



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I **E+W**

#### SCHOOLS

### CHAPTER I **E+W**

#### THE CURRICULUM

##### *Preliminary*

### 1 Duties with respect to the curriculum. **E+W**

- (1) It shall be the duty—
- of the Secretary of State as respects every maintained school;
  - of every local education authority as respects every school maintained by them; and
  - of every governing body or head teacher of a maintained school as respects that school;
- to exercise their functions (including, in particular, the functions conferred on them by this Chapter with respect to religious education, religious worship and the National Curriculum) with a view to securing that the curriculum for the school satisfies the requirements of this section.
- (2) The curriculum for a maintained school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
- promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society; and
  - prepares such pupils for the opportunities, responsibilities and experiences of adult life.

**Status:** Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.

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#### Modifications etc. (not altering text)

- C1** S. 1 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I  
Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9

### Principal provisions

## 2 The National Curriculum. **E+W**

- (1) The curriculum for every maintained school shall comprise a basic curriculum which includes—
- provision for religious education for all registered pupils at the school; and
  - a curriculum for all registered pupils at the school of compulsory school age (to be known as the National Curriculum) which meets the requirements of subsection (2) below.
- (2) The curriculum referred to in subsection (1)(b) above shall comprise the core and other foundation subjects and specify in relation to each of them—
- the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of each key stage (in this Chapter referred to as attainment targets);
  - the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during each key stage (in this Chapter referred to as programmes of study); and
  - the arrangements for assessing pupils<sup>[F1]</sup> in respect of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage (in this Chapter referred to as assessment arrangements).
- (3) Subsection (1)(a) above shall not apply in the case of a maintained special school.

#### Textual Amendments

- F1** Words in s. 2(2)(c) substituted (27.7.1993) by 1993 c. 35, ss. 240(1), 308(3)

#### Modifications etc. (not altering text)

- C2** S. 2 except s. 2(1)(a) applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I  
Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9
- C3** S. 2(1)(a) restricted (1.4.1994) by 1993 c. 35, ss. 138(9), 139(2), 140(2) (with s. 155(11)); S.I. 1994/507, art. 3(1)  
S. 2(1)(a) modified (1.4.1994) by 1993 c. 35, s. 141(2)-(4) (with s. 155(11)); S.I. 1994/507, art. 3(1)

## 3 Foundation subjects and key stages. **E+W**

- (1) Subject to subsection (4) below, the core subjects are—
- mathematics, English and science; and
  - in relation to schools in Wales which are Welsh-speaking schools, Welsh.
- (2) Subject to <sup>[F2]</sup>subsections (2A), (2B) and (4) below, the other foundation subjects are—

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- (a) <sup>F3</sup>. . . technology <sup>F4</sup>. . . and physical education; [<sup>F5</sup>(aa) in relation to the first, second and third key stages, [<sup>F6</sup>history, geography], art and music;]
  - (b) in relation to the third and fourth key stages, a modern foreign language specified in an order of the Secretary of State; and
  - (c) in relation to schools in Wales which are not Welsh-speaking schools, Welsh.
- [<sup>F7</sup>(2A) In relation to schools in England—
- (a) a modern foreign language is not a foundation subject in relation to the fourth key stage before—
    - (i) 1st August 1996, in the case of pupils entering the first year of the key stage in 1996; and
    - (ii) 1st August 1997 in the case of all other pupils.
  - (b) technology is a foundation subject in relation to pupils who entered the first year of the fourth key stage in 1993 but is otherwise not a foundation subject in relation to the fourth key stage before—
    - (i) 1st August 1996 in the case of pupils entering the first year of the key stage in 1996; and
    - (ii) 1st August 1997, in the case of all other pupils.
- (2B) In relation to schools in Wales—
- (a) a modern foreign language is not a foundation subject in relation to the fourth key stage;
  - (b) technology is a foundation subject in relation to pupils who entered the first year of the fourth key stage in 1993 but is otherwise not a foundation subject in relation to the fourth key stage.]
- (3) Subject to subsections (4) [<sup>F8</sup>(5) and (5A)] below, the key stages in relation to a pupil are as follows—
- (a) the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven;
  - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven;
  - (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen;
  - (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending with the majority of pupils in his class ceasing to be of compulsory school age.
- (4) The Secretary of State may by order—
- (a) amend the foregoing provisions of this section; or
  - (b) provide that, in relation to any subject specified in the order, subsection (3) above shall have effect as if for the ages of seven and eight there mentioned there were substituted such other ages, less than eleven and twelve respectively, as may be so specified.
- (5) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (3) above shall have effect as if any reference to the school

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year in which the majority of pupils in that pupil's class attained a particular age were a reference to the school year in which that pupil attained that age.

[<sup>F9</sup>(5A) If at any time, in the case of a pupil of compulsory school age, subsection (3) above does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—

- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil's class attained a particular age were a reference to the school year in which that pupil attained that age, and
- (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attained the age of fifteen and ending when he ceases to be of compulsory school age.]

(6) In this section—

“class”, in relation to a particular pupil and a particular subject, means the teaching group in which he is regularly taught that subject or, where there are two or more such groups, such one of them as may be designated by the head teacher of the school;

“school”, except in subsection (5) above and the above definition, includes part of a school. [<sup>F10</sup>and

“school year” means the period beginning with the first school term to begin after July and ending with the beginning of the next school year.]

(7) For the purposes of this section a school in Wales is a Welsh-speaking school if more than one half of the following subjects, namely—

- (a) religious education; and
  - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school;
- are taught (wholly or partly) in Welsh.

#### Textual Amendments

- F2** Words in s. 3(2) substituted (1.8.1994) by S.I. 1994/1814, **art. 2(2)**.
- F3** Words in s. 3(2)(a) omitted (1.8.1994) by virtue of S.I. 1994/1814, **art. 2(3)**.
- F4** Words in s. 3(2)(a) repealed (1.8.1992) by S.I. 1992/1548, **art. 2(a)**.
- F5** S. 3(2)(aa) inserted (1.8.1992) by S.I. 1992/1548, **art. 2(b)**.
- F6** Words in s. 3(2)(aa) inserted (1.8.1994) by S.I. 1994/1814, **art. 2(4)**.
- F7** S. 3(2A)(2B) inserted (1.8.1994) by S.I. 1994/1814, **art. 2(5)**.
- F8** Words in s. 3(3) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 113(a)**; S.I. 1994/507, **art. 4(1)**, **Sch. 2**.
- F9** S. 3(5A) inserted (27.7.1993) by 1993 c. 35, **s. 240(2)**
- F10** Definition of “school year” and the preceding word “and” in s.3(6) added (27.7.1993) by 1993 c. 35, **s. 240(3)**

#### Modifications etc. (not altering text)

- C4** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg. 9**.

## 4 Duty to establish the National Curriculum by order. **E+W**

(1) It shall be the duty of the Secretary of State so to exercise the powers conferred by subsection (2) below as—

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- (a) to establish a complete National Curriculum as soon as is reasonably practicable (taking first the core subjects and then the other foundation subjects); and
  - (b) to revise that Curriculum whenever he considers it necessary or expedient to do so.
- (2) The Secretary of State may by order specify in relation to each of the foundation subjects—
- (a) such attainment targets;
  - (b) such programmes of study; and
  - (c) such assessment arrangements;
- as he considers appropriate for that subject.
- (3) An order made under subsection (2) above may not require—
- (a) that any particular period or periods of time should be allocated during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it; or
  - (b) that provision of any particular kind should be made in school timetables for the periods to be allocated to such teaching during any such stage.
- (4) An order under subsection (2) above may, instead of containing the provisions to be made, refer to provisions in a document published by Her Majesty's Stationery Office and direct that those provisions shall have effect or, as the case may be, have effect as amended by the order.
- [<sup>F11</sup>(5) An order under subsection (2)(c) above—
- (a) may confer or impose such functions on the governing body and the head teacher and (in the case of maintained schools) on the local education authority as appear to the Secretary of State to be required, and
  - (b) may specify any such assessment arrangements as may for the time being be made by a person specified in the order.
- (6) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (7) The duties that may be imposed by virtue of subsection (5)(a) above include, in relation to persons exercising power in pursuance of provision made by virtue of subsection (6) above, the duty to permit them—
- (a) to enter the premises of the school,
  - (b) to observe the implementation of the arrangements, and
  - (c) to inspect, and take copies of, documents and other articles.
- (8) An order under subsection (2)(c) above may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provisions conferring or imposing functions as mentioned in subsection (5) (a) above) as appear to the Secretary of State to be expedient; and any provision made under such an order shall, on being published by Her Majesty's Stationery Office, have effect for the purposes of this Chapter as if made by the order.]

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#### Textual Amendments

**F11** S. 4(5)-(8) substituted for s. 4(5) (27.7.1993) by 1993 c. 35, s. 240(4)

#### Modifications etc. (not altering text)

**C5** S. 4 restricted (1.9.1994) by 1993 c. 35, s. 241(4); S.I. 1994/2038, art. 3(1), Sch.2.

**C6** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

## 5 Courses leading to external qualifications. **E+W**

- (1) No course of study leading to a qualification authenticated by an outside person shall be provided for pupils of compulsory school age by or on behalf of any maintained school unless the qualification is for the time being approved by the Secretary of State or by a designated body and either—
  - (a) a syllabus provided by the outside person for the purposes of the course is for the time being approved by such a body; or
  - (b) criteria so provided for determining a syllabus for those purposes are for the time being so approved.
- (2) An approval under this section may be given either generally or in relation to particular cases.
- (3) In this section—
 

“designated ” means designated by the Secretary of State;

“outside person ”, in relation to a school, means a person other than a member of staff of the school.

#### Modifications etc. (not altering text)

**C7** S. 5 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.

Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

### *Religious education*

## 6 Collective worship. **E+W**

- (1) Subject to section 9 of this Act, all pupils in attendance at a maintained school shall on each school day take part in an act of collective worship.
- (2) The arrangements for the collective worship in a school required by this section may, in respect of each school day, provide for a single act of worship for all pupils or for separate acts of worship for pupils in different age groups or in different school groups.
- (3) The arrangements for the collective worship in a county or voluntary school required by this section shall be made—
  - (a) in the case of a county school, by the head teacher after consultation with the governing body; and
  - (b) in the case of a voluntary school, by the governing body after consultation with the head teacher.

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- (4) Subject to subsection (5) below, the collective worship in every maintained school required by this section shall take place on the school premises.
- (5) If the governing body of—
- (a) an aided or special agreement school; or
  - (b) a grant-maintained school;
- are of opinion that it is desirable that any act of collective worship in the school required by this section should, on a special occasion, take place elsewhere than on the school premises, they may make such arrangements for that purpose as they think appropriate.
- (6) The powers of a governing body under subsection (5) above shall not be so exercised as to derogate from the rule that, in every such school as is there mentioned, the collective worship required by this section must normally take place on the school premises.
- (7) For the purposes of this section—
- “maintained school ” does not include a maintained special school; and
- “school group ” means any group in which pupils are taught or take part in other school activities.

#### Modifications etc. (not altering text)

- C8** S. 6 explained (1.4.1994) by 1993 c. 35, s. 138(2)-(4) (with s. 155(11)); S.I. 1994/507, art.3(1).  
S. 6 power to modify conferred (1.4.1994) by 1993 c. 35, s. 138(7)(b) (with s. 155(11)); S.I. 1994/507, art.3(1).

## 7 Special provisions as to collective worship in county schools. **E+W**

- (1) Subject to the following provisions of this section, in the case of a county school the collective worship required in the school by section 6 of this Act shall be wholly or mainly of a broad Christian character.
- (2) For the purpose of subsection (1) above, collective worship is of a broadly Christian character if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.
- (3) Every act of collective worship required by section 6 of this Act in the case of a county school need not comply with subsection(1) above provided that, taking any school term as a whole, most such acts which take place in the school do comply with that subsection.
- (4) Subject to subsections (1) and (3) above—
- (a) the extent to which (if at all) any acts of collective worship required by section 6 of this Act which do not comply with subsection(1) above take place in a county school;
  - (b) the extent to which any act of collective worship in a county school which complies with subsection (1) above reflects the broad traditions of Christian belief; and
  - (c) the ways in which those traditions are reflected in any such act of collective worship;

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shall be such as may be appropriate having regard to any relevant considerations relating to the pupils concerned which fall to be taken into account in accordance with subsection (5) below.

- (5) Those considerations are—
- (a) any circumstances relating to the family backgrounds of the pupils concerned which are relevant for determining the character of the collective worship which is appropriate in their case; and
  - (b) their ages and aptitudes.
- (6) Where under section 12 of this Act a standing advisory council on religious education determine that it is not appropriate for subsection (1) above to apply in the case of any county school, or in the case of any class or description of pupils at such a school, then, so long as that determination has effect—
- (a) that subsection shall not apply in relation to that school or (as the case may be) in relation to those pupils; and
  - (b) the collective worship required by section 6 of this Act in the case of that school or those pupils shall not be distinctive of any particular Christian or other religious denomination (but this shall not be taken as preventing that worship from being distinctive of any particular faith).

**Modifications etc. (not altering text)**

**C9** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084](#), [reg.9](#).

**8 Religious education required in the basic curriculum: further provisions. E+W**

- (1) Section 2(1)(a) of this Act is subject to section 9 of this Act.
- (2) The religious education for which provision is required by section 2(1)(a) to be included in the basic curriculum for any particular maintained school shall be religious education of the kind required by such of the provisions of sections 26 to 28 of the 1944 Act or sections<sup>F12</sup> 138 to 140 of the Education Act 1993] as apply in the case of that school.
- (3) Any agreed syllabus which after this section comes into force is adopted or deemed to be adopted under Schedule 5 to that Act (which, as amended by this Act, provides for the preparation, adoption and reconsideration of an agreed syllabus of religious education) shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.

**Textual Amendments**

**F12** Words in s. 8(2) substituted (1.4.1994) by 1993 c. 35, s. 307(1), [Sch. 19 para.114](#); [S.I. 1994/507](#), art. 4(1), [Sch.2](#).

**Modifications etc. (not altering text)**

**C10** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084](#), [reg.9](#).



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## 9 Exceptions, special arrangements and supplementary and consequential provisions. **E+W**

(1) It shall not be required, as a condition of any pupil attending any maintained school, that he shall attend or abstain from attending any Sunday school or any place of religious worship.

[<sup>F13</sup>(1A) It shall not be required, as a condition of any person attending any maintained school to receive further education, that he shall attend or abstain from attending any Sunday school or any place of religious worship.]

(2) For the purposes of subsections (3) to (10) below “maintained school ” does not include a maintained special school.

(3) If the parent of any pupil in attendance at any maintained school requests that he may be wholly or partly excused—

- (a) from attendance at religious worship in the school;
- (b) from receiving religious education given in the school in accordance with the school’s basic curriculum; or
- (c) both from such attendance and from receiving such education;

the pupil shall be so excused accordingly until the request is withdrawn.

(4) Where in accordance with subsection (3) above any pupil has been wholly or partly excused from attendance at religious worship or from receiving religious education in any school, and the responsible authority are satisfied—

- (a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused;
- (b) that the pupil cannot with reasonable convenience be sent to another maintained school where religious education of the kind desired by the parent is provided; and
- (c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere;

the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.

(5) In this section “the responsible authority ” means—

- (a) in relation to a county or voluntary school, the local education authority; and
- (b) in relation to a grant-maintained school, the governing body.

(6) A pupil may not be withdrawn from school under subsection (4) above unless the responsible authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of the school session or, if there is more than one, of any school session on that day.

(7) Where the parent of any pupil who is a boarder at a maintained school requests that the pupil be permitted—

- (a) to attend worship in accordance with the tenets of a particular<sup>F14</sup>religion or] religious denomination on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs; or

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- (b) to receive religious education in accordance with such tenets outside school hours;
- the governing body of the school shall make arrangements for affording to the pupil reasonable opportunities for doing so.
- (8) Arrangements made under subsection (7) above may provide for affording facilities for such worship or education on the school premises, but the arrangements shall not entail expenditure by the responsible authority.
- (9) In this section—
- (a) references to religious worship in a school include references to religious worship which under section 6 of this Act takes place otherwise than on the school premises; and
- (b) references to religious education given in a school in accordance with the school's basic curriculum are references to such education given in accordance with the provision included in the school's basic curriculum by virtue of section 2(1)(a) of this Act.
- (10) Schedule 1 to this Act shall have effect for making amendments of the enactments there mentioned consequential on the provisions of this Chapter relating to religious education.

#### Textual Amendments

**F13** S. 9(1A) inserted (1.8.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 12\(4\)](#); S.I. 1992/831, art. 2, [Sch. 4](#).

**F14** Words in s. 9(7) inserted (1.4.1994) by [1993 c. 35, s. 307\(1\), Sch. 19 para.115](#); S.I. 1994/507, art. 4(1), [Sch.2](#).

#### Modifications etc. (not altering text)

**C11** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084, reg.9](#).

**C12** S. 9(1)(1A) applied (with modifications) (1.4.1994) by [S.I. 1994/653, reg. 42\(1\), Sch. Pt.I](#).

### *Duties with respect to certain requirements*

#### **10 Duties with respect to certain requirements. E+W**

- (1) Subject to section 9 of this Act, in relation to any maintained school (other than a maintained special school) and any school year it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing, and the duty of the head teacher to secure—
- (a) that all pupils in attendance at the school take part in the daily collective worship required by section 6 of this Act; and
- (b) that religious education is given in accordance with the provision for such education included in the school's basic curriculum by virtue of section 2(1)(a) of this Act.
- (2) In relation to any maintained school and any school year it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing, and the duty of the head teacher to secure—

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- (a) that the National Curriculum as subsisting at the beginning of that year is implemented; and
  - (b) that section 5 of this Act is not contravened.
- (3) In relation to any time before the beginning of the school year following the establishment of the National Curriculum so far as relating to a particular subject and a particular key stage, subsection (2)(a) above shall have effect as if that Curriculum required that subject to be taught for a reasonable time during that stage.

#### Modifications etc. (not altering text)

**C13** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9

**C14** S. 10 except s. 10(1) applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.

**C15** S. 10(3) excluded (*temp.*) (W.) by S.I. 1990/2187, art. 2

### *Standing advisory councils on religious education*

## **11 Standing advisory councils on religious education. E+W**

- (1) It shall be the duty of every local education authority to constitute a standing advisory council on religious education—
- (a) to advise the authority upon such matters connected with religious worship in county schools and the religious education to be given in accordance with an agreed syllabus as the authority may refer to the council or as the council may see fit; and
  - (b) to carry out the functions conferred by section 12 of this Act on councils constituted under this section.

References below in this section and in sections 12 and 13 of this Act to the council are references to any council constituted by a local education authority under this section.

- (2) The matters referred to in subsection (1) above include in particular methods of teaching, the choice of materials and the provision of training for teachers.
- (3) The council shall consist of—
- (a) the representative members required by subsection (4) below; and
  - [<sup>F15</sup>(b) a person appointed by the governing bodies of the grant-maintained schools within the area of the authority to which section 138 or 139 of the Education Act 1993 applies.]
- and may also include co-opted members.

- (4) Subject to subsection (5) below, the representative members required by this subsection are persons appointed by the authority to represent respectively—
- (a) such Christian [<sup>F16</sup>denominations and other religions and denominations of such religions] as, in the opinion of the authority, will appropriately reflect the principal religious traditions in the area;
  - (b) except in the case of an area in Wales, the Church of England;
  - (c) such associations representing teachers as, in the opinion of the authority, ought, having regard to the circumstances of the area, to be represented; and
  - (d) the authority;

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and references below in this section to representative groups on the council are references to the members appointed by virtue of paragraphs (a), (c) and (d) above respectively and, where members are required to be appointed by virtue of paragraph (b) above, the members so appointed.

