

Education and Lifelong Learning Committee

EDUCATION BILL BRIEFING

Overview

1. The Education Bill implements policy commitments and proposals made in the White Paper for England and Wales 'Schools – Achieving Success' and the Welsh Assembly's paving document 'The Learning Country'.

2. The Bill extends to England and Wales only. It is divided into 11 parts and, as amended in Commons Committee, has 209 clauses and 22 Schedules. In the main, the provisions relate to both England and Wales (146 clauses), although there are variations in the precise provisions for both countries. A number of provisions (32 clauses) relate to Wales-only: a number of provisions (31 clauses) relate to England-only.

3. Broadly, the Bill makes provision for:

- new legal frameworks to support innovation and new forms of service delivery in schools;
- financial assistance for education, childcare and related activities;
- the government and financing of maintained schools; admissions, exclusions and attendance;
- intervention in schools causing concern and LEAs
- school organisation;
- the Curriculum in England;
- the Curriculum in Wales;
- teachers' pay and conditions and teachers' qualifications;
- nursery education and childcare independent schools; and
- miscellaneous and general matters.

4. Save for non-devolved-matters and provisions relating to England only, for example, the School Teachers' Review Body and the National Curriculum for England, most of the provisions relating to Wales are enabling in character. This means, subject to enactment, that the Welsh Assembly will have discretionary powers as to the extent of their application in Wales.

Background

5. The Education Bill follows the Department for Education and Skills' White Paper 'Schools – Achieving Success' and proposals in the Welsh Assembly's paving document 'The Learning Country', both of which were issued for public consultation on 5 September 2001.

6. The Learning Country sets out the Assembly's comprehensive and lifelong learning programme to 2010 in Wales.

7. Consultation on 'The Learning Country' ended on 16 November 2001. The consultation paper was well received. The Education Bill will enable the Welsh Assembly to take significant steps to realise its education and training agenda for:

- improving early years provision and support for parents;
- better transition between primary and secondary schools;
- establishing an SEN Tribunal for Wales and providing regional provision for children with more complex needs;
- enabling schools to operate more flexibly, responsively and with more innovation;
- strengthening partnerships arrangements between schools and LEAs;
- completing the development of the national curriculum for Wales;
- transforming provision for 14 to 19 year olds; and
- providing more support to practitioners through continuing professional development.

8. The Bill is predominantly related to schools or matters related with schools.

Wales only clauses in the Bill

9. There are thirty two clauses in the Bill reflecting the policies promoted in 'The Learning Country'. They are:

- **The Curriculum in Wales (clauses 93 – 114)**

Provides for a separate National Curriculum for Wales with new powers for the Welsh Assembly to add, amend and disapply subjects. A new Foundation Stage and the separation of Key Stage 4 from Key Stage 1 to Key Stage 3 will enable greater flexibility in relation to curriculum requirements for 14 to 16 year olds. The overall effect is that the requirements for the National Curriculum in Wales are now described separately, ie Foundation Stage; Key Stages 1 to 3; and Key Stage 4, allowing suitably different provisions to apply at each stage.

- **Wales: provision of higher education (clause 135)**

Gives continuing powers to the Welsh Assembly to make regulations relating to the provision of courses of higher education by further education institutions in Wales, including regulating the numbers and categories of students on such courses. This is a safeguard against unplanned development of HE provision in FE institutions in Wales.

- **Special Educational Needs: Wales (clauses 184 to 188)**

Sets out the procedures to enable the Welsh Assembly to ensure that special educational provision can be made on a regional basis where that would be

more effective or efficient. Defines “regional provision”; empowers the Welsh Assembly to direct an LEA to make proposals to secure regional provision; also allows an LEA to establish a regional school or provide goods and services on a regional basis.

- **Special Educational Needs Tribunal for Wales (clause 188 and Schedule 18)**

Establishes a separate Special Educational Needs (SEN) Tribunal for Wales, to be funded by the Welsh Assembly. Sets out the arrangements for the establishment of the SEN Tribunal, and how its roles and responsibilities will be discharged. Also amends the Disability Discrimination Act 1995 so that the SEN Tribunal can hear disability discrimination claims against a school in Wales.

- **Publication and provision of material (clause 189)**

Enables the Welsh Assembly to provide “qualifying material” to governing bodies and LEAs and to require them to provide it to specified persons or to publish it. “Qualifying material” is material that will help parents choose schools for their children, increase public awareness of the quality and standards of education in schools and assist in assessing how well schools manage resources.

