

F1<sub>1</sub> .....

#### Textual Amendments

**F1** Sch. 1 paras. 1-4 and cross-heading repealed (1.10.2010) by Equality Act 2010 (c. 15), s. 211(2), **Sch. 27 Pt. 1** (as substituted by S.I. 2010/2279, arts. 2, 13, **Sch. 2**); S.I. 2010/2317, **art. 1(2)**, 2(1)(15)(c)(f)

F2<sub>2</sub> .....

#### Textual Amendments

**F2** Sch. 1 paras. 1-4 and cross-heading repealed (1.10.2010) by Equality Act 2010 (c. 15), s. 211(2), **Sch. 27 Pt. 1** (as substituted by S.I. 2010/2279, arts. 2, 13, **Sch. 2**); S.I. 2010/2317, **art. 1(2)**, 2(1)(15)(c)(f)

F3<sub>3</sub> .....

#### Textual Amendments

**F3** Sch. 1 paras. 1-4 and cross-heading repealed (1.10.2010) by Equality Act 2010 (c. 15), s. 211(2), **Sch. 27 Pt. 1** (as substituted by S.I. 2010/2279, arts. 2, 13, **Sch. 2**); S.I. 2010/2317, **art. 1(2)**, 2(1)(15)(c)(f)

F4<sub>4</sub> .....

#### Textual Amendments

**F4** Sch. 1 paras. 1-4 and cross-heading repealed (1.10.2010) by Equality Act 2010 (c. 15), s. 211(2), **Sch. 27 Pt. 1** (as substituted by S.I. 2010/2279, arts. 2, 13, **Sch. 2**); S.I. 2010/2317, **art. 1(2)**, 2(1)(15)(c)(f)

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PROSPECTIVE

*Education Act 1996 (c. 56)*

5 The Education Act 1996 is amended as follows.

6 For section 6(2) (reference to definition of special school) substitute—

- “(2) A school is a special school if—
- (a) it is specially organised, and
  - (b) in the case of a school that is not maintained by a [<sup>F5</sup>local authority], it is approved,
- as mentioned in section 337.”

**Textual Amendments**

**F5** 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)**

7 In section 313(5) (codes of practice) for “Part” substitute “ Chapter ”.

8 After section 537A insert—

**“537AA Application of sections 537 and 537A to certain part-time educational institutions in England**

- (1) Sections 537 and 537A (powers of the Secretary of State to require information from governing bodies etc) apply in relation to a relevant part-time educational institution as they apply in relation to an independent school.
- (2) In the application of sections 537 and 537A by virtue of this section—
  - (a) references to a pupil at an independent school are to be read as references to a student at a relevant part-time educational institution;
  - (b) references to the proprietor of an independent school are to be read as references to the person or body of persons responsible for the management of a relevant part-time educational institution.
- (3) In this section—
  - (a) “relevant part-time educational institution” means an independent educational institution in England that is not an independent school;
  - (b) “independent educational institution” has the same meaning as in Chapter 1 of Part 4 of the Education and Skills Act 2008 (see section 92 of that Act);
  - (c) “student” has the same meaning as in that Chapter (see section 138 of that Act).”

9 (1) Section 548 (no right to give corporal punishment) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “school” substitute “ relevant educational institution ”;

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(b) in paragraphs (b) and (c), for “school” substitute “ a relevant educational institution ”.

(3) In subsection (2) for “school” substitute “ relevant educational institution ”.

(4) In subsection (6)—

(a) in paragraph (a) for “school” substitute “ relevant educational institution ”;

(b) in paragraph (b)(i) for “school” substitute “ institution ”.

(5) After subsection (7) insert—

“(7A) “Relevant educational institution” means—

(a) a school, or

(b) an independent educational institution in England other than a school.

(7B) In subsection (7A)(b) “independent educational institution” has the same meaning as in Chapter 1 of Part 4 of the Education and Skills Act 2008 (see section 92 of that Act).”

10 In the table in section 580 (index), in the entry for “the Tribunal” for “(in Part IV)” substitute “(in Chapter 1 of Part 4).”

11 In that table insert the following entries at the appropriate places—

F6

F6

“ . . . ”

. . . ”

“a non-maintained special school (in section 337A.”  
Chapter 2 of Part 4).

#### Textual Amendments

**F6** Sch. 1 para. 11 entry omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 6\(1\)\(iii\)](#); S.I. 2021/373, art. 8(j)(xviii)

VALID FROM 08/09/2014

#### *Police Act 1997 (c. 50)*

12 In section 113BA of the Police Act 1997 (suitability information relating to children), in subsection (2)(e)—

(a) after “under” insert “ section 128 of the Education and Skills Act 2008 (prohibition on participation in management of independent educational institution in England) or ”;

(b) after “school” insert “ in Wales ”.

#### *Education Act 2002 (c. 32)*

13 The Education Act 2002 is amended as follows.

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**Commencement Information**

**II** Sch. 1 para. 13 in force at 1.9.2009 for specified purposes by [S.I. 2009/1606](#), [art. 3](#) (with [art. 6](#))

PROSPECTIVE

14 In the definition of “qualifying body” in section 1(3) (interpretation) for paragraph (g) substitute—  
 “(g) the proprietor of a school approved under section 342 of the Education Act 1996 (non-maintained special schools).”