- (5) Where members are required to be appointed by virtue of paragraph (b) of subsection (4) above, the representative members required by paragraph (a) of that subsection shall not include persons appointed to represent the Church of England.
- (6) On any question to be decided by the council only the representative groups on the council shall be entitled to vote, and each such group shall have a single vote.
- (7) The representative groups on the council, other than that consisting of persons appointed to represent the authority, may at any time require a review of any agreed syllabus for the time being adopted by the authority.

Each representative group concerned shall have a single vote on the question of whether to require such a review.

- (8) On receipt by the authority of written notification of any such requirement, it shall be the duty of the authority to cause a conference constituted in accordance with the provisions of Schedule 5 to the 1944 Act to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.
- (9) The council shall in each year publish a report with respect to the exercise of their functions and any action taken by representative groups on the council under subsection (7) above during the last preceding year.
- (10) The council's report shall in particular—
  - (a) specify any matters in respect of which the council have given advice to the authority;
  - (b) broadly describe the nature of the advice given; and
  - (c) where any such matter was not referred to the council by the authority, give the council's reasons for offering advice on that matter.

[<sup>F17</sup>(11) The council shall send to the head teacher of any grant-maintained school to which section 138 of the Education Act 1993 applies and which is in the area of the authority a copy of advice which they give to the authority upon matters connected with religious worship.

- (12) The council shall send a copy of advice which they give to the authority on the religious education to be given in accordance with an agreed syllabus to the head teacher of any grant-maintained school which is in the area of the authority and which—
  - (a) is required, by virtue of section 138 or 140 of the Education Act 1993 (religious education in certain grant-maintained schools), to provide religious education in accordance with an agreed syllabus, or
  - (b) was a controlled school immediately before it became grant-maintained.]

[<sup>F18</sup>(13) The council shall send a copy of each report published by them under subsection (9) above—

- (a) in the case of a council for an area in England, to the School Curriculum and Assessment Authority, and
- (b) in the case of a council for an area in Wales, to [<sup>F19</sup>the Curriculum and Assessment Authority for Wales].]

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**Changes to legislation:** Education Reform Act 1988, Part I is up to date with all changes known to be in force on or before 10 September 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)

### Textual Amendments

- F15** S. 11(3)(b) substituted (1.4.1994) by 1993 c. 35 s. 147(1), (with s. 155(11)); S.I. 1994/507, art. 3(1).  
**F16** Words in s. 11(4)(a) substituted (1.4.1994) by 1993 c. 35, s. 307(1), Sch. 19 para. 116(a); S.I. 1994/507, art. 4(1), Sch.2.  
**F17** S. 11(11)(12) added (1.4.1994) by 1993 c. 35, s. 147(2) (with s. 155(11)); S.I. 1994/507, art. 3(1).  
**F18** S. 11(13) added (1.4.1994) by 1993 c. 35, s. 307(1), Sch. 19 para. 116(b); S.I. 1994/507, art. 4(1), Sch.2.  
**F19** Words in s. 11(13) substituted (1.4.1994) by 1993 c. 35, s. 253, Sch. 15 para. 4(2); S.I. 1994/507, art. 4(1), Sch.2.

### Modifications etc. (not altering text)

- C16** S. 11 restricted by S.I. 1989/46, art. 3(3)  
**C17** Ss. 11, 13 modified by S.I. 1989/46, Sch. 1  
 S. 11 modified (1.4.1994) by 1993 c. 35, s. 16(2)(3); S.I. 1994/507, art. 3(1).  
 S. 11 modified (1.4.1994) by 1993 c. 35, s. 255(2); S.I. 1994/507, art. 4(1), Sch.2.  
**C18** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.  
**C19** S. 11(3)(b) restricted (1.4.1994) by S.I. 1994/507, arts. 3,4, Sch. 3 Pt. para. 3

## 12 Determination by advisory councils of the cases in which the requirement for Christian collective worship is not to apply. **E+W**

- (1) It shall be the duty of the council, on an application made by
- <sup>F20</sup>(a) the head teacher of any county school; or
  - (b) the head teacher of any grant-maintained school to which section 138 of the Education Act 1993 applies and which is in the area of the local education authority which constituted the council]

after consultation with the governing body, to consider whether it is appropriate for the requirement for Christian collective worship to apply in the case of that school, or in the case of any class or description of pupils at that school.

References in this section to the requirement for Christian collective worship are references to the requirement imposed by section 7(1) of this Act <sup>F21</sup>or, as the case may be, section 138(2) of the Education Act 1993].

- (2) In determining whether it is appropriate for that requirement to apply in the case of any such school or in the case of any class or description of pupils at such a school, the council shall have regard to any circumstances relating to the family backgrounds of the pupils at the school or of the pupils of the particular class or description in question which are relevant for determining the character of the collective worship appropriate in their case.
- (3) The council shall give any head teacher who has made an application to them under this section written notification of their decision on the application.
- (4) Where the council determine on any application under this section that it is not appropriate for the requirement for Christian collective worship to apply in the case of the school or any class or description of pupils at the school concerned, that determination shall take effect for the purposes of section 7 <sup>F22</sup>of this Act or, as the case may be, section 138 of the Education Act 1993]of this Act on such date as may be specified in the notification of their decision under subsection (3) above.

*Status: Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.*

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- (5) Any determination of the council under this section by virtue of which the requirement for Christian collective worship does not for the time being apply in the case of any school or any class or description of pupils at any school shall be reviewed by the council—
- (a) at any time on an application made by the head teacher of the school after consultation with the governing body; and
  - (b) in any event not later than the end of the period of five years beginning with the date on which the determination first took effect or (where it has since been reviewed under this subsection) with the effective date of the decision on the last such review.
- (6) On any review under subsection (5)(b) above the council shall afford the head teacher an opportunity of making representations with respect to the determination under review; and the head teacher shall consult the governing body before making any such representations.
- (7) On any review under subsection (5) above the council may confirm (with or without variation) or revoke the determination under review (without prejudice, in a case where they revoke the determination, to any further determination under this section); and they shall give the head teacher of the school written notification of their decision specifying the effective date of that decision for the purposes of subsection (5)(b) above.
- (8) Any determination of the council which is required to be reviewed under subsection (5) (b) above shall cease to have effect, if not confirmed on such a review, at the end of the period there mentioned.
- (9) The governing body of any county school [<sup>F23</sup>or of any grant-maintained school to which subsection (1) above applies], on being consulted by the head teacher under this section, may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (10) Any application made to the council under this section shall be made in such manner and form as the council may require.
- [<sup>F24</sup>(11) Where an application is made under subsection (1)(a) above in respect of a school which becomes a grant-maintained school before the application is determined, it shall, unless withdrawn by the head teacher, continue to be considered as if made under subsection (1)(b) above.]

#### Textual Amendments

- F20** S. 12(1)(a)(b) substituted for words in s. 12(1) (1.4.1994) by 1993 c. 35, s. 148(a)(i), (with s. 155(11)); S.I. 1994/507, art. 3(1)
- F21** Words in s. 12(1) inserted (1.4.1994) by 1993 c. 35, s. 148(a)(ii), (with s. 155(11)); S.I. 1994/507, art. 3(1)
- F22** Words in s. 12(4) inserted (1.4.1994) by 1993 c. 35, s. 148(b), (with s. 155(11)); S.I. 1994/507, art. 3(1)
- F23** Words in s. 12(9) inserted (1.4.1994) by 1993 c. 35, s. 148(c), (with s. 155(11)); S.I. 1994/507, art. 3(1)
- F24** S. 12(11) inserted (1.4.1994) by 1993 c. 35, s. 148(d), (with s. 155(11)); S.I. 1994/507, art. 3(1)

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### Modifications etc. (not altering text)

**C20** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

## 12 Determination by advisory councils of the cases in which the requirement for Christian collective worship is not to apply. **E+W**

- (1) It shall be the duty of the council, on an application made by the head teacher of any county school after consultation with the governing body, to consider whether it is appropriate for the requirement for Christian collective worship to apply in the case of that school, or in the case of any class or description of pupils at that school.

References in this section to the requirement for Christian collective worship are references to the requirement imposed by section 7(1) of this Act.

- (2) In determining whether it is appropriate for that requirement to apply in the case of any such school or in the case of any class or description of pupils at such a school, the council shall have regard to any circumstances relating to the family backgrounds of the pupils at the school or of the pupils of the particular class or description in question which are relevant for determining the character of the collective worship appropriate in their case.
- (3) The council shall give any head teacher who has made an application to them under this section written notification of their decision on the application.
- (4) Where the council determine on any application under this section that it is not appropriate for the requirement for Christian collective worship to apply in the case of the school or any class or description of pupils at the school concerned, that determination shall take effect for the purposes of section 7 of this Act on such date as may be specified in the notification of their decision under subsection (3) above.
- (5) Any determination of the council under this section by virtue of which the requirement for Christian collective worship does not for the time being apply in the case of any school or any class or description of pupils at any school shall be reviewed by the council—
- (a) at any time on an application made by the head teacher of the school after consultation with the governing body; and
  - (b) in any event not later than the end of the period of five years beginning with the date on which the determination first took effect or (where it has since been reviewed under this subsection) with the effective date of the decision on the last such review.
- (6) On any review under subsection (5)(b) above the council shall afford the head teacher an opportunity of making representations with respect to the determination under review; and the head teacher shall consult the governing body before making any such representations.
- (7) On any review under subsection (5) above the council may confirm (with or without variation) or revoke the determination under review (without prejudice, in a case where they revoke the determination, to any further determination under this section); and they shall give the head teacher of the school written notification of their decision specifying the effective date of that decision for the purposes of subsection (5)(b) above.

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- (8) Any determination of the council which is required to be reviewed under subsection (5) (b) above shall cease to have effect, if not confirmed on such a review, at the end of the period there mentioned.
- (9) The governing body of any county school, on being consulted by the head teacher under this section, may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (10) Any application made to the council under this section shall be made in such manner and form as the council may require.

**[<sup>F25</sup>12A Power of Secretary of State to direct advisory council to revoke determination or discharge duty. E+W**

- (1) Where the Secretary of State is satisfied, either on complaint by any person or otherwise, that any standing advisory council on religious education—
  - (a) have acted, or are proposing to act, unreasonably in determining for the purposes of subsection (1) or (5) of section 12 of this Act whether it is appropriate for the requirement for Christian collective worship to apply in the case of any school or any class or description of pupils at a school, or
  - (b) have failed to discharge any duty imposed under that section,
 he may give the council such directions as to the revocation of the determination or the withdrawal of the proposed determination or (as the case may be) the discharge of the duty as appear to him to be expedient; and the council shall comply with the directions.
- (2) Directions under subsection (1) above may provide for the making by the council of a new determination to take effect in place of the determination or proposed determination to be revoked or withdrawn by them.
- (3) In this section, “requirement for Christian collective worship” means the requirement imposed by section 7(1) of this Act or, as the case may be, section 138(2) of the Education Act 1993.]

**Textual Amendments**

**F25** S. 12A inserted (1.4.1994) by 1993 c. 35, s.257; S.I. 1994/507, art. 4(1), Sch.2.

**Modifications etc. (not altering text)**

**C21** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

**13 Advisory councils: supplementary provisions. E+W**

- (1) Before appointing a person to represent any [<sup>F26</sup>religion]denomination or associations as a member of the council the local education authority concerned shall take all reasonable steps to assure themselves that he is representative of the [<sup>F26</sup>religion]denomination or associations in question.
- (2) A member of the council appointed by the authority may be removed from membership by the authority if in the opinion of the authority he ceases to be representative of the [<sup>F26</sup>religion]denomination or associations which he was appointed to represent or (as the case may be) of the authority.



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- (3) Any member of the council required by section 11(3)(b) of this Act may at any time be removed from membership by the governing body or (as the case may be) by the governing bodies of the grant-maintained school or schools concerned.
- (4) In subsection (3) of that section “co-opted member ” means a person co-opted as a member of the council by members of the council who have not themselves been so co-opted, and a person so co-opted shall hold office on such terms as may be determined by the members co-opting him.
- (5) Any member of the council may at any time resign his office.
- (6) Subject to subsection (6) of that section, the council and, in relation to any question falling to be decided by members of the council of any particular category, the members of that category may regulate their own proceedings.
- (7) The validity of proceedings of the council or of the members of the council of any particular category shall not be affected—
  - (a) by a vacancy in the office of any member of the council required by subsection (3) of that section; or
  - (b) on the ground that a member of the council appointed to represent any [<sup>F26</sup>religion]denomination or associations does not at the time of the proceedings represent the [<sup>F26</sup>religion]denomination or associations in question.

#### Textual Amendments

**F26** Words in s. 13(1)(2)(7)(b) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 117**; S.I. 1994/507, art. 4(1), **Sch.2**.

#### Modifications etc. (not altering text)

**C22** Ss. 11, 13 modified by S.I. 1989/46, **Sch. 1**

**C23** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

**C24** S. 13(1) saved (1.8.1991) by **Diocesan Boards of Education Measure 1991 (No. 2, SIF 41:1), s. 6(1)**; **Archbishops' Instrument 1991 No. 1** (made 26.7.1991)

### Curriculum and Assessment Councils

#### 14 Establishment of Councils. **E+W**

- (1) There shall be established—
  - <sup>F27</sup>(a) . . . . .
  - (b) a body corporate known as [<sup>F28</sup>Awdurdod Cwricwlwm ac Asesu Cymru or the Curriculum and Assessment Authority for Wales]; <sup>F27</sup>. . . .
  - <sup>F27</sup>(c) . . . . .<sup>F27</sup>. . . which shall perform the functions assigned to it by this Chapter.
- (2) [<sup>F29</sup>The][<sup>F30</sup>Authority]shall consist of not less than ten or more than fifteen members appointed by the Secretary of State, of whom—
  - (a) one shall be so appointed as chairman; and
  - (b) another may be so appointed as deputy chairman;

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and members so appointed shall include persons having relevant knowledge or experience in education.

(3) The general functions of the [<sup>F31</sup>Authority], in relation to Wales, shall be, so far as relevant for the purposes of advancing education]—

- (a) to keep all aspects of the curriculum for maintained schools under review;
- (b) to advise the Secretary of State on such matters concerned with the curriculum for maintained schools as he may refer to it or as it may see fit;
- (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for schools;
- (d) to publish and disseminate, and to assist in the publication and dissemination of, information relating to the curriculum for schools; and
- (e) to carry out such ancillary activities as the Secretary of State may direct.

<sup>F32</sup>(4) .....

(5) For the purposes of subsection (3)(e) <sup>F33</sup> . . . above, activities are ancillary activities in relation to [<sup>F34</sup>the][<sup>F30</sup>Authority] if the Secretary of State considers it is appropriate for the [<sup>F30</sup>Authority] to carry out those activities for the purposes of or in connection with the exercise by the [<sup>F30</sup>Authority] of any of its other functions under that subsection.

(6) It shall be the duty of [<sup>F35</sup>the][<sup>F30</sup>Authority]—

- (a) to furnish the Secretary of State with such reports and other information with respect to the exercise of its functions as he may require; and
- (b) in exercising its functions—
  - (i) to comply with any directions given, and to act in accordance with any plans approved, by the Secretary of State; and
  - (ii) to have regard to the requirements of section 1 of this Act.

(7) Schedule 2 to this Act shall have effect with respect to [<sup>F36</sup>the][<sup>F30</sup>Authority].

#### Textual Amendments

- F27** Words in s. 14(1) and s. 14(1)(a)(c) repealed (1.1.1994) by 1993 c. 35, s. 307(3), **Sch. 21**, Pt. II; S.I. 1993/3106, art. 4, **Sch. 1** (as amended by S.I. 1994/436, art. 2).
- F28** Words in s. 14(1)(1b) substituted (1.4.1994) by 1993 c. 35, s. 253(1); S.I. 1994/507, art. 4(1), **Sch. 2**.
- F29** Word in s. 14(2) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 118(a); S.I. 1993/3106, art. 4, **Sch. 1** (as amended by S.I. 1994/436, art. 2).
- F30** Words in s. 14 substituted (1.4.1994) by 1993 c. 35, s. 253, **Sch. 15**, para. 4(3); S.I. 1994/507, art. 4(1), **Sch. 2**.
- F31** Words in s. 14(3) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 118(b); S.I. 1993/1975, art. 9, **Sch. 1**.
- F32** S. 14(4) repealed (1.10.1993) by 1993 c. 35, s. 307(3), **Sch. 21**, Pt. II; S. I. 1993/1975, art. 9, **Sch. 1** Appendix
- F33** Words in s. 14(5)(b) repealed (1.10.1993) by 1993 c. 35, s. 307(3), **Sch. 21**, Pt. II; S.I. 1993/1975, art. 9, **Sch. 1** Appendix
- F34** Word in s. 14(5) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 118(c); S.I. 1993/1975, art. 9, **Sch. 1**.
- F35** Word in s. 14(6) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 118(d); S.I. 1993/1975, art. 9, **Sch. 1**.

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**F36** Word in s. 14(7) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 18(e); S.I. 1993/3106, art. 4, **Sch. 1** (as amended by S.I. 1994/436, art. 2).

**Modifications etc. (not altering text)**

**C25** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

**C26** S. 14(3) applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.

## 15 Transfers of property and staff to Councils. **E+W**

- (1) References below in this section to the Council are references to each of the following bodies—
- (a) the National Curriculum Council;
  - (b) the Curriculum Council for Wales; and
  - (c) the School Examinations and Assessment Council.
- (2) The Secretary of State may by order provide for the transfer to the Council of—
- (a) such of the property of an existing body; and
  - (b) such of the rights and liabilities of such a body (other than rights and liabilities arising under contracts of employment);
- as, in his opinion, require to be so transferred for the purpose of enabling the Council properly to perform its functions; and an order under this subsection may contain such incidental, consequential and supplementary provisions as appear to the Secretary of State to be necessary or expedient.
- (3) Subsection (4) below applies to any person who—
- (a) immediately before the establishment of the Council is employed by an existing body; and
  - (b) is as respects the Council designated by order of the Secretary of State.
- (4) The contract of employment between a person to whom this subsection applies and the existing body shall have effect from the commencement date of the order under subsection (3) above as if originally made between him and the Council.
- (5) Without prejudice to subsection (4) above—
- (a) all the existing body's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the Council on the commencement date of the order under subsection (3) above; and
  - (b) anything done before that date by or in relation to the existing body in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the Council.
- (6) Subsections (4) and (5) above are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by subsection (4) above.
- (7) An order under subsection (3) above may designate a person either individually or as a member of a class or description of employees.
- (8) No order under this section shall be made more than six months after the date on which the Council is established; and any order under this section made before that date shall come into force on that date.

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(9) In this section—

“commencement date”, in relation to an order under subsection (3) above, means the date on which the order comes into force;

“existing body” means the School Curriculum Development Committee or the Secondary Examinations Council.

**Modifications etc. (not altering text)**

C27 Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

*Special cases*

**16 Development work and experiments. E+W**

(1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct as respects a particular maintained school that, for such period as may be specified in the direction, the provisions of the National Curriculum—

(a) shall not apply; or

(b) shall apply with such modifications as may be so specified.

(2) A direction under subsection (1) above may apply either generally or in such cases as may be specified in the direction.

(3) A direction shall not be given under subsection (1) above except—

(a) in the case of a county, controlled or maintained special school, on an application—

(i) by the governing body with the agreement of the local education authority;

(ii) by the local education authority with the agreement of the governing body; or

(iii) by the [<sup>F37</sup>appropriate curriculum authority] with the agreement of both the local education authority and the governing body;

(b) in the case of a grant-maintained, aided or special agreement school, on an application by the governing body or by the [<sup>F37</sup>appropriate curriculum authority] with the agreement of the governing body.

(4) The Secretary of State may make it a condition of a direction under subsection (1) above that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Secretary of State on any matters specified by him.

(5) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1) above.

