

SCHEDULES

SCHEDULE 1

Sections 3 and 4.

THE FUNDING AUTHORITIES

Supplementary powers

- 1 (1) Subject to sub-paragraph (2) below, a funding authority may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—
- (a) acquiring and disposing of land and other property,
 - (b) entering into contracts,
 - (c) investing sums not immediately required for the purpose of the discharge of their functions, and
 - (d) accepting gifts of money, land or other property.
- (2) A funding authority shall not borrow money.
- 2 (1) The Secretary of State may authorise a funding authority to purchase compulsorily any land required for the purpose of implementing any proposals under section 48, 49 or 97 of this Act which are required to be implemented.
- (2) The Acquisition of Land Act 1981 shall apply to compulsory purchase under this paragraph.

Tenure of members

- 3 (1) A person shall hold and vacate office as a member of a funding authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member of a funding authority.
- 4 If the Secretary of State is satisfied that a member of a funding authority—
- (a) has been absent from meetings of the authority for a period longer than six consecutive months without the permission of the authority, or
 - (b) is unable or unfit to discharge the functions of a member,
- the Secretary of State may by notice in writing to that member remove him from office and thereupon the office shall become vacant.

Salaries, allowances and pensions

- 5 (1) A funding authority—
- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine, and

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- (b) shall, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of a funding authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the authority to make to that person a payment of such amount as the Secretary of State may determine.
- (3) A funding authority shall pay to the members of any of their committees who are not members of the authority such travelling, subsistence and other allowances as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

Staff

- 6 (1) A funding authority may, with the approval of the Secretary of State as to numbers, appoint such employees as they think fit on such terms and conditions as to remuneration and other matters as the authority may determine.
- (2) A determination under sub-paragraph (1) above requires the approval of the Secretary of State given with the consent of the Treasury.
- (3) An employee of a funding authority may not be appointed as a member of the authority, and a member of a funding authority may not be appointed as an employee of the authority.

Chief officer

- 7 (1) One of the employees of a funding authority shall be the chief officer.
- (2) The first chief officer shall be appointed by the Secretary of State on such terms and conditions as to remuneration and other matters as the Secretary of State may with the consent of the Treasury determine.
- (3) Each subsequent chief officer shall be appointed by the authority with the approval of the Secretary of State.

Committees

- 8 (1) A funding authority may establish a committee for any purpose.
- (2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the authority.
- (3) Such a committee may include persons who are not members of the authority.
- (4) The authority shall keep under review the structure of committees established by them under this paragraph and the scope of each such committee's activities.

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Delegation of functions

- 9 A funding authority may authorise the chairman, the chief officer or any committee established by them under paragraph 8 above to exercise such of their functions as they may determine.

Proceedings

- 10 Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to a funding authority under section 6 of this Act—
- (a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the authority or of any of their committees, and
 - (b) the authority shall provide the Secretary of State with such copies of any documents distributed to members of the authority or of any of their committees as he may require.
- 11 The validity of any proceedings of a funding authority or of any of their committees shall not be affected by a vacancy amongst the members or by any defect in the appointment of a member.
- 12 Subject to the preceding provisions of this Schedule, a funding authority may regulate their own procedure and that of any of their committees.

Application of seal and proof of instruments

- 13 The application of the seal of a funding authority shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specifically by the authority to act for that purpose, and
 - (b) of one other member.
- 14 Every document purporting to be an instrument made or issued by or on behalf of a funding authority and to be duly executed under their seal, or to be signed or executed by a person authorised by the authority to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

Accounts

- 15 (1) It shall be the duty of a funding authority—
- (a) to keep proper accounts and proper records in relation to the accounts,
 - (b) to prepare in respect of each financial year of the authority a statement of accounts, and
 - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it,
 - (b) the manner in which the information contained in it is to be presented, or

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- (c) the methods and principles according to which the statement is to be prepared,
 and shall contain such additional information as the Secretary of State may with the approval of the Treasury require to be provided for the information of Parliament.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph, “financial year” means the period beginning with the date on which the authority is established and ending with the next following 31st March, and each successive period of twelve months.

Status of funding authorities

- 16 A funding authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the authority shall not be regarded as property of, or property held on behalf of, the Crown.

SCHEDULE 2

Section 12 etc.

DISTRIBUTION OF FUNCTIONS WHERE ORDER MADE UNDER SECTION 12

PART I

INTRODUCTORY

- 1 (1) Where an order under section 12 of this Act is in force, the Education Acts shall have effect subject to—
- (a) this Schedule, and
 - (b) the provisions of this Act which modify the effect of any provision of those Acts, or confer new functions, in respect of any area to which such an order applies.
- (2) In particular, to the extent that this Schedule governs the payments to be made to any local education authority or the governing body of any grant-maintained school in respect of charges by that authority or body for the provision of board and lodging (at a boarding school or otherwise than at school), the proviso to section 52(1) of the Education Act 1944 and section 111(2) to (6) of the Education Reform Act 1988 (charges) shall not apply; and in this Schedule section 52(1) of the Education Act 1944 and section 111(1) of the Education Reform Act 1988 are referred to as the “existing charging provisions”.

PART II

FUNCTIONS WHERE RESPONSIBILITY FOR PROVIDING SUFFICIENT SCHOOL PLACES IS SHARED

Introductory

- 2 If an order under section 12(1)(a) of this Act applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

Responsibility for providing sufficient school places

- 3 (1) If the schools providing relevant education which are available for the area are not sufficient, the funding authority shall, for the purpose of securing the availability of sufficient schools providing such education for the area, exercise their powers to make proposals for the establishment, alteration and discontinuance of schools.
- (2) In performing that duty, the funding authority shall have regard to the need for securing that special educational provision is made for pupils who have special educational needs.
- (3) The schools available for any area shall not be treated as sufficient for the purposes of this paragraph unless they are sufficient for the purposes of section 8(1) of the Education Act 1944 (duty of local education authority to secure availability of schools).
- (4) Nothing in this paragraph requires a funding authority to take any action where to do so would not be an effective use of their resources.
- (5) In this paragraph, “powers to make proposals for the establishment, alteration and discontinuance of schools” means all or any of the powers to publish proposals under sections 48, 97 or 105 of this Act or give notice of proposals under section 183 of this Act.

PART III

FUNCTIONS WHERE RESPONSIBILITY FOR PROVIDING SUFFICIENT SCHOOL PLACES IS TRANSFERRED

Introductory

- 4 If an order under section 12(1)(b) of this Act applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

Responsibility for providing sufficient school places

- 5 (1) The duty under section 8(1) of the Education Act 1944 shall be discharged by the funding authority instead of the local education authority.
- (2) In discharging that duty the funding authority shall, in particular, have regard to the matters referred to in section 8(2)(c) of that Act (provision for pupils who have special educational needs).

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- (3) The funding authority may provide board and lodging otherwise than at school for pupils at maintained or grant-maintained schools; and, where the authority do so, the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the authority not exceeding the cost to the authority of the provision.
- (4) Where the governing body of a grant-maintained school provide board and lodging at the school for pupils there, the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the governing body not exceeding the cost to the governing body of the provision.
- 6 (1) The local education authority may continue to secure the provision of relevant education falling within section 8(1) of that Act and (subject to paragraph 7 below) to secure the provision of schools for that purpose.
- (2) In exercising those powers the local education authority shall, in particular, have regard to the matters referred to in section 8(2) of that Act (which include separation of primary and secondary education, and boarding accommodation for those for whom boarding is desirable).
- (3) Where the local education authority—
 - (a) provide board and lodging at a maintained school for pupils there, or
 - (b) provide board and lodging otherwise than at school for pupils at maintained or grant-maintained schools,
 the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the authority not exceeding the cost to the authority of the provision.

Powers to establish, maintain and alter schools

- 7 (1) The local education authority may not exercise the power under section 9 of that Act to establish any school, or to begin to maintain as a county school any school which is not such a school, (in both cases referred to in this paragraph as “the school in question”) unless—
 - (a) under section 14 of the Education Act 1944 or section 12 of the Education Act 1980 their duty to maintain one or more other schools ceases, and
 - (b) the school in question is intended to provide education for pupils in the area which was served by the other school or (as the case may be) the other schools.
- (2) This paragraph does not apply—
 - (a) to special schools,
 - (b) to nursery schools,
 - (c) where relevant education is only primary education, if the school in question is or will be a secondary school which also provides primary education, or
 - (d) where relevant education is only secondary education, if the school in question is or will be a primary school which also provides secondary education.
- 8 (1) No proposals in respect of any school (referred to in this paragraph as “the school in question”) published under section 13(1)(a) of the Education Act 1980 (proposal that existing or proposed school should be maintained as a voluntary school) may be implemented unless—

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- (a) under section 14 of the Education Act 1944 or section 12 of the Education Act 1980 the duty of the local education authority to maintain one or more other schools ceases, and
 - (b) the school in question is intended to provide education for pupils in the area which was served by the other school or (as the case may be) the other schools.
- (2) This paragraph does not apply—
- (a) where relevant education is only primary education, if the school in question is or will be a secondary school which also provides primary education, or
 - (b) where relevant education is only secondary education, if the school in question is or will be a primary school which also provides secondary education.