VALID FROM 05/01/2015

15 Before section 157 insert—  
**Application of Chapter to schools in Wales only**  
 “156A) References in this Chapter to an independent school are to an independent school in Wales.  
 (2) For provision regulating independent schools in England, see Chapter 1 of Part 4 of the Education and Skills Act 2008.”

VALID FROM 05/01/2015

16 In section 157 (independent school standards) omit subsections (1A) and (2)(b).

VALID FROM 05/01/2015

17 In section 158 (the registers)—  
 (a) omit subsections (1)(a) and (2);  
 (b) in subsection (3), for “the National Assembly for Wales” substitute “the Welsh Ministers”.

18 Omit sections 162A and 162B (inspection of registered schools in England).

**Commencement Information**

**II** Sch. 1 para. 18 in force at 1.9.2009 for specified purposes by [S.I. 2009/1606](#), [art. 3](#) (with [art. 6](#))

VALID FROM 05/01/2015

19 In section 163 (power to inspect registered schools in Wales)—  
 (a) in the title, omit “in Wales”;  
 (b) in subsection (1)(a), omit “for Wales” and “in Wales”;

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(c) in subsection (5), omit the definition of “the Chief Inspector for Wales”.

VALID FROM 05/01/2015

20 In section 164 (inspections under section 163: supplementary) omit “for Wales” in subsections (1), (2)(a) (in both places), (3), (4), (9), (11) and (12).

VALID FROM 05/01/2015

21 In section 165(1)(a) (failure to meet standards) omit “162A or”.

VALID FROM 05/01/2015

22 In section 167A (prohibition on participation in management of independent schools)—  
(a) omit subsection (6)(a);  
(b) in subsection (6)(b) omit “in relation to Wales,”.

VALID FROM 05/01/2015

23 For sections 167C and 167D (information and notification in relation to directions under section 167A) substitute—

**“167C Directions under section 167A: information**

- (1) Where the appropriate authority is a public authority other than the Welsh Ministers, the Welsh Ministers may provide to that authority any information relating to a person which is held by the Welsh Ministers in connection with the Welsh Ministers' functions under this Chapter.
- (2) The Secretary of State may provide to the appropriate authority any information relating to a person which is held by the Secretary of State and which appears to the Secretary of State to be relevant to the exercise of the appropriate authority's functions under section 167A or by virtue of section 167B.
- (3) The Chief Inspector may provide to the appropriate authority any information relating to a person which appears to the Chief Inspector to be relevant to the exercise of the appropriate authority's functions under section 167A or by virtue of section 167B.
- (4) The Independent Barring Board may provide to the appropriate authority any information relating to a person which is held by the Board in connection with its functions and which appears to it to be relevant to the exercise of the appropriate authority's functions under section 167A or by virtue of section 167B.
- (5) The appropriate authority may provide to the Independent Barring Board,  
<sup>F7</sup>... the General Teaching Council for Wales, the Chief Inspector, the

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Secretary of State or, where the appropriate authority is a public authority other than the Welsh Ministers, the Welsh Ministers, any information relating to a person which is held by the appropriate authority in connection with its functions under section 167A.

#### **167D Directions under section 167A: notification**

Where the appropriate authority gives a direction under section 167A(1), or varies or revokes any such direction, it must notify—

- (a) the registration authority (unless the appropriate authority is the registration authority), and
- (b) the Secretary of State and (if different) the appropriate authority for the purposes of sections 128 to 131 of the Education and Skills Act 2008 (prohibition on participation in management of independent educational institutions in England)."

#### **Textual Amendments**

- F7** Words in Sch. 1 para. 23 omitted (1.4.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 2 para. 20\(b\)](#); S.I. 2012/924, art. 2

VALID FROM 05/01/2015

- 24 (1) Section 171 is amended as follows.
- (2) In the definition of “Chief Inspector”—
- (a) omit paragraph (a);
  - (b) in paragraph (b) omit “in relation to a school in Wales,”.
- (3) Omit the definition of “early years provision”.
- (4) In the definition of “the register”—
- (a) omit paragraph (a);
  - (b) in paragraph (b) omit “in relation to a school in Wales,”.
- (5) In the definition of “registration authority” for paragraphs (a) and (b) substitute “the Welsh Ministers”.

VALID FROM 05/01/2015

#### *Education Act 2005 (c. 18)*

- 25 The Education Act 2005 is amended as follows.

PROSPECTIVE

- 26 For section 5(2)(g) (duty to inspect certain schools) substitute—

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“(g) schools approved under section 342 of the Education Act 1996 (non-maintained special schools).”

PROSPECTIVE

27 For section 28(2)(d) (duty to arrange inspections of certain schools) substitute—

“(d) schools approved under section 342 of the Education Act 1996 (non-maintained special schools).”

28 (1) Section 59 (combined reports) is amended as follows.

(2) In subsection (1)(d), after “independent schools” insert “ in Wales ”.

(3) After subsection (1)(e) (inserted by paragraph 44(d) of Schedule 2 to the Childcare Act 2006 (c. 21)) insert “, and

(f) Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation of independent educational provision in England).”

29 In section 62(4)(a) (power of Welsh Ministers to change inspection framework for Wales) for sub-paragraph (iv) substitute—

“(iv) sections 106 to 113 of the Education and Skills Act 2008 (independent educational institutions in England),”.

VALID FROM 05/01/2015

*Childcare Act 2006 (c. 21)*

30 The Childcare Act 2006 is amended as follows.

31 (1) Section 13 (duty to provide information, advice and training to childcare providers) is amended as follows.