- **Partnership agreements and statements (clause 190)**

Enables the Welsh Assembly to make regulations requiring any LEA to enter into a partnership agreement with the governing body of any school maintained by the LEA. A partnership agreement will set out how the authority and governing body will carry out their functions in relation to a school, the aim being to ensure both parties work together effectively to promote high standards of education in the school. The regulations may require the agreements to cover the procedures to establish agreed common objectives for pupils’ educational progress; the actions the LEA will take to promote high standards in schools; the actions to be taken to support transition for pupils moving from primary to secondary school.

- **Transition from primary to secondary school (clause 191)**

This is a new power for the Welsh Assembly to require the governing bodies of primary and secondary schools to draw up plans together to facilitate the transition of pupils from the one to the other. Effective joint planning of transition from the primary to the secondary phase forms part of the Assembly’s strategy for driving up standards of attainment of pupils in the early years of secondary school. The clause includes a power for the Assembly to specify in regulations the timing and content of the plans and to give guidance on matters such as the making of the plans or which schools are to be considered as “feeder schools”.

Summary of provisions in the Bill

10. The bulk of the provisions in the Bill (146 clauses) extend to both England and Wales. A summary of the provisions in each of the 11 parts of the Bill is below. **Annex A** shows England/Wales application by clause.

Part 1 (clauses 1 – 12): makes provision for new legal frameworks in order to support innovation and new forms of service delivery in schools.

Part 2 (clauses 13 – 17): makes arrangements for enabling the Secretary of State or the Welsh Assembly to give financial assistance for childcare, education and matters connected with education.

Part 3 (clauses 18 to 50): makes provision with respect to the government and financing of maintained schools including admissions, exclusions and attendance.

Part 4 (clauses 51 to 61): makes provision for intervention in schools causing concern and LEAs.

Part 5 (clauses 62 to 71): makes provision about Academies and city colleges and proposals to establish, alter or discontinue schools.

Part 6 (clauses 72 to 92): relates to the National Curriculum in England.

Part 7 (clauses 93 – 114): separates the National Curriculum for Wales from that for England. It allows the Welsh Assembly to introduce a Foundation Stage for 3 – 7 year olds.

Part 8 (clauses 115 to 143): makes provision for teachers' pay and conditions, appraisal, qualifications and misconduct; provides for teacher and head teacher qualifications in schools and lecturers and principal qualifications in further education institutions.

Part 9 (clauses 144 to 151): makes adjustments to provision in respect of nursery education and childcare in the Children Act 1989 and the Schools Standards and Framework Act 1998.

Part 10 (clauses 152 to 169): makes provisions about independent schools, including inspection and right of entry by LEAs for the purposes of monitoring special educational needs provision.

Part 11 (clauses 170 to 209): miscellaneous and general resources – for example, relating to education and training outside of school; allowances for education and training; the definition of secondary education; right of entry by inspectors; and SEN for Wales.

ANNEX A

EDUCATION BILL: ENGLAND/WALES APPLICATION BY CLAUSE

PART 1: PROVISION FOR NEW LEGAL FRAMEWORKS		
CHAPTER 1: POWERS TO FACILITATE INNOVATION		
Clause 1	Purpose and interpretation of Chapter 1	E&W
Clause 2	Power to suspend statutory requirements etc	E&W
Clause 3	Variation or revocation of orders under section 2	E&W
Clause 4	Applications for orders under section 2	E&W
CHAPTER 2: EXEMPTIONS RELATED TO SCHOOL PERFORMANCE		
Clause 5	Interpretation of Chapter 2	E&W
Clause 6	Exemptions available to qualifying schools	E&W
Clause 7	Applications for orders under section 6(2)	E&W
Clause 8	Removal of exemptions	E&W
Clause 9	Determination of pay and conditions during and after exemption	E&W
CHAPTER 3: POWERS TO FORM COMPANIES ETC		
Clause 10	Powers of governing bodies to form or invest in companies to provide services etc	E&W
Clause 11	Limits on powers conferred by section 10	E&W
Clause 12	General powers of Secretary of State in relation to companies	E only
PART 2: FINANCIAL ASSISTANCE FOR EDUCATION AND CHILDCARE		
Clause 13	Power of Secretary of State and NAW to give financial assistance for purposes related to education or childcare	E&W
Clause 14	Forms of assistance under section 13	E&W
Clause 15	Terms on which assistance under section 13 is given	E&W
Clause 16	Delegation	E&W
Clause 17	Repeal of specific grant-making powers	E&W, except ss (2) which is W only
PART 3: MAINTAINED SCHOOLS		
CHAPTER 1: GOVERNMENT OF MAINTAINED SCHOOLS		
Clause 18 & Schedule 1	Governing bodies	E&W
Clause 19	Instruments of government	E&W
Clause 20	General responsibilities for conduct of school	E&W
Clause 21	Training and support of governors	E&W
Clause 22	Clerk to the governing body	E&W
Clause 23	Federations of schools	E&W
Clause 24	Federations: supplementary provisions	E&W
Clause 25	Power of governing body to provide community facilities etc	E&W