[<sup>F38</sup>(6) In subsection (3) above, “appropriate curriculum authority” means, in relation to England, the School Curriculum and Assessment Authority and, in relation to Wales, the [<sup>F39</sup>the Curriculum and Assessment Authority for Wales].]

**Status:** Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.  
**Changes to legislation:** Education Reform Act 1988, Part I is up to date with all changes known to be in force on or before 10 September 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)

#### Textual Amendments

- F37** Words in s. 16(3)(a)(b) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 119(a); S.I. 1993/1975, art. 9, **Sch. 1**
- F38** S. 16(6) added (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 119(b); S.I. 1993/1975, art. 9, **Sch. 1**
- F39** Words in s. 16(6) substituted (1.4.1994) by 1993 c. 35, s. 253, **Sch. 15 para. 4(4)**; S.I. 1994/507, art. 4(1), **Sch.2**.

#### Modifications etc. (not altering text)

- C28** S. 16 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.  
Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

### 17 Exceptions by regulations. **E+W**

The Secretary of State may by regulations provide that the provisions of the National Curriculum, or such of those provisions as may be specified in the regulations—

- (a) shall not apply; or
  - (b) shall apply with such modifications as may be so specified;
- in such cases or circumstances as may be so specified.

#### Modifications etc. (not altering text)

- C29** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

VALID FROM 01/09/1994

### <sup>F40</sup>17A Exemption from sex education. **E+W**

If the parent of any pupil in attendance at any maintained school requests that he may be wholly or partly excused from receiving sex education at the school, the pupil shall, except so far as such education is comprised in the National Curriculum, be so excused accordingly until the request is withdrawn.]

#### Textual Amendments

- F40** S. 17A inserted (1.9.1994) by 1993 c. 35, s. 241(3); S.I. 1994/2038, art. 3(1), **Sch.2**.

#### Modifications etc. (not altering text)

- C30** S. 17A applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.  
Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.
- C31** S. 17A applied (with modifications) (1.9.1994) by S.I. 1994/2103, reg. 2, **Sch. 1 Pt. I para. 3(2)**.

### 18 Pupils with statements of special educational needs. **E+W**

The special educational provision for any pupil specified in a statement under section 7 of the 1981 Act of his special educational needs may include provision—

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- (a) excluding the application of the provisions of the National Curriculum; or
- (b) applying those provisions with such modifications as may be specified in the statement.

**Modifications etc. (not altering text)**

**C32** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084, reg.9](#).

**19 Temporary exceptions for individual pupils. E+W**

- (1) The Secretary of State may make regulations enabling the head teacher of any maintained school, in such cases or circumstances and subject to such conditions as may be prescribed—
  - (a) to direct as respects a registered pupil at the school that, for such period as may be specified in the direction (the “operative period ” of the direction), the provisions of the National Curriculum—
    - (i) shall not apply; or
    - (ii) shall apply with such modifications as may be so specified; and
  - (b) to revoke any direction given by him under the regulations and to vary any such direction except so as to extend its operative period.
- (2) The conditions prescribed by the regulations shall, in particular, limit the period that may be specified in any direction given under the regulations to a maximum period specified in the regulations; and any maximum period specified in the regulations in relation to directions given under the regulations or in relation to directions so given in any circumstances so specified—
  - (a) shall be either—
    - (i) a fixed period not exceeding six months; or
    - (ii) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning; and
  - (b) may (without prejudice to section 232(5) of this Act) differ according to whether or not the direction in question is given in respect of a period beginning immediately after the end of the operative period of a previous direction or within such period after the end of the operative period of a previous direction as may be specified in the regulations.
- (3) Where a head teacher gives a direction under regulations made under this section in the case of any pupil or varies any direction so given, he shall give the information mentioned in subsection (4) below, in such manner as may be prescribed—
  - (a) to the governing body; and
  - (b) where the school is a county, voluntary or maintained special school, to the local education authority;

and shall take such steps as may be prescribed to give that information also to a parent of the pupil.
- (4) That information is the following—
  - (a) the fact that he has taken the action in question, its effect and his reasons for taking it;
  - (b) the provision that is being or is to be made for the pupil’s education during the operative period of the direction; and

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- (c) either—
- (i) a description of the manner in which he proposes to secure the full implementation in relation to the pupil after the end of that period of the provisions of the National Curriculum; or
  - (ii) an indication of his opinion that the pupil has or probably has special educational needs by virtue of which the local education authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs the authority are for the time being required under section 7 of the 1981 Act to maintain).
- (5) Where the head teacher of a grant-maintained school includes such an indication of opinion as is mentioned in subsection (4)(c)(ii) above in information given to the governing body under subsection (3) above, he shall also give that information, in such manner as may be prescribed, to the local education authority.
- (6) It shall be the duty of a local education authority, on receiving information given to the authority under this section by the head teacher of any maintained school which includes such an indication of opinion with respect to a pupil, to consider whether any action on their part is required in the case of that pupil under section 5 of the 1981 Act (assessment of special educational needs).
- (7) Where the head teacher of a maintained school—
- (a) gives, revokes or varies any direction with respect to a pupil under regulations made under this section;
  - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed, by the parent of a registered pupil at the school; or
  - (c) fails within such period as may be prescribed following the making of such a request to give, revoke or vary such a direction in accordance with the request;
- the parent of the pupil concerned may appeal to the governing body.
- (8) On any such appeal the governing body may—
- (a) confirm the head teacher's action; or
  - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances;
- and it shall be the duty of the head teacher to comply with any directions of the governing body under paragraph (b) above.
- (9) The governing body shall notify the appellant and the head teacher in writing of their decision on any such appeal.
- (10) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

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**Modifications etc. (not altering text)**

**C33** S. 19 applied (with modifications) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**

Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9.**

*Status:* Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Education Reform Act 1988, Part 1 is up to date with all changes known to be in force on or before 10 September 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)

## Supplementary

### 20 Procedure for making certain orders: England. **E+W**

- (1) This section applies where the Secretary of State proposes to make—
  - (a) an order under section 3(4) or 4(2)(a) or (b) of this Act which relates to maintained schools in England; or
  - (b) regulations under section 17 of this Act which relate to such schools or to pupils at such schools.
- (2) The Secretary of State shall refer the proposal to the [<sup>F41</sup>School Curriculum and Assessment Authority] (in this section referred to as [<sup>F42</sup>the Authority]) and give to it directions as to the time within which it is to report to him.
- (3) [<sup>F42</sup>the Authority] shall give notice of the proposal—
  - (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to it to be concerned; and
  - (b) to any other persons with whom consultation appears to it to be desirable; and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (4) The report of [<sup>F42</sup>the Authority] to the Secretary of State shall contain—
  - (a) a summary of the views expressed during the consultations;
  - (b) its recommendations as to the proposal; and
  - (c) such other advice relating to the proposal as it thinks fit;
 and [<sup>F42</sup>the Authority] shall, after submitting its report to the Secretary of State, arrange for the report to be published.
- (5) Where [<sup>F42</sup>the Authority] has reported to the Secretary of State, he shall—
  - (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
    - (i) a draft of the proposed order or regulations and any associated document; and
    - (ii) a statement explaining his reasons for any failure to give effect to the recommendations of [<sup>F42</sup>the Authority];
  - (b) send copies of the documents mentioned in paragraph (a) above to [<sup>F42</sup>the Authority] and to each of the persons consulted by [<sup>F42</sup>the Authority]; and
  - (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.
- (6) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

#### Textual Amendments

**F41** Words in s. 20(2) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 122(2); S.I. 1993/1975, art. 9, **Sch.1**

**F42** Words in s. 20 substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 122(3); S.I. 1993/1975, art. 9, **Sch.1**



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**Modifications etc. (not altering text)**

- C34** S. 20 restricted (1.9.1994) by 1993 c. 35, s. 241(4); S.I. 1994/2038, art. 3(1), Sch.2.  
S. 20 excluded (1.10.1993) by 1993 c. 35, s. 242(1)(b), 308(3); S.I. 1993/1975, art. 9, Sch. 1
- C35** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

**21 Procedure for making certain orders: Wales. E+W**

- (1) This section applies where the Secretary of State proposes to make—
- (a) an order under section 3(4) or 4(2)(a) or (b) of this Act which relates to maintained schools in Wales; or
  - (b) regulations under section 17 of this Act which relate to such schools or to pupils at such schools.

[<sup>F43</sup>(2) The Secretary of State shall refer the proposal to the [<sup>F44</sup>the Curriculum and Assessment Authority for Wales] (in this section referred to as [<sup>F45</sup>the Authority]) and give to it directions as to the time within which it is to report to him.

- (3) [<sup>F45</sup>The Authority] shall give notice of the proposal—
- (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to it to be concerned; and
  - (b) to any other persons with whom consultation appears to it to be desirable; and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.

(3A) The report of [<sup>F45</sup>the Authority] to the Secretary of State shall contain—

- (a) a summary of the views expressed during the consultations;
- (b) its recommendations as to the proposal; and
- (c) such other advice relating to the proposal as it thinks fit;

and [<sup>F45</sup>the Authority] shall, after submitting its report to the Secretary of State, arrange for the report to be published.

(3B) Where [<sup>F45</sup>the Authority] has reported to the Secretary of State, he shall—

- (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
  - (i) a draft of the proposed order or regulations and any associated document; and
  - (ii) a statement explaining his reasons for any failure to give effect to the recommendations of [<sup>F45</sup>the Authority];
- (b) send copies of the documents mentioned in paragraph (a) above to [<sup>F45</sup>the Authority] and to each of the persons consulted by [<sup>F45</sup>the Authority]; and
- (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.]

(4) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

*Status: Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Education Reform Act 1988, Part 1 is up to date with all changes known to be in force on or before 10 September 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)*

### Textual Amendments

- F43** S. 21(2)(3)(3A)(3B) substituted for s. 21(2)(3) (1.10.1993) by 1993 c. 35, s. 243; S.I. 1993/1975, art. 9, sch. 1
- F44** Words in s. 21(2) substituted (1.4.1994) by 1993 c. 35, s. 253, Sch. 15 para. 4(5)(a); S.I. 1994/507, art. 4(1), Sch.2.
- F45** Words in s. 21 substituted (1.4.1994) by 1993 c. 35, s. 253, Sch. 15 para. 4(5)(b); S.I. 1994/507, art. 4(1), Sch.2.

### Modifications etc. (not altering text)

- C36** S. 21 excluded (1.10.1993) by 1993 c. 35, s. 242(1)(b); S.I. 1993/1975, art. 9, Sch. 1
- S. 21 restricted (1.9.1994) by 1993 c. 35, s. 241(4); S.I. 1994/2038, art. 3(1), Sch.2.
- C37** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, reg.9.

## 22 Provision of information. **E+W**

- (1) The Secretary of State may make regulations requiring, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—
- such information relevant for the purposes of this Chapter (including information as to the matters mentioned in subsection (2) below); and
  - such copies of the documents mentioned in subsection (3) below; as may be prescribed.
- (2) The matters referred to in subsection (1) above are as follows—
- the curriculum for maintained schools;
  - the educational provision made by the school for pupils at the school and any syllabuses to be followed by those pupils;<sup>F46</sup> . . .
  - the educational achievements of pupils at the school (including the results of any assessments of those pupils, whether under this Chapter or otherwise, for the purpose of ascertaining those achievements).
- [<sup>F47</sup>; and
- <sup>F47</sup>(d) the educational achievements of pupils at such categories of school as may be prescribed (including results of the kind mentioned in paragraph (c)).]
- (3) The documents referred to in subsection (1) above are as follows—
- any written statement made by the local education authority under section 17 of the 1986 Act (statement of policy in relation to school curriculum);
  - any written statement made by the governing body in pursuance of provision made under section 18 of that Act (statement of conclusions as to how (if at all) the local education authority's policy should be modified);
  - any written statement made by the governing body of their policy as to the curriculum for the school; and
  - any report prepared by the governing body under section 30 of that Act (annual reports) or [<sup>F48</sup> paragraph 8 of Schedule 6 to the Education Act 1993].
- (4) Before making regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

**Status:** Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.

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- (5) Regulations under this section shall not require information as to the results of an individual pupil's assessment (whether under this Chapter or otherwise) to be made available to any persons other than—
- (a) the parents of the pupil concerned;
  - <sup>F49</sup>(aa) the pupil concerned;
  - <sup>F49</sup>(ab) in the case of a pupil who has transferred to a different school, the head teacher of that school;]
  - (b) the governing body of the school; or
  - (c) the local education authority;
- and shall not require such information to be made available to the governing body [<sup>F50</sup>the head teacher] or the local education authority except where relevant for the purposes of the performance <sup>F51</sup>. . . of any of their functions.
- (6) Regulations under this section may authorise local education authorities, governing bodies and head teachers to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.
- (7) In relation to any maintained school, it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing that the head teacher complies with any regulations made under this section.

#### Textual Amendments

- F46** Word in s. 22(2) repealed (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(8), **Sch. 5**; S.I. 1992/1157, art. 2, **Sch.**
- F47** S. 22(2): word and s. 22(2)(d) added (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 6(1)(2)**; S.I. 1992/1157, art. 2, **Sch.**
- F48** Words in s. 22(3) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **sch. 19**, para.123; S.I. 1993/3106, art. 4, **Sch.1** (as amended by S.I. 1994/436, **art.2**).
- F49** S. 22(5)(aa)(ab) inserted (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 6(1)(3)**; S.I. 1992/1157, art. 2, **Sch.**
- F50** Words in s. 22(5) inserted (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 6(1)(4)(a)**; S.I. 1992/1157, art. 2, **Sch.**
- F51** Words in s. 22(5) repealed (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7)(8), Sch. 4 para. 6(1)(4)(b), **Sch. 5**; S.I. 1992/1157, art. 2, **Sch.**

#### Modifications etc. (not altering text)

- C38** S. 22 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
- C39** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

## 23 Complaints and enforcement. **E+W**

- (1) Every local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies of aided schools and of special agreement schools, make arrangements for the consideration and disposal of any complaint made on or after 1st September 1989 which is to the effect that the authority, or the governing body of any county or voluntary school maintained by the authority or of any special school so maintained which is not established in a hospital—

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- (a) have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed on them by or under—
    - (i) any provision of this Chapter; or
    - (ii) any other enactment relating to the curriculum for, or religious worship in, maintained schools other than grant-maintained schools; or
  - (b) have failed to discharge any such duty.
- (2) The Secretary of State shall not entertain under section 68 or 99 of the 1944 Act any complaint falling within subsection (1) above, unless a complaint concerning the same matter has been made and disposed of in accordance with arrangements made under that subsection.

**Modifications etc. (not altering text)**

**C40** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084, reg.9](#).

**C41** [S. 23\(1\)](#) modified by [S.I. 1989/46, art. 3\(2\)](#)

**C42** [S. 23\(1\)](#) restricted by [S.I. 1989/46, art. 3\(4\)](#)

**24 Extension of certain provisions. E+W**

- (1) The Secretary of State may by order direct that the provisions of sections 5 and 10(2)(b) of this Act shall have effect as if—
- (a) any reference to pupils of compulsory school age included a reference to—
    - (i) senior pupils who are of or over that age; and
    - (ii) persons in full-time further education who are of or over that age but have not attained the age of nineteen (referred to below in this section as “FE students”);
  - (b) any reference to a maintained school included [<sup>F52</sup>except in relation to a local education authority, a reference to]
    - (ii) any institution (other than a university [<sup>F53</sup>or an institution within the higher education sector]) which provides further education and is a grant-aided institution;
- [<sup>F54</sup> and
- (iii) <sup>F54</sup>any institution within the further education sector]
  - (c) any reference to the head teacher of such a school included a reference to the principal or other head of such an institution; and
  - (d) any reference to a school year included a reference to an academic year.
- (2) An order under this section may make such consequential modifications of section [<sup>F55</sup>245(1) of the Education Act 1993] as appear to the Secretary of State to be necessary or expedient.
- (3) In relation to FE students in relation to whom sections 5 and 10(2)(b) of this Act have effect by virtue of an order under this section, section 22 of this Act shall have effect—
- (a) with the modifications mentioned in subsection (1)(b) and (c) above;
  - (b) as if the information referred to in paragraph (a) of subsection (1) were information with respect to the following matters—

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- (i) the qualifications authenticated by outside persons (within the meaning of section 5 of this Act) for which courses of study are to be provided by or on behalf of the institution concerned for such students;
  - (ii) the courses of study leading to such qualifications which are to be so provided;
  - (iii) the syllabuses which have been provided or determined for the purposes of those courses; and
  - (iv) the results of the assessments of such students for the purposes of those qualifications;
- (c) as if in subsection (5)—
- (i) the reference to the results of an individual pupil’s assessment (whether under this Chapter or otherwise) included a reference to the results of an individual student’s assessment for the purposes of any such qualification; and
  - (ii) the reference to the pupil concerned included a reference to the student concerned; and
- (d) with the omission of subsections (1)(b), (2) and (3).
- (4) Before making an order under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

#### Textual Amendments

- F52** Words in s. 24(1)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. 1 para. 28(a)**; S.I. 1992/831, art. 2, **Sch. 3**.
- F53** Words in s. 24(1)(b)(ii) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. 1 para. 28(b)**; S.I. 1992/831, art. 2, **Sch. 3**.
- F54** Word "and", and s. 24(1)(b)(iii), added (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. 1 para. 28(c)**; S.I. 1992/831, art. 2, **Sch. 3**.
- F55** Words in s. 24(2) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para.124; S.I. 1993/1975, art.9, **Sch. 1**

#### Modifications etc. (not altering text)

- C43** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

## 25 Interpretation of Chapter I. **E+W**

- (1) In this Chapter, except in so far as the context otherwise requires—
- “assess ” includes examine and test, and cognate expressions shall be construed accordingly;
  - “assessment arrangements ”, “attainment targets ” and “programmes of study ” have the meanings given by section 2 of this Act;
  - “core subjects ”, “foundation subjects ” and “key stages ” have the meanings given by section 3 of this Act and “foundation subjects ” includes “core subjects ”;
  - <sup>F56</sup> . . .
  - “maintained school ” means—
- (a) any county or voluntary school;
  - (b) any maintained special school which is not established in a hospital; and

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- (c) except in relation to a local education authority, any grant-maintained school.
- (2) Nothing in this Chapter shall apply in relation to a nursery school or a nursery class in a primary school.

#### Textual Amendments

**F56** Definition of “Curriculum Council ” in s. 25(1) repealed (1.10.1993) by 1993 c. 35, s. 307(3), **Sch. 21**, Pt. II; S.I. 1993/1975, art.9, **Sch. 1**

#### Modifications etc. (not altering text)

**C44** S. 25 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.

**C45** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

## CHAPTER II **E+W**

### ADMISSION OF PUPILS TO COUNTY AND VOLUNTARY SCHOOLS

#### 26 **Admissions to county and voluntary schools.** **E+W**

- (1) The authority responsible for determining the arrangements for the admission of pupils to any county or voluntary school shall not fix as the number of pupils in any relevant age group it is intended to admit to the school in any school year a number which is less than the relevant standard number.
- (2) Where any number fixed for the purposes of any such arrangements subsisting when subsection (1) above comes into force as the number of pupils in any such age group it is intended to admit to the school concerned in any school year is less than the relevant standard number, the arrangements shall have effect (subject to the following provisions of this section) as if the number so fixed were a number equal to the relevant standard number.
- (3) Notwithstanding any provision of the articles of government of the school, but subject to section 33 of the 1986 Act (consultations about admissions between authorities concerned), the authority responsible for determining the arrangements for the admission of pupils to any such school may fix as the number of pupils in any relevant age group it is intended to admit to the school in any school year a number which exceeds the relevant standard number.
- (4) A proposal may be made in accordance with the following provisions of this section for fixing as the number of pupils in any such age group it is intended to admit to any such school in any school year a number which exceeds both—
  - (a) the relevant standard number; and
  - (b) any number fixed or proposed to be fixed for that purpose by the authority responsible for determining the arrangements for admission of pupils to the school.
- (5) The proposal may be made—
  - (a) where the authority responsible for determining those arrangements is the local education authority, by the governing body of the school; and

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- (b) where that authority is the governing body of the school, by the local education authority.
- (6) Any such proposal—
- (a) shall be made in writing;
  - (b) may relate to one or more relevant age groups; and
  - (c) may relate to a particular school year or to each school year falling within any period specified in the proposal.
- (7) If the authority to whom such a proposal is made do not give the proposing authority notice in writing rejecting the proposal before the end of the period of two months beginning with the day next following that on which the proposal was received it shall be the duty of the former authority to give effect to the proposal in the admission arrangements.
- (8) Where the authority to whom such a proposal is made give such notice before the end of that period, the proposing authority may within twenty-eight days of receiving that notice make an application to the Secretary of State for an order under section 27(5) of this Act increasing the relevant standard number.
- (9) For the purposes of section 6(3)(a) of the 1980 Act (which excludes the duty to comply with a parent’s preference as to the school at which education is to be provided for his child if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources), no such prejudice shall be taken to arise from the admission to a school in any school year of a number of pupils in any relevant age group which does not exceed—
- (a) the relevant standard number; or
  - (b) the number fixed in accordance with this section as the number of pupils in that age group it is intended to admit to the school in that school year;
- whichever is the greater.
- (10) Any reference in this section to the relevant standard number is a reference, in relation to any school and in relation to any relevant age group and school year, to the standard number applying under section 27 of this Act to the school in relation to that year and age group.