(2) In subsection (1)(c)—

(a) in the opening words, for “schools” substitute “ institutions ”;

(b) in sub-paragraph (ii), for “approved by the Secretary of State” substitute “ approved ”;

(c) in sub-paragraph (iii), for “an independent school” substitute “ an independent educational institution ”.

(3) In subsection (1)(d) for “school” substitute “ institution ”.

32 (1) Section 34(2) (requirement to register: other early years providers) is amended as follows.

(2) In paragraph (a)—

(a) in the opening words for “schools” substitute “ institutions ” and for “school's” substitute “ institution's ”;

(b) in sub-paragraph (ii) for “approved by the Secretary of State” substitute “ approved ”;

(c) in sub-paragraph (iii) for “an independent school” substitute “ an independent educational institution ”.

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	(3) In paragraph (b) for “school” in both places substitute “ institution ”.
	(4) For paragraph (c) substitute— “(c) where the provision is made at a school (including a school that is an independent educational institution)— (i) the child is a registered pupil at the school, or (ii) if the provision is made for more than one child, at least one of the children is a registered pupil at the school.”
33	In section 49 (inspections) in subsection (4) for “independent school” substitute “ independent educational institution ”.
34	(1) Section 53(2) (requirement to register: other later years providers for children under eight) is amended as follows. (2) In paragraph (a)— (a) in the opening words for “schools” substitute “ institutions ” and for “school's” substitute “ institution's ”; (b) in sub-paragraph (ii) for “approved by the Secretary of State” substitute “ approved ”; (c) in sub-paragraph (iii) for “an independent school” substitute “ an independent educational institution ”. (3) In paragraph (b) for “school” in both places substitute “ institution ”. (4) For paragraph (c) substitute— “(c) where the provision is made at a school (including a school that is an independent educational institution)— (i) the child is a registered pupil at the school, or (ii) if the provision is made for more than one child, at least one of the children is a registered pupil at the school.”
35	(1) Section 63(3) (applications for registration on the general register: other childcare providers) is amended as follows. (2) In paragraph (a)— (a) in the opening words for “schools” substitute “ institutions ” and for “school's” substitute “ institution's ”; (b) in sub-paragraph (ii) for “approved by the Secretary of State” substitute “ approved ”; (c) in sub-paragraph (iii) for “an independent school” substitute “ an independent educational institution ”. (3) In paragraph (b) for “school” in both places substitute “ institution ”. (4) For paragraph (c) substitute— “(c) where the provision is made at a school (including a school that is an independent educational institution)— (i) the child is a registered pupil at the school, or (ii) if the provision is made for more than one child, at least one of the children is a registered pupil at the school.”
36	In section 106 (general interpretation) for the definition of “independent school” substitute—



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““independent educational institution” has the same meaning as in Chapter 1 of Part 4 of the Education and Skills Act 2008;”.

VALID FROM 05/01/2015

*Education and Inspections Act 2006 (c. 40)*

- 37 The Education and Inspections Act 2006 is amended as follows.
- 38 (1) Section 11 (publication of proposals to establish maintained schools: special cases) is amended as follows.
- (2) In subsection (3)(a) for “Chapter 1 of Part 10 of EA 2002 (regulation of independent schools)” substitute “ Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation of independent educational institutions in England) ”.
- (3) In subsection (9) for “approved by the Secretary of State” substitute “ approved ”.

PROSPECTIVE

- 39 In the following provisions for “approved by the Secretary of State or the Assembly” substitute “ approved ”
- (a) paragraph (e) of the definition of “relevant school” in section 88(5);
- (b) the definition of “governing body” in that provision.
- 40 (1) Section 171 (prohibition on participation in management: transitional provision) is amended as follows.
- (2) In subsection (5), in the definition of “regulations”, for paragraphs (a) and (b) substitute “ by the Welsh Ministers; ”.

VALID FROM 05/01/2015

*Safeguarding Vulnerable Groups Act 2006 (c. 47)*

- 41 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
- (2) In Schedule 4 (regulated activity), paragraph 1(10) is amended as follows.
- <sup>F8</sup>(3) .....
- (4) In paragraph (c) after “school” insert “ in Wales ”.

**Textual Amendments**

- F8** Sch. 1 para. 41(3) repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

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## PART 2

### MISCELLANEOUS

PROSPECTIVE

#### *Local Government Act 1972 (c. 70)*

- 42 In section 177(1A) of the Local Government Act 1972 (allowances: supplementary provisions), after paragraph (c) insert “and  
 (d) regulations made by virtue of section 48(4) of the Education and Skills Act 2008 (allowances for attendance panels).”

#### *Children Act 1989 (c. 41)*

- 43 In section 36(5)(b) of the Children Act 1989 (education supervision orders)—  
 (a) in sub-paragraph (ii), after “subsection (1)” insert “ or (1A) ”;  
 (b) in sub-paragraph (iii), after “subsection” insert “ (1B) or ”.

#### **Commencement Information**

**I3** Sch. 1 para. 43 in force at 1.9.2012 by [S.I. 2012/2197](#), [art. 2\(b\)](#)

#### *Social Security Administration Act 1992 (c. 5)*

- 44 The Social Security Administration Act 1992 is amended as follows.