Charges for board and lodging or independent education

- 9 (1) Sub-paragraph (3) below applies where—
- (a) any pupil of compulsory school age ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school,
 - (b) the funding authority are of the opinion that it is not practicable for the pupil to obtain admission to any maintained or grant-maintained school which is a reasonable distance from his home and provides efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, and
 - (c) the authority are of the opinion that it is appropriate for the pupil to be provided with the particular board and lodging or, as the case may be, education.
- (2) Sub-paragraph (3) below also applies where—
- (a) any pupil ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school, and
 - (b) the funding authority are of the opinion that—
 - (i) the conditions in sub-paragraph (1) above have been, but are no longer, met by reason only of the pupil having ceased to be of compulsory school age or sub-paragraph (1)(b) above having ceased to apply, and
 - (ii) it would not be desirable for the pupil to cease to be provided with the particular board and lodging or, as the case may be, education.
- (3) Where this sub-paragraph applies—
- (a) if board and lodging is provided by the funding authority, no charge shall be payable to the authority under this Schedule in respect of the board and lodging,
 - (b) if board and lodging is provided at a maintained or grant-maintained school or by a local education authority, the funding authority shall pay the whole of the charges payable to any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging, and

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- (c) in any other case the funding authority shall pay the whole of the fees payable in respect of the board and lodging or, as the case may be, the education.
- (4) This paragraph does not apply in the case of a pupil for whom a statement is maintained under section 168 of this Act.
- 10 (1) This paragraph applies where any pupil ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school.
- (2) If board and lodging is provided at a school maintained by the responsible education authority and the authority are of the opinion that it is desirable for the pupil to be provided with board and lodging, or board and lodging otherwise than at school is provided by the authority, (but in any of those cases paragraph 9(3) above does not apply) then—
 - (a) the authority may remit the whole or any part of the charges payable to them under this Schedule in respect of the board and lodging, and
 - (b) if they are of the opinion that, in order to avoid financial hardship to the pupil’s parent, the parent should not pay the whole or any part of those charges, the authority shall remit the whole or, as the case may be, that part of those charges.
- (3) If board and lodging otherwise than at school is provided by the funding authority or board and lodging is provided at a grant-maintained school or a school maintained by another local education authority (but in any of those cases paragraph 9(3) above does not apply)—
 - (a) the responsible education authority may pay the charges payable to the funding authority, or any local education authority or governing body, under this Schedule or the existing charging provisions in respect of the board and lodging, and
 - (b) if they are of the opinion that it is desirable for the pupil to be provided with board and lodging, they shall pay so much (if any) of those charges as in their opinion is required to be paid by them in order to avoid financial hardship to the parent.
- (4) In any other case to which this paragraph applies (but paragraph 9(3) above does not apply)—
 - (a) the local education authority may pay the whole of the fees payable in respect of the board and lodging or, as the case may be, the education, and
 - (b) if they are of the opinion that it is desirable for the pupil to be provided with board and lodging and appropriate for him to be provided with the particular board and lodging, they shall pay so much (if any) of the fees payable in respect of board and lodging as in their opinion is required to be paid by them in order to avoid financial hardship to the parent, and
 - (c) if they are of the opinion that it is desirable for the pupil to be provided with education otherwise than in a maintained or grant-maintained school and appropriate for him to be provided with the particular education, they shall pay so much (if any) of the fees payable in respect of the education as in their opinion is required to be paid by them in order to avoid financial hardship to the parent.
- (5) In this paragraph the “responsible education authority”, in relation to a pupil ordinarily resident in any area, means the local education authority for the area.

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- (6) This paragraph does not apply in the case of a pupil for whom a statement is maintained under section 168 of this Act.
- 11 (1) Where a pupil in the area for whom a statement is maintained under section 168 of this Act is attending a maintained or grant-maintained school, this paragraph applies if he is provided with board and lodging at the school or otherwise than at school and either—
- (a) the school is named in the statement and—
 - (i) the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless the particular board and lodging are also provided, or
 - (ii) the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless board and lodging are also provided and that it is appropriate for him to be provided with the particular board and lodging, or
 - (b) the school is not named in the statement but the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him unless board and lodging are also provided and that it is appropriate for him to be provided with the particular board and lodging.
- (2) Where the board and lodging is provided by the responsible education authority, no charge shall be payable to the authority under this Schedule in respect of the board and lodging.
- (3) Where the board and lodging is provided by the funding authority or another local education authority or at a grant-maintained school or a school maintained by another local education authority, the responsible education authority shall pay the charges payable to the funding authority or any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging.
- (4) In any other case to which this paragraph applies, the responsible education authority shall pay to the person providing the board and lodging the whole of the fees in respect of the board and lodging.
- (5) In this paragraph the “responsible education authority”, in relation to a pupil, means the local education authority responsible for the pupil for the purposes of Part III of this Act.
- 12 (1) Where a pupil in the area for whom a statement is maintained under section 168 of this Act is attending a maintained or grant-maintained school and is provided with board and lodging at the school or otherwise than at school, then—
- (a) where the board and lodging is provided by the responsible education authority, the authority may remit the whole or any part of the charges payable to them under this Schedule in respect of the board and lodging,
 - (b) where the board and lodging is provided by the funding authority or another local education authority or at a grant-maintained school or a school maintained by another local education authority, the responsible education authority may pay the whole or any part of the charges payable to the funding authority or any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging, and

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- (c) in any other case, the responsible education authority may pay to the person providing the board and lodging the whole or any part of the fees in respect of the board and lodging.
- (2) In this paragraph the “responsible education authority”, in relation to a pupil, means the local education authority responsible for the pupil for the purposes of Part III of this Act.

General

- 13 (1) The following provisions shall not apply—
- (a) sections 50 and 52 of the Education Act 1944 (power of LEA to provide board and lodging otherwise than at school and recovery of charges from parents),
 - (b) section 6(2)(a)(ii) of the Education (Miscellaneous Provisions) Act 1953 (payment by LEA of fees and boarding charges where pupil attends non-maintained school because of shortage of places in maintained and grant-maintained schools), and
 - (c) section 111 of the Education Reform Act 1988 (charges and remission of charges for board and lodging in maintained and grant-maintained schools).
- (2) Any charges payable to the local education authority, the funding authority or the governing body of a grant-maintained school under this Schedule may be recovered summarily as a civil debt.
- 14 (1) Section 193 of this Act shall have effect as if for subsection (5) there were substituted—
- “(5) If—
- (a) within the period mentioned in subsection (3) above, the parent applies to the funding authority, or the local education authority by whom the notice was served, for education to be provided for the child at a school which is not a school maintained by a local education authority or a grant-maintained school and, in the case of an application to the funding authority, notifies the local education authority by whom the notice was served of the application,
 - (b) the child is offered a place at the school, and
 - (c) either the funding authority are required under paragraph 9 of Schedule 2 to this Act to pay the fees payable in respect of the education provided at the school or the local education authority agree to pay the whole of those fees under paragraph 10 of Schedule 2 to this Act,
- that school shall be named in the order.”
- (2) Section 195 of this Act shall have effect as if for subsection (3) there were substituted—
- “(3) If at any time—
- (a) the parent applies to the funding authority or the local education authority by whom the notice was served for education to be provided for the child at a school which is not a school maintained by a local education authority or a grant-maintained school and is different from the school named in the order,

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- (b) the child is offered a place at the school,
 - (c) either the funding authority are required under paragraph 9 of Schedule 2 to this Act to pay the fees payable in respect of the education provided at the school or the local education authority agree to pay the whole of those fees under paragraph 10 of Schedule 2 to this Act, and
 - (d) the parent requests the local education authority to amend the order by substituting that school for the one currently named,
- the authority shall comply with the request.”.

PART IV

FUNCTIONS WHERE RESPONSIBILITY EITHER SHARED OR TRANSFERRED

Introductory

- 15 If an order under section 12(1)(a) or (b) of this Act applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

Responsibility for providing sufficient school places

- 16 In relation to any power under section 48 of this Act to publish proposals for the establishment of a grant-maintained school—
- (a) references to establishing a school for the purpose of providing primary education include establishing a primary school which also provides secondary education, and
 - (b) references to establishing a school for the purpose of providing secondary education include establishing a secondary school which also provides primary education.
- 17 (1) Where relevant education is only primary education—
- (a) no proposals may be published under section 97 of this Act in respect of any grant-maintained school which is a secondary school or if the implementation of the proposals would cause the school to become a secondary school,
 - (b) no proposals may be published under section 105 of this Act in respect of any grant-maintained secondary school, and
 - (c) no direction may be given under section 151(2) of this Act to the governing body of any grant-maintained secondary school.
- (2) Where relevant education is only secondary education—
- (a) no proposals may be published under section 97 of this Act in respect of any grant-maintained school which is a primary school or if the implementation of the proposals would cause the school to become a primary school,
 - (b) no proposals may be published under section 105 of this Act in respect of any grant-maintained primary school, and
 - (c) no direction may be given under section 151(2) of this Act to the governing body of any grant-maintained primary school.

- 18 The funding authority shall not by virtue of paragraph 3 or 5 of this Schedule be under any duty in respect of junior pupils who have not attained the age of five years.

Boarding schools

- 19 The powers of the funding authority to publish proposals under sections 48 and 97 of this Act or to give notice of proposals under section 183 of this Act may, in particular, be so exercised as to secure the provision of boarding accommodation at boarding schools.

Other modifications of Part II

- 20 Section 96 of this Act shall have effect as if the funding authority were among the persons who may submit objections under subsection (6) of that section to proposals under that section.
- 21 Section 104 of this Act shall have effect as if—
- (a) the reference in subsection (3) to the local education authority included the funding authority, and
 - (b) the funding authority were among the persons who may submit objections under subsection (7) of that section to proposals under that section.
- 22 Section 109 of this Act shall have effect as if—
- (a) subsection (1)(a) were omitted, and
 - (b) the funding authority were among the persons required to be consulted under subsection (5)(b).
- 23 Section 149(4) of this Act shall have effect as if the reference to the Secretary of State were to the funding authority.

SCHEDULE 3

Sections 32 and 50.