**Modifications etc. (not altering text)**

**C46** Ss. 26–32 modified by S.I. 1989/1135, art. 3(1), **Sch. 3**

**C47** S. 26(4)-(10) applied (2.10.1995) by S.I. 1995/2368, **reg. 5(2)**.

**Commencement Information**

**II** S. 26 wholly in force; in force for certain purposes at 1.9.1991 and wholly in force for remaining purposes at 1.8.1992 see s. 236 and S.I. 1991/409, **art. 2**.

**27 Standard numbers for admissions. E+W**

- (1) Subject to subsections (3), (4) and (5) below, if pupils in any age group were admitted to any county or voluntary school in the school year immediately preceding the commencement year, the standard number applying to the school for that age group in the commencement year and any subsequent school year shall be—
- (a) the appropriate pre-commencement number; or

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- (b) the number of pupils in that age group admitted in the school year immediately preceding the commencement year;
- whichever is the greater.
- (2) In this Chapter “the commencement year” means the school year beginning next after section 26(1) of this Act comes into force; and the reference in subsection (1)(a) above to the appropriate pre-commencement number is a reference—
- (a) in the case of a secondary school, to the standard number applying to the school under section 15 of the 1980 Act in relation to the age group in question in the school year immediately preceding the commencement year; and
  - (b) in the case of a primary school, to the number applicable in relation to the school and in relation to the age group in question in accordance with section 29 of this Act.
- (3) Subject to subsections (4) and (5) below, if proposals under section 12 or 13 of the 1980 Act (which impose certain requirements in relation to the establishment and alteration of schools) have fallen to be implemented in relation to any county or voluntary school, the number stated in the proposals in accordance with subsection (2) of section 12 (or that subsection as applied by section 13) for any school year and age group shall be the standard number applying to the school for that age group—
- (a) in any school year to which this subsection applies in relation to which the proposals have been wholly implemented; and
  - (b) subject to any variation made by the Secretary of State, in any such school year in relation to which they have been partly implemented.

This subsection applies to the commencement year and any subsequent school year.

- (4) The Secretary of State may by order applying to county or voluntary schools of any class or description vary any standard number that would otherwise apply by virtue of the preceding provisions of this section.
- (5) Subject to subsections (6) and (7) below, the Secretary of State may by order vary any standard number that would otherwise apply to an individual school by virtue of the preceding provisions of this section or any order made under subsection (4) above.
- (6) An order under subsection (5) above reducing a standard number may only be made on the application of the authority responsible for determining the arrangements for the admission of pupils to the school, and is subject to the procedure under section 28 of this Act.
- (7) An order under subsection (5) above increasing a standard number may be made on the application of that authority or on an application made by any other authority in accordance with section 26(8) of this Act; and on any such application the Secretary of State may—
- (a) refuse to make such an order;
  - (b) make an order increasing the standard number to the number proposed; or
  - (c) after consultation with both the local education authority and the governing body of the school, make an order increasing the standard number to such number (less than the number proposed) as he thinks desirable.
- (8) The authority responsible for determining the arrangements for the admission of pupils to any such school shall keep under review any standard numbers applying under this section to the school, having regard to any change in the school’s capacity to accommodate pupils as compared with its capacity at the beginning of the school year



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to which those standard numbers first applied (whether in accordance with this section or section 15 of the 1980 Act).

- (9) References in subsection (3) above to proposals under section 12 or 13 of the 1980 Act are references to the proposals with any modifications made by the Secretary of State under either of those sections; and any standard number applying under that subsection is without prejudice to the application under that subsection of a new standard number if further proposals fall to be implemented under those sections.

#### Modifications etc. (not altering text)

- C48** Ss. 26-32 modified by S.I. 1989/1135, art. 3(1), **Sch. 3**  
**C49** S. 27(1)(2)(3) modified by S.I. 1991/410, **art.3**  
**C50** S. 27(1)(2)(3) modified by S.I. 1991/410, **art.3**  
**C51** S. 27(1)(2)(3) modified by S.I. 1991/410, **art.3**  
**C52** S. 27(5)(7) applied (2.10.1995) by S.I. 1995/2368, **reg. 5(2)**.  
**C53** S. 27(6) modified by S.I. 1988/1459, **art. 8**  
**C54** S. 27(6) excluded (2.10.1995) by S.I. 1995/2368, **reg. 4(2)**.  
**C55** S. 27(5)(7) applied (2.10.1995) by S.I. 1995/2368, **reg. 5(2)**.  
**C56** S. 27(7) modified (2.10.1995) by S.I. 1995/2368, **reg. 5(3)**.

#### Commencement Information

- I2** S. 27 partly in force; s. 27 in force for certain purposes at 12.3.1991, 1.5.1991 and 1.9.1991 see s. 236 and S.I. 1991/409, **arts. 3, 4**

## 28 Procedure for reduction of standard number. **E+W**

- (1) Where the authority responsible for determining the arrangements for the admission of pupils to any county or voluntary school intend to apply to the Secretary of State for an order under subsection (5) of section 27 of this Act reducing any standard number applying to the school under that section, they shall publish their proposals with respect to the reduction in such manner as may be required by regulations made by the Secretary of State and submit to him a copy of the published proposals together with their application.
- (2) The published proposals shall be accompanied by a statement which explains the effect of—
- subsections (3) and (4) below, where the proposals are published by a local education authority; or
  - subsection (5) below, where the proposals are published by the governing body of the school.
- (3) In the case of proposals published by a local education authority, any of the following may, before the end of the period of two months beginning with the date of publication of the proposals, submit objections to the proposals to that authority—
- any ten or more local government electors for the area of that authority;
  - the governing body of any school affected by the proposals; and
  - any other local education authority concerned.
- (4) A local education authority by whom any such proposals are published shall within one month after the end of the period allowed for objections under subsection (3) above

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transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) in that period, together with their observations on the objections.

- (5) In the case of proposals made by the governing body of a school, any of the following may, before the end of the period of two months beginning with the date of publication of the proposals, submit objections to the proposals to the Secretary of State—
- (a) any ten or more local government electors for the area of the local education authority by whom the school is maintained;
  - (b) the governing body of any school affected by the proposals; and
  - (c) any local education authority concerned.
- (6) Subject to subsection (7) below, where an application is made to the Secretary of State under this section for an order reducing any standard number applying to a school for any age group in any year, the Secretary of State may—
- (a) refuse to make such an order;
  - (b) make an order reducing the standard number to the number proposed; or
  - (c) after consultation with both the local education authority and the governing body of the school, make an order reducing the standard number to such number (greater than the number proposed) as he thinks desirable.
- (7) The Secretary of State shall not make an order reducing any standard number applying to a school for any age group in any year unless he is satisfied that the reduction is necessary, having regard to any reduction in the school's capacity to accommodate pupils as compared with its capacity at the beginning of the school year to which the current standard number first applied in relation to that age group (whether in accordance with section 27 of this Act or section 15 of the 1980 Act).
- (8) A local education authority shall not make an application under this section for an order reducing any standard number applying to a school without first consulting the governing body of the school; and the governing body of a school shall not make such an application without first consulting the local education authority.

#### Modifications etc. (not altering text)

**C57** Ss. 26-32 modified by S.I. 1989/1135, art. 3(1), Sch. 3

**C58** S. 28(6) modified (2.10.1995) by S.I. 1995/2368, reg. 4(4).

#### Commencement Information

**I3** S. 28 partly in force: s. 28 in force for certain purposes at 12.3.1991, see s. 236 and S.I. 1991/409, art. 3

## 29 Special provisions in relation to admissions to primary schools. **E+W**

- (1) In the case of a primary school to which section 27(1) of this Act applies, the number applicable in relation to the school and in relation to any age group there mentioned is—
- (a) if the 1980 standard number for that age group is a number determined under subsection (5) of section 15 of the 1980 Act by reference to the number of pupils in that age group admitted to the school in the school year beginning in 1979, the recalculated 1979 admission number;
  - (b) if the 1980 standard number for that age group is a number determined under subsection (6) of section 15 by reference to the number of pupils in that age

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- group admitted to the school in any school year beginning after 1979 (and not varied by the Secretary of State under that subsection), the recalculated post-1979 admission number; and
- (c) if the 1980 standard number for that age group is a number applicable by virtue of subsection (7) of section 15 (number stated in proposals under section 12 of that Act as proposed admission number) which has not been varied by the Secretary of State, the aggregate of the number so applicable and the additional admission number.
- (2) In subsection (1)(a) above, “the recalculated 1979 admission number” means, in relation to any school and age group, the number of pupils admitted to the school in that age group in the school year beginning in 1979, determined in accordance with subsection (5) below.
- (3) In subsection (1)(b) above, “the recalculated post-1979 admission number” means, in relation to any school and age group, the number of pupils admitted to the school in that age group in the school year by reference to which the 1980 standard number for that school and age group was determined, determined in accordance with subsection (5) below.
- (4) In subsection (1)(c) above, “the additional admission number” means, in relation to any school and age group, the aggregate of—
- (a) the number of pupils admitted to the school in that age group in the first school year in relation to which the proposals in question had been wholly implemented who—
- (i) were admitted otherwise than for nursery education; and
  - (ii) had not attained the age of four years and six months on the date of their admission; and
- (b) the number of pupils already admitted to the school for nursery education transferred in that year to a reception class at the school.
- (5) For the purposes of—
- (a) the application in relation to any school of subsection (2) or (3) above; and
  - (b) the application in relation to a primary school of any other provision of this Chapter (other than subsection (1) or (4) above) referring to the number of pupils admitted or intended to be admitted to a school in any school year;
- children admitted to the school for nursery education shall be disregarded and children so admitted who are subsequently transferred to a reception class at the school shall be treated as admitted to the school on their transfer.
- (6) Subsection (5) above applies also for the purpose of determining for the purposes of any provision of this Chapter what is a relevant age group in relation to a primary school.
- (7) For the purposes of this section “the 1980 standard number” means, in relation to any school and age group, the standard number applying to the school under section 15 of the 1980 Act in relation to that age group in the school year immediately preceding the commencement year.

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**Modifications etc. (not altering text)**

**C59** Ss. 26-32 modified by S.I. 1989/1135, art. 3(1), **Sch. 3**

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#### Commencement Information

**I4** S. 29 wholly in force at 1.5.1991 see s. 236 and S.I. 1991/409, art. 5

### 30 Special arrangements in respect of admissions to aided or special agreement schools. **E+W**

- (1) Section 6 of the 1980 Act shall be amended as follows.
- (2) In subsection (3)(b) (which excludes the duty to comply with a parent's preference for an aided or special agreement school if compliance with the preference would be incompatible with arrangements between the governors and the local education authority), for the words "in respect of the admission of pupils to the school" there shall be substituted the words "made under subsection (6) below".
- (3) After subsection (5) there shall be inserted the following subsection—
  - “(6) A local education authority shall, if so requested by the governors of an aided or special agreement school maintained by the authority, make arrangements with the governors in respect of the admission of pupils to the school for preserving the character of the school; and the terms of any such arrangements shall, in default of agreement between the authority and the governors, be determined by the Secretary of State.”

#### Modifications etc. (not altering text)

**C60** Ss. 26?32 modified by S.I. 1989/1135, art. 3(1), Sch. 3

### 31 Consequential provisions. **E+W**

- (1) Section 15 of the 1980 Act (which is superseded by the preceding provisions of this Chapter) shall cease to have effect, and in section 16 of that Act—
  - (a) in subsection (1), for "15" there shall be substituted "14";
  - (b) in subsection (3), for "sections 12 and 15" there shall be substituted "section 12"; and
  - (c) in subsection (3A) (inserted in that section by paragraph 81 of Schedule 12 to this Act), for "13 or 15" there shall be substituted "or 13".
- (2) In section 8(3) of that Act (particulars of admission arrangements required to be published under that section)—
  - (a) for paragraph (a) there shall be substituted the following paragraph—
    - “(a) in the case of each school to which the arrangements relate, the admission number applicable in each school year in relation to the age group in which pupils are normally admitted or, if there is more than one such group, the admission number so applicable in relation to each such group;” and
  - (b) at the end there shall be added the following—
 

“In paragraph (a) above, “admission number” means, in relation to any school year and age group, the standard number applying under section 27 of the Education Reform Act 1988 to the school in

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question in relation to that year and age group or the number fixed in accordance with section 26 of that Act as the number of pupils in that age group it is intended to admit to the school in that school year, whichever is the greater.”

(3) In section 9 of that Act (provisions of sections 6, 7 and 8 of that Act, which relate to parental preferences and admission arrangements, excluded from applying in relation to nursery or special schools, etc.)—

- (a) in subsection (1), at the beginning there shall be inserted the words “Subject to subsection (1A) below”, and the words from “except” to the end shall be omitted; and
- (b) after that subsection there shall be inserted the following subsection—

“(1A) Where the arrangements for the admission of pupils to a school maintained by a local education authority provide for the admission to the school of children who will not have attained the age of five years at the time of their proposed admission—

- (a) those sections shall have effect in relation to the admission of such pupils to the school otherwise than for nursery education; and
- (b) the transfer to a reception class at the school of children previously admitted to the school for nursery education shall be treated for the purposes of those sections as the admission of pupils to the school.”

(4) In section 12 of that Act (establishment, discontinuance and alteration of schools by local education authorities)—

- (a) in subsection (2) the words from “excluding” to the end shall be omitted; and
- (b) after that subsection there shall be inserted the following subsection—

“(2A) For the purposes of subsection (2) above—

- (a) pupils intended to be admitted to the school for nursery education shall be disregarded; and
- (b) pupils already so admitted intended to be transferred to a reception class at the school shall be treated as intended to be admitted to the school on their transfer.”

(5) In section 13 of that Act (establishment and alteration of voluntary schools)—

- (a) for the words “Subsection (2)” there shall be substituted the words “Subsections (2) and (2A)”; and
- (b) for the words “it applies” there shall be substituted the words “they apply”; and
- (c) after the word “reference” there shall be inserted the words “in subsection (2)”.

(6) In section 38 of that Act, after subsection (5) there shall be inserted the following subsection—

“(5A) For the purposes of this Act—

- (a) children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class; and
- (b) “reception class” means a class in which education is provided which is suitable to the requirements of pupils aged five and any pupils under

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or over that age whom it is expedient to educate together with pupils of that age.”

**Modifications etc. (not altering text)**

**C61** Ss. 26-32 modified by S.I. 1989/1135, art. 3(1), **Sch. 3**

**Commencement Information**

**I5** S. 31 partly in force; s. 31(1) in force for certain purposes at 1.8.1992, s. 31(2) in force for certain purposes at 1.9.1991, s. 31(3) wholly in force at 1.8.1991, s. 31(4)-(6) wholly in force at 1.5.1991, see s. 236 and S.I. 1991/409, **art. 6**

**32 Interpretation of Chapter II. E+W**

(1) For the purposes of this Chapter, a school’s capacity to accommodate pupils is changed if—

- (a) as a result of changes in the availability or use of accommodation at the school, there is any change in the amount of accommodation available for use by pupils at the school; or
- (b) as a result of changes in the requirements applicable to the school under regulations made under section 10 of the 1944 Act (requirements as to school premises), there is any change in the number of pupils for whom accommodation may lawfully be provided at the school;

and a school’s capacity to accommodate pupils is reduced if the result of the changes is, in a case within paragraph (a) above, less accommodation or, in a case within paragraph (b) above, a reduction in the number there mentioned.

(2) Any reference in this Chapter to a relevant age group, in relation to a school, is a reference to an age group in which pupils are normally admitted to the school.

(3) In this Chapter “the commencement year” has the meaning given by section 27(2).

(4) If by virtue of any orders made under section 236 of this Act subsection (1) of section 26 of this Act comes into force on different dates in relation to schools of different categories, the reference to the coming into force of that subsection—

- (a) in subsection (2) of that section; and
- (b) in subsection (2) of section 27 of this Act;

shall be read, for the purposes of the application of those sections in relation to schools of any category, as a reference to its coming into force in relation to schools of that category.

**Modifications etc. (not altering text)**

**C62** Ss. 26-32 modified by S.I. 1989/1135, art. 3(1), **Sch. 3**

**Commencement Information**

**I6** S. 32 partly in force; s. 32 in force for certain purposes at 12.3.1991 see s. 236 and S.I. 1991/409, **art. 3**

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**Status:** Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.  
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## CHAPTER III **E+W**

### FINANCE AND STAFF

#### **Modifications etc. (not altering text)**

- C63** Provisions of Pt. I Ch. III (other than ss. 33, 49 and Sch. 4) modified (25. 2. 1992) by [S.I. 1992/164, reg. 2\(3\)](#).  
[Pt. I Ch. III](#) applied (with modifications) (1.1.1994) by [S.I. 1993/3104, reg.2\(2\)](#)  
[Pt. I Ch. III](#) extended (1.1.1994) by [1993 c. 35, s. 215\(4\)](#); [S.I. 1993/3106, art. 4, Sch. 1](#) (as amended by [S.I. 1994/436, art.2](#)).  
[Pt. I Ch. III](#) applied (1.1.1994) by [1993 c. 35, s. 215\(5\)](#); [S.I. 1993/3106, art. 4, Sch. 1](#) (as amended by [S.I. 1994/436, art.2](#)).  
[Pt. I Ch. III](#) modified (*temp.*) (31.12.1995) by [S.I. 1995/3114, regs.2, 3, 5, 6, 7, 8](#).  
[Pt. I Ch. III](#) modified (31.12.1995) by [S.I. 1995/3114, regs.4, 7](#).