#### **Commencement Information**

**I4** Sch. 1 para. 44 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

- 45 (1) Section 2A (claim or full entitlement to certain benefits conditional on work-focused interviews) is amended as follows.
- (2) In subsection (8), in the definition of “the designated authority”—  
 (a) after paragraph (c) insert—  
     “(ca) subject to subsection (9), a county council in England,”;  
 (b) in paragraph (d), before “a person” insert “ subject to subsection (9), ”;  
 (c) in that paragraph for “any such authority” substitute “ any authority mentioned in paragraph (c) or (ca) ”.
- (3) After that subsection insert—  
     “(9) A county council in England or a person providing services to, or authorised to exercise any function of, such a council may be specified as the designated authority only in relation to interviews with persons to whom the council is required to make support services available under section 68(1) of the Education and Skills Act 2008 (support services: provision by [<sup>F5</sup>local authorities]).”

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#### Textual Amendments

**F5** 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)**

#### Commencement Information

**I5** Sch. 1 para. 45 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(g)**

46 (1) Section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) is amended as follows.

(2) In subsection (7), in the definition of “designated authority”—

(a) after paragraph (c) insert—

“(ca) subject to subsection (8), a county council in England;”;

(b) in paragraph (d), before “a person” insert “ subject to subsection (8), ”;

(c) in that paragraph, for “a local authority” substitute “ any authority mentioned in paragraph (c) or (ca) ”.

(3) After that subsection insert—

“(8) A county council in England or a person providing services to, or authorised to exercise any function of, such a council may be specified as the designated authority only in relation to interviews with persons to whom the council is required to make support services available under section 68(1) of the Education and Skills Act 2008 (support services: provision by [<sup>F5</sup>local authorities]).”

#### Textual Amendments

**F5** 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)**

#### Commencement Information

**I6** Sch. 1 para. 46 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(g)**

47 (1) Section 2C (optional work-focused interviews) is amended as follows.

(2) In subsection (1), after “local authorities” insert “ or, subject to subsection (3A), county councils in England ”.

(3) In subsection (3), after “a local authority” insert “ or on a county council in England ”.

(4) After subsection (3) insert—

“(3A) Regulations under this section may confer functions on a county council in England only in relation to interviews with persons to whom the council is required to make support services available under section 68(1) of the Education and Skills Act 2008 (support services: provision by [<sup>F5</sup>local authorities]).”

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#### Textual Amendments

- F5** 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)**

#### Commencement Information

- I7** Sch. 1 para. 47 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(g)**

#### *Education Act 1996 (c. 56)*

- 48 The Education Act 1996 is amended as follows.

#### Commencement Information

- I8** Sch. 1 para. 48 in force at 1.9.2012 for specified purposes by [S.I. 2012/2197](#), **art. 2(c)**

#### PROSPECTIVE

- 49 In section 439 (school attendance: specification of schools), in subsection (2), after “section” insert “ 88C or ”.
- 50 In section 444A(1)(b) (penalty notice in respect of failure to secure regular attendance at school of registered pupil), for sub-paragraph (iii) and the “or” before that sub-paragraph substitute—
- “(iii) in a case falling within subsection (1A) of that section, to a place at which education is provided for a child in the circumstances mentioned in that subsection, or
  - (iv) in a case falling within subsection (1B) of that section, to a place at which a child is required to attend in the circumstances mentioned in that subsection.”.

#### Commencement Information

- I9** Sch. 1 para. 50 in force at 1.9.2012 by [S.I. 2012/2197](#), **art. 2(c)**

- 51 In section 566(3) (evidence: documents)—
- (a) in paragraph (a), after “subsection (1)” insert “ or (1A) ”;
  - (b) in paragraph (b), after “subsection” insert “ (1B) or ”.

#### Commencement Information

- I10** Sch. 1 para. 51 in force at 1.9.2012 by [S.I. 2012/2197](#), **art. 2(c)**

- 52 (1) Paragraph 8 of Schedule 35B (meaning of “eligible child” for purposes of section 508B) is amended as follows.
- (2) In sub-paragraph (1), for paragraph (c) substitute—

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- “(c) the appropriate authority for the school has made arrangements for the provision of full-time education for him otherwise than at the school or at his home during the period of exclusion.”
- (3) In that sub-paragraph, for “the child is required to attend” substitute “ the education is provided ”.
- (4) In sub-paragraph (2), for paragraph (b) substitute—
- “(b) in relation to a maintained school or a pupil referral unit, references in that sub-paragraph to exclusion are references to exclusion under section 52 of the Education Act 2002.”

#### Commencement Information

**I11** Sch. 1 para. 52 in force at 1.9.2012 by [S.I. 2012/2197](#), [art. 2\(c\)](#)

#### *School Standards and Framework Act 1998 (c. 31)*

53 The School Standards and Framework Act 1998 is amended as follows.

#### Commencement Information

- I12** Sch. 1 para. 53 in force at 2.12.2008 for specified purposes by [S.I. 2008/3077](#), [art. 2\(d\)](#)
- I13** Sch. 1 para. 53 in force at 2.12.2008 for specified purposes for E. by [S.I. 2008/3077](#), [art. 3\(b\)](#)
- I14** Sch. 1 para. 53 in force at 26.1.2009 for E. so far as not already in force by [S.I. 2008/3077](#), [art. 5\(e\)](#) (with [art. 6](#))
- I15** Sch. 1 para. 53 in force at 26.1.2009 for specified purposes by [S.I. 2008/3077](#), [art. 4\(g\)](#)
- I16** Sch. 1 para. 53 in force at 31.3.2009 for W. by [S.I. 2009/784](#), [art. 3\(d\)](#) (with [art. 4](#))