PROPOSALS FOR SCHOOLS TO BECOME, OR BE
ESTABLISHED AS, GRANT-MAINTAINED SCHOOLS

PART I

PROPOSALS FOR ACQUISITION OF GRANT-MAINTAINED STATUS

Publication of proposals and notice

- 1 (1) Where proposals are required to be published under section 32 of this Act, they shall be published by being—
- (a) posted at or near the main entrance to the school, or (if there is more than one main entrance) all of them,
 - (b) posted in at least one conspicuous place within the area served by the school, and

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- (c) made available for inspection at all reasonable times at the school or at any other place within that area to which members of the public may conveniently have access.
- (2) Within the period of ten days beginning with the date of publication of the proposals there shall be published in at least one newspaper circulating in that area a notice in respect of the proposals containing such summary of the proposals as the governing body may think appropriate (including, in particular, the information required by sub-paragraph (3) below).
- (3) The notice shall—
- (a) state that proposals for acquisition of grant-maintained status have been published and submitted to the Secretary of State for approval,
 - (b) specify the proposed date of implementation of the proposals,
 - (c) state that, if the proposals are approved, the school will on that date cease to be maintained by the local education authority,
 - (d) state that, if the proposals are approved, the school will on and after that date be conducted by a governing body incorporated under Part II of this Act and receive annual grants from the funding authority,
 - (e) give the information required to be specified in the proposals by paragraph 4(1)(a) and (2)(a) below,
 - (f) state where the proposals may be inspected, and
 - (g) explain the effect of paragraph 5 below.
- (4) The Secretary of State may by regulations make such provision (whether by way of modification of, or substitution for, the provisions of sub-paragraphs (1) to (3) above) as he considers appropriate in relation to—
- (a) the publication of proposals for acquisition of grant-maintained status, and
 - (b) the publication of such notice (if any) in respect of proposals for acquisition of grant-maintained status as may be prescribed.

Statement to be annexed to proposals

- 2 (1) There shall be annexed to any proposals published under section 32 of this Act a statement which shall—
- (a) state the result of the ballot, giving the number of votes cast in favour of seeking grant-maintained status for the school, the percentage of those eligible to vote who voted, and the number of votes cast against,
 - (b) state whether the school is a county, controlled, aided or special agreement school,
 - (c) briefly describe the existing character of the school including, in the case of a school which has a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is provided,
 - (d) state the number of pupils for whom accommodation can be provided at the school, and
 - (e) give such other information as may be prescribed.
- (2) The statement so annexed shall be treated for the purposes of section 32 of this Act and of paragraph 1 above as forming part of the proposals.

Statement to accompany published proposals

- 3 Any proposals published under section 32 of this Act shall be accompanied by a statement which shall—
- (a) describe the requirements of Part II of this Act as to the membership of the governing body of a grant-maintained school,
 - (b) state that the head teacher will be a governor of the school ex officio if the school becomes a grant-maintained school,
 - (c) explain the circumstances in which a person named in the proposals in accordance with section 71 or 73 of this Act, or regulations made by virtue of section 77 of this Act, as a proposed initial governor may be replaced under section 74 or 75 of this Act or the regulations,
 - (d) explain the procedure applicable under Part II of this Act in each case in which such a replacement is required,
 - (e) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, explain the requirements applicable under Part II of this Act in any such case,
 - (f) explain the effect of paragraph 5 below, and
 - (g) give such other information as may be prescribed.

Details of proposals

- 4 (1) Any proposals published under section 32 of this Act shall—
- (a) where any person is proposed as a sponsor of the school, state the name of that person and the number of initial sponsor governors to be appointed by him (in accordance with section 66 of this Act),
 - (b) specify the number of initial parent, teacher and first or, as the case may be, foundation governors proposed for the governing body (in accordance with sections 60 to 65 of this Act),
 - (c) give the name of the person who is the head teacher of the school on the date of publication of the proposals,
 - (d) give the relevant particulars in respect of each person required by section 71 or 73 of this Act, or regulations made by virtue of section 77 of this Act, to be named in the proposals as published as a proposed initial governor,
 - (e) where it is proposed that any foundation governorship be held ex officio, specify the relevant office,
 - (f) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, state that fact and refer to the explanation given in the statement accompanying the proposals in accordance with paragraph 3(e) above,
 - (g) give the name under which it is proposed that the governing body should be incorporated under section 34 of this Act, and
 - (h) specify the proposed date of implementation of the proposals.
- (2) The proposals shall describe the arrangements it is proposed to adopt, if the school becomes a grant-maintained school, in respect of—
- (a) the admission of pupils to the school,
 - (b) the provision to be made at the school for pupils who have special educational needs, and
 - (c) the induction of newly qualified teachers at the school and the in-service training and professional development of teachers at the school.

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

- (3) In giving the information required by sub-paragraph (2)(a) above, the proposals shall in particular specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the proposed date of implementation of the proposals and, if pupils are proposed to be admitted for nursery education, give the prescribed information.

Objections to proposals

- 5 Within the period of two months beginning with the date of publication of any proposals under section 32 of this Act, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
 - (b) any persons holding property on trust for the purposes of the school,
 - (c) the governing body of any school affected by the proposals, and
 - (d) any local education authority concerned.

Interpretation

- 6 (1) For the purposes of this Part of this Schedule, the determination of an initial governor of an elected category is pending on the date of publication of any proposals under section 32 of this Act if sub-paragraph (2) or (3) below applies.
- (2) This sub-paragraph applies if an election or appointment required by section 71(7) of this Act has not been held or made by the date of publication.
- (3) This sub-paragraph applies if—
- (a) an election or appointment required for filling an outstanding vacancy for a governor of an elected category on the existing governing body has not been held or made by the date of publication, and
 - (b) the vacancy falls to be taken into account in determining whether an election or appointment is required by section 71(7) of this Act.

PART II

PROPOSALS FOR ESTABLISHMENT OF NEW GRANT-MAINTAINED SCHOOL

Content of proposals

- 7 (1) Proposals published under section 48 or 49 of this Act shall—
- (a) where any person is proposed as a sponsor of the school, state the name of that person and the number of sponsor governors to be appointed by him (in accordance with section 66 of this Act),
 - (b) specify the number of initial first or, as the case may be, foundation governors proposed for the governing body (in accordance with sections 63 to 65 of this Act),
 - (c) specify the number of parent and teacher governors proposed for the governing body (in accordance with sections 60 and 61 of this Act),
 - (d) specify in the case of initial first, initial foundation or sponsor governors their proposed term of office (not being less than five nor more than seven years),

- (e) where it is proposed that any foundation governorship be held ex officio, specify the relevant office,
 - (f) give the name under which it is proposed that the governing body should be incorporated under section 52 of this Act, and
 - (g) specify the proposed incorporation date and the proposed date of implementation of the proposals.
- (2) The proposals shall describe the arrangements it is proposed to adopt in respect of the admission of pupils to the school and, in particular, shall specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the date of implementation of the proposals and, if pupils are proposed to be admitted for nursery education, give the prescribed information.

Statement to be annexed to proposals

- 8 There shall be annexed to any proposals published under section 48 or 49 of this Act a statement briefly describing the intended character of the proposed school including, in the case of proposals published under section 49 of this Act for a school which is intended to have a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is to be provided.

Statement to accompany published proposals

- 9 Any proposals published under section 48 or 49 of this Act shall be accompanied by a statement explaining the effect of paragraph 10 or (as the case may be) paragraph 11 below.

Objections

- 10 (1) Within the period of two months beginning with the date of publication of any proposals under section 48 of this Act, objections to the proposals may be submitted to the funding authority by any of the following—
- (a) if the proposals are for a school which may provide education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council,
 - (b) any ten or more local government electors for the area,
 - (c) the governing body of any school affected by the proposals, and
 - (d) any local education authority concerned.
- (2) Within one month after the end of the period referred to in sub-paragraph (1) above, the funding authority shall send to the Secretary of State copies of any objections made under that sub-paragraph (and not withdrawn in writing) within the period allowed under that sub-paragraph, together with their observations on them.
- 11 Within the period of two months beginning with the date of publication of any proposals under section 49 of this Act, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) if the proposals are for a school which may provide education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council,

- (b) the funding authority, (except, in relation to Wales, before the Schools Funding Council for Wales begin to exercise their functions),
- (c) any ten or more local government electors for the area,
- (d) the governing body of any school affected by the proposals, and
- (e) any local education authority concerned.

Approval of school premises

- 12 (1) Where proposals for the establishment of a new grant-maintained school are published under section 48 of this Act, the funding authority shall prepare the particulars in respect of the proposed premises of the school mentioned in sub-paragraph (3) below.
- (2) Where proposals for the establishment of a new grant-maintained school are published under section 49 of this Act, the particulars in respect of the proposed premises of the school mentioned in sub-paragraph (3) below shall be submitted to the funding authority, at such time and in such form and manner as the authority may direct, by the promoters.
- (3) The particulars are—
- (a) particulars of the provision made or to be made in respect of the means of access to and within the proposed premises of the school, and
 - (b) such other particulars in respect of the proposed premises of the school as may be required or, in the case of proposals published under section 49 of this Act, as the funding authority may require.
- (4) The particulars prepared or submitted under sub-paragraph (3)(a) above shall indicate the extent to which the provision referred to conforms with the minimum requirements, so far as they are relevant to school premises, of—
- (a) Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or
 - (b) if that Note has been replaced by a document prescribed by regulations made or having effect as if made under the Town and Country Planning Act 1990, that document.

SCHEDULE 4

Section 35.

ACQUISITION OF GRANT-MAINTAINED STATUS: EXERCISE
OF POWERS BEFORE DATE OF IMPLEMENTATION*Introductory*

- 1 The functions conferred by or under paragraphs 2 to 5 below on the new governing body or any members of the body—
- (a) may be exercised by them at any time during the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals, but
 - (b) may be exercised only for the purpose of or in connection with the conduct of the school on or after the date of implementation of the proposals,

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and those functions shall be exercised in accordance with any requirements of regulations (or in the case of paragraph 3 or 5 below, of the directions or order in question) as to the circumstances, manner and conditions of their exercise.

Powers to contract, etc.