#### *Financing of schools maintained by local education authorities*

### **33 Schemes for financing county and voluntary schools. **E+W****

- (1) It shall be the duty of every local education authority to prepare a scheme in accordance with this Chapter and submit it for the approval of the Secretary of State in accordance with section 34 of this Act.
- (2) The scheme shall provide for—
  - (a) the determination in respect of each financial year of the authority, for each school required to be covered by the scheme in that year, of the share to be appropriated for that school in that year of the part of the general schools budget of the authority for that year which is available for allocation to individual schools under the scheme (referred to below in this Chapter, in relation to such a school, as the school's budget share); and
  - (b) the delegation by the authority of the management of a school's budget share for any year to the governing body of the school where such delegation is required or permitted by or under the scheme.
- (3) For the purposes of this Chapter, a school is required to be covered in any financial year by a scheme made under this section by a local education authority if either—
  - (a) immediately before the beginning of that year it is a county or voluntary school maintained by that authority; or
  - (b) at any time during that year it becomes a county or voluntary school so maintained (whether by virtue of being established as a new school of that description or by virtue of becoming a county or voluntary school where it was not, immediately before it became so, a school of either description).
- (4) For the purposes of this Chapter—
  - (a) references, in relation to any local education authority, to the general schools budget of the authority for any financial year, are references to the amount appropriated by the authority for meeting expenditure in that year in respect of all schools required to be covered in that year by any scheme made under this section by that authority [<sup>F57</sup>(other than expenditure in respect of the provision of part-time education suitable to the requirements of persons of any age over

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- compulsory school age or full-time education suitable to the requirements of persons who have attained the age of nineteen years)]; and
- (b) the part of the general schools budget of any such authority for any financial year which is available for allocation to individual schools under a scheme under this section (referred to below in this Chapter, in relation to any such authority, as the authority's aggregated budget for the year) is the amount remaining after deducting from the amount of the general schools budget of the authority for that year—
- (i) the amount of any expenditure of the authority in that year on heads or items of expenditure which fall in accordance with section 38 of this Act to be left out of account in determining the authority's aggregated budget for the year (referred to below in this Chapter as excepted heads or items of expenditure); and
  - (ii) any other amounts which fall in accordance with the scheme to be deducted in determining the authority's aggregated budget for the year.
- (5) In relation to any scheme under this section, any reference in subsection (4) above to an amount is a reference to an amount determined (and from time to time revised) in accordance with the scheme; and a scheme under this section must provide for all amounts relevant to the determination of a school's budget share under the scheme for any financial year to be determined initially before the beginning of that year.
- (6) In this Chapter—
- (a) references to a school in respect of which financial delegation is required for any financial year under a scheme under this section are references to a school conducted by a governing body to whom the local education authority concerned are for the time being required by or under the scheme to delegate the management of the school's budget share for that year (and the governing body of such a school are said to have a right to a delegated budget for the year);
  - (b) references to a school which has a delegated budget are references to a school conducted by a governing body to whom a local education authority have for the time being delegated the management of the school's budget share for any financial year in pursuance of such a scheme (whether that delegation is required by the scheme or not); and
  - (c) references, in relation to any scheme under this section, to excluded expenditure under the scheme are references to the aggregate of any amounts which fall in the case of that scheme to be deducted by virtue of subsection (4) (b)(ii) above in determining the aggregated budget of the authority concerned for any financial year.

#### Textual Amendments

**F57** Words in s. 33(4)(a) inserted (1. 8. 1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 12\(5\)](#); S.I. 1992/831, art. 2, [Sch.4](#).

#### Modifications etc. (not altering text)

**C64** S. 33 modified (21.9.1994) by [1994 c. 30, s. 12\(6\)\(a\)\(7\)](#); S.I. 1994/2204, [art.2\(1\)](#).



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### 34 Preparation and imposition of schemes. **E+W**

- (1) A scheme prepared by a local education authority under section 33 of this Act shall be submitted to the Secretary of State on or before such date as the Secretary of State may by order direct, either generally or in relation to any local education authority, or any class or description of such authorities, specified in the order.
- (2) In preparing a scheme under that section a local education authority shall take into account any guidance given by the Secretary of State (whether generally or in relation to that authority or to any class or description of local education authorities to which that authority belongs) as to the provisions he regards as appropriate for inclusion in the scheme.
- (3) The Secretary of State shall publish any guidance given by him for the purposes of this section in such manner as he thinks fit.

- [<sup>F58</sup>(4) Before preparing such a scheme a local education authority shall consult—
- (a) the governing body and the head teacher of every county, voluntary or special school maintained by the authority,
  - (b) the governing body of every grant-maintained school in the area of the authority, and
  - (c) the governing body of every grant-maintained special school which—
    - (i) is established under section 183 of the Education Act 1993 in the authority's area, or
    - (ii) before becoming a grant-maintained special school was a special school maintained by the authority,

but the Secretary of State may, by notice in writing to the authority, dispense with the duty imposed under paragraphs (b) and (c) above in respect of such schools, or class or description of schools, as are specified in the notice.]

- (5) Such a scheme shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify; and the Secretary of State may approve such a scheme—
  - (a) either without modifications or with such modifications as he thinks fit after consulting the authority concerned; and
  - (b) subject to such conditions as he may specify in giving his approval.
- (6) If in the case of any local education authority either—
  - (a) the authority fail to submit a scheme as required by subsection (1) above; or
  - (b) it appears to the Secretary of State that a scheme submitted by the authority as required by that subsection does not accord with any guidance given by him for the purposes of this section and cannot be made to do so merely by modifying it;he may, after consulting the authority and such other persons as he thinks fit, impose a scheme making such provision of a description required to be made by a scheme under section 33 of this Act in relation to the financing by the authority of county and voluntary schools as he considers appropriate.
- (7) A scheme imposed by the Secretary of State by virtue of subsection (6) above—
  - (a) shall be treated as if made under section 33 by the local education authority concerned; and
  - (b) shall come into force on such date as may be specified in the scheme.

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#### Textual Amendments

**F58** S. 34(4) substituted (1.1.1994) by 1993 c. 35, s. 274(1); S.I. 1993/3106 art. 4, Sch.1 (as amended by S.I. 1994/436, art.2).

#### Modifications etc. (not altering text)

**C65** S. 34 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

### [<sup>F59</sup> 35 Revision of schemes. **E+W**]

- (1) Subject to the following provisions of this section, a local education authority may revise the whole or any part of any scheme made by them under section 33 of this Act.
- (2) Section 34(2) and (3) of this Act shall apply where the local education authority are preparing any revision under this section as they apply where they are preparing a scheme under section 33 of this Act.
- (3) Where the local education authority propose to make a significant variation of the scheme—
  - (a) they shall first consult every governing body and head teacher whom they are obliged to consult under section 34(4) of this Act, and
  - (b) they shall then submit a copy of their proposals to the Secretary of State for his approval,
 and where the proposals are so submitted section 34(5) of this Act shall apply to the scheme as revised as it applies to a scheme prepared under section 33.
- (4) A revision which does not make a significant variation of the scheme is referred to in this section as a “minor revision”; and the Secretary of State may by order specify what descriptions of variation are to be regarded as significant for the purposes of this section.
- (5) Where a local education authority propose to revise a scheme and the revision is in their opinion a minor revision, the authority shall give the Secretary of State notice in writing of their proposal, giving brief particulars of the nature of the revision proposed to be made.
- (6) In any such case the authority shall, if so required by the Secretary of State before the end of the period of two months beginning with the date on which he receives notice under subsection (5) above of the authority’s proposal, send to him a copy of the scheme as proposed to be revised; and it shall be for the Secretary of State to determine whether or not any revision is a minor revision.
- (7) The Secretary of State may by a direction revise the whole or any part of a scheme made under section 33 of this Act, as from such date as may be specified in the direction.
- (8) Before giving such a direction the Secretary of State shall consult the local education authority concerned and such other persons as he thinks fit.]

#### Textual Amendments

**F59** S. 35 substituted (1.1.1994) by 1993 c. 35, s. 274(2); S.I. 1993/3106, art. 4, Sch.1 (as amended by S.I. 1994/436, art.2).

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**Modifications etc. (not altering text)**

**C66** S. 35 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

**36 Delegation to governing body of management of school’s budget share. E+W**

- (1) This section applies where in the case of any local education authority the authority’s financial provision for county and voluntary schools is subject to regulation by a scheme.
- (2) Subject to section 37(4) of this Act, in the case of any county or voluntary school maintained by the authority in respect of which financial delegation is required for any financial year under the scheme, it shall be the duty of the authority to put at the disposal of the governing body of the school in respect of that year a sum equal to the school’s budget share for that year to be spent for the purposes of the school.
- (3) The times at which, and the manner in which, any such sum is put at the disposal of the governing body shall be such as may be provided by or under the scheme.
- (4) Subject to section 49(1) of this Act [<sup>F60</sup>and section 1(4A) of the Education (Grants and Awards) Act 1984 (grants for education support and training)], the authority may not delegate to the governing body of any school required to be covered by the scheme in any financial year the power to spend any sum appropriated by the authority for the purposes of the school in that year otherwise than as required or permitted under the scheme.
- (5) The governing body of any school which has a delegated budget—
  - (a) shall be entitled, subject to any provision made by or under the scheme, to spend any sum made available to them in respect of the school’s budget share for any financial year as they think fit for the purposes of the school; and
  - (b) may delegate to the head teacher, to such extent as may be permitted by or under the scheme, their power under paragraph (a) above in relation to any part of that sum.

[<sup>F61</sup>(5A) In subsection (5) above “the purposes of the school” does not include purposes wholly referable to the provision of—

- (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
- (b) full-time education suitable to the requirements of persons who have attained the age of nineteen years]

[<sup>F62</sup>(5B) Any such governing body shall not exercise their powers under subsection (5) above to pay to governors any allowances other than travelling and subsistence allowances.]

- (6) The governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their power under subsection (5) above.

**Textual Amendments**

**F60** Words in S. 36(4) inserted (3.3.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 125(a)**; S.I. 1994/507, art. 2, **Sch. 1**

**F61** S. 36(5A) inserted (1. 8. 1993) by **Further and Higher Education Act 1992 (c. 13), s. 12(6)**; S.I. 1992/831, art. 2, **Sch. 4**.

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**F62** S. 36(5B) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 125(b)**; S.I. 1994/507, art. 4(1), **Sch.2**.

**Modifications etc. (not altering text)**

**C67** S. 36 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, **art.2(1)**.

**F63** **37** **Withdrawal of delegation.** **E+W**

- (1) Where it appears to a local education authority, in the case of any school in respect of which financial delegation is required for the current financial year under a scheme, that the governing body of the school—
  - (a) have been guilty of a substantial or persistent failure to comply with any requirements applicable under the scheme; or
  - (b) are not managing the appropriation or expenditure of the sum put at their disposal for the purposes of the school in a satisfactory manner;
 the authority may suspend the governing body’s right to a delegated budget by giving the governing body (subject to subsection (3) below) not less than one month’s notice of suspension.
- (2) Any such notice shall specify the grounds for the proposed suspension, giving particulars of any failure alleged on the part of the governing body to comply with any requirements applicable under the scheme and of any alleged mismanagement on their part; and a copy of the notice shall be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (3) A local education authority may suspend the right to a delegated budget of any governing body to whom they have given notice under subsection (1) above before the expiry of the period of notice if it appears to them to be necessary to do so by reason of gross incompetence or mismanagement on the part of that governing body or other emergency; but in such a case the authority shall immediately give to the Secretary of State written notification of their action and the reasons for it.
- (4) During any period when a governing body’s right to a delegated budget is suspended under this section the duty of the local education authority concerned under section 36(2) of this Act shall not apply in relation to that governing body.
- (5) It shall be the duty of the authority concerned—
  - (a) to review before the beginning of every financial year any suspension under this section which is for the time being in force;
  - (b) for the purposes of that review, to afford the governing body concerned and the head teacher of the school an opportunity of making representations with respect to the suspension and to have regard to any representations made by that body or the head teacher; and
  - (c) to revoke any such suspension where they consider it appropriate to do so.
- (6) The authority shall give the governing body concerned and the head teacher written notification of their decision on any such review.
- (7) The revocation of any such suspension shall take effect as from the beginning of the next following financial year.
- (8) A governing body shall be entitled to appeal to the Secretary of State against—
  - (a) the imposition of any suspension under this section; and

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- (b) any refusal of a local education authority to revoke any such suspension on any review required under this section.
- (9) On any such appeal the Secretary of State—
- (a) may allow or reject the appeal; and
  - (b) shall have regard, in making his determination, to the gravity of the default on the part of the governing body and the likelihood of its continuance or recurrence.

#### Textual Amendments

**F63** S. 37(8)(a) excluded (1.1.1994) by 1993 c. 35, s. 215(4); S.I. 1993/3106, art. 4, Sch.1 (as amended by S.I. 1994/436, art.2).

#### Modifications etc. (not altering text)

**C68** S. 37 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

### 38 Schemes: determination of budget shares. **E+W**

- (1) The provision to be included in a scheme for determining the budget share for any financial year of each school required to be covered by the scheme in that year shall require that share to be determined (and from time to time revised) by the application of a formula laid down by the scheme for the purpose of dividing among all such schools the aggregated budget for that year of the local education authority concerned.
  - (2) In this section “formula” includes methods, principles and rules of any description, however expressed; and references in this Chapter, in relation to a scheme, to the allocation formula under the scheme, are references to the formula laid down by the scheme in accordance with subsection (1) above.
  - (3) The allocation formula under a scheme—
    - (a) shall include provision for taking into account, in the case of each school required to be covered by the scheme in any financial year, the number and ages of registered pupils at that school on such date or dates as may be determined by or under the scheme in relation to that year; and
    - (b) may include provision for taking into account any other factors affecting the needs of individual schools which are subject to variation from school to school (including, in particular, the number of registered pupils at a school who have special educational needs and the nature of the special educational provision required to be made for them).
- [<sup>F64</sup>(3A) The allocation formula under a scheme shall not include provision for taking into account persons provided with—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
  - (b) full-time education suitable to the requirements of persons who have attained the age of nineteen years]
    - (4) In the case of any scheme, the following heads or items of expenditure, so far as taken into account in determining the general schools budget of the local education authority concerned for any financial year, shall be left out of account in determining the authority’s aggregated budget for that year—

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- (a) all expenditure of a capital nature;
- (b) all expenditure in respect of the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any loan raised to meet expenditure of a capital nature;
- (c) expenditure falling to be taken into account in determining central government grants of any prescribed description; and
- (d) such other items of expenditure as may be prescribed.

#### Textual Amendments

**F64** S. 38(3A) inserted (1. 8. 1993) by Further and Higher Education Act 1992 (c. 13), s. 12(7); S.I. 1992/831, art. 2, Sch.4.

#### Modifications etc. (not altering text)

**C69** S. 38 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

### 39 Schemes: provision for financial delegation. **E+W**

(1) A scheme shall include provision for requiring, in the case of each [<sup>F65</sup>secondary] school required to be covered by the scheme in any financial year, the delegation by the local education authority concerned to the governing body of the school of the management of the school's budget share for that year.

[<sup>F66</sup>(2) A scheme shall include provision for requiring, in the case of each primary school required to be covered by the scheme in any financial year which—

- (a) satisfies the qualifying condition on a qualifying date in relation to that year which falls before the beginning of that year; or
- (b) falls in accordance with the scheme to be regarded as qualifying for delegation in respect of that year on the assumption that, if a forecast made in accordance with the scheme of the number of registered pupils it will have on a qualifying date in relation to that year which falls within that year proves to be correct, it will satisfy the qualifying condition on that date;

the delegation by the local education authority concerned to the governing body of the school of the management of the school's budget share for that year.]

[<sup>F66</sup>(3) For the purposes of this section—

- (a) a primary school is to be treated as satisfying the qualifying condition at any time when it has two hundred or more registered pupils; and
- (b) “qualifying date” means, in relation to any financial year, any date which is a qualifying date in accordance with any provision made by or under the scheme in question.]

(4) References in this Chapter to the delegation requirement under any scheme are references—

- (a) [<sup>F67</sup>in relation to a secondary school required to be covered by the scheme in any financial year], to any provision included in the scheme by virtue of subsection (1) above; and

[<sup>F66</sup>(b) in relation to a primary school required to be covered by the scheme in any financial year, to any provision included in the scheme by virtue of subsection (2) above.]

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- (5) The application of the delegation requirement under a scheme in relation to any school is subject to section 40 of this Act in the case of any school to which that section applies.
- [<sup>F66</sup>(6) Subject to subsections (7) and (8) below, once the delegation requirement under a scheme applies in relation to a primary school in respect of any financial year it shall continue to apply in respect of each succeeding financial year.
- (7) Subject to subsection (8) below, the delegation requirement under a scheme shall cease to apply in relation to a primary school to which that requirement for the time being applies if the number of registered pupils at the school—
- (a) falls below the number for the time being required under subsection (3)(a) above for such a school to be treated as satisfying the qualifying condition or, in the case of a school to which that requirement applies by virtue of any provision made under subsection (2)(b) above, either fails to reach or falls below that number; and
  - (b) remains below that number for such period as may be specified in the scheme.
- (8) Where subsection (7) above applies in the case of any primary school the delegation requirement under the scheme in question shall cease to apply in relation to the school as from the beginning of the financial year beginning next after the period mentioned in paragraph (b) of that subsection comes to an end in the case of that school.
- (9) The application of subsections (7) and (8) above in relation to any school is without prejudice to the subsequent application of the delegation requirement under the scheme in question in relation to that school in respect of any financial year subsequent to that mentioned in subsection (8).]
- (10) A scheme may provide for the delegation by the local education authority concerned to the governing body of any school to which the delegation requirement under the scheme does not apply in any financial year of the management of the school's budget share for that year.
- (11) Any delegation by a local education authority under a scheme to the governing body of any school of the management of the school's budget share shall be subject to such conditions as may be imposed by or under the scheme.
- (12) Conditions so imposed may in particular relate to—
- (a) the arrangements to be made for management of the expenditure of any sum made available to the governing body of any school in accordance with the scheme (and in particular for authorising expenditure, or transactions involving commitments to expenditure, to be met from any such sum);
  - (b) the keeping and audit of accounts and records with respect to such expenditure, and the keeping of records with respect to such transactions; and
  - (c) the provision to the local education authority concerned by the governing body of—
    - (i) copies of accounts and records required to be kept by virtue of any condition imposed under paragraph (b) above; and
    - (ii) such other documents and information relating to the application of any such sum as the authority may from time to time require.

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#### Textual Amendments

- F65** Word in s. 39(1) omitted (E.) (30.9.1991) by virtue of S.I. 1991/1890, reg. 2(1)  
**F66** S. 39(2)(3)(4)(b)(6)-(9) omitted (E.) (30.9.1991) by virtue of S.I. 1991/1890, reg. 2(2)(a)  
**F67** Words in s. 39(4)(a) omitted (E.) (30.9.1991) by virtue of S.I. 1991/1890, reg. 2(2)(b)

#### Modifications etc. (not altering text)

- C70** S. 39 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

### 40 Initial implementation of delegation requirements under schemes. **E+W**

- (1) The delegation requirement under a scheme shall not apply in relation to any school which comes within the scheme in any financial year falling within the scheme's initial period until a date specified in the scheme.
- (2) For the purposes of this section, a scheme's initial period (subject to any order made under subsection (4) below) is the period of three years beginning with the date on which the scheme <sup>F68</sup>as first made under section 33 of this Act]comes into force.
- (3) Different dates may be specified under subsection (1) above in relation to different schools or categories of school and in relation to schools coming within the scheme in different financial years or at different times within the same financial year; but—
  - (a) each date so specified must coincide with the beginning of a financial year; and
  - (b) no date may be so specified which falls after the beginning of the financial year next following the end of the scheme's initial period.
- (4) The Secretary of State may by order—
  - (a) substitute a date specified in the order for any date specified in a scheme under subsection (1) above (including one so specified by virtue of a previous order under this subsection); and
  - (b) extend any scheme's initial period until such date as may be specified in the order.
- (5) For the purposes of this section, a school—
  - (a) comes within a scheme in any financial year if that financial year is the first financial year in which the school is required to be covered by the scheme; and
  - (b) comes within the scheme at the beginning of that year if it is then a school required to be so covered and otherwise at the time within that year when it first becomes such a school.

#### Textual Amendments

- F68** Words in s. 40(2) inserted (1.1.1994) by 1993 c. 35, s. 274(3)(5); S.I. 1993/3106, art. 4 Sch.1 (as amended by S.I. 1994/436, art.2).

#### Modifications etc. (not altering text)

- C71** S. 40 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).