- 54 (1) Section 86 (parental preferences) is amended as follows.
- (2) After subsection (1) insert—
- “(1ZA) Subsection (1) does not apply in relation to—
- (a) sixth form education, or
- (b) any other education to be provided for a child who—
- (i) has ceased to be of compulsory school age, or
- (ii) will have ceased to be of compulsory school age before the education is provided for him.”
- (3) In subsection (2), for “subsections (3) and (3A)” substitute “ subsection (3) ”.
- (4) Omit subsections (3A) and (3B).
- (5) In subsection (5), after “section” insert “ 88C or ”.
- (6) In subsection (5A)—
- (a) after “under section” insert “ 88C or ”;
- (b) for “paragraphs (a) and (b) of section 89A(2)” substitute “ section 88D(2) (a) and (b) or 89A(2)(a) and (b) ”.
- (7) In subsection (5B)(a) and (b), after “section” insert “ 88C or ”.
- (8) In subsection (8), for “subsections (3) and (3A)” substitute “ subsection (3) ”.

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(9) In subsection (9), omit “or arrangements such as are mentioned in subsection (3B)”.

**Commencement Information**

- I17** Sch. 1 para. 54 in force at 31.3.2009 for W. by [S.I. 2009/784, art. 3\(d\)](#) (with [art. 4](#))  
**I18** Sch. 1 para. 54(1)-(4) (8) (9) in force at 26.1.2009 for E. so far as not already in force by [S.I. 2008/3077, art. 5\(e\)](#) (with [art. 6](#))  
**I19** Sch. 1 para. 54(5)(6)(7) in force at 2.12.2008 for E. by [S.I. 2008/3077, art. 3\(b\)](#)

55 In section 87 (no requirement to admit children permanently excluded from two or more schools), in subsection (1), for “duty imposed by section 86(2) does” substitute “duties imposed by section 86(2) and section 86B(1) do”.

**Commencement Information**

- I20** Sch. 1 para. 55 in force at 26.1.2009 for E. by [S.I. 2008/3077, art. 5\(e\)](#) (with [art. 6](#))  
**I21** Sch. 1 para. 55 in force at 31.3.2009 for W. by [S.I. 2009/784, art. 3\(d\)](#) (with [art. 4](#))

56 After section 88Q (inserted by section 151) insert—

*“Admission arrangements: Wales*

**88R Prohibition on interviews**

- (1) No admission arrangements for a maintained school in Wales may require or authorise any interview with an applicant for admission to the school or his parents, where the interview is to be taken into account (to any extent) in determining whether the applicant is to be admitted to the school.
- (2) If the maintained school is one at which boarding accommodation is provided for pupils, subsection (1) does not apply in relation to any interview intended to assess the suitability of an applicant for a boarding place.
- (3) Where the admission arrangements for a maintained school in Wales make provision for a permitted form of selection by aptitude, subsection (1) does not prevent the arrangements from requiring or authorising any audition or other oral or practical test to be carried out in relation to an applicant solely for the purpose of ascertaining the applicant's aptitude in accordance with the arrangements.
- (4) In this section “permitted form of selection by aptitude” is to be read in accordance with section 99(4).”

**Commencement Information**

- I22** Sch. 1 para. 56 in force at 26.1.2009 by [S.I. 2008/3077, art. 4\(g\)](#)

57 (1) Section 89 (procedure for determining admission arrangements) is amended as follows.

(2) In subsection (1), after “maintained school” insert “in Wales”.

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- (3) Omit subsections (1ZA) and (1A).
- (4) In subsection (5), for “the adjudicator” substitute “ the Welsh Ministers ”.
- (5) In subsection (6)—
  - (a) for “The adjudicator” substitute “ The Welsh Ministers ”;
  - (b) for “he determines” substitute “ they determine ”;
  - (c) for “he may determine” substitute “ they may determine ”;
  - (d) in paragraph (a), for “his” substitute “ their ”.
- (6) Omit subsection (7).
- (7) In subsection (8)(g), for “the Secretary of State considers” substitute “ the Welsh Ministers consider ”.
- (8) In subsection (10) omit paragraph (b).

#### Commencement Information

**I23** Sch. 1 para. 57 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 58
- (1) Section 89A (determination of admission numbers) is amended as follows.
  - (2) In subsection (1), after “maintained school” insert “ in Wales ”.
  - (3) In subsection (3), after “maintained school” insert “ in Wales ”.

#### Commencement Information

**I24** Sch. 1 para. 58 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 59
- (1) Section 89B (co-ordination of admission arrangements) is amended as follows.
  - (2) In subsection (1), after “authority” insert “ in Wales ”.
  - (3) In subsection (2)—
    - (a) for “the Secretary of State” substitute “ the Welsh Ministers ”;
    - (b) after “authority” insert “ in Wales ”.
  - (4) In subsection (3)(b)—
    - (a) for “the Secretary of State” substitute “ the Welsh Ministers ”;
    - (b) for “him” substitute “them.
  - (5) In subsection (4)—
    - (a) for “The Secretary of State” substitute “ The Welsh Ministers ”;
    - (b) after “authorities” in the first place in which it occurs, insert “ in Wales ”;
    - (c) for “them” substitute “ such other authorities ”.
  - (6) In subsection (5)—
    - (a) in paragraph (a), after “authority” in the first place in which it occurs insert “ in Wales ”;
    - (b) in paragraph (b), after “maintained school” insert “ in Wales ”.
  - (7) After subsection (6) insert—

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“(7) Nothing in this section applies in relation to arrangements for the admission to maintained schools in Wales of pupils—

- (a) who—
  - (i) have ceased to be of compulsory school age, or
  - (ii) will have ceased to be of compulsory school age before education is provided for them at the school, or
- (b) for the purpose of receiving sixth form education.”

