

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 12: Miscellaneous

Careers education

Section 250: Careers education in schools: England

848. This section amends section 43 of the Education Act 1997, which requires a state secondary school in England to provide pupils with a programme of careers education. The effect of the new *subsections (2ZA) and (2ZB)* inserted into section 43 by this section is to require the school to ensure that the programme of careers education includes information on options available in respect of 16-18 education or training and, specifically, information on apprenticeships. This is the responsibility of the governing body of the school and its head teacher or, in the case of a pupil referral unit, the local education authority maintaining the unit and the teacher in charge of it. In support of this provision, the Government has issued statutory guidance under section 45A of the Education Act 1997 (as inserted by section 81 of the Education and Skills Act 2008).

Information about local authority expenditure

849. The Secretary of State for Children, Schools and Families currently uses two separate powers (one specific and one general) to collect information about a local education authority's planned and actual expenditure on its education functions and its children's social services functions. These are section 52 of the School Standards and Framework Act 1998 ("the 1998 Act") and section 230 of the Local Government Act 1972 ("the 1972 Act") respectively. Section 52 of the 1998 Act imposes a duty on local education authorities to prepare and publish financial statements containing information about their planned and actual expenditure on their education functions and accountable resources held, received or expended, in accordance with regulations made by the Secretary of State. Section 230 of the 1972 Act allows the Secretary of State to collect such information as he may require from local education authorities with respect to their functions and is used to collect financial information about their planned and actual expenditure on their children's social services functions. Section 251 will provide the Secretary of State with one specific power to collect both types of information but only in relation to local education authorities in England and to do so by means of a direction. This enables the Secretary of State to collect the information he needs without having to make or amend regulations. The section does not impose additional burdens on local education authorities.

Section 251: Information about planned and actual expenditure

850. *Subsections (1) and (2)* enable the Secretary of State to direct a local authority to provide information about its planned and actual expenditure on its education and its children's

social services functions and about “accountable resources” held, received or expended by any person in relation to a school maintained by the authority. “Accountable resources” are defined in section 252(4).

851. *Subsections (3) to (5)* respectively provide that the information must be provided in accordance with the direction, the direction may specify the period to which the information relates; the form and manner in which the information is to be provided; the persons to whom the information is to be provided; and requirements for the publication of this information; and, where a direction requires information to be provided to a person other than the Secretary of State, it may also require that person to make that information available for inspection in accordance with the direction.
852. The purpose of the financial statements is to provide schools, parents and other interested bodies such as the Local Government Association and CIPFA, for example, with details about local authority funding and expenditure on schools and children’s social services. The Government sees it as important that finance data is available to help inform debate and planning about differing levels of expenditure between local authorities. The information informs policy making in the Department for Children, Schools and Families as well as providing information to Parliament in its role of monitoring that Department’s accountability for public funds.

Section 252: Information about expenditure: supplementary

853. *Subsections (2) to (4)* define the education and children’s social services functions of a local authority and accountable resources in relation to a school maintained by a local authority. Local authority education functions include the determination of individual school budgets, and what is spent by the local authority centrally to support those responsibilities, including provision for pupils with special educational needs, and learner support. Local authority functions for children’s social services include expenditure on the children’s services strategy and services to young people, including youth justice.
854. *Subsection (5)* enables the Secretary of State to amend the section by order for the purposes of adding, removing or changing the description of education functions or children’s social services functions. Orders made under this subsection are to be subject to the affirmative resolution procedure.
855. *Subsection (6)* defines certain other terms used in this section.

Section 253: Information about expenditure: consequential amendments

856. *Subsection (2)* amends section 52 of the School Standards and Framework Act 1998 in order to restrict its application to local education authorities in Wales.
857. *Subsection (3)* repeals section 53 of the School Standards and Framework Act 1998 (certification of expenditure statements by the Audit Commission). The Secretary of State no longer requires local education authorities to make arrangements for the Audit Commission to examine their expenditure statements. This power has not been used during the past three years.

Support for participation in education and training

858. Part 1 of the Education and Skills Act 2008 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) and requires local education authorities to promote the effective participation of young people in their areas who are subject to the duty to participate. That Act also provides for local education authorities in England to establish support services for people aged 14 to 19, and those aged up to 24 who have learning difficulties. These services are known as Connexions services provided by local education authorities themselves or contractors.

These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009

859. Sections 15 and 76 of the Education and Skills Act 2008 provide for limited social security information to be provided to local education authorities, and Connexions service providers, respectively for the purposes of functions under Part 1 of that Act or Connexions services.
860. Section 17 of that Act enables information held by LEAs and by Connexions service providers to be supplied and used either for purposes under Part 1 of that Act or for Connexions services purposes.
861. Sections 254 and 255 amend provisions of that Act about the holding and supply of information for the purposes of Part 1 of that Act or for Connexions services purposes.