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#### **41 Extension of delegation requirement under schemes in the case of primary schools. E+W**

- (1) The Secretary of State may by regulations—
  - (a) amend paragraph (a) of subsection (3) of section 39 of this Act by substituting a lower number for the number of registered pupils for the time being required under that paragraph for a primary school to be treated as satisfying the qualifying condition for the purposes of that section; or
  - (b) amend subsection (1) of that section so as to require a scheme to include such provision as is there mentioned in relation to primary schools as well as secondary schools and make in any other provisions of this Chapter such consequential amendments as appear to him to be required.
- (2) Any such regulations may provide that any scheme shall have effect with such modifications as appear to the Secretary of State to be appropriate in consequence of any provision made in those regulations by virtue of subsection (1)(a) or (b) above.

**Modifications etc. (not altering text)**

**C72** S. 41 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

#### **42 Publication of schemes and financial statements, etc. E+W**

- (1) A scheme shall be published in such manner as may be prescribed—
  - (a) on its coming into force; and
  - (b) on such subsequent occasions as may be prescribed.
- (2) The following provisions of this section apply where in the case of any local education authority the authority's financial provision for county and voluntary schools is subject to regulation by a scheme.
- (3) Before the beginning of each financial year the authority shall prepare a statement of the financial provision they plan to make in that year for county and voluntary schools maintained by them.
- (4) The statement shall contain the following particulars in relation to the financial year in question—
  - (a) the amount of the general schools budget of the authority for that year (as initially determined for the purposes of the scheme);
  - (b) the amount of the authority's aggregated budget for that year (as so determined);
  - (c) such particulars as may be prescribed of amounts deducted in respect of—
    - (i) excepted heads or items of expenditure; or
    - (ii) excluded expenditure under the scheme;in arriving at the amount specified in the statement by virtue of paragraph (b) above;
  - (d) such particulars of the allocation formula under the scheme as may be prescribed;
  - (e) in the case of each school required to be covered by the scheme in that year, the planned expenditure per pupil arising from the division of the school's budget share (as so determined) by the initial pupil number;

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- <sup>F69</sup>(f) .....
- <sup>F69</sup>(g) .....
- <sup>F69</sup>(h) .....
- <sup>F69</sup>(i) .....
- (j) such further information with respect to the financial provision the authority plan to make in that year for county and voluntary schools maintained by them as may be prescribed.
- (5) For the purposes of subsection (4) above—
- (a) “the initial pupil number” means, in relation to a financial year, the number of registered pupils at the school in question required under the scheme to be used in applying the allocation formula under the scheme for initial determination of the school’s budget share for the year; and
- <sup>F69</sup>(b) .....
- (6) After the end of each financial year the authority shall prepare a statement containing such information with respect to—
- [<sup>F70</sup>(aa) the planned financial provision in that year specified in the statement prepared by the authority under subsection (3) above]
- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the scheme; and
- (b) expenditure so incurred which was incurred, or is treated by the authority as having been incurred, for the purposes of each such school;
- as may be prescribed.
- (7) A statement prepared under this section shall be prepared in such form, and published in such manner and at such times, as may be prescribed.
- [<sup>F71</sup>(8) The authority shall furnish—
- (a) the governing body of each school required to be covered by the scheme in any financial year, and
- (b) the governing bodies of such grant-maintained schools in the authority’s area and grant-maintained special schools mentioned in section 34(4)(c) of this Act as may be prescribed,
- with a copy of each statement prepared by the authority under this section in relation to that year or, in such circumstances as may be prescribed, with such part or parts of it as may be prescribed.]
- (9) The governing body of each such school shall secure that a copy of any such statement furnished to them under subsection (8) above is available for inspection (at all reasonable times and free of charge) at the school.

#### Textual Amendments

- F69** S. 42(4)(f)-(i) and (5)(b) repealed (1.1.1994) by 1993 c. 35, ss. 275(1)(a)(b), 307(3), **Sch. 21**, Pt.II; S.I. 1993/3106, art. 4, **Sch.1** (as amended by S.I. 1994/436, **art.2**).
- F70** S. 42(6)(aa) inserted (1.1.1994) by 1993 c. 35, s. 275(1)(c); S.I. 1993/3106, art. 4, **Sch.1** (as amended by S.I. 1994/436, **art.2**).
- F71** S. 42(8) substituted (1.1.1994) by 1993 c. 35, s. 275(1)(d); S.I. 1993/3106, art. 4, **Sch.1** (as amended by S.I. 1994/436, **art.2**).

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**Modifications etc. (not altering text)**

**C73** S. 42 applied by S.I. 1989/1135, **art. 6(2)(a)**

**C74** S. 42 modified (21.9.1994) by 1994 c. 30, **s. 12(6)(a)(7)**; S.I. 1994/2204, **art.2(1)**.

[<sup>F72</sup>**42A Certification of statements by Audit Commission.** **E+W**]

- (1) This section applies where in the case of any local education authority the authority's financial provision for county and voluntary schools is subject to regulation by a scheme.
- (2) Any such local education authority shall, if directed to do so by the Secretary of State, require the Audit Commission for Local Authorities and the National Health Service in England and Wales to make arrangements in accordance with section 29(1)(d) of the Local Government Finance Act 1982 for certifying such statement or statements prepared by the authority under section 42 of this Act as may be specified in the directions; and any statement under that section shall be treated for the purposes of section 29(1)(d) of that Act as a return by the authority.
- (3) The arrangements made by the Audit Commission in pursuance of subsection (2) above shall include arrangements for sending a copy of any such statement or statements as so certified to the Secretary of State.
- (4) Directions given under subsection (2) above may relate to any local education authority or to local education authorities generally or to any class or description of such authorities.]

**Textual Amendments**

**F72** S. 42A inserted (1.1.1994) by 1993 c. 35, **s. 275(2)**; S.I. 1993/3106, **art. 4, Sch.1** (as amended by S.I. 1994/436, **art.2**).

**Modifications etc. (not altering text)**

**C75** S. 42A modified (21.9.1994) by 1994 c. 30, **s. 12(6)(a)(7)**; S.I. 1994/2204, **art.2(1)**.

[<sup>F73</sup>**43 Application of schemes to special schools.** **E+W**]

- (1) The Secretary of State may by regulations require or authorise schemes to cover special schools maintained by local education authorities.
- (2) Sections 39(1) and (10) and 40 of this Act shall not apply to schools required to be covered by a scheme by virtue of regulations under subsection (1) above.
- (3) Regulations under subsection (1) above may require or authorise schemes to include provision for requiring the delegation by the local education authority concerned to the governing body of the school of the management of the school's budget share for the year—
  - (a) in the case of all schools required to be covered by a scheme in any financial year by virtue of the regulations; or
  - (b) in the case of such schools required to be covered by a scheme in any financial year by virtue of the regulations as the Secretary of State may direct.
- (4) The Secretary of State may by regulations—

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- (a) make in any provisions of this Chapter such amendments as appear to him to be required in consequence of any provision made in regulations under subsection (1) above; and
- (b) provide that any scheme shall have effect with such modifications as appear to him to be appropriate in consequence of any provision so made.]

#### Textual Amendments

**F73** S. 43 substituted (1.1.1994) by 1993 c. 35, s.276; S.I. 1993/3106, art. 4, Sch.1 (as amended by S.I. 1994/436, art.2).

#### Modifications etc. (not altering text)

**C76** S. 43 modified (21.9.1994) by 1994 c. 30, s. 12(6)(a)(7); S.I. 1994/2204, art.2(1).

### *Financial delegation: appointment and dismissal of staff*

#### **44 Staff employed by the local education authority. E+W**

- (1) This section applies to a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) None of the following shall have effect in relation to a school to which this section for the time being applies—
  - (a) sections 34 and 35 of the 1986 Act (determination of staff complement for schools by local education authority and general provisions about appointment and dismissal of staff);
  - (b) any provision made by the articles of government in accordance with any of sections 36 to 41 of that Act (procedure for appointments, suspensions and dismissals); and
  - (c) any provision of section 40 of that Act (appointment and dismissal of clerk to the governing body) other than subsection (5).
- (3) Subject to the following provisions of this section—
  - (a) the appointment, suspension and dismissal of staff at a school to which this section for the time being applies and the determination of their duties, grading and remuneration; and
  - (b) the application in relation to such staff of—
    - (i) any disciplinary rules and procedures; and
    - (ii) any procedures for affording to them opportunities for seeking redress of any grievances relating to their employment;
 shall be subject to Schedule 3 to this Act.
- (4) Within the period of five years beginning with the date on which the financial year begins in which any county, controlled or special agreement school first has a delegated budget under a scheme, it shall be the duty of the local education authority concerned to amend the articles of government of the school so as to include a statement indicating that provisions made by the articles in accordance with any of sections 36 to 41 of the 1986 Act (specifying those provisions) are superseded by this section and Schedule 3 to this Act during any period when the school has a delegated budget.

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- (5) This section is subject to the provisions of sections 27 and 28 of the 1944 Act (which relate to religious education).

#### 45 Staff at aided schools. **E+W**

- (1) This section applies to an aided school at any time when it has a delegated budget.
- (2) None of the following shall have effect in relation to a school to which this section for the time being applies—
- (a) section 22(4) of the 1944 Act (power of local education authority to give directions to governors of aided school as to number and conditions of service of school maintenance staff); and
  - (b) any provision of the articles of government conferring any functions on a local education authority with respect to the number of teachers or other staff to be employed at the school or the appointment or dismissal of such teachers or other staff (including any such provision required by section 24(2) of that Act).
- (3) Subject to any provision of the articles of government of any such school other than any provision for the time being excluded by subsection (2) above from applying to the school, the governing body of the school shall have (if they would not otherwise do so apart from any provision of the articles so excluded) power to appoint, suspend and dismiss staff as they think fit.
- (4) Subsection (6) below applies if in the case of any such school—
- (a) the governing body of the school agree with the local education authority to accord advisory rights to the chief education officer of the authority in relation to the appointment or dismissal of teachers at the school; or
  - (b) in default of such agreement the Secretary of State determines that it would be appropriate in the case of the school that such rights should be accorded to the chief education officer of the authority.
- (5) Advisory rights accorded by an agreement or determination under subsection (4) above in the case of any school may relate to the appointment or dismissal, or both to the appointment and the dismissal, either of head teachers and deputy head teachers alone or of all teachers at the school.
- (6) During any period while an agreement or determination under subsection (4) above is effective in the case of any school, the chief education officer of the authority, or an officer of the authority nominated by him, shall be entitled to attend all proceedings of the governing body relating to any action to which the advisory rights accorded to him extend (including interviews) for the purpose of giving advice to the governing body.
- (7) The agreement of a governing body for the purposes of subsection (4)(a) above shall be given in writing and may only be withdrawn by notice in writing to the local education authority.
- (8) A determination by the Secretary of State for the purposes of subsection (4)(b) above may be withdrawn at any time (without prejudice to a further determination for those purposes).
- (9) The governing body of a school to which this section for the time being applies shall, on dismissing any member of the staff of the school employed by them, notify the local education authority in writing of the reasons for the dismissal.

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- (10) Where any member of the staff at any such school is employed by the local education authority, paragraphs 8 to 10 of Schedule 3 to this Act shall have effect in relation to his dismissal or withdrawal from the school as they have effect in relation to the dismissal or withdrawal from a school to which section 44 of this Act applies of a person employed to work at the school.
- (11) Within the period of five years beginning with the date on which the financial year begins in which any aided school first has a delegated budget under a scheme, it shall be the duty of the local education authority concerned to amend the articles of government of the school so as to include a statement indicating that provisions of the articles of a kind mentioned in subsection (2)(b) above (specifying those provisions) are superseded by this section during any period when the school has a delegated budget.

#### **46 Staff: further provisions. E+W**

- <sup>F74</sup>(1) . . . . .
- (2) Subject to subsection (3) below, it shall be for the governing body of any such school to determine—
- (a) whether any payment should be made by the local education authority concerned in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and
  - (b) the amount of any such payment.
- (3) Subsection (2) above does not apply in relation to any payment which the authority are required to make—
- (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or
  - (b) under any statutory provision.
- (4) The local education authority concerned—
- (a) shall take such steps as may be required for giving effect to any determination of the governing body of any such school under subsection (2) above; and
  - (b) shall not make, or agree to make, any payment to which that subsection applies in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of any such school otherwise than in accordance with any such determination.
- (5) Costs incurred by the local education authority concerned in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of any such school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.
- (6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5) above.

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### Textual Amendments

**F74** S. 46(1) repealed (6. 3. 1992) by [School Teachers' Pay and Conditions Act 1991 \(c. 49, SIF 41:1\)](#), s. 6(3), [Sch.2](#); [S.I. 1992/532](#), [art.3](#).

## 47 Community Schools. **E+W**

- (1) This section applies to any school to which section 44 or 45 of this Act for the time being applies which is a community school.
- (2) For the purposes of this section, a school is a community school if—
  - (a) activities other than school activities (“non-school activities”) are carried on on the school premises; and
  - (b) all non-school activities which are so carried on are carried on under the management or control of the governing body of the school.
- (3) A scheme may provide for applying sections 44(3), 45(10) and 46 of and Schedule 3 to this Act in relation to persons employed to work—
  - (a) partly for the purposes of school activities and partly for the purposes of non-school activities carried on on the premises of a school to which this section applies; or
  - (b) solely for the purposes of non-school activities so carried on; as if all activities so carried on were school activities.

### *Miscellaneous and supplementary*

## 48 New schools. **E+W**

- (1) Schedule 4 to this Act has effect for the purpose of applying the provisions of this Chapter and Schedule 3 to this Act in relation to new schools which have temporary governing bodies.
- (2) In this section and in Schedule 4 to this Act—

“new school” and “relevant proposal” have the same meanings respectively as in Schedule 2 to the 1986 Act (where “new school” covers both a school proposed to be established which will on implementation of the relevant proposal be maintained by a local education authority and a school which will be so maintained on the implementation in relation to an existing school of the relevant proposal); and

“temporary governing body” means a temporary governing body constituted for a new school under an arrangement made under section 12 of that Act (excluding such a governing body who fall by virtue of paragraph 3(5) of that Schedule to be treated as if they were the governing body constituted under the provisions of that Act that apply following the implementation of the relevant proposal).

## 49 Required financial delegation apart from schemes. **E+W**

- (1) In respect of any period during which any county, voluntary or special school maintained by a local education authority does not have a delegated budget it shall

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be the duty of the authority to make available a sum of money which the governing body of the school are to be entitled to spend at their discretion during that period (but subject to subsection (2) below) on books, equipment, stationery and such other heads of expenditure (if any) as the authority may specify or as may be prescribed.

- (2) A governing body to whom any sum is made available under this section—
  - (a) shall comply in spending that sum with such reasonable conditions as the authority think fit to impose; and
  - (b) may delegate to the head teacher, to such extent as they may specify, their powers in relation to that sum.
- (3) Before making any regulations for the purposes of subsection (1) above, the Secretary of State shall consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.

## 50 **Financial statements in respect of schools not covered by statements under section 42.** **E+W**

- (1) Every local education authority shall prepare a statement under subsection (5) below in respect of any financial year before the first financial year in respect of which the authority are required to prepare a statement under section 42 of this Act (including the financial year current at the time when this section comes into force).
- (2) Subject to subsection (3) below, every local education authority who maintain one or more special schools during the whole or any part of any financial year after the last financial year to which subsection (1) above applies shall prepare a statement under subsection (5) below in respect of that financial year.
- (3) Subsection (2) above shall not apply in relation to such an authority in respect of any financial year in respect of which the authority are required to prepare a statement under section 42 of this Act which, by virtue of any provision made by regulations under section 43 of this Act, is required to include information with respect to the special school or (as the case may be) with respect to each of the special schools concerned.
- (4) The schools required to be covered by a statement prepared by a local education authority under subsection (5) below in respect of any financial year are—
  - (a) in the case of a statement required by subsection (1) above, any county, voluntary or special school maintained by the authority during the whole or any part of that year; and
  - (b) in the case of a statement required by subsection (2) above, any special school so maintained other than one in respect of which, by virtue of any provision so made, any information is required to be included in a statement prepared by the authority in respect of that year under section 42 of this Act.
- (5) The statement shall give the following particulars with respect to the financial provision initially planned by the authority in respect of the financial year to which the statement relates for the schools required to be covered by the statement—
  - (a) the initial amount appropriated for meeting expenditure in that year in respect of all such schools;
  - (b) the amount remaining (referred to below in this section as the general expenditure amount) after deducting from the amount specified in the



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statement by virtue of paragraph (a) above the aggregate amount of the initial amounts so appropriated in respect of—

- (i) expenditure of a capital nature;
  - (ii) expenditure in respect of the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any loan raised to meet expenditure of a capital nature; and
  - (iii) expenditure of such other descriptions as may be prescribed;
- (c) such particulars as may be prescribed of amounts so deducted;
- (d) in the case of each such school, the share of—
- (i) the general expenditure amount; and
  - (ii) such of the amounts so deducted by virtue of paragraph (b)(iii) above as may be prescribed;

which is appropriated by the authority for meeting expenditure for the purposes of the school;

- (e) in the case of each such school, the amount of any expenditure of a capital nature initially planned for the purposes of the school;
  - (f) such particulars of the basis on which the authority determine the share of each such school for the purposes of the information required to be included in the statement under paragraph (d) above as may be prescribed; and
  - (g) such further information with respect to the financial provision initially planned by the authority for the schools required to be covered by the statement as may be prescribed.
- (6) After the end of each financial year in respect of which a local education authority are required to prepare a statement under subsection (5) above the authority shall prepare a statement containing such information with respect to—
- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the statement under subsection (5); and
  - (b) expenditure so incurred which was incurred, or is treated by the authority as having been incurred, for the purposes of each such school;
- as may be prescribed.
- (7) Each statement prepared under this section in respect of any financial year shall be prepared in such form, and published in such manner and at such times, as may be prescribed.
- (8) The authority shall furnish the governing body of any school required to be covered by a statement prepared under subsection (5) above in respect of any financial year with a copy of each statement prepared by the authority under this section in relation to that year.
- (9) A governing body to whom a copy of any such statement is furnished under subsection (8) above shall secure that a copy of the statement is available for inspection (at all reasonable times and free of charge) at the school.
- (10) Where only one school is required to be covered by a statement prepared under subsection (5) above—
- (a) references in this section to all schools required to be so covered shall be read as references to the school in question;
  - (b) that subsection shall apply with the omission of paragraphs (d) to (f); and

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- (c) subsection (6) above shall apply with the omission of paragraph (b).

**Modifications etc. (not altering text)**

C77 S. 50(1) modified by S.I. 1989/1135, art. 6(2)(b)

**51 Interpretation of Chapter III and supplementary and consequential provisions. E+W**

- (1) In this Chapter—

“expenditure of a capital nature” means, in relation to a local education authority, expenditure treated by that authority as expenditure of a capital nature; and

“governors’ report” means, in relation to the governing body of any school to which section 30 of the 1986 Act applies, the report they are required to prepare by virtue of that section.

- (2) In this Chapter—

- (a) references to a scheme are references—

(i) to a scheme made by a local education authority under section 33 of this Act [<sup>F75</sup>as from time to time revised under section 35 of this Act]; and

(ii) in a context referring to a particular local education authority, to a scheme so made by that authority;

- (b) references to a school’s budget share for any financial year—

(i) shall be read in accordance with subsection (2)(a) of that section; and

(ii) include references to that share as from time to time revised in accordance with the scheme under which it is determined;

- (c) references to the general schools budget of a local education authority shall be read in accordance with subsection (4)(a) of that section;

- (d) references to the aggregated budget of a local education authority shall be read in accordance with subsection (4)(b) of that section;

- (e) references to excepted heads or items of expenditure shall be read in accordance with subsection (4)(b)(i) of that section;

- (f) references to a school in respect of which financial delegation is required for any financial year shall be read in accordance with subsection (6)(a) of that section;

- (g) references to a school which has a delegated budget shall be read in accordance with subsection (6)(b) of that section;

- (h) references, in relation to a scheme, to excluded expenditure under the scheme shall be read in accordance with subsection (6)(c) of that section; and

- (i) references to the delegation requirement under a scheme shall be read in accordance with section 39(4).