- 2 The new governing body may—
- (a) enter into contracts including, in particular, contracts for the employment of teachers and other staff, and
 - (b) acquire and dispose of land and other property.

Access to school

- 3 Any member of, or person authorised by, the new governing body, shall if the Secretary of State directs that this paragraph applies in relation to the school, be entitled to have access to and use the premises of the school.

Information

- 4 (1) If the new governing body request the existing governing body or the local education authority in writing to provide them with such information falling within sub-paragraph (2) below as may be prescribed, the existing governing body or, as the case may be, authority shall comply with the request.
- (2) Information falls within this sub-paragraph if—
- (a) it is held by the existing governing body or, as the case may be, the local education authority, and
 - (b) it relates to the school, including persons employed to work at the school and pupils at the school.

General powers of Secretary of State

- 5 (1) The Secretary of State may by order make such provision as he considers appropriate in connection with the school's transition to grant-maintained status and the impending transfer of responsibility for the conduct of the school.
- (2) An order under sub-paragraph (1) above may in particular provide for any provision of this Act specified in the order to have effect as if references to the governing body included the new governing body.
- (3) Such an order may in particular—
- (a) exclude or modify any powers of the local education authority or of the existing governing body in relation to any matter to which any power exercisable by the new governing body in accordance with any provision made by virtue of sub-paragraph (2) above applies,
 - (b) require the new governing body to be consulted before the local education authority or the existing governing body exercise in relation to the school any function of a description so specified or take in relation to the school any action of a description so specified, and
 - (c) require or enable the new governing body to participate in the exercise in relation to the school of any such function or the taking in relation to the school of any such action.

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

Grants to new governing body

- 6 (1) The funding authority may make grants to the new governing body of a school in respect of expenditure incurred or to be incurred by that body in pursuance of any provision made by or under paragraphs 2 to 5 above in respect of the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals.
- (2) The funding authority may impose on a new governing body to whom such a grant is made such requirements as they may from time to time determine (whether before, at or after the time when the grant is made).
- (3) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the funding authority of the whole or any part of the following amount.
- (4) That amount is—
- (a) the amount of the payments made in respect of the grant, or
 - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.

Liability for expenses of new governing body

- 7 The duty of a local education authority to maintain any school shall not apply in relation to any expenses incurred by the new governing body of the school.

SCHEDULE 5

Sections 55 and 117.

GOVERNING BODIES OF GRANT-MAINTAINED SCHOOLS

Introductory

- 1 In this Schedule—
- “school” means a grant-maintained school, and
 - “instrument”, in relation to a school, means the instrument of government for the school.

Election of governors

- 2 The instrument for a school may make provision—
- (a) as to the procedure for the election of members of the governing body, and
 - (b) for the determination of any questions arising in connection with, or matters relating to, such elections.

Disqualification for, tenure of and removal from office

- 3 A person who is a member of the teaching or other staff at a school which is required to have first governors shall be disqualified for holding office as such a governor on the governing body.

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- 4 The instrument for a school may make provision as to the circumstances in which
persons are to be disqualified for holding office as members of the governing body.
- 5 Subject to paragraph 10 below, the instrument for a school must provide for each
governor of an elected category to hold office for a term of four years.
- 6 (1) Subject to paragraph 10 below, the instrument for a school must make the following
provision for the term of office of—
- (a) first or, as the case may be, foundation governors, other than a foundation
governor who is a governor *ex officio*, and
 - (b) where there are sponsor governors, those governors.
- (2) Except where sub-paragraph (3), (4) or (5) below applies, such a governor is to hold
office for such term (not being less than five nor more than seven years) as may be
specified in the instrument.
- (3) The initial instrument must provide, except where sub-paragraph (4) or (5) below
applies—
- (a) subject to paragraph (b) below, for such a governor to hold office for such
term as was specified in the proposals for acquisition of grant-maintained
status or, as the case may be, the proposals for the establishment of a new
grant-maintained school as the proposed term of office for initial governors
of the category in question, and
 - (b) in the case of a governing body incorporated in pursuance of proposals for
the establishment of a new grant-maintained school which name a person
as a sponsor of the school, for any sponsor governor to hold office for such
term as was specified as the proposed term of office for such governors in
those proposals.
- (4) Any additional first or foundation governor appointed in pursuance of provision
made in the instrument by virtue of section 67(2) of this Act is to hold office for
such term (not being more than five years) as may be specified in the terms of that
governor's appointment.
- (5) Any first governor appointed in pursuance of provision made in the instrument by
virtue of section 64 of this Act is to hold office for such term (not being less than
five nor more than seven years) as may be specified in the terms of his appointment.
- 7 No provision made in the instrument by virtue of paragraph 5 or 6 above or 10
below shall be taken to prevent a governor—
- (a) from being elected or appointed for a further term, or
 - (b) from being disqualified, by virtue of paragraph 3 above or any provision
made by virtue of paragraph 4 above, for continuing to hold office.
- 8 The instrument for a school must provide that any member of the governing body
may at any time resign his office.
- 9 (1) The instrument for a school must provide that any foundation governor (other than
one holding office *ex officio*) and any sponsor governor may be removed from office
by the person or persons who appointed him.
- (2) For the purposes of this paragraph, an initial foundation governor shall be
treated as having been appointed by the person or persons entitled to appoint
foundation governors under provision included in the instrument in accordance with
section 65(7)(b) of this Act.

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Initial appointments: terms of office

- 10 (1) The instrument for a school must, until every initial governor has ceased to hold office, make the provision required by sub-paragraphs (2) and (3) below.
- (2) In the case of a governing body incorporated under Chapter II—
- (a) an initial governor of an elected category who was a governor of that category on the governing body of the school immediately before the incorporation date shall hold office for the remainder of his term of office on the former governing body, and
 - (b) an initial governor of an elected category who was elected under section 71, or elected or nominated under section 74, of this Act to hold office as such shall hold office for a term of four years.
- (3) An initial first governor, initial foundation governor (other than a foundation governor who is a governor ex officio) or initial sponsor governor shall hold office for such term (not being less than five nor more than seven years) beginning with the incorporation date as may be specified as his proposed term of office in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (4) In the case of a governing body incorporated under Chapter IV, the instrument for a school must, until every governor of an elected category appointed before the date of implementation of the proposals has ceased to hold office, provide for any such governor to hold office for the prescribed term.

Meetings and proceedings

- 11 The proceedings of the governing body of a school shall not be invalidated by—
- (a) any vacancy among their number, or
 - (b) any defect in the election or appointment of any governor.
- 12 Subject to the provisions of Chapter V and any instrument of government or articles of government made under that Chapter, the governing body of a school may regulate their own procedure.
- 13 (1) The instrument for a school may make provision as to the meetings and proceedings of the governing body.
- (2) The provision that may be made in pursuance of this paragraph includes, in particular, provision—
- (a) as to the election of a chairman and vice-chairman,
 - (b) as to the establishment, constitution, meetings and proceedings of committees,
 - (c) for the delegation of the governing body's functions, in such circumstances as may be specified in the instrument, to committees established by that body or to any member of that body, and
 - (d) as to the procedure (including any quorum) when business is transacted by members of the governing body of a particular category.
- (3) The provision mentioned in sub-paragraph (2)(b) above may provide for a committee to include persons who are not members of the governing body.
- (4) The instrument shall make provision for an appeal committee for the purposes of paragraph 5(1) of Schedule 6 to this Act to include among its members (with full

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voting powers) a person nominated by the governing body from among persons who are eligible to be lay members.

- (5) A person is eligible to be a lay member for the purposes of sub-paragraph (4) above if—
- (a) he is a person without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
 - (b) he does not have, or has not at any time had, any connection with—
 - (i) the school, or
 - (ii) any person who is a member of, or employed by, the governing body of the school,
 of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.

Allowances for governors

- 14 (1) The governing body of a school may pay to their members such travelling, subsistence or other allowances as may be determined in accordance with a scheme made by the governing body and approved by the Secretary of State.
- (2) A scheme under this paragraph may be varied or revoked by a subsequent scheme made under this paragraph.

Seal etc.

- 15 (1) The application of the seal of the governing body of a school must be authenticated by the signature—
- (a) of the chairman of the governing body, or
 - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (2) Every document purporting to be an instrument made or issued by or on behalf of the governing body of a school and—
- (a) to be duly executed under the seal of the governing body, or
 - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 6

Sections 55 and 117.

CONTENT OF ARTICLES OF GOVERNMENT FOR GRANT-MAINTAINED SCHOOLS

Introductory

- 1 In this Schedule—
- “school” means a grant-maintained school, and

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“articles”, in relation to a school, means the articles of government for the school.

Performance and delegation of functions

- 2 (1) The articles must make provision as to the functions to be exercised in relation to the school by—
- (a) the Secretary of State,
 - (b) the funding authority,
 - (c) the governing body,
 - (d) any committee or other body established by the governing body,
 - (e) the head teacher, and
 - (f) any other persons specified in or determined under the articles.
- (2) The articles must also include provision as to the delegation of such functions by those on whom they are imposed or conferred by or under the articles.
- (3) The articles may include provision as to the establishment by the governing body of committees or other bodies of persons for the purpose of or in connection with the performance in relation to the school of such functions as may be determined by or under the articles.

Staff

- 3 (1) The articles must include provision as to—
- (a) disciplinary rules and procedures applicable to members of the staff of the school, and
 - (b) procedures for giving them opportunities for seeking redress of any grievances relating to their employment.
- (2) The articles must also include provision as to arrangements—
- (a) for giving any member of the staff an opportunity of making representations as to any proposal to dismiss him by the governing body or any persons authorised under the articles to dismiss him, including (if he so wishes) oral representations to such person or persons as may be appointed for the purpose,
 - (b) for requiring the governing body or any persons authorised under the articles to dismiss him to have regard to any representations made by him before taking any decision to dismiss him, and
 - (c) for giving any member of staff whom it has been decided to dismiss an opportunity of appealing against that decision before any action is taken to implement it.

