

# THE LAW OF EDUCATION

Ninth Edition



BUTTERWORTHS

# The Law of Education

Ninth edition

*Editors*

**Peter Liell**, Solicitor of the Supreme Court

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# The Law of Education Ninth edition

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Issue No 6

July 1986

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## In this Issue

Issue 6 updates this work to 1 April 1986.

**Division B Education Acts** This issue includes the Education (Amendment) Act 1986, consequential amendments to the Education (Grants and Awards) Act 1984, and new annotations to sections 8, 36, 67 and 86 of the Education Act 1944; to section 12 of the Education Act 1980; and to section 1 of the Education Act 1981.

**Division C Other Relevant Enactments** This issue includes new annotations to the London Government Act 1963 and to the Local Government Act 1985 as to education in Greater London and the new, directly-elected ILEA.

**Division D Statutory Instruments** This issue includes the Education (Grants for Teacher Training) (No. 2) Regulations 1985, SI 1985/1883; the amendments to the Education (Schools and Further Education) Regulations 1981 made by the Amendment Regulations 1986, SI 1986/542; annotations, as to teacher governors' withdrawal from meetings, to the Education (School Governing Bodies) Regulations 1981; an annotation as to the meaning of 'year' in Regulation 10 (2) of the Education (Schools and Further Education) Regulations 1981; and the new category for Education Support Grants added by the Education Support Grants (Amendment) (No. 2) Regulations 1985.

**Division E Circulars, Circular Letters and Administrative Memoranda** The indexes of Circulars and Administrative Memoranda published by the Department of Education and Science and by the Welsh Office is brought up to date.

**Division F Cases** The new material comprises extracts from three recent decisions on consultation: *R v The Secretary of State for Social Services, ex p The Association of Metropolitan Authorities*; *R v Coventry City Council, ex p Newborn*; and *R v London Borough of Sutton, ex p Hamlet*; whether the LEA may lawfully cease to maintain a single sex school for one sex while retaining a single sex school for the other sex—*R v Secretary of State for Education and Science, ex p Keating*; the Court of Appeal's decision, in *R v Hertfordshire County Council, ex p Cheung*, as to the cut-off point for reconsideration of overseas students' grant applications in the light of *Shah v Barnet London Borough Council*; *R v Liverpool City Council, ex p Ferguson* as to whether the LEA may lawfully dismiss all its teachers; *R v Hampshire Education Authority ex p J*, as to whether

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Dyslexia constituted a 'learning difficulty' under section 1 of the Education Act 1981; and the Court of Appeal decision in *R v Gwent County Council, ex p Perry*, as to whether the LEA had complied with the requirements of fairness where the parents chose to educate their child at home.

**Tables and Index** Supplementary tables and supplementary index are provided with this issue.

# The Law of Education

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# The Law of Education

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Issue 6 brings this work up to date to 1 April 1986

EDUCATION LAW: *Issue 6*

## The New Law of Education

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# The Law of Education

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## **Editors' acknowledgements**

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## **Publisher's acknowledgements**

The index to circulars and administrative memoranda which appears in Division E is Crown copyright and is reproduced with the permission of the Controller of Her Majesty's Stationery Office.

We thank Marten Walsh Cherer Limited for their kind permission to reproduce extracts from the transcripts of the unreported cases, *R v Secretary of State for Education and Science ex parte Chance* and *R v Secretary of State for Wales and Clwyd County Council ex parte Russell*.

## Preface to the ninth edition

### *Ambit*

This book is about the law of education in England and Wales. It comprises:

- Introduction—Division A
- The Education Acts 1944 to 1981 and the Education (Fees and Awards) Act 1983—Division B
- Other relevant enactments—Division C
- Statutory instruments (government regulations and orders) made under the Education Act—Division D
- Government circulars, circular letters and administrative memoranda—Division E
- Cases on the law of education—Division F.

The law as stated in this book is principally the law governing that part of the education system which is maintained by local education authorities, but it does impinge upon independent schools, for example, in relation to the requirement of school attendance, the approval and inspection of such schools, and the power of the Secretary of State for Education and Science to 'strike off' any teacher in England and Wales, and prohibit him or her from subsequently acting as a teacher. Some of the enactments in Division C apply to independent schools just as they apply to maintained schools, for example the Sex Discrimination Act 1975 and the Race Relations Act 1976.

This book does not set out to provide a statement of the law on any of the following matters:

- careers services
- employment of children
- employment protection for teachers and other staff
- meetings
- pensions
- rating of educational establishments
- redundancy payments
- universities

### *Style*

'The child' is generally referred to as 'he'.

'The parent' is generally referred to in the singular and as 'he'.

Governors are generally referred to as 'the governors' or 'the governing body' and 'they'.

'The local education authority' is generally referred to as 'the LEA' and 'they'.



'The headteacher' and 'the teacher' are generally referred to as 'he'.

'The Secretary of State' generally means 'The Secretary of State for Education and Science' in England and 'The Secretary of State for Wales' in Wales: see note 'Secretary of State', B[2].

'The 1944 Act' means the Education Act 1944. References in the Introduction to sections are, if not so specified or otherwise described, references to sections of the 1944 Act.

**Peter Liell**  
**John B. Saunders**  
**March 1984**

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