- (3) During any period when a school has a delegated budget under any scheme any provisions of the articles of government of the school which are inconsistent with the operation during that period of any provisions of this Chapter or of the scheme shall be of no effect to the extent of that inconsistency.

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This subsection does not apply to any provision of the articles of government such as is referred to in section 44(2)(b) or 45(2)(b) of this Act (in relation to which provision corresponding to that made by subsections (4) and (5) below is made by sections 44(4) and 45(11) respectively).

- (4) Within the period of five years beginning with the date on which the financial year begins in which any school first has a delegated budget under a scheme, it shall be the duty of the local education authority concerned, if the articles of government of the school contain any provision to which subsection (3) above applies, to amend the articles so as to include in relation to that provision or (as the case may be) in relation to each such provision contained in the articles the statement required by subsection (5) below.
- (5) The statement shall specify—
- (a) the provision or provisions of the articles in question;
  - (b) the provision of this Chapter or of the scheme (the “overriding provision”) with the operation of which any provision of the articles specified under paragraph (a) above is inconsistent; and
  - (c) the extent of the inconsistency;
- and shall indicate that, during any period when the school has a delegated budget, any provision of the articles so specified is superseded by the overriding provision to the extent that it is inconsistent with it.
- (6) Any amendment of the articles of government of a school required by section 44(4) or 45(11) of this Act or by subsection (4) above shall be made by order under section 1 of the 1986 Act; but section 2 of that Act shall not apply in relation to any order made under section 1 by virtue of this subsection.
- [<sup>F76</sup>(7) It shall be for the Secretary of State to determine any question arising under a scheme as to whether a primary school required to be covered by the scheme is within the delegation requirement under the scheme.]
- (8) Section 29 of the 1986 Act (which requires provisions to be contained in articles of government of schools with respect to financial statements and financial delegation and is superseded by the provisions of this Chapter), and any provision included in the articles of government of any school by virtue of that section, shall cease to have effect.
- (9) In section 30(2)(h) of that Act (financial statement to be included in governors’ annual report to parents), for sub-paragraphs (i) and (ii) there shall be substituted the following sub-paragraphs—
- “(i) reproducing or summarising any financial statement of which a copy has been furnished to the governing body by the authority under section 42 or 50 of the Education Reform Act 1988 since the last governors’ report was prepared;
  - (ii) indicating, in general terms, how any sum made available to the governing body by the authority in respect of the school’s budget share within the meaning of Chapter III of Part I of that Act or under section 49 of that Act in the period covered by the report was used;”.

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Changes to legislation: Education Reform Act 1988, Part 1 is up to date with all changes known to be in force on or before 10 September 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)*

**Textual Amendments**  
F75 Words in s. 51(2)(a)(i) inserted (1.1.1994) by 1993 c. 35, s. 274(4); S.I. 1993/3106, art. 4, sch.1 (as amended by S.I. 1994/436, art.2).  
F76 S. 51(7) omitted (E.) (30.9.1991) by virtue of S.I. 1991/1890, reg. 2(2)(c)

**CHAPTER IV E+W**

**GRANT-MAINTAINED SCHOOLS**

*Duty of Secretary of State to maintain certain schools*

<sup>F77</sup> 52 ..... **E+W**

**Textual Amendments**  
F77 S. 52 repealed (1.1.1994 in respect of s. 52(3)-(9) and otherwise 1.4.1994) by 1993 c. 35, s. 307(1) (3), Sch. 19 para. 126, Sch. 21 Pt.1; S.I. 1993/3106, art. 4, Sch. 1 Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, art. 2); S.I. 1994/507, art. 4(1), Sch.2, Appendix (with arts. 3,4, Sch. 3)

*Government, powers and conduct*

<sup>F78</sup> 53 ..... **E+W**

**Textual Amendments**  
F78 S. 53 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, Sch. 21 Pt.1; S.I. 1993/3106, art. 4, Sch.1 Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, art.2).

<sup>F79</sup> 54 ..... **E+W**

**Textual Amendments**  
F79 S. 54 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, Sch. 21 Pt.1; S.I. 1993/3106, art. 4, Sch.1 Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, art.2).

<sup>F80</sup> 55 ..... **E+W**

**Textual Amendments**  
F80 S. 55 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, Sch. 21 Pt.1; S.I. 1993/3106, art. 4, Sch.1 Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, art.2).

*Status:* Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.

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F81 **56** ..... **E+W**

**Textual Amendments**

**F81** S. 56 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, **art.2**).

F82 **57** ..... **E+W**

**Textual Amendments**

**F82** S. 57 repealed (1.4.1994) by 1993 c. 35, ss. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix.

F83 **58** ..... **E+W**

**Textual Amendments**

**F83** S. 58 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, **art.2**).

F84 **59** ..... **E+W**

**Textual Amendments**

**F84** S. 59 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, **art.2**).

*Procedure for acquisition of grant-maintained status*

F85 **60** ..... **E+W**

**Textual Amendments**

**F85** S. repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, **art.2**).

F86 **61** ..... **E+W**

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**Textual Amendments**  
**F86** S. 61 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**F87** **62** ..... **E+W**

**Textual Amendments**  
**F87** S. repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**F88** **63** ..... **E+W**

**Textual Amendments**  
**F88** S. 63 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**F89** **64** ..... **E+W**

**Textual Amendments**  
**F89** S. 64 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**F90** **65** ..... **E+W**

**Textual Amendments**  
**F90** S. 65 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**F91** **66** ..... **E+W**

**Textual Amendments**  
**F91** S. 66 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

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F92 **67** ..... **E+W**

**Textual Amendments**

**F92** S. 67 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F93 **68** ..... **E+W**

**Textual Amendments**

**F93** S. 68 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F94 **69** ..... **E+W**

**Textual Amendments**

**F94** S. 69 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch.21 Pt. I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F95 **70** ..... **E+W**

**Textual Amendments**

**F95** S. 70 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F96 **71** ..... **E+W**

**Textual Amendments**

**F96** S. 71 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F97 **72** ..... **E+W**

**Textual Amendments**

**F97** S. 72 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

*Status:* Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.  
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*Proposals under section 12 or 13 of the 1980 Act in respect of schools eligible for grant-maintained status*

F98<sup>73</sup> ..... **E+W**

**Textual Amendments**  
F98 S. 73 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix.

*Transfer of property and staff, etc.*

F99<sup>74</sup> ..... **E+W**

**Textual Amendments**  
F99 S. 74 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F100<sup>75</sup> ..... **E+W**

**Textual Amendments**  
F100 S. 75 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F101<sup>76</sup> ..... **E+W**

**Textual Amendments**  
F101 S. 76 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F102<sup>77</sup> ..... **E+W**

**Textual Amendments**  
F102 S. 77 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F103<sup>78</sup> ..... **E+W**



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**Textual Amendments**

**F103** S. 78 repealed (1.1.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

*Finance*

**F104**<sup>79</sup> ..... **E+W**

**Textual Amendments**

**F104** S. 79 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix (with saving in Sch. 3 para. 10).

**Modifications etc. (not altering text)**

**C78** Power to transfer functions conferred on s. 79 as saved (1.4.1994) by 1993 c. 35, s. 307(2), **Sch. 20 para. 2**; S.I. 1994/507, art. 4(1), **Sch.2**

**F105**<sup>80</sup> ..... **E+W**

**Textual Amendments**

**F105** S. 80 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix (with saving in Sch. 3 para. 10).

**Modifications etc. (not altering text)**

**C79** Power to transfer functions conferred on s. 80 as saved (1.4.1994), s.307(2), Sch. 20, para. 2; S.I. 1994/507, art. 4(1), **Sch.2**

**F106**<sup>81</sup> ..... **E+W**

**Textual Amendments**

**F106** S. 81 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch.2** Appendix (with saving in Sch. 3 para. 11)

**F107**<sup>82</sup> ..... **U.K.**

**Textual Amendments**

**F107** S. 82 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix.

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*Admissions*

F108 **83** ..... **E+W**

**Textual Amendments**  
F108 S. 83 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**appendix.

*Religious education*

F109 **84** ..... **E+W**

**Textual Amendments**  
F109 S. 84 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**appendix.

F110 **85** ..... **E+W**

**Textual Amendments**  
F110 S. 85 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**appendix.

F111 **86** ..... **E+W**

**Textual Amendments**  
F111 S. 86 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**appendix.

F112 **87** ..... **E+W**

**Textual Amendments**  
F112 S. 87 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**appendix.

F113 **88** ..... **E+W**

**Status:** Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.

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**Textual Amendments**

**F113** S. 88 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

*Control over alteration and change of site*

**F114**<sup>89</sup> ..... **E+W**

**Textual Amendments**

**F114** S. 89 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

**F115**<sup>90</sup> ..... **E+W**

**Textual Amendments**

**F115** S. 90 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

**F116**<sup>91</sup> ..... **E+W**

**Textual Amendments**

**F116** S. 91 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt. I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

*Discontinuance of grant-maintained schools*

**F117**<sup>92</sup> ..... **E+W**

**Textual Amendments**

**F117** S. 92 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

**F118**<sup>93</sup> ..... **E+W**

*Status:* Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.  
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**Textual Amendments**  
F118 S. 93 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

*Winding up and disposal of property*

F119<sup>94</sup> ..... **E+W**

**Textual Amendments**  
F119 S. 94 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

F120<sup>95</sup> ..... **E+W**

**Textual Amendments**  
F120 S. 95 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt. I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

F121<sup>96</sup> ..... **E+W**

**Textual Amendments**  
F121 S. 96 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

F122<sup>97</sup> ..... **U.K.**

**Textual Amendments**  
F122 S. 97 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

F123<sup>98</sup> ..... **U.K.**

**Textual Amendments**  
F123 S. 98 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A**Appendix.

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F124<sup>99</sup> ..... **E+W**

**Textual Amendments**

F124 S. 99 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix.

*Miscellaneous and supplementary*

F125<sup>100</sup> ..... **E+W**

**Textual Amendments**

F125 S. 100 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix.

F126<sup>101</sup> ..... **E+W**

**Textual Amendments**

F126 S. 101 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 126, **Sch. 21 Pt.I**; S.I. 1994/507, art. 4(1), **Sch. 2A** Appendix.

F127<sup>102</sup> ..... **E+W**

**Textual Amendments**

F127 S. 102 repealed (1.1.1994) by 1993 c. 35, s. 307(3), **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F128<sup>103</sup> ..... **E+W**

**Textual Amendments**

F128 S. 103 repealed (1.1.1994) by 1993 c. 35, s. 307(3), **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

F129<sup>104</sup> ..... **E+W**

**Status:** Point in time view as at 01/08/1994. This version of this part contains provisions that are not valid for this point in time.

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### Textual Amendments

**F129** S. 104 repealed (1.1.1994 in respect of s. 104(1)(a)(b)(f)-(h),(2) and in subsection (3) the definition of “incorporation tax” and otherwise 1.4.1994) by 1993 c. 35 s. 307(1)(3), Sch. 19 para. 126, Sch. 21 Pt.I; S.I. 1993/3106, art. 4, Sch. 1 Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, art. 2); S.I. 1994/507, art. 4(1), Sch.2, Appendix (with arts. 3,4, Sch. 3)

## CHAPTER V **E+W**

### MISCELLANEOUS

#### *City colleges*

#### **105 Agreements for establishment, etc., of city technology colleges and city colleges for the technology of the arts. **E+W****

- (1) The Secretary of State may enter into an agreement with any person under which—
  - (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of either—
    - (i) an independent school to be known as a city technology college; or
    - (ii) an independent school to be known as a city college for the technology of the arts;
 and having (in each case) such characteristics as are specified in the agreement and in subsection (2) below; and
  - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
  - (a) is situated in an urban area;
  - (b) provides education for pupils of different abilities who have attained the age of eleven years<sup>F130</sup> . . . and who are wholly or mainly drawn from the area in which the school is situated; and
  - (c) has a broad curriculum with an emphasis—
    - (i) in the case of a school to be known as a city technology college, on science and technology; or
    - (ii) in the case of a school to be known as a city college for the technology of the arts, on technology in its application to the performing and creative arts.
- (3) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
  - (a) conditions and requirements imposed for the purpose of securing that no charge is made in respect of admission to the school or, subject to such exceptions as may be specified in the agreement, in respect of education provided at the school; and
  - (b) such other conditions and requirements with respect to the school as are specified in the agreement.

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- (4) Payments under an agreement under this section may be in respect of capital or current expenditure and, in so far as they relate to the latter, the agreement shall provide for their continuance (subject to the fulfilment of the conditions and requirements mentioned in subsection (3) above) for a period of not less than seven years or for an indefinite period terminable by the Secretary of State by not less than seven years written notice.
- (5) Where such payments relate to capital expenditure, the agreement shall provide for the repayment to the Secretary of State, in the event at any time of the school discontinuing or ceasing to have the characteristics specified in the agreement and in subsection (2) above, of sums determined by reference to—
- (a) the value at that time of the school premises and other assets held for the purposes of the school; and
  - (b) the extent to which expenditure incurred in providing those assets was met by payments under the agreement.
- (6) Without prejudice to subsection (4) above an agreement under this section may provide for indemnifying a person, in the event of the agreement being terminated by the Secretary of State, for expenditure—
- (a) incurred by that person in carrying out the undertakings mentioned in subsection (1) above; or
  - (b) incurred by that person (otherwise than by virtue of subsection (5) above) in consequence of the termination of the agreement.

#### Textual Amendments

**F130** Words in s. 105(2)(b) repealed (1. 8. 1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), ss. 12(8), 93(2), [Sch.9](#); S.I. 1992/831, art. 2, [Sch.4](#).

### *Charges in maintained schools*

#### **106 Prohibition of charges, etc., in maintained schools. E+W**

(1) No charge shall be made in respect of admission to any maintained school.

[<sup>F131</sup>(1A) Subsection (1) above shall not apply to the admission of any person to any maintained school for the purpose of—

- (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
- (b) full-time education suitable to the requirements of persons who have attained the age of nineteen years]

(2) Subject to subsection (3) below and section 107 of this Act, no charge shall be made in respect of the education provided for registered pupils at any such school during school hours.

(3) Subsection (2) above shall not apply in relation to—

- [<sup>F132</sup>(a) tuition in playing any musical instrument, where the tuition is provided either individually or to a group of no more than four pupils; or]
- (b) any education provided at a grant-maintained school in pursuance of arrangements made under section [<sup>F133</sup>68(8) of the Education Act 1993].

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- (4) No charge shall be made in respect of education provided for a registered pupil at any maintained school where the education is education to which subsection (2) above does not apply if it is—
- (a) required as part of any syllabus for a prescribed public examination which is a syllabus for which the pupil is being prepared at the school; or
  - (b) provided in pursuance of any of the duties imposed by section 10(1)(b) or (2) (a) of this Act;
- but this subsection shall not apply in relation to education provided at a grant-maintained school in pursuance of arrangements made under section [F133 68(8) of the Education Act 1993].
- (5) No charge shall be made in respect of the entry of a registered pupil at any maintained school for any prescribed public examination in any syllabus for that examination for which the pupil has been prepared at the school.
- (6) Neither the parent of any such pupil nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—
- (a) education provided for the pupil at the school in respect of which by virtue of this section no charge may be made; or
  - (b) any syllabus for a prescribed public examination which is a syllabus for which the pupil has been prepared at the school.
- (7) No charge shall be made in respect of transport provided for a registered pupil at any such school where the transport is either—
- (a) incidental to education provided for the pupil at the school in respect of which by virtue of this section no charge may be made; or
  - (b) provided for the purpose of enabling him to meet any examination requirement for any syllabus for a prescribed public examination which is a syllabus for which he has been prepared at the school.
- (8) For the purposes of subsection (7)(a) above, transport is incidental to education provided for registered pupils at any such school if it is provided for the purpose of carrying such pupils—
- (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises; or
  - (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the governing body or the local education authority, from or to the school premises or any other such place.
- (9) Nothing in this section shall be read as prohibiting the making of a charge in respect of board and lodging provided for a registered pupil at any such school on a residential trip.
- (10) In this Chapter “residential trip” means any trip—
- (a) which is arranged for registered pupils at any maintained school by or on behalf of the governing body or the local education authority; and
  - (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.
- (11) For the purposes of this section, a pupil shall be regarded as having been prepared at a school for a syllabus for any prescribed public examination if any part of the education



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provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

#### Textual Amendments

- F131** S. 106(1A) inserted (1. 8. 1993) by Further and Higher Education Act 1992 (c. 13), s. 12(9); S.I. 1992/831, art. 2, Sch. 4.
- F132** S. 106(3)(a) substituted (1.10.1993) by 1993 c. 35, s. 280; S.I. 1993/1975, art. 9, Sch. 1
- F133** Words in s. 106 substituted (1.4.1994) by 1993 c. 35, s. 307(1), Sch. 19 para.127; S.I. 1994/507, art. 4(1), Sch.2.

#### Modifications etc. (not altering text)

- C80** S. 106 modified (1.9.1994) by 1993 c. 35, s. 298, Sch. 18 para. 9(1); S.I. 1994/2038, art. 3(1), Sch.2.
- C81** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.  
Ss. 106-111 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), Sch. 2 Pt.I

### 107 Provision for cases where education is provided partly during and partly outside school hours. **E+W**

- (1) Where a period allowed for any educational activity at a maintained school falls partly during school hours and partly outside school hours—
  - (a) if fifty per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of section 106(2) of this Act as provided during school hours; and
  - (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.
- (2) In this section “school travelling time ” means time spent on travel during school hours; and for the purposes of subsection (1)(a) above, such time is connected school travelling time in relation to any educational activity if it is spent by the pupils taking part in the activity in getting to or from the place where the activity takes place.
- (3) Where any education provided at a maintained school is provided on a residential trip—
  - (a) if the number of school sessions taken up by the trip is equal to or greater than fifty per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of section 106(2) of this Act as provided during school hours; and
  - (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.
- (4) In this section a “half day ” means any period of twelve hours ending with noon or midnight on any day.
- (5) Where fifty per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated for the purposes of subsection (3) above as spent on the trip.

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- (6) For the purposes of that subsection, a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip on which education is provided for registered pupils at the school if the time spent on the trip occupies fifty per cent. or more of the time allowed for that session at the school.

**Modifications etc. (not altering text)**

- C82** S. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
- C83** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.  
Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

**108 Recovery of wasted examination fees. E+W**

- (1) Notwithstanding section 106(5) of this Act, where—
- (a) the governing body of any maintained school or the local education authority have paid or are liable to pay any fee in respect of the entry of a registered pupil at the school for a public examination in any syllabus for that examination; and
  - (b) the pupil fails without good reason to meet any examination requirement for that syllabus;
- that body or authority may recover the amount of the fee from the pupil's parent.
- (2) It shall be for the body or authority who have paid or are liable to pay the fee in question to determine for the purposes of this section any question whether a pupil who has failed to meet any such examination requirement had good reason for the failure.