Admission and exclusion of pupils

- 4 The articles must—
- (a) provide for the governing body to be responsible for determining the arrangements for admitting pupils to the school, and
 - (b) include provision as to the policy to be followed in deciding admissions.
- 5 (1) The articles must include provision as to arrangements for appeals (in such circumstances as may be provided by the articles) to an appeal committee constituted

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in accordance with the instrument of government against any decision or action taken—

- (a) by the governing body, or
- (b) by any persons authorised under the articles to take any decision or action of the kind in question,

in relation to admissions of pupils to the school or the permanent exclusion of a pupil from the school.

- (2) The articles must enable the governing body to make such arrangements jointly with the governing body of one or more other grant-maintained schools.
- 6 The articles must require the governing body to publish, for each school year, particulars of—
- (a) the arrangements for admission of pupils to the school, and
 - (b) the procedures applicable under the articles, and any further arrangements made by them in respect of appeals by parents against any such decision or action as is mentioned in paragraph 5(1) above, in relation to the admission of pupils to the school.

Curriculum

- 7 (1) The articles must include provision for securing the discharge by the governing body and the head teacher of duties imposed on them under Chapter I of Part I of the Education Reform Act 1988 (the curriculum).
- (2) The articles must include provision as to arrangements for the consideration and disposal of complaints relating to any matter concerning the curriculum followed within the school including, in particular, the discharge by the governing body of those duties.
- (3) The articles must require the governing body, when considering the content of the secular curriculum for the school, to have regard to any representations with regard to that curriculum—
- (a) which are made to them by any persons connected with the community served by the school, or
 - (b) which are made to them by the chief officer of police and are connected with his responsibilities.

Annual reports

- 8 (1) The articles must require the governing body to prepare once in every school year a report in such form and containing such information as the articles may require.
- (2) The articles must require the governing body to take such steps as are reasonably practicable to secure that—
- (a) the registered parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the report, and
 - (b) copies of the report are available for inspection (at all reasonable times and free of charge) at the school.

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Annual parents' meetings

- 9 (1) The articles must require the governing body, subject to any exceptions provided for in the articles, to hold a meeting once in every school year which is open to—
- (a) all parents of registered pupils at the school, and
 - (b) such other persons as the governing body may invite.
- (2) The articles must include provision as to—
- (a) the procedure to be followed and the matters to be considered at such a meeting,
 - (b) the determination of any questions arising in connection with such a meeting, and
 - (c) the taking by the governing body or any other persons of such action as may be required by the articles for the purposes of, or in connection with, such a meeting or any resolutions passed at it.

SCHEDULE 7

Section 59.

CATEGORIES OF GOVERNORS

PART I

INTRODUCTORY

Application

- 1 (1) This Schedule applies, in relation to the governing body of a grant-maintained school, for the purposes of Part II of this Act.
- (2) Part II of this Schedule applies for the purpose of determining who are to be the initial governors of a grant-maintained school.
- (3) Part III of this Schedule applies for the purpose of determining who are to be the governors of a grant-maintained school on and after the incorporation date.

General interpretation

- 2 References to an initial governor are to any person who becomes a member of the governing body on the incorporation date.
- 3 References to a governor of an elected category are to a person who is a parent or teacher governor within the meaning of the Education (No. 2) Act 1986 or this Schedule.
- 4 In relation to any proposals for acquisition of grant-maintained status in respect of a school, a person who is a governor of an elected category on the existing governing body of the school is an eligible governor of that category if—
- (a) his term of office as a governor is due to end after the date of implementation of the proposals, and
 - (b) he has notified the existing governing body that he is willing to serve on the proposed governing body and has not withdrawn that notification.

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PART II

INITIAL GOVERNORS

Parent governors

- 5 (1) In relation to a governing body to be incorporated under Chapter II, “parent governor” means—
- (a) a person who, immediately before the incorporation date in relation to the school, is a parent governor (within the meaning of the Education (No. 2) Act 1986) in relation to the school, or
 - (b) a person elected or appointed under section 71, or elected, appointed or nominated under section 74, of this Act to hold office as an initial parent governor on the governing body.
- (2) A person elected under section 71 of this Act to hold office as an initial parent governor must be elected by registered parents of registered pupils at the school and a person elected or appointed under that section to hold such office must himself when he is elected or appointed be such a parent.
- (3) A person elected, appointed or nominated under section 74 of this Act to hold office as an initial parent governor—
- (a) in the case of an election, must be elected by registered parents of registered pupils at the school and must himself when he is elected be such a parent, and
 - (b) in the case of an appointment or nomination, must be a registered parent of a registered pupil at the school at the time of his appointment or nomination.

Teacher governors

- 6 (1) In relation to a governing body to be incorporated under Chapter II, “teacher governor” means—
- (a) a person who, immediately before the incorporation date in relation to the school, is a teacher governor (within the meaning of the Education (No. 2) Act 1986) in relation to the school, or
 - (b) a person elected under section 71, or elected or nominated under section 74, of this Act to hold office as an initial teacher governor on the governing body.
- (2) A person elected under section 71 of this Act to hold office as an initial teacher governor must be elected by teachers at the school and must himself when he is elected be such a teacher.
- (3) A person elected or nominated under section 74 of this Act to hold office as an initial teacher governor—
- (a) in the case of an election, must be elected by teachers at the school and must himself when he is elected be such a teacher, and
 - (b) in the case of a nomination, must be a teacher at the school at the time of his nomination.

First governors

- 7 (1) In relation to a governing body to be incorporated under Chapter II, “first governor” means a person who is selected under section 73(1), or nominated under

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section 75(1), of this Act and appears to the persons selecting or nominating him to be committed to the good government and continuing viability of the school.

- (2) In relation to a governing body to be incorporated under Chapter IV, “first governor” means a person appointed by the funding authority who appears to them to be committed to the good government and continuing viability of the proposed school.

Foundation governors

- 8 (1) In relation to a governing body to be incorporated under Chapter II, “foundation governor” means a person who—
- (a) is selected under section 73(2), or nominated under section 75(2), of this Act,
 - (b) where the statement annexed under paragraph 2 of Schedule 3 to this Act to the proposals for acquisition of grant-maintained status describes the religious character of the school, is appointed for the purpose of securing that (subject to the approval or adoption under section 98 of this Act of any proposals) the religious character of the school is such as is indicated in the statement, and
 - (c) where there is a trust deed relating to the school, is appointed for the purpose of securing that the school is conducted in accordance with the deed.
- (2) In relation to a governing body to be incorporated under Chapter IV, “foundation governor” means a person who—
- (a) is appointed by the promoters,
 - (b) where the statement annexed under paragraph 8 of Schedule 3 to this Act to the proposals for the establishment of a new grant-maintained school describes the religious character of the school, is appointed for the purpose of securing that (subject to the approval or adoption under section 98 of this Act of any proposals) the religious character of the proposed school is such as is indicated in the statement, and
 - (c) where there is a trust deed relating to the proposed school, is appointed for the purpose of securing that the proposed school is conducted in accordance with that deed.

Sponsor governors

- 9 In relation to a governing body to be incorporated under Chapter II, “sponsor governor” means a person appointed by a person named as a sponsor of the school in the proposals for acquisition of grant-maintained status.

PART III

GOVERNORS OTHER THAN INITIAL GOVERNORS

Parent governors

- 10 (1) “Parent governor” means a person who—
- (a) is elected by registered parents of registered pupils at the school,
 - (b) is appointed under a provision of the instrument of government made by virtue of section 60(3) of this Act,
 - (c) is appointed by virtue of section 60(6) of this Act, or

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(d) is an initial parent governor.

(2) To qualify for such election, the person must himself when he is elected be a registered parent of a registered pupil at the school.

Teacher governors

11 (1) “Teacher governor” means a person who—

- (a) is elected by teachers at the school,
- (b) is appointed by virtue of section 61(4) of this Act, or
- (c) is an initial teacher governor.

(2) To qualify for such election, the person must himself when he is elected be a teacher at the school.

First governors

12 “First governor” means—

- (a) a person appointed by the governing body who appears to them to be committed to the good government and continuing viability of the school,
- (b) a person appointed under a provision of the instrument of government made by virtue of section 64 of this Act who appears to the person appointing him to be committed to the good government and continuing viability of the school, or
- (c) an initial first governor.

Foundation governors

13 “Foundation governor” means a person who—

- (a) is appointed otherwise than by a local education authority or the funding authority,
- (b) where paragraph 8(1)(b) or (2)(b) above applies, is appointed for the purpose there referred to, and
- (c) where there is a trust deed relating to the school, is appointed for the purpose of securing that the school is conducted in accordance with that deed.

Sponsor governors

14 “Sponsor governor” means—

- (a) a person appointed by a person named in the instrument of government as a sponsor of the school,
- (b) while the instrument of government is the initial instrument, a person appointed by a person named as a sponsor of the school in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school, or
- (c) an initial sponsor governor.

SCHEDULE 8

Section 122.

CORE GOVERNORS FOR GROUPS

Introductory

- 1 The provision made for core governors in the instrument of government for the governing body of a group must be in accordance with this Schedule.

