



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER V

#### MISCELLANEOUS

##### *Miscellaneous*

### **112 Extension of powers as to trusts for religious education**

(1) Section 2 of the 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—

- (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.

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*Status: This is the original version (as it was originally enacted).*

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(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
- (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;”.

### **113 Schemes under the Endowed Schools Acts**

- (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**

In section 2 of the 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”.

### **115 Power to determine times of school sessions, etc**

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 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;

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- (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.”

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

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;”.