**Modifications etc. (not altering text)**

- C84** S. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
- C85** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.  
Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

**109 Permitted charges. E+W**

- (1) Subject to subsection (2) below, a charge may be made in respect of—
- (a) education or transport provided for a registered pupil at any maintained school other than education or transport in respect of which by virtue of section 106 of this Act or section 55(1) of the 1944 Act no charge may be made;
  - (b) the entry of any such pupil for a public examination in any syllabus for that examination otherwise than in circumstances in which by virtue of section 106(5) of this Act no charge may be made; and
  - (c) board and lodging provided for any such pupil on a residential trip.
- (2) A charge may not be made—
- (a) by virtue of subsection (1)(a) above in respect of the provision for a pupil of education or transport; or

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- (b) by virtue of subsection (1)(b) above in respect of the entry of a pupil for an examination in any syllabus for that examination;
- unless the education or transport is provided or the pupil is entered for the examination in that syllabus by agreement with his parent; and any education, transport or examination entry in respect of which a charge may be made by virtue of either of those provisions is referred to below in this section as an “optional extra”.
- (3) The following provisions of this section apply in relation to any charge permitted under this section, other than a charge in respect of education provided at a grant-maintained school in pursuance of arrangements made under section 57(5) of this Act; and any charge to which those provisions apply is referred to in those provisions as a regulated charge.
- (4) The amount of any regulated charge shall be payable by the parent of the pupil concerned.
- (5) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.
- (6) Without prejudice to the generality of subsection (5) above, the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—
- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra;
  - (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra; or
  - (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.
- (7) Subject to subsection (8) below, the cost of the provision of an optional extra shall not be taken as including any costs attributable to the provision of teaching staff other than staff engaged as mentioned in subsection (6)(c) above.
- (8) Where the optional extra in question consists of tuition in playing any musical instrument the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.
- (9) Where charging is permitted under this section and the charge would be a regulated charge, the question of whether any charge in respect of the optional extra or the board and lodging should be made, and the amount of any charge to be made, shall be determined—
- (a) in a case where the cost of the provision of the optional extra or board and lodging is met by, or from funds at the disposal of, the governing body, by the governing body; and
  - (b) in any other case, by the local education authority.
- (10) The whole or any part of the amount of any charge the local education authority determine under subsection (9)(b) above to make—
- (a) shall, if the governing body so determine, be met by, or from funds at the disposal of, the governing body; and
  - (b) shall not, to the extent that it is so met, be payable by the parent of the pupil concerned.

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#### Modifications etc. (not altering text)

- C86** Ss. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
- C87** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
- C88** Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

## 110 Charges and remissions policies. **E+W**

- (1) Every governing body of a maintained school and every local education authority shall determine and keep under review a policy with respect to the provision of, and the classes or descriptions of case in which they propose to make charges for, any optional extra or board and lodging in respect of which charges are permitted by section 109 of this Act, other than education provided at a grant-maintained school in pursuance of arrangements made under section [F134 68(8) of the Education Act 1993].
- (2) No such body or authority shall make such a charge unless they have both—
- (a) determined a policy under subsection (1) above with respect to the making of such charges (their “charging policy ”); and
  - (b) determined a policy (their “remissions policy ”)—
    - (i) setting out any circumstances in which they propose to remit (in whole or in part) any charge which would otherwise be payable to them in accordance with their charging policy; and
    - (ii) in the case of such a policy determined by the governing body of any school other than a grant-maintained school, setting out also any circumstances in which the governing body propose to meet (in whole or in part) any charge payable to the local education authority in accordance with the authority’s charging policy for any optional extra or board and lodging provided for a registered pupil at the school.
- (3) Any remissions policy determined by the governing body of a maintained school or by a local education authority shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which by virtue of section 106 no charge may be made; and
  - (b) his parents are in receipt of income support [F135, family credit or disability working allowance] in respect of any period wholly or partly comprised in the time spent on the trip.
- (4) Any such body or authority shall keep under review any remissions policy determined by them under this section.
- (5) In this section “optional extra ” has the same meaning as in section 109 of this Act.

#### Textual Amendments

- F134** Words in s. 110(1) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para.128**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F135** Words in s. 110 substituted (the substitution coming into force 19.11.1991 for the purposes referred to in art. 2(b) of S.I. 1991/2617; 10.3.1991 for the purposes referred to in art. 2(e) of that S.I. and

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6.4.1992 for all other purposes) by Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21, SIF 113:1), s. 7, **Sch. 3**, Pt. II, para. 12; S.I. 1991/2617, art. 2(b)(e)(f), **Sch.**

**Modifications etc. (not altering text)**

**C89** Ss. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.

**C90** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.  
Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

**111 Charges for board and lodging at boarding schools. E+W**

(1) Subject to the following provisions of this section, where any registered pupil at any maintained school is provided at the school with board and lodging [<sup>F136</sup>there shall be payable in respect of the board and lodging by the parent of the pupil concerned (in the case of a school maintained by a local education authority) to the authority and (in the case of a grant-maintained school) to the governing body charges not exceeding the cost to the authority or governing body of providing the board and lodging].

(2) Where the board and lodging are provided for the pupil—

(a) at a school maintained by a local education authority; and

[<sup>F137</sup>(b) the local education authority for his area are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him,

then, where the school is maintained by the local education authority for his area, that authority shall remit the whole of the charges payable under this section and, in any other case, that authority shall pay the whole of the charges payable under this section to the authority which maintain the school]

(3) Where the board and lodging are provided for the pupil—

(a) at a grant-maintained school; and

[<sup>F138</sup>(b) the local education authority for his area are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him]

the whole of the charges payable under this section shall be payable by the authority instead of by the pupil's parent.

<sup>F139</sup>(4) . . . . .

(5) Where [<sup>F140</sup>the local education authority for the pupil's area] are satisfied that payment of the full charges payable under this section would involve financial hardship to the parent of the pupil concerned, the authority—

(a) in the case of charges payable to the authority, shall remit so much of those charges as falls in accordance with subsection (6) below to be so remitted; and

(b) in the case of charges payable [<sup>F141</sup>to another local education authority or] to the governing body of a grant-maintained school in respect of board and lodging <sup>F142</sup>. . . , shall pay so much of those charges as falls in accordance with that subsection to be so paid.

(6) In the case of any such charges, the amount that falls to be remitted or paid by a local education authority by virtue of subsection (5) (a) or (b) above is—

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- (a) such part of those charges as the authority consider ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in that subsection; or
- (b) if in their opinion such hardship cannot otherwise be avoided, the whole of those charges.

#### Textual Amendments

- F136** Words in s. 111 substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(a)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F137** S. 111(2)(b) and the words following it substituted (1.4.1994) by 1993 c. 35, ss. 307(1), 308(3), **Sch. 19**, para. 129(b); S.I. 1994/507, art. 4(1), **Sch.2**.
- F138** S. 111(3)(b) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(c)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F139** S. 111(4) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), **Sch. 19 para. 129(d)**, **Sch. 21**, Pt. II; S.I. 1994/507, art. 4(1), **Sch. 2** Appendix.
- F140** Words in s. 111(5) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(e)(i)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F141** Words in s. 111(5)(b) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(e)(ii)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F142** Words in s. 111(5)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(3), **Sch. 21**, Pt. II; S.I. 1994/507, art. 4(1), **Sch. 2** Appendix.

#### Modifications etc. (not altering text)

- C91** S. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.  
S. 111 excluded (1.4.1994) by 1993 c. 35, s. 12, **Sch. 2 Pt. III paras. 4, 13(1)(c)** (with s. 298, **Sch. 18 para. 12**); S.I. 1994/507, art. 4, **Sch.2**.
- C92** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
- C93** Ss. 106-111 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**
- C94** S. 111(2)-(6) excluded (1.4.1994) by 1993 c. 35, s. 12, **Sch. 2 Pt. I para. 1(2)** (with s. 298, **Sch. 18 para. 12**); S.I. 1994/507, art. 4, **Sch. 2**.
- C95** S. 111(2)(b) modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 9(2)**; S.I. 1994/2038, art. 3(1), **Sch.2**.

### Miscellaneous

#### 112 Extension of powers as to trusts for religious education. **E+W**

(1) Section 2 of the <sup>M1</sup>Education Act 1973 (special powers as to certain trusts for religious education) shall be amended as follows.

(2) For subsection (1) there shall be substituted the following subsections—

“(1) Where the premises of a voluntary school or a grant-maintained school have ceased (whether before or after the passing of the Education Reform Act 1988) to be used for a voluntary school or, as the case may be, a grant-maintained school, or in the opinion of the Secretary of State it is likely they will cease to be so used, then subject to subsections (2) to (4) below, he may by order made by statutory instrument make new provision as to the use of any endowment if it is shown either—

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- (a) that the endowment is or has been held wholly or partly for or in connection with the provision at the school of religious education in accordance with the tenets of a particular religious denomination; or
- (b) that the endowment is or has been used wholly or partly for or in connection with the provision at the school of such religious education and that (subject to subsection (1C) below) the requirements of subsection (1A) below are fulfilled.

(1A) The requirements of this subsection are—

- (a) that the school was or has been maintained as a voluntary school since 1st April 1945 (the coming into force of Part II of the Education Act 1944) or, in the case of a grant-maintained school, was so maintained from that date until immediately before it became a grant-maintained school; and
- (b) that religious education in accordance with the tenets of the denomination concerned—
  - (i) is, and from that date has been, provided at the school; or
  - (ii) where the premises have ceased to be used for the purposes of the school, was provided at the school from that date until immediately before the premises ceased to be so used;in pursuance of section 27 or 28 of that Act (religious education in voluntary schools) or section 85 or 86 of the Education Reform Act 1988 (religious education in grant-maintained schools which were formerly voluntary schools).

(1B) For the purposes of this section—

“endowment ” includes property not subject to any restriction on the expenditure of capital; and  
“shown ” means shown to the satisfaction of the Secretary of State.

(1C) For the purposes of this section—

- (a) where in the case of any school falling within subsection (1A)(a) above it is shown—
  - (i) that religious education in accordance with the tenets of a particular denomination is provided at the school; or
  - (ii) where the premises have ceased to be used for the purposes of the school, such religious education was so provided immediately before the premises ceased to be so used;such religious education shall be taken to have been provided at the school from 1st April 1945; and
- (b) where religious education in accordance with such tenets is shown to have been given to any pupils at a controlled school or a grant-maintained school which was a controlled school immediately before it became a grant-maintained school, the religious education shall be taken to have been given to them at the request of their parents;  
unless the contrary is shown.”

(3) In subsection (4) for the words from “in connection with voluntary schools or ” to “such a school ” there shall be substituted the following paragraphs—

- “(a) in connection with schools which are voluntary schools or grant-maintained schools; or

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- (b) partly in connection with such schools (or either description of such schools) and partly in other ways related to the locality served by the voluntary school or grant-maintained school at the premises that have gone or are to go out of use for such a school;”.

#### Marginal Citations

M1 1973 c. 16.

### 113 Schemes under the Endowed Schools Acts. **E+W**

- (1) Where under any provision (however expressed) of a scheme made under the Endowed Schools Acts 1869 to 1948 the power of the trustees under the scheme to apply any property to which the scheme relates for purposes authorised by the scheme is subject to the approval or order of any other person—
- (a) the scheme shall have effect as if no such approval or order was required; and
  - (b) no liability shall be deemed to have been incurred in respect of any failure before the passing of this Act to obtain any such approval or order.
- (2) The Secretary of State may, on the application of any person whose approval or order would but for this section be required under such a scheme, direct that that requirement shall continue to have effect notwithstanding subsection (1)(a) above; but no liability shall be deemed to have been incurred in respect of any failure before the making of such a direction to obtain any such approval or order.

### 114 Extension of power to require local education authority to defray expenses of establishing controlled school. **E+W**

In section 2 of the <sup>M2</sup>Education (Miscellaneous Provisions) Act 1953 (power to require local education authority to defray expenses of establishing controlled school), in paragraph (b) (which limits the power conferred by that section to cases where the new school is required for pupils for whom accommodation in some other voluntary or grant-maintained school has ceased to be available) after the words “for whom ” there shall be inserted the words “or for a substantial proportion of whom ”.

#### Marginal Citations

M2 1953 c. 33.

### 115 Power to determine times of school sessions, etc. **E+W**

The following section shall be substituted for section 21 of the 1986 Act—

#### “21 Terms, holidays and sessions.

- (1) The articles of government for every county, controlled and maintained special school shall provide for it to be the duty of the local education authority to determine the dates at which the school terms and holidays are to begin and end.
- (2) The articles of government for every such school shall provide for it to be the duty of the governing body to determine the times at which the school session



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or, if there is more than one, each school session is to begin and end on any day and, where the governing body propose to make any change in those times, for it to be their duty—

- (a) to consult the local education authority and the head teacher before taking any of the actions mentioned in paragraphs (b) to (g) below;
  - (b) to include a statement in the report they are required to prepare by virtue of section 30 of this Act—
    - (i) indicating that they propose to make a change in those times;
    - (ii) specifying the proposed change and when they propose that it should take effect; and
    - (iii) drawing attention to any comment on the proposal included as an annex to the report by virtue of paragraph (c) below and including such response to the comment as they may consider appropriate;
  - (c) if so required by the local education authority, to include as an annex to that report such written comment on the proposal as the authority may provide for that purpose;
  - (d) to provide an opportunity for discussion of the proposal at a parents' meeting held by virtue of section 31 of this Act;
  - (e) to consider any comments made at the meeting on the proposal before determining whether any change in those times should be made and (if so) whether the proposal should be implemented with or without any modification;
  - (f) not to effect any change in those times except at the beginning of a school year; and
  - (g) not less than three months before any change in those times is to take effect—
    - (i) to inform the local education authority; and
    - (ii) to take such steps as are reasonably practicable to secure that the parents of all registered pupils at the school are informed; of the change and of when it is to take effect.
- (3) For the purposes of any provision included in the articles of government for any such school by virtue of subsection (2) above, the times determined by the local education authority immediately before the coming into force of section 115 of the Education Reform Act 1988 as the times at which the school session or, if there is more than one, each school session is to begin and end on any day shall be taken to have been determined by the governing body.
- (4) The articles of government for every aided and special agreement school shall provide for it to be the duty of the governing body to determine—
- (a) the dates and times at which the school terms and holidays are to begin and end; and
  - (b) the times at which the school session or, if there is more than one, each school session is to begin and end on any day.
- (5) The articles of government for every county, voluntary and maintained special school shall provide for the governing body to have power to require pupils in attendance at the school to attend at any place outside the school premises for the purpose of receiving any instruction or training included in the secular curriculum for the school.”

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## 116 Provision for delegation of functions by governing bodies of county, voluntary and maintained special schools. **E+W**

In section 8 of the 1986 Act (proceedings and tenure of office of governors of county, voluntary or maintained special school), in subsection (7) (provision that may be included in regulations made by the Secretary of State as to meetings and proceedings of governing bodies, etc.) the following paragraphs shall be inserted after paragraph (a)

- “(aa) for the establishment of committees by the governing bodies of such schools (whether or not including persons who are not members of the governing body concerned) and for the constitution, meetings and proceedings of such committees;
- (ab) for the delegation of functions of the governing body of any such school in prescribed circumstances to committees established by that body, to any member of that body or to the head teacher;”.

*Chapter V: general and supplementary provisions*

## 117 Obligation to enter pupils for prescribed public examinations. **E+W**

- (1) Subject to the following provisions of this section, the governing body of every maintained school shall secure that each registered pupil at the school is entered, at such time as they consider appropriate, for each prescribed public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.
- (2) Subsection (1) above shall not require a governing body to secure that a pupil is entered for any examination, or for any examination in any syllabus for that examination, if either—
  - (a) the governing body consider that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus; or
  - (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus.<sup>F143</sup> but this subsection does not apply to an examination which is part of the assessment arrangements for key stage four and applies in the case of that pupil; and in this subsection, in relation to that pupil, “assessment arrangements” has the meaning given by section 2(2)(c) of this Act and “key stage four” means the period referred to in section 3(3)(d) of this Act]
- (3) Subsection (1) above shall not require a governing body to secure that a pupil is entered for any examination in any syllabus for that examination if the governing body have secured that pupil’s entry for another prescribed public examination in a corresponding syllabus.
- (4) For the purposes of subsection (3) above, a syllabus for any such examination shall be regarded as corresponding to a syllabus for another such examination if the same course of study is provided at the school concerned in preparation for both syllabuses.
- (5) As soon as practicable after determining whether or not to secure the entry of any pupil for a prescribed public examination in any syllabus for which he is being prepared at the school the governing body of a maintained school shall notify the parent of the pupil in writing of their determination in relation to each such syllabus.

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### Textual Amendments

**F143** Words in s. 117(2) inserted (27.7.1993) by 1993 c. 35, s. 240(5)

### Modifications etc. (not altering text)

**C96** S. 117 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.

S. 117 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), Sch.2.

## 118 General and supplementary provisions relating to charges. **E+W**

- (1) Nothing in the provisions of this Chapter relating to charges shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the governing body of any maintained school or any local education authority for voluntary contributions for the benefit of the school or any school activities.
- (2) Any request or invitation made by or on behalf of any such body or authority for contributions for the benefit of any school or school activities shall not be regarded for the purposes of subsection (1) above as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—
  - (a) that there is no obligation to make any contribution; and
  - (b) that registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.
- (3) Nothing in section 106(6) of this Act shall prevent the parent of a registered pupil at a maintained school from being required to pay for or supply any materials for use for the purposes of the production in the course of the provision of education for the pupil at the school of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.
- (4) Nothing in this Chapter relating to charges with respect to a registered pupil at a maintained school shall be read as relating to—
  - (a) charges made by persons other than the governing body or the local education authority; or
  - (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.
- (5) The Secretary of State may make regulations requiring, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—
  - (a) such information relevant for the purposes of this Chapter as to the school hours at the school; and
  - (b) such information as to the policies determined under section 110 which apply in relation to the school;
 as may be prescribed.
- (6) Any sum payable under section 108, 109 or 111 of this Act by the parent of any registered pupil at a maintained school shall be recoverable summarily as a civil debt.
- (7) In this Chapter—

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- (a) “equipment ” does not include clothing;
  - (b) “the local education authority ” means, in relation to a maintained school which is a school maintained by a local education authority, the authority by whom the school is maintained;
  - (c) “maintained school ” means—
    - (i) any school maintained by a local education authority; and
    - (ii) any grant-maintained school;
  - (d) references to a public examination (including a prescribed public examination) are references to such an examination as it applies in relation to persons entered for any syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment for the purposes of determining the achievements of persons entered for that examination takes place;
  - (e) references to an examination requirement for a syllabus for any such examination are references to any requirement a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that syllabus; and
  - (f) “residential trip ” has the meaning given by section 106(10) of this Act.
- (8) For the purposes of subsection (7) above an assessment for the purposes of determining the achievements of persons entered for any examination is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any syllabus in that examination who has met the examination requirements for that syllabus whether that person has passed or failed and, if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

**Modifications etc. (not altering text)**

**C97** S. 118 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.

**C98** S. 118 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.

S. 118 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

*Interpretation of Part I*

**119 Interpretation of Part I. E+W**

- (1) For the purposes of this Part of this Act—
  - (a) children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class; and
  - (b) “reception class ” means a class in which education is provided which is suitable to the requirements of pupils aged five and any pupils under or over that age whom it is expedient to educate together with pupils of that age.
- (2) References in this Part, in relation to proposals under section 28, [F144 . . . , 89 or 92] of this Act, to the date of publication of the proposals are references—
  - (a) to the date on which the requirements of this Act, or of regulations under this Act, with respect to the publication of the proposals (or of any notice relating to the proposals) are satisfied; or

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- (b) where different requirements such as are mentioned in paragraph (a) above are satisfied on different dates, to the last of those dates;  
and references to the time at which such proposals are published shall be construed accordingly.
- (3) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (2) above be taken to be satisfied on the first date in respect of which it is satisfied.

#### Textual Amendments

**F144** Words in s. 119 repealed (1.1.1994 for “52(4) ” otherwise *prosp.*) by 1993 c. 35, ss. 307(3), 308(3), Sch. 21, Pt. I; Which repeal was in force at 1.1.1994 for specified words by S.I. 1993/3106, art. 4, Sch.1 Appendix (with art. 5 Sch. 2) (as amended by S.I. 1994/436, art.2).

**Status:**

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**Changes to legislation:**

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