#### Commencement Information

- I25** Sch. 1 para. 59(1)-(6) in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)  
**I26** Sch. 1 para. 59(7) in force at 26.1.2009 for E. by [S.I. 2008/3077](#), [art. 5\(e\)](#) (with [art. 6](#))  
**I27** Sch. 1 para. 59(7) in force at 31.3.2009 for W. by [S.I. 2009/784](#), [art. 3\(d\)](#) (with [art. 4](#))

- 60 (1) Section 89C (further provision about schemes adopted or made by virtue of section 89B) is amended as follows.
- (2) In subsection (1)—
    - (a) in paragraph (a), after “[<sup>F5</sup>local authorities]” insert “ in Wales ”;
    - (b) in paragraph (b), after “maintained schools” insert “ in Wales ”.
  - (3) In subsection (2)—
    - (a) after “[<sup>F5</sup>local authority]” in the first place where it occurs, insert “ in Wales ”;
    - (b) after “maintained school” insert “ in Wales ”.
  - (4) In subsections (3) and (3A), after “a maintained school” insert “ in Wales ”.
  - (5) In subsections (6) and (7), for “the Secretary of State” in each place substitute “ the Welsh Ministers ”.

#### Textual Amendments

- F5** 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\(2\)](#)

#### Commencement Information

- I28** Sch. 1 para. 60 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

- 61 Omit section 89D (power to restrict alteration of admission arrangements following establishment or expansion).

#### Commencement Information

- I29** Sch. 1 para. 61 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 62 (1) Section 90 (reference of objections to adjudicator or Secretary of State) is amended as follows.
- (2) In the title, for “adjudicator or Secretary of State” substitute “ Welsh Ministers ”.
  - (3) In subsections (1) and (2), for “the adjudicator” substitute “ the Welsh Ministers ”.



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- (4) After subsection (2) insert—
- “(2A) Where any objection is referred to the Welsh Ministers, they shall decide whether, and (if so) to what extent, the objection should be upheld.”
- (5) Omit subsections (3) to (5).
- (6) In subsection (5A)—
- (a) for “the adjudicator or the Secretary of State is” substitute “ the Welsh Ministers are ”;
  - (b) for “subsection (3)(a) or (b) or (5)(c)” substitute “ (2A) ”;
  - (c) for “he” (in both places) substitute “ they ”.
- (7) In subsection (5B)—
- (a) for “him” substitute “ them ”;
  - (b) for “the adjudicator or the Secretary of State (as the case may be)” substitute “ the Welsh Ministers ”;
  - (c) in paragraphs (a), (b) and (d), for “his” substitute “ their ”;
  - (d) in paragraph (b) for “he has” substitute “ they have ”;
  - (e) omit paragraph (c);
  - (f) in paragraph (d), for “to (c)” substitute “ and (b) ”.
- (8) In subsection (5C)—
- (a) for “the adjudicator or the Secretary of State (as the case may be) decides” substitute “ the Welsh Ministers decide ”;
  - (b) for “his” substitute “ their ”.
- (9) In subsection (8)—
- (a) for “the adjudicator or the Secretary of State” (in both places) substitute “ the Welsh Ministers ”;
  - (b) for “has” substitute “ have ”.
- (10) In subsection (9)—
- (a) in paragraph (a)—
    - (i) for “the adjudicator or the Secretary of State” (in sub-paragraphs (i) and (ii)) substitute “ the Welsh Ministers ”;
    - (ii) in sub-paragraph (ii), for “is” substitute “ are ” and for “him” substitute “ them ”;
  - (b) in paragraph (b), for “the adjudicator or the Secretary of State” substitute “ the Welsh Ministers ”;
  - (c) omit paragraph (ba);
  - (d) in paragraphs (e) and (f), for “the adjudicator or the Secretary of State” substitute “ the Welsh Ministers ”.
- (11) In subsection (11), omit paragraph (b).

**Commencement Information**

**I30** Sch. 1 para. 62 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

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### “90ZA Regulations by Welsh Ministers under sections 89 to 90

In sections 89 to 90—

“prescribed” means prescribed by regulations made by the Welsh Ministers;

“regulations” means regulations made by the Welsh Ministers.”

#### Commencement Information

**I31** Sch. 1 para. 63 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

64 Omit section 90A (restrictions on alteration of admission arrangements following adjudicator's decision).

#### Commencement Information

**I32** Sch. 1 para. 64 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

65 Before section 92 insert— “ Publication of information about admissions: England and Wales ”

#### Commencement Information

**I33** Sch. 1 para. 65 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

66 Omit section 94(7).

#### Commencement Information

**I34** Sch. 1 para. 66 in force at 26.1.2009 for E. by [S.I. 2008/3077](#), [art. 5\(e\)](#) (with [art. 6](#))

**I35** Sch. 1 para. 66 in force at 31.3.2009 for W. by [S.I. 2009/784](#), [art. 3\(d\)](#) (with [art. 4](#))

67 (1) Section 95 (appeals relating to children to whom section 87 applies) is amended as follows.