Kinds of core governor

- 2 (1) Core governors may be either—
- (a) appointed by the governing body, or
 - (b) externally appointed.
- (2) Externally appointed core governors may be either—
- (a) appointed in respect of a particular school in the group, being a school—
 - (i) which was a voluntary school immediately before it became grant-maintained, or
 - (ii) which was established in pursuance of proposals published under section 49 of this Act, or
 - (b) where the group consists only of such schools, appointed in respect of the group otherwise than by the governing body.
- (3) A person appointed as mentioned in sub-paragraph (2)(a) above must be appointed by the persons named in the instrument of government for the group as being entitled to appoint externally appointed core governors in respect of the school.
- (4) A person appointed as mentioned in sub-paragraph (2)(a) above must be appointed—
- (a) where any statement annexed to the proposals in pursuance of which the school became a grant-maintained school described the religious character of the school, for the purpose of securing that (subject to any change in the character of the school which may be authorised by or under Part II of this Act) the religious character of the school is such as was indicated in the statement, and
 - (b) where there is a trust deed relating to the school, for the purpose of securing that the school is conducted in accordance with the deed.
- (5) Core governors, other than externally appointed core governors appointed in respect of particular schools in the group, must be appointed from among persons who appear to the person making the appointment to be committed to the good government and continuing viability of all the schools in the group.
- (6) A person who is a member of the teaching or other staff at any of the schools in the group is disqualified from holding office as a core governor, other than an externally appointed core governor.

Groups consisting only of former voluntary schools or section 49 schools

- 3 (1) This paragraph applies in the case of such a group as is mentioned in paragraph 2(2) (b) above.

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

- (2) The minimum number of externally appointed core governors (referred to in this paragraph as “MN”) is one greater than the number of governors other than externally appointed core governors.
- (3) Any head teacher of a school in the group who has chosen not to be a governor shall be counted as one for the purposes of sub-paragraph (2) above.
- (4) In respect of each school in the group there must be the same number of externally appointed core governors.
- (5) The total number of externally appointed core governors in respect of schools in the group must not be less than the highest number, not exceeding MN, that is consistent with sub-paragraph (4) above.

Other groups

- 4 (1) This paragraph applies in the case of a group other than such a group as is mentioned in paragraph 2(2)(b) above.
- (2) If any school in the group falls within paragraph 2(2)(a) above, one externally appointed governor must be appointed in respect of that school.
- (3) The appropriate number of the core governors must (on the date or dates on which they respectively take office) be parents of registered pupils at schools in the group, and the appropriate number of the core governors must (on the date or dates on which they respectively take office) be members of the local community; but one person may satisfy both requirements.
- (4) In sub-paragraph (3) above “the appropriate number” means not less than two or, if all but one of the schools in the group fall within paragraph 2(2)(a) above, at least one.
- (5) In appointing core governors, the governing body must secure that those governors include persons appearing to the governing body to be members of the local business community (and such persons may also satisfy one or both of the requirements of sub-paragraph (3) above).
- (6) The number of core governors must be such number, not being—
 - (a) less than five, or
 - (b) subject to paragraph (a) above, more than the number of schools in the group, as will secure that they and the parent governors outnumber the other governors.
- (7) Any head teacher of a school in the group who has chosen not to be a governor shall be counted as one for the purposes of sub-paragraph (6) above.

SCHEDULE 9

Section 167.

MAKING OF ASSESSMENTS UNDER SECTION 167

Introductory

- 1 In this Schedule, “assessment” means an assessment of a child’s educational needs under section 167 of this Act.

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

Medical and other advice

- 2 (1) Regulations shall make provision as to the advice which a local education authority are to seek in making assessments.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the regulations shall, except in such circumstances as may be prescribed, require the authority to seek medical, psychological and educational advice and such other advice as may be prescribed.

Manner, and timing, of assessments, etc.

- 3 (1) Regulations may make provision—
- (a) as to the manner in which assessments are to be conducted,
 - (b) requiring the local education authority, where, after conducting an assessment under section 167 of this Act of the educational needs of a child for whom a statement is maintained under section 168 of this Act, they determine not to amend the statement, to serve on the parent of the child notice giving the prescribed information, and
 - (c) in connection with such other matters relating to the making of assessments as the Secretary of State considers appropriate.
- (2) Sub-paragraph (1)(b) above does not apply to a determination made following the service of notice under paragraph 10 of Schedule 10 to this Act of a proposal to amend the statement.
- (3) Regulations may provide that, where a local education authority are under a duty to make an assessment, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make an assessment which has not been performed within that period.

Attendance at examinations

- 4 (1) Where a local education authority propose to make an assessment, they may serve a notice on the parent of the child concerned requiring the child's attendance for examination in accordance with the provisions of the notice.
- (2) The parent of a child examined under this paragraph may be present at the examination if he so desires.
- (3) A notice under this paragraph shall—
- (a) state the purpose of the examination,
 - (b) state the time and place at which the examination will be held,
 - (c) name an officer of the authority from whom further information may be obtained,
 - (d) inform the parent that he may submit such information to the authority as he may wish, and
 - (e) inform the parent of his right to be present at the examination.

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

Offence

- 5 (1) Any parent who fails without reasonable excuse to comply with any requirements of a notice served on him under paragraph 4 above commits an offence if the notice relates to a child who is not over compulsory school age at the time stated in it as the time for holding the examination.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

SCHEDULE 10

Section 168.

MAKING AND MAINTENANCE OF STATEMENTS UNDER SECTION 168

Introductory

- 1 In this Schedule, “statement” means a statement of a child’s special educational needs under section 168 of this Act.

Copy of proposed statement

- 2 Before making a statement, a local education authority shall serve on the parent of the child concerned—
- (a) a copy of the proposed statement, and
 - (b) a written notice explaining the arrangements under paragraph 3 below, the effect of paragraph 4 below and the right to appeal under section 170 of this Act and containing such other information as may be prescribed,
- but the copy of the proposed statement shall not specify any matter in pursuance of section 168(4) of this Act or any prescribed matter.

Choice of school

- 3 (1) Every local education authority shall make arrangements for enabling a parent on whom a copy of a proposed statement has been served under paragraph 2 above to express a preference as to the maintained, grant-maintained or grant-maintained special school at which he wishes education to be provided for his child and to give reasons for his preference.
- (2) Any such preference must be expressed or made within the period of fifteen days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) above was served on the parent, or
 - (b) if a meeting has (or meetings have) been arranged under paragraph 4(1)(b) or (2) below, with the date fixed for that meeting (or the last of those meetings).
- (3) Where a local education authority make a statement in a case where the parent of the child concerned has expressed a preference in pursuance of such arrangements as to the school at which he wishes education to be provided for his child, they shall specify the name of that school in the statement unless—
- (a) the school is unsuitable to the child’s age, ability or aptitude or to his special educational needs, or

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

- (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (4) A local education authority shall, before specifying the name of any maintained, grant-maintained or grant-maintained special school in a statement, consult the governing body of the school and, if the school is maintained by another local education authority, that authority.

Representations

- 4 (1) A parent on whom a copy of a proposed statement has been served under paragraph 2 above may—
- (a) make representations (or further representations) to the local education authority about the content of the statement, and
 - (b) require the authority to arrange a meeting between him and an officer of the authority at which the statement can be discussed.
- (2) Where a parent, having attended a meeting arranged by a local education authority under sub-paragraph (1)(b) above, disagrees with any part of the assessment in question, he may require the authority to arrange such meeting or meetings as they consider will enable him to discuss the relevant advice with the appropriate person or persons.
- (3) In this paragraph—
- “relevant advice” means such of the advice given to the authority in connection with the assessment as they consider to be relevant to that part of the assessment with which the parent disagrees, and
 - “appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the authority, is the appropriate person to discuss it with the parent.
- (4) Any representations under sub-paragraph (1)(a) above must be made within the period of fifteen days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) above was served on the parent, or
 - (b) if a meeting has (or meetings have) been arranged under sub-paragraph (1)(b) or (2) above, with the date fixed for that meeting (or the last of those meetings).
- (5) A requirement under sub-paragraph (1)(b) above must be made within the period of fifteen days beginning with the date on which the written notice mentioned in paragraph 2(b) above was served on the parent.
- (6) A requirement under sub-paragraph (2) above must be made within the period of fifteen days beginning with the date fixed for the meeting arranged under sub-paragraph (1)(b) above.

Making the statement

- 5 (1) Where representations are made to a local education authority under paragraph 4(1)(a) above, the authority shall not make the statement until they have considered the representations and the period or the last of the periods allowed by paragraph 4 above for making requirements or further representations has expired.

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

- (2) The statement may be in the form originally proposed (except as to the matters required to be excluded from the copy of the proposed statement) or in a form modified in the light of the representations.
- (3) Regulations may provide that, where a local education authority are under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty, or any step required to be taken for performance of the duty, must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make a statement, or take any step, which has not been performed or taken within that period.

Service of statement

- 6 Where a local education authority make a statement they shall serve a copy of the statement on the parent of the child concerned and shall give notice in writing to him—
 - (a) of his right under section 170(1) of this Act to appeal against the description in the statement of the authority’s assessment of the child’s special educational needs, the special educational provision specified in the statement or, if no school is named in the statement, that fact, and
 - (b) of the name of the person to whom he may apply for information and advice about the child’s special educational needs.

Keeping, disclosure and transfer of statements

- 7 (1) Regulations may make provision as to the keeping and disclosure of statements.
- (2) Regulations may make provision, where a local education authority become responsible for a child for whom a statement is maintained by another authority, for the transfer of the statement to them and for Part III of this Act to have effect as if the duty to maintain the transferred statement were their duty.

Change of named school

- 8 (1) Sub-paragraph (2) below applies where—
 - (a) the parent of a child for whom a statement is maintained which specifies the name of a school or institution asks the local education authority to substitute for that name the name of a maintained, grant-maintained or grant-maintained special school specified by the parent, and
 - (b) the request is not made less than twelve months after—
 - (i) a request under this paragraph,
 - (ii) the service of a copy of the statement under paragraph 6 above,
 - (iii) if the statement has been amended, the date when notice of the amendment is given under paragraph 10(3)(b) below, or
 - (iv) if the parent has appealed to the Tribunal under section 170 of this Act or this paragraph, the date when the appeal is concluded,
 whichever is the later.
- (2) The local education authority shall comply with the request unless—
 - (a) the school is unsuitable to the child’s age, ability or aptitude or to his special educational needs, or

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- (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (3) Where the local education authority determine not to comply with the request—
 - (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
 - (b) the parent of the child may appeal to the Tribunal against the determination.
- (4) On the appeal the Tribunal may—
 - (a) dismiss the appeal, or
 - (b) order the local education authority to substitute for the name of the school or other institution specified in the statement the name of the school specified by the parent.
- (5) Regulations may provide that, where a local education authority are under a duty to comply with a request under this paragraph, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (6) Such provision shall not relieve the authority of the duty to comply with such a request which has not been complied with within that period.