Section 254: Provision of social security information for purposes of functions under Education and Skills Act 2008

862. Subsection (2) of section 254 omits section 15 of the Education and Skills Act 2008 so that social security information may no longer be supplied directly to an LEA for Part 1 purposes. Social security could still be provided by a Connexions service provider to a local education authority where that is permitted under section 76 of that Act.
863. The Government intends that information that can be shared by a LEA and its Connexions service provider under section 17 of the Education and Skills Act 2008 will be held on a database operated by the authority or service provider. Subsection (4) amends section 17(1) to make clear that this is permitted. The database for each area will be known as “the Client Caseload Information System” (CCIS).
864. Subsection (5) excludes, from the category of information that can be shared under section 17, information that was supplied to a Connexions service provider under section 72 of the Welfare Reform and Pensions Act 1999 (which relates to 16/17 year old benefit claimants).
865. Subsection (6) amends section 17 to make it clear that the ability to share information under that section does not displace any statutory prohibition on disclosing the information.
866. At present, section 76 of the Education and Skills Act 2008 allows the Secretary of State (here the Department for Work and Pensions) or a contractor of that department, to provide limited social security information to a Connexions service provider for use for Connexions purposes. Subsection (9) amends section 76 to allow the information to be provided instead to the Secretary of State (here the Department for Children, Schools and Families) or a contractor of that department (inserted subsection (3B) of section 76) for onward transmission to Connexions service providers. Inserted subsection (3A) confers the necessary power on the Secretary of State (here the Department for Children, Schools and Families) to make arrangements for the transmission of information in this way.
867. Inserted subsections (3B) to (3E) set out the circumstances in which information that originated with the Department for Work and Pensions or a contractor of that department and is supplied under section 76 may be disclosed. These include enabling or assisting the exercise of any function of a LEA under Part 1. Subsections (4) and (4A) also create an offence which prevents this information being provided for any other purpose, and replaces the offence for which section 76 already provides.

Section 255: Provision of other information in connection with support services

868. The Department for Children, Schools and Families will make arrangements with a contractor to collect and hold relevant Connexions service information and supply it to those involved in the provision of Connexions services to assist in the provision of those services. This will involve a database known as the National Client Caseload Information System (NCCIS). The NCCIS will enable a Connexions service provider

to find out whether a person for whom the service provider has been providing support has moved to a different area.

869. *Subsection (3)* of section 255 inserts a new 76A into the Education and Skills Act 2008, subsection (1) of which enables the Secretary of State to make these arrangements. Subsection (3) of the new section allows local Connexions service providers to provide information to the contractor operating the NCCIS. This information is information obtained by a Connexions service provider about a person for whom services are provided but excludes information provided under section 72 of the Welfare Reform and Pension Act 1999. Subsections (4) to (6) of the new section contain restrictions on the disclosure of information held on the NCCIS.
870. *Subsection (1)* allows the Secretary of State to ensure that information is provided by local Connexions service providers to the NCCIS. It does this by amending section 69 of the Education and Skills Act 2008 to allow the Secretary of State to give directions to a LEA about the terms of the arrangements that it makes for the provision of local Connexions services.

Further education corporations

Section 256: Further education corporations in England: co-operation and promotion of well-being

871. *Subsection (2)* of this section amends section 19 of the Further and Higher Education Act 1992 (the “1992 Act”) to enable a further education corporation in England to provide advice or assistance to other persons, where it appears appropriate to do so, either for the purposes of or in connection with the provision of education by those persons. *Subsection (3)* inserts a new section 19A into the 1992 Act. The new section provides that, in carrying out their functions under sections 18 and 19 of the 1992 Act, further education corporations in England must have regard to the objective of promoting the economic and social well-being of the local area, including the people who live in that area. In doing so, the corporations must have regard to any guidance which the Secretary of State may issue about cooperating, or working jointly, with other educational institutions, employers or other people.

Student loans

Section 257: Student loans under the 1998 Act: IVAs, and Section 258: Student loans under the 1990 Act: IVAs and bankruptcy

872. These two sections amend the Teaching and Higher Education Act 1998 (“the 1998 Act”) and the Education (Student Loans) Act 1990 (“the 1990 Act”) so that a student loan made to a borrower who enters an individual voluntary arrangement (IVA) will be treated in a similar way as it is currently treated under a bankruptcy in England and Wales. Section 258 also amends the 1990 Act by inserting bankruptcy provisions for Northern Ireland that correspond to those in England and Wales in regard to student loans.
873. IVAs were created by the Insolvency Act 1986. An IVA enables a debtor to avoid bankruptcy by coming to an agreement with creditors to pay off a percentage of his or her debts over a given period.
874. At present, the treatment of student loans under an IVA differs from their treatment under a bankruptcy in England and Wales. There are two types of student loan. The newer type of loan, known as an income contingent loan, is repayable by a borrower under the 1998 Act, and the older type of loan, known as a mortgage style loan, is repayable under the 1990 Act.
875. The 1998 Act excludes loans from a borrower’s bankruptcy debts, so that during and upon discharge from bankruptcy, the borrower remains liable to repay his student loan.