Clause 26	Limits on power to provide community facilities etc	E&W
Clause 27	Additional functions of governing body	E&W
Clause 28	Governors' reports and other information	E&W
Clause 29	Arrangements for joint discharge of functions	E&W
Clause 30	Control of school premises	E&W
Clause 31	Responsibility for fixing dates of terms and holidays and times of sessions	E&W
Clause 32	Annual parents' meetings	E&W
Clause 33	Arrangements for government of new schools	E&W
Clause 34 & Part 1 of Schedule 2	Staffing of community, voluntary controlled, community special and maintained nursery schools	E&W
Clause 35 and Part 2 of Schedule 2	Staffing of foundation, voluntary aided and foundation special schools	E&W
Clause 36	Payments in respect of dismissal etc	E&W
Clause 37	Interpretation of Chapter 1	E&W
Clause 38 & Schedule 3	Amendments to Part 2 of Schools Standards and Framework Act 1998	E&W
CHAPTER 2: FINANCING OF MAINTAINED SCHOOLS		
Determination of budgets		
Clause 39	Determination of specified budgets of LEA	E&W
Clause 40	Power of Secretary of State to set minimum budgets	E&W
Clause 41	Schools forums	E&W
Accounts and financial statements		
Clause 42	Accounts of maintained schools	E&W
Clause 43	Financial statements	E&W
CHAPTER 3: ADMISSIONS, EXCLUSIONS AND ATTENDANCE		
Admission arrangements		
Clause 44	Admissions forums	E&W
Clause 45	Admission numbers	E&W
Clause 46	Coordination of admission arrangements	E&W
Clause 47	Admission appeals	E&W
Clause 48 & Schedule 4	Further amendments relating to admission arrangements	E&W
Exclusion of pupils		
Clause 49	Exclusion of pupils	E&W
Attendance targets		
Clause 50	Attendance targets	E&W
PART 4: POWERS OF INTERVENTION		
Schools causing concern		
Clause 51	Duty to notify where inspection shows school causing concern	E&W
Clause 52	Cases in which powers of intervention exercisable	E&W
Clause 53 and Schedule 5	Power of Secretary of State to appoint additional governors or direct closure	E&W

Clause 54	Power of LEA to provide for governing body to consist of interim executive members	E&W
Clause 55	Power of Secretary of State to provide for governing body to consist of interim executive members	E&W
Clause 56 & Schedule 6	Governing bodies consisting of interim executive members	E&W
Local education authorities		
Clause 57	Powers of Secretary of State to secure proper performance of LEA's functions	E&W
Clause 58	Power to secure proper performance: duty of authority where directions contemplated	E&W
Clause 59	Power to secure proper performance: further provisions	E&W
Clause 60	Power to require LEA to obtain advisory services	E&W
Clause 61	Provisions supplementary to section 60	E&W
PART 5: SCHOOL ORGANISATION		
Academies and city colleges		
Clause 62 & Schedule 7	Academies	E only
Clause 63	Conversion of city academies into Academies	E only
Clause 64	City colleges	E only
Clause 65	Uniform statutory trusts	E only
Proposals to establish, alter or discontinue schools		
Clause 66 & Schedule 8	Proposals for additional secondary schools	E only
Clause 67	Duty of LEAs to secure proposals	E only
Clause 68 & Schedule 9	Proposals relating to sixth forms	E&W
Clause 69	Proposals by governing bodies of community schools	E only
Clause 70	Proposals for establishment of federated school	E&W
Clause 71 & Schedule 10	Changes to existing procedures	E&W
PART 6: THE CURRICULUM IN ENGLAND		
Preliminary		
Clause 72	Interpretation of Part 6	E only
Clause 73	Meaning of "nursery education" and related expressions	E only
General duties in respect of the curriculum		
Clause 74	General requirements in relation to curriculum	E only
Clause 75	Duty to implement general requirements	E only
Clause 76	Basic curriculum for every maintained school in England	E only
The National Curriculum for England		
Clause 77	The foundation stage	E only
Clause 78	The key stages	E only
Clause 79	Curriculum requirements for the Foundation Stage	E only