Procedure for amending or ceasing to maintain a statement

- 9 (1) A local education authority may not amend, or cease to maintain, a statement except in accordance with paragraph 10 or 11 below.
- (2) Sub-paragraph (1) above does not apply where the local education authority—
 - (a) cease to maintain a statement for a child who has ceased to be a child for whom they are responsible,
 - (b) amend a statement in pursuance of paragraph 8 above,
 - (c) are ordered to cease to maintain a statement under section 170(3)(c) of this Act, or
 - (d) amend a statement in pursuance of directions under section 197 of this Act.
- 10 (1) Before amending a statement, a local education authority shall serve on the parent of the child concerned a notice informing him—
 - (a) of their proposal, and
 - (b) of his right to make representations under sub-paragraph (2) below.
- (2) A parent on whom a notice has been served under sub-paragraph (1) above may, within the period of fifteen days beginning with the date on which the notice is served, make representations to the local education authority about their proposal.
- (3) The local education authority—
 - (a) shall consider any representations made to them under sub-paragraph (2) above, and
 - (b) on taking a decision on the proposal to which the representations relate, shall give notice in writing to the parent of their decision.
- (4) Where a local education authority make an amendment under this paragraph to the description in a statement of the authority's assessment of a child's special educational needs or to the special educational provision specified in a statement, they shall give notice in writing to the parent of his right under section 170(1) of this

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Act to appeal against the description in the statement of the authority's assessment of the child's special educational needs, the special educational provision specified in the statement or, if no school is named in the statement, that fact.

- (5) A local education authority may only amend a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (1) above.
- 11 (1) A local education authority may cease to maintain a statement only if it is no longer necessary to maintain it.
- (2) Where the local education authority determine to cease to maintain a statement—
- (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
 - (b) the parent of the child may appeal to the Tribunal against the determination.
- (3) On an appeal under this paragraph the Tribunal may—
- (a) dismiss the appeal, or
 - (b) order the local education authority to continue to maintain the statement in its existing form or with such amendments of the description in the statement of the authority's assessment of the child's special educational needs or the special educational provision specified in the statement, and such other consequential amendments, as the Tribunal may determine.
- (4) Except where the parent of the child appeals to the Tribunal under this paragraph, a local education authority may only cease to maintain a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (2) above.

SCHEDULE 11

Section 182.

GOVERNMENT AND CONDUCT OF GRANT-MAINTAINED SPECIAL SCHOOLS

Constitution of governing body and conduct of school

- 1 (1) For every governing body of a grant-maintained special school there shall be—
- (a) an instrument (to be known as the instrument of government) providing for the constitution of the governing body, and
 - (b) an instrument (to be known as the articles of government) in accordance with which the school is to be conducted.
- (2) The instrument and articles of government—
- (a) shall comply with any requirements imposed by or under Part III of this Act, and
 - (b) may make any provision authorised by or under that Part to be made and such other provision as may be necessary or desirable.
- (3) Subject to any express provision of the instrument or articles of government, the school shall be conducted in accordance with any trust deed relating to it.

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

Initial instruments and articles of government

- 2
- (1) The initial instrument of government for the governing body of a grant-maintained special school, and the initial articles of government for such a school, shall be such as are prescribed.
 - (2) The initial instrument of government shall have effect as from the incorporation date.
 - (3) The initial articles of government shall have effect as from the date of implementation of the proposals made under section 183(3)(a) or 186 of this Act but, in the case of a governing body incorporated in pursuance of proposals made under section 183(3)(a) of this Act, such of the articles as may be prescribed shall have effect as from the incorporation date.

Subsequent instruments of government

- 3
- (1) The Secretary of State may—
 - (a) if the governing body of a grant-maintained special school submit a draft of an instrument of government to have effect in place of their existing instrument, by order make a new instrument of government in terms of the draft or in such terms as he thinks fit, and
 - (b) if such a governing body submit draft modifications of an instrument made under paragraph (a) above, by order modify the instrument concerned in terms of the draft or in such terms as he thinks fit,but shall not make a new instrument otherwise than in the terms of the draft, or modify the instrument otherwise than in terms of the draft, unless he has consulted the governing body.
 - (2) The Secretary of State may by order modify the instrument of government for the governing body of any grant-maintained special school.
 - (3) An order under sub-paragraph (2) above—
 - (a) may relate to all grant-maintained special schools, to any category of such schools specified in the order or to any such school so specified, but
 - (b) shall not be made unless the Secretary of State has consulted the governing body of each grant-maintained special school to which the order relates.
 - (4) Where, by reason of the making of a new instrument, or the modification of an instrument, under this paragraph, the number of governors of any category will (unless the required number of governors of that category resign) exceed the number provided for in the instrument, the new instrument or, as the case may be, the instrument as modified shall provide—
 - (a) for such number of governors of that category as is required to eliminate the excess to cease to hold office, and
 - (b) for the selection of those who are to cease to hold office.

Subsequent articles of government

- 4
- (1) The governing body of a grant-maintained special school may, with the consent of the Secretary of State—
 - (a) make new articles of government in place of the existing articles for the school, or
 - (b) modify the existing articles for the school.

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

- (2) The Secretary of State may by a direction under this paragraph require the governing bodies of grant-maintained special schools or any class of such schools specified in the direction or the governing body of any particular grant-maintained special school so specified to modify their articles of government in any manner so specified.
- (3) Before giving a direction under this paragraph, the Secretary of State shall consult the governing body or (as the case may be) each governing body to which the direction applies.

Parent governors

- 5 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include not less than three nor more than five parent governors.
- (2) Subject to sub-paragraph (5) below, the parent governors—
 - (a) in the case of a school not established in a hospital, shall be elected by persons who are registered parents of registered pupils at the school, and
 - (b) in the case of a school so established, shall be appointed by the other members of the governing body.
- (3) To qualify for such election a person must himself when he is elected be a registered parent of a registered pupil at the school; and to qualify for appointment under sub-paragraph (2)(b) above a person must when he is appointed be such a parent or, if that is not reasonably practicable, a parent of one or more children of compulsory school age.
- (4) The instrument shall provide for each parent governor to hold office for a term of four years.
- (5) In the case of a school not established in a hospital, the instrument shall provide that if—
 - (a) one or more vacancies for parent governors are required to be filled by election, and
 - (b) the number of parents standing for election as parent governors is less than the number of vacancies,
 the required number of parent governors shall be made up by persons appointed by the other members of the governing body.
- (6) The instrument shall require governors, in appointing a person under a provision made by virtue of sub-paragraph (5) above—
 - (a) to appoint a person who is the registered parent of a registered pupil at the school, where it is reasonably practicable to do so, and
 - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age with special educational needs or, if that also is not reasonably practicable, a person who is the parent of a person of any age with special educational needs.

Teacher governors

- 6 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include either one or two teacher governors.

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

- (2) Each teacher governor shall be elected by persons who are teachers at the school.
- (3) To qualify for such election, a person must himself when he is elected be a teacher at the school.
- (4) The instrument shall provide for each teacher governor to hold office for a term of four years.

Head teacher

- 7 The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include (as a governor ex officio) the person who is for the time being the head teacher.

First governors

- 8 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include first governors.
- (2) The instrument shall provide for such number of first governors as will secure that they outnumber the other governors.
- (3) The instrument—
 - (a) shall require—
 - (i) that, where it is reasonably practicable, at least two of the first governors shall be (on the date or dates on which they respectively take office) parents of registered pupils at the school, and
 - (ii) that at least two of the first governors shall be persons with experience of education for those with special educational needs, but one person may satisfy both requirements, and
 - (b) shall require the governing body, in appointing first governors, to secure that those governors include a person appearing to them to be a member of the local business community (and such a person may also satisfy one or both of the requirements of paragraph (a)(i) and (ii) above).
- (4) The instrument shall provide for the first governors to be appointed by the governing body from among persons who appear to the governing body to be committed to the good government and continuing viability of the school.
- (5) The instrument shall provide for first governors to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
- (6) A person who is a member of the teaching or other staff at the school shall be disqualified for holding office as a first governor.
- (7) References in this paragraph to governors other than first governors do not include sponsor governors.

Power of Secretary of State to replace first governors

- 9 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the Secretary of State to have power, where any of sub-paragraphs (2) to (4) below apply, to replace all or any of the first governors.

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

- (2) This sub-paragraph applies where the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any requirement imposed by or under any enactment.
- (3) This sub-paragraph applies where—
- (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
 - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
 - (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Chapter I of Part V of this Act, he did not express the opinion in the report that special measures were not required to be taken in relation to the school, and
 - (d) the Secretary of State has received a statement prepared under section 210 of this Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired;
- and expressions used in this sub-paragraph and in that Part have the same meaning as in that Part.
- (4) This sub-paragraph applies where in the opinion of the Secretary of State any action taken or proposed by the governing body of the school, or any failure of the governing body to act, is prejudicial to the provision of education by the school.
- (5) The instrument of government for a grant-maintained special school shall enable the Secretary of State to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.
- (6) Any provision made by the instrument of government in pursuance of paragraph 8(3) above shall not apply for the purposes of the appointment by virtue of this paragraph of any first governor.

Sponsor governors

- 10 The instrument of government for the governing body of a grant-maintained special school which provides secondary education may—
- (a) name a person as a sponsor of the school, and
 - (b) provide for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the instrument.