Repayments are linked directly to a borrower's income so the student debt will not need to be repaid until the borrower's income is above the income threshold. Section 257 amends the 1998 Act to provide that similar arrangements will apply to student loans under an IVA as currently apply under a bankruptcy. This means that the liability of a borrower to repay a student loan will not be reduced when the borrower enters into an IVA.

876. **Section 258** makes similar provision in respect of the 1990 Act, so that a mortgage style loan is not to be included in the voluntary agreement. This means that the liability to repay the mortgage style loan will not be reduced when someone enters into an IVA. In respect of Northern Ireland, section 258 inserts similar provision about IVAs and also makes provision about bankruptcy corresponding to the existing provision under that Act for bankruptcy in England and Wales.
877. These provisions apply to England, Wales and Northern Ireland.
878. *Subsection (4)* of section 258 amends Schedule 2 to the 1990 Act in respect of Northern Ireland. The 1990 Act provides that, in respect of England and Wales, a mortgage style loan is prevented from forming part of the estate of a person who becomes bankrupt and also from forming part of the bankruptcy debts where the loan was taken out in England and Wales. Subsection (4) makes similar provision in respect of Northern Ireland.

Section 259: Power to award foundation degrees: Wales

879. The Privy Council has power, under section 76 of the Further and Higher Education Act 1992 ("FHEA 1992"), to make orders that enable institutions providing higher education to grant one or both of two groups of awards. Institutions providing higher education can be given a power to grant awards to students who complete a course of study, or a power to grant awards to students who complete a programme of research, or both. These are commonly referred to as taught and research degree awarding powers respectively.
880. A number of further education institutions provide courses leading to foundation degrees. Originally, only institutions with full taught degree awarding powers could award foundation degrees in their own right. Section 19 of the Further Education and Training Act 2007 amended section 76 of the Further and Higher Education Act 1992 so as to enable the Privy Council to make orders granting further education institutions in England the power to award foundation degrees.
881. Currently foundation degrees provided by further education institutions in Wales are awarded by other higher education institutions with full, taught degree-awarding powers through franchise arrangements. This section amends section 76 of the FHEA 1992 so as to enable the Privy Council to make orders granting further education institutions in Wales the power to award foundation degrees.
882. As a result of this provision, further education institutions in Wales providing courses leading to foundation degrees will be able to apply for powers to award foundation degrees themselves. In order to be granted this power, institutions will have to meet certain non-statutory criteria, which will be published once the provision comes into force. As with taught and research degree awarding powers, the Quality Assurance Agency for Higher Education will advise on whether an institution meets the criteria.
883. *Subsection (2)* requires Welsh Ministers to lay before the National Assembly for Wales a report about the effect of the provision within four years of it coming into force.
884. The provision applies to further education institutions in Wales as defined under section 91 of the FHEA 1992, which only includes institutions conducted by further education corporations and institutions designated under section 28 of that Act. The new legal category of sixth form college corporation created by the Act does not apply in Wales.

Section 260: Complaints: Wales

885. This section amends section 29 of the Education Act 2002. Section 29(1) places a duty on the governing bodies of maintained schools to establish procedures for dealing with complaints. Governing bodies must publicise procedures under section 29(1)(b) and, in establishing and publicising them, governing bodies in Wales must have regard to guidance from the Welsh Ministers (section 29(2)). Currently, governing bodies have discretion to put in place whatever procedure they judge fit for handling complaints. This amendment gives a power for the Welsh Ministers to make regulations which would set out a complaints procedure that will become compulsory for all governing bodies of maintained schools in Wales. Such regulations are able to specify how and where this procedure should be published.

Section 261: Local Government Act 1974: minor amendment

886. This section makes a minor amendment to paragraph 5 of Schedule 5 to the Local Government Act 1974. The Local Commissioner may currently investigate complaints about maladministration by local education authorities in relation to their education functions subject to the exclusions in paragraph 5 of Schedule 5. The effect of this amendment is to provide that a complaint about special educational needs may be considered by the Local Commissioner, even where it may relate to conduct, curriculum, internal organisation, management or discipline of a local education authority maintained school.