(2) In subsection (1)—

(a) for “the parent of a child” substitute “ the appropriate person ”;

(b) in paragraph (b), for “the child” substitute “ a child ”.

(3) After that subsection insert—

“(1A) In subsection (1), “the appropriate person”, in relation to a child, has the same meaning as in section 94.”

#### Commencement Information

**I36** Sch. 1 para. 67 in force at 26.1.2009 for E. by [S.I. 2008/3077](#), [art. 5\(e\)](#) (with [art. 6](#))

**I37** Sch. 1 para. 67 in force at 31.3.2009 for W. by [S.I. 2009/784](#), [art. 3\(d\)](#) (with [art. 4](#))

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- 68 (1) Section 98 (admission for nursery education or to nursery or special school: children with statements of special educational needs) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “section” insert “ 88C or ”;
- (b) in paragraph (b), after “section” insert “ 88D or ”.
- (3) In subsection (9)(b), after “section” insert “ 88C or ”.

**Commencement Information**

**I38** Sch. 1 para. 68 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 69 In section 103 (permitted selection: introduction, variation or abandonment of provision for such selection), in subsection (1), after “sections” insert “ 88C to 88K or, as the case may be, ”.

**Commencement Information**

**I39** Sch. 1 para. 69 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 70 In section 108 (implementation of decision that school should cease to have selective admission arrangements), in subsection (2), after “sections” insert “ 88C to 88K or, as the case may be, ”.

**Commencement Information**

**I40** Sch. 1 para. 70 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 71 After section 138 insert—

**“138A Regulations made by Welsh Ministers under sections 89 to 90**

- (1) Any power of the Welsh Ministers to make regulations under sections 89 to 90 shall be exercisable by statutory instrument.
- (2) A statutory instrument containing any such regulations made by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Any such regulations may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Welsh Ministers think fit.”

**Commencement Information**

**I41** Sch. 1 para. 71 in force at 2.12.2008 by [S.I. 2008/3077](#), [art. 2\(d\)](#)

- 72 In section 142(1) (general interpretation)—
- (a) in the definition of “prescribed”, after “ “prescribed”” insert “ (except in sections 89 to 90) ”;

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- (b) in the definition of “regulations”, after “ “regulations”” insert “ (except in sections 89 to 90) ”.

**Commencement Information**

**I42** Sch. 1 para. 72 in force at 2.12.2008 by [S.I. 2008/3077](#), **art. 2(d)**

73 (1) Section 143 (index) is amended as follows.

(2) For the entry relating to “prescribed” substitute—

“prescribed (generally) (in sections 89 to 90)	section 142(1) section 90ZA”.
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(3) For the entry relating to “regulations” substitute—

“regulations (generally) (in sections 89 to 90)	section 142(1) section 90ZA”.
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**Commencement Information**

**I43** Sch. 1 para. 73 in force at 2.12.2008 by [S.I. 2008/3077](#), **art. 2(d)**

*Welfare Reform and Pensions Act 1999 (c. 30)*

74 (1) Section 72 of the Welfare Reform and Pensions Act 1999 (supply of information for certain purposes) is amended as follows.

(2) In subsection (2)—

(a) after paragraph (c) insert—

“(ca) a county council in England; and”;

(b) in paragraph (d) for “any such authority” substitute “ any authority mentioned in paragraph (c) or (ca) ”.

<sup>F9</sup>(3) .....

<sup>F9</sup>(4) .....

**Textual Amendments**

**F9** Sch. 1 para. 74(3)(4) repealed (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 134(4), 150(2)(g)**

**Commencement Information**

**I44** Sch. 1 para. 74 in force at 30.3.2010 by [S.I. 2010/1093](#), **art. 2(b)**

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*Learning and Skills Act 2000 (c. 21)*

- 75 The Learning and Skills Act 2000 is amended as follows.
- 76 In the following provisions after “section” insert “ 139A or ”
- (a) section 6(3)(f);
  - (b) section 13(1)(b);
  - (c) section 35(3)(f);
  - (d) section 41(1)(b).
- 77 In section 140 (the title of which becomes “Assessments relating to learning difficulties: Wales”)—
- (a) in subsection (1)(a) after “[<sup>F5</sup>local authority]” insert “ in Wales ”;
  - (b) in subsection (1)(b) for “Secretary of State believes” substitute “ Welsh Ministers believe ” and for “Part 1” substitute “ Part 2 ”;
  - (c) in subsections (2) and (3) for “The Secretary of State” substitute “ The Welsh Ministers ”;
  - (d) in subsection (3)(b) for “to the Secretary of State” substitute “ to the Welsh Ministers ” and for “section 13” substitute “ section 41 ”;
  - (e) in subsection (3)(c) for “Secretary of State’s opinion” substitute “ opinion of the Welsh Ministers ” and for “Part 1” substitute “ Part 2 ”;
  - (f) in subsection (5) after “[<sup>F5</sup>local authority]” insert “ in Wales ” and for “Secretary of State on his request” substitute “ Welsh Ministers on their request ”;
  - (g) omit subsection (6).

**Textual Amendments**

- F5** 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\(2\)](#)

*Tax Credits Act 2002 (c. 21)*

- 78 Omit paragraph 10 of Schedule 5 to the Tax Credits Act 2002 (provision of information by HMRC for education purposes).