Additional governors

- 11 (1) The instrument of government for the governing body of a grant-maintained special school shall enable the Secretary of State to appoint not more than two additional governors if it appears to him that the governing body are not adequately carrying out their responsibilities in respect of the conduct or management of the school.
- (2) The instrument shall enable the governing body, during any period when any additional governors appointed by the Secretary of State by virtue of sub-paragraph (1) above are in office, to appoint a number of additional first governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.

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

- (3) Any additional first governor appointed in pursuance of such a provision is to hold office for such term (not being more than five years) as may be specified in the terms of his appointment.

Powers

- 12 Section 68 of this Act shall have effect in relation to the governing body of a grant-maintained special school with such modifications as may be prescribed.

Transitory provisions

- 13 Regulations may modify the provisions of paragraphs 5 to 12 above in relation to—
- (a) the initial instrument of government, or
 - (b) governors holding office, elected or appointed, before the date of implementation of the proposals in pursuance of which the governing body are constituted.

General application of enactments

- 14 In relation to any governing body incorporated in pursuance of proposals under section 183(3)(a) or 186 of this Act or any school conducted or formerly conducted by such a governing body, regulations may provide for any provision of—
- (a) Schedules 5 and 6 to this Act,
 - (b) Chapters VI, VII, VIII and X of Part II of this Act, and
 - (c) any other enactment (not contained in Part II of this Act) relating to grant-maintained schools or maintained special schools (or schools including such schools),
- to have effect with or without modification.

SCHEDULE 12

Section 218.

EDUCATION ASSOCIATIONS

Supplementary powers

- 1 (1) Subject to sub-paragraph (2) below and to the articles of government of any school they conduct, an education association may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—
- (a) acquiring and disposing of land and other property,
 - (b) entering into contracts,
 - (c) investing sums not immediately required for the purpose of the discharge of their functions, and
 - (d) accepting gifts of money, land or other property.
- (2) An education association shall not borrow money except money lent under section 92 of this Act.
- (3) The power to dispose of land mentioned in sub-paragraph (1)(a) above—

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

- (a) does not include power to grant any mortgage, charge or other security in respect of any land, and
- (b) may only be exercised with the written consent of the Secretary of State.

Tenure of members

- 2 (1) A person shall hold and vacate office as a member of an education association in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member of an education association.
- 3 If the Secretary of State is satisfied that a member of an education association—
 - (a) has been absent from meetings of the association for a period longer than six consecutive months without the permission of the association, or
 - (b) is unable or unfit to discharge the functions of a member,the Secretary of State may by notice in writing to that member remove him from office and thereupon the office shall become vacant.

Salaries, allowances and pensions

- 4 (1) The Secretary of State may—
 - (a) pay to the members of an education association such salaries or fees, and such travelling, subsistence or other allowances, as he may determine, and
 - (b) may, as regards any member of the association in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of an education association and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may make to that person a payment of such amount as the Secretary of State may determine.
- (3) A determination of the Secretary of State under this paragraph requires the approval of the Treasury.

Committees

- 5 (1) An education association may establish a committee for any purpose.
- (2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the association.
- (3) Such a committee may include persons who are not members of the association.
- (4) The association shall keep under review the structure of committees established by them under this paragraph and the scope of each such committee's activities.

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

Delegation of functions

- 6 An education association may authorise the chairman or any committee established by them under paragraph 5 above to exercise such of their functions as they may determine.

Proceedings

- 7 The validity of any proceedings of an education association or of any of their committees shall not be affected by a vacancy amongst the members or by any defect in the appointment of a member.
- 8 Subject to the preceding provisions of this Schedule, an education association may regulate their own procedure and that of any of their committees.

Application of seal and proof of instruments

- 9 The application of the seal of an education association shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specifically by the association to act for that purpose, and
 - (b) of one other member.
- 10 Every document purporting to be an instrument made or issued by or on behalf of an education association and to be duly executed under their seal, or to be signed or executed by a person authorised by the association to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 13

Sections 238 and 239.

INCORPORATED GOVERNING BODIES FOR COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

Property, rights and liabilities

- 1 On the incorporation under section 238(1) of this Act of a governing body (“the new governing body”) constituted under an instrument of government for two or more schools grouped in pursuance of a resolution under section 9 of the Education (No. 2) Act 1986—
- (a) all land and other property which, immediately before the date of incorporation, was property of the governing body of any of those schools used or held for the purposes of the school in question, and
 - (b) all rights and liabilities of the governing body of any of those schools subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body.
- 2 On the incorporation under section 238(1) of this Act of a governing body (“the new governing body”) for a school which, immediately before the incorporation date, was conducted by a temporary governing body constituted under arrangements made under section 12 of that Act—

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- (a) all land and other property which, immediately before the date of incorporation, was property of the temporary governing body used or held for the purposes of the school, and
 - (b) all rights and liabilities of the temporary governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body.

Contracts of employment

- 3 Without prejudice to the generality of the provisions of section 238 of this Act and paragraphs 1 and 2 above, where those provisions effect a transfer of rights and liabilities under a contract of employment—
- (a) the contract shall have effect from the date of incorporation as if originally made between the employee and the incorporated governing body, and
 - (b) without prejudice to paragraph (a) above, anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the incorporated governing body,
- but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions shall arise by reason only of the change of employer effected by those provisions.

School premises

- 4 (1) Section 22 of the Education Act 1944 (powers of local education authority as to use and care of premises of voluntary schools) is amended as follows.
- (2) At the end of subsection (3) (premises to be under the control of the governing body, subject to any directions of the local education authority etc.) there is added “except to the extent provided by any transfer of control agreement into which they may enter under subsection (3A) of this section.”
- (3) After that subsection there is inserted—
- “(3A) Subject to subsection (3B) below the governing body of any voluntary school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
- (a) they may do so notwithstanding that the trust deed for the school would, apart from this subsection, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
 - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would obtain if control were being exercised by the governing body.
- (3B) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the

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local education authority's consent to the agreement in so far as it makes such provision.

(3C) A transfer of control agreement shall be taken to include the following terms, namely—

- (a) that the governing body shall notify the controlling body of—
 - (i) any directions given to the governing body by virtue of subsection (1) or (2) of this section; and
 - (ii) any determination made by the foundation governors under subsection (1) of this section;
- (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
 - (i) shall do so in accordance with any directions or determinations from time to time notified to that body in pursuance of paragraph (a) of this subsection; and
 - (ii) shall have regard to the desirability of the premises being made available for community use; and
- (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
 - (i) the use of the specified premises at those times shall be under the control of the governing body; and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,

notwithstanding that their use at those times would, apart from this paragraph, be under the control of the controlling body.

(3D) Where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement, paragraph (c) of subsection (3C) above shall not have effect in relation to that agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.

(3E) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of subsection (3C)(a) of this section.”

(4) For subsection (5) (which provides that, where the trust deed provides for any person other than the governing body being entitled to control the occupation and use of the school premises, the section shall have effect with the substitution for references to the governors of references to that person) there is substituted—

“(5) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that, disregarding

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

any transfer of control agreement, the use of those premises is or would be under the control of such a person, this section shall have effect in relation to the school with the substitution for references to the governing body of references to that person.”

(5) After that subsection there is inserted—

“(6) In this section—

“community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;

“the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

“school hours” means any time during a school session or during a break between sessions on the same day;

“school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with section 21 of the Education (No. 2) Act 1986; and

“transfer of control agreement” means an agreement which, subject to subsection (3C) of this section, provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.”

(6) In subsections (1) to (3) and (4), for “the governors” in each place there is substituted “the governing body”.

5 For section 42 of the Education (No. 2) Act 1986 (which requires the articles of government of every county or maintained special school to provide for the use of the school premises outside school hours to be under the control of the governing body, subject to directions given by the local education authority) there is substituted—

“42 Control of use of premises outside school hours.

(1) The articles of government for every county and maintained special school shall provide—

(a) for the use of the school premises outside school hours to be under the control of the governing body except to the extent provided by any transfer of control agreement into which they may enter by virtue of paragraph (c) below;

(b) for the governing body in exercising control of the use of the school premises outside school hours—

(i) to comply with any directions given to them by the local education authority by virtue of this sub-paragraph; and

(ii) to have regard to the desirability of the premises being made available for community use;

(c) for the governing body to have power to enter into a transfer of control agreement if their purpose, or one of their purposes, in doing

- so is to promote community use of the school premises outside school hours; and
- (d) for the governing body so far as reasonably practicable to secure, where they enter into a transfer of control agreement, that the controlling body exercises control in accordance with any directions given to the governing body by virtue of paragraph (b)(i) above.
- (2) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of any directions given to the governing body by virtue of subsection (1)(b)(i) above;
- (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
- (i) shall do so in accordance with any directions from time to time notified to that body in pursuance of paragraph (a) above; and
- (ii) shall have regard to the desirability of the premises being made available for community use outside school hours; and
- (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
- (i) the use of the specified premises at those times shall be under the control of the governing body, and
- (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
- notwithstanding that their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (3) Where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement, paragraph (c) of subsection (2) above shall not have effect in relation to that agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (4) In this section—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
- “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

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“school hours” means any time during a school session or during a break between sessions on the same day, and “outside school hours” shall be construed accordingly;

“school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with section 21 of this Act; and

“transfer of control agreement” means an agreement which, subject to subsection (2) above, provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times outside school hours as may be so specified, of such body or person as may be so specified.”

School premises: pre-commencement agreements

- 6 (1) This paragraph applies in any case where—
- (a) at any time before the appointed day, the governing body of a voluntary school entered, or purported to enter, into a transfer of control agreement (the “relevant agreement”),
 - (b) the school is a voluntary school on that day, and
 - (c) on that day the procedure for acquisition of grant-maintained status is not for the time being pending (as defined in section 40 of this Act) or, if it is, proposals for acquisition