Clause 80	Curriculum requirements for first, second and third key stages	E only
Clause 81	Curriculum requirements for fourth key stage	E only
Clause 82	Power to alter or remove requirements for the fourth key stage	E only
Clause 83	Establishment of the National Curriculum for England by order	E only
Clause 84	Implementation of the National Curriculum for England in schools	E only
Clause 85	Implementation in respect of nursery schools etc	E only
The National Curriculum for England: special cases		
Clause 86	Development work and experiments	E only
Clause 87	Exception by regulations	E only
Clause 88	Pupils with statements of special educational needs	E only
Clause 89	Temporary exceptions for individual pupils	E only
Clause 90	Information concerning directions under section 89	E only
Clause 91	Appeals against directions under section 89 etc	E only
Supplementary provisions		
Clause 92	Procedure for making certain order and regulations	E only
PART 7: THE CURRICULUM IN WALES		
Preliminary		
Clause 93	Implementation of Part 7	W only
Clause 94	Meaning of “nursery education” and related expressions	W only
General duties in respect of the curriculum		
Clause 95	General requirements in relation to curriculum	W only
Clause 96	Duty to implement general requirements	W only
Clause 97	Basic curriculum for every maintained school in Wales	W only
The National Curriculum for Wales		
Clause 98	The foundation stage	W only
Clause 99	The key stages	W only
Clause 100	Curriculum requirements for the Foundation Stage	W only
Clause 101	Curriculum requirements for first, second and third key stages	W only
Clause 102	Curriculum requirements for fourth key stage	W only
Clause 103	Power to alter or remove requirements for the fourth key stage	W only
Clause 104	Establishment of the National Curriculum for Wales by order	W only
Clause 105	Implementation of the National Curriculum for Wales in schools	W only
Clause 106	Implementation in respect of nursery schools etc	W only
The National Curriculum for Wales: special cases		
Clause 107	Development work and experiments	W only
Clause 108	Exception by regulations	W only

Clause 109	Pupils with statements of special educational needs	W only
Clause 110	Temporary exceptions for individual pupils	W only
Clause 111	Information concerning directions under section 110	W only
Clause 91	Appeals against directions under section 110 etc	W only
Supplementary provisions		
Clause 113	Procedure for making certain orders and regulations	W only
Clause 114	Programmes of research etc in relation to Wales	W only
PART 8: TEACHERS		
Teachers' pay and conditions		
Clause 115 & Schedule 11	School Teachers' Review Body	E&W (but not devolved)
Clause 116	Review Body: function	E&W (nd)
Clause 117	Consultation by Review Body	E&W (nd)
Clause 118	Power to prescribe pay and conditions	E&W (nd)
Clause 119	Order under section 118: scope	E&W (nd)
Clause 120	Order under section 118: supplemental	E&W (nd)
Clause 121	Reference to Review Body	E&W (nd)
Clause 122	Consultation by Secretary of State	E&W (nd)
Clause 123	Guidance	E&W (nd)
Clause 124	Education Action Zone	E only
Clause 125	Transfer of Employment	E&W (nd)
Clause 126	Repeal of School Teacher' Pay and Conditions Act 1991	E&W (nd)
School teachers' appraisal		
Clause 127	Appraisal	E&W
School teachers' qualifications		
Clause 128	Qualified teacher status	E&W
Clause 129	Requirement to be qualified	E&W
Clause 130	Requirement to be registered	E&W
Clause 131	Head teachers	E&W
Further education		
Clause 132	Provision of education	E&W
Clause 133	Principals of further education institutions	E&W
Clause 134	Training in provision of further education	E&W
Clause 135	Wales: provision of higher education	W only
Clause 136	Further education: general	E&W
Health and fitness		
Clause 137	Health and fitness	E&W
Misconduct etc		
Clause 138	Prohibition from teaching	E&W
Clause 139	Directions under section 138: appeal	E&W
Sections 128 to 137: general		
Clause 140	Specification of qualification or course	E&W
Clause 141	Repeal of sections 218 and 218A of Education Reform Act 1988	E&W