**Commencement Information**

- I45** Sch. 1 para. 78 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

PROSPECTIVE

*Education Act 2002 (c. 32)*

- 79 After section 210 of the Education Act 2002 insert—

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**“210A Regulations under power conferred on Welsh Ministers after implementation of Government of Wales Act 2006**

- (1) The power of the Welsh Ministers to make regulations under section 29B is exercisable by statutory instrument.
- (2) A statutory instrument containing any such regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) The power of the Welsh Ministers to make regulations under section 29B includes power—
  - (a) to make different provisions for different cases or areas,
  - (b) to make provision generally or only in relation to specific cases, and
  - (c) to make such incidental, supplemental, saving or transitional provisions as the Welsh Ministers think fit.
- (4) Nothing in this Act shall be regarded as affecting the generality of subsection (3).”

*Anti-social Behaviour Act 2003 (c. 38)*

80. In section 19(2) of the Anti-social Behaviour Act 2003 (parenting contracts in case of misbehaviour at school or truancy)—
- (a) in paragraph (b), after “subsection (1)” insert “or (1A)”; and
  - (b) in paragraph (c), after “subsection” insert “(1B) or”.

**Commencement Information**

**I46** Sch. 1 para. 80 in force at 1.9.2012 by [S.I. 2012/2197](#), [art. 2\(d\)](#)

*Sexual Offences Act 2003 (c. 42)*

- 81 In section 21 of the Sexual Offences Act 2003 (positions of trust), in subsection (7), for paragraph (b) substitute—
- “(b) section 68, 70(1)(b) or 74 of the Education and Skills Act 2008,”.

**Commencement Information**

**I47** Sch. 1 para. 81 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

*Children Act 2004 (c. 31)*

- 82 The Children Act 2004 is amended as follows.

**Commencement Information**

**I48** Sch. 1 para. 82 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

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- 83 In section 10 (co-operation to improve well-being), in subsection (4)(f), for “under section 114 of the Learning and Skills Act 2000 (c. 21)” substitute “ in pursuance of section 68 of the Education and Skills Act 2008 ”.

**Commencement Information**

**I49** Sch. 1 para. 83 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

- 84 In section 11 (arrangements to safeguard and promote welfare), in subsection (1)(m), for “under section 114 of the Learning and Skills Act 2000 (c. 21)” substitute “ in pursuance of section 74 of the Education and Skills Act 2008 ”.

**Commencement Information**

**I50** Sch. 1 para. 84 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

- 85 In section 13(3)(g) (Local Safeguarding Children's Boards), for “under section 114 of the Learning and Skills Act 2000 (c. 21)” substitute “ in pursuance of section 68 of the Education and Skills Act 2008 ”.

**Commencement Information**

**I51** Sch. 1 para. 85 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

*Education and Inspections Act 2006 (c. 40)*

- 86 The Education and Inspections Act 2006 is amended as follows.
- 87 In section 74(3) (implementation of curriculum requirements for fourth key stage)
- (a) for the words from the beginning to “insert—” substitute “ In section 88 of EA 2002, after subsection (1A) insert— ”;
  - (b) in subsection (2) of the inserted text, for “subsection (1)” substitute “ subsections (1) and (1A) ”.
- 88 (1) In section 180 (functions to be exercisable by National Assembly), in subsection (2) after “sections 40 to 54 (school admissions);” insert— “ section 55 (right of sixth-form pupils to opt out of religious worship); ”.
- (2) The amendment made by sub-paragraph (1) is deemed always to have had effect.

*Safeguarding Vulnerable Groups Act 2006 (c. 47)*

- 89 In section 21 of the Safeguarding Vulnerable Groups Act 2006 (controlled activity relating to children), in subsection (6)(b), for “section 117(1) of the Learning and Skills Act 2000 (c. 21)” substitute “ section 72 of the Education and Skills Act 2008 relating to children ”.

**Commencement Information**

**I52** Sch. 1 para. 89 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(g\)](#)

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PROSPECTIVE

*Criminal Justice and Immigration Act 2008 (c. 4)*

- 90 (1) Schedule 7 to the Criminal Justice and Immigration Act 2008 (youth default orders: modification of provisions applying to youth rehabilitation orders) is amended as follows.
- (2) In paragraph 5 (enforcement, revocation and amendment of youth default order), in sub-paragraph (1), at the end add “but subject to paragraph 5A”.
- (3) After that paragraph insert—

*“Enforcement, revocation and amendment: order made in respect of conviction under section 51 of the Education and Skills Act 2008*

- 5A (1) This paragraph applies where—
- (a) a youth default order has been made in a person’s case in respect of a fine imposed on conviction of an offence under section 51 of the Education and Skills Act 2008 (offence relating to failure to participate in education or training), and
  - (b) the person has reached the age of 18.
- (2) Paragraph 5 has effect as if sub-paragraph (3) provided for any power of the court to revoke a youth rehabilitation order and deal with the offender for the offence to be taken to be a power to—
- (a) revoke the youth default order, and
  - (b) specify the amount of the relevant sum (within the meaning given by section 55 of the Education and Skills Act 2008) that, having regard to the extent if any to which the person has complied with the order, is to be treated as remaining unpaid and, accordingly, to be enforceable by virtue of section 56 of that Act.”



**Status:**

Point in time view as at 01/09/2012. This version of this schedule contains provisions that are not valid for this point in time.

**Changes to legislation:**

Education and Skills Act 2008, SCHEDULE 1 is up to date with all changes known to be in force on or before 20 March 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.