1999 Pay Document		
Clause 142	Application of pay-scale	E&W (nd)
The General Teaching Councils for England and Wales		
Clause 143 & Schedule 12	The General Teaching Councils for England and Wales	E&W
PART 9: CHILDCARE AND NURSERY EDUCATION		
Childcare		
Clause 144	Duties of LEA in respect of childcare	E&W
Clause 145	Early years development and childcare partnerships and plans	E&W
Clause 146	Childcare functions of HM Chief Inspector and the NAW	ss 1 E only ss 2 W only
Clause 147 & Schedule 13	Regulation of childminding and day care	E&W
Nursery education		
Clause 148	Powers of LEA in respect of funded nursery education	E&W
Clause 149	Establishment or alteration of maintained nursery schools	E&W
Clause 150 & Schedule 14	Inspection of nursery education	E&W, except ss (3) which is W only
Clause 151	Meaning of "nursery school"	E&W
PART 10: INDEPENDENT SCHOOLS		
CHAPTER 1: REGULATION OF INDEPENDENT SCHOOLS		
Standards		
Clause 152	Independent school standards	E&W
Requirement of registration		
Clause 153	The registers	E&W
Clause 154	Unregistered schools	E&W
Registration procedure		
Clause 155	Applications for registration	E&W
Clause 156	Determination of applications for registration	E&W
Enforcement of standards after registration		
Clause 157	Changes to registered details	E&W
Clause 158	Power to inspect registered schools	E&W
Clause 159	Inspections: supplementary	E&W
Clause 160	Failure to meet standards	E&W
Clause 161	Appeals	E&W
Clause 162	Determination of appeals	E&W
Supplementary		
Clause 163	Provision of information	E&W
Clause 164	Unsuitable proprietors and employees	E&W
Clause 165	Service of notice etc	E&W
Clause 166	Interpretation of Chapter 1	E&W
CHAPTER 2: CHILDREN WITH SPECIAL EDUCATIONAL NEEDS		
Clause 167	Alteration to definition of "independent school"	E&W

Clause 168	Right of access to LEA	E&W
Clause 169	Consent to placement	E&W
PART 11: MISCELLANEOUS AND GENERAL		
Education and training outside schools		
Clause 170	Meaning of “secondary education”	E&W
Clause 171	Training and education in the workplace for 14 to 16 year olds	E only, except ss (4) which is W only
Clause 172	Rights of entry in relation to inspections	E&W, except ss (2) and (3) which are E only and ss (4) and (5) which are W only
Clause 173	Inspection of LEAs: rights of entry etc	E&W
Allowances in respect of education or training		
Clause 174	Allowances in respect of education or training	E&W
Clause 175	Learning agreements	E&W
Clause 176	Transfer of functions relating to allowances under section 174	E&W
Clause 177	Delegation of functions relating to allowances	E&W
Clause 178	Supplementary provisions relating to transfer or delegation of functions	E&W
Student loans		
Clause 179	Student loans	E&W (nd)
Education Action Zones		
Clause 180 & Schedule 15	Education Action Zones	E only
School inspections		
Clause 181 & Schedule 16	School inspections	E&W
Qualifications		
Clause 182 & Schedule 17	Amendments of Part 5 of Education Act 1997	E&W
Clause 183	LEA functions: qualifications	E&W
Special educational needs: Wales		
Clause 184	Regional provision for special educational needs in Wales	W only
Clause 185	Directions to bring forward proposals to secure regional provision	W only
Clause 186	Powers of NAW to make proposals to secure regional provision	W only
Clause 187	Welsh LEAs’ powers to make regional provision	W only
Clause 188	The Special Educational Needs Tribunal for	W only

& Schedule 18	Wales	
Other provisions relating only to Wales		
Clause 189	Publication and provision of material	W only
Clause 190	Partnership agreements and statements	W only
Clause 191	Transition from primary to secondary school	W only
Provision of services		
Clause 192 & Schedule 19	Transport for persons over compulsory school age	E&W
Clause 193	Remission of charges relating to residential trips	E&W
Clause 194	LEA functions concerning school lunches, milk etc	E&W
Miscellaneous		
Clause 195	Further education institutions: records	E&W
Clause 196	Baseline assessments	E&W
Clause 197	Application of Part 5 of Education Act 1996 to nursery education	E&W
Clause 198 & Schedule 20	Nuisance or disturbance on educational premises	E&W
Clause 199	Recoupment: adjustment between local authorities	E&W
Clause 200	Recoupment: special cases	E&W
Clause 201	Paid chairmen for local learning and skills councils	E only
General		
Clause 202	Order and regulations	E&W
Clause 203	Wales	W only
Clause 204	General interpretation	E&W
Clause 205	Financial provisions	E&W
Clause 206	Transitional provisions etc	E&W
Clause 207 & Schedules 21 & 22	Minor and consequential amendments and repeals	E&W
Clause 208	Commencement	E&W
Clause 209	Short title and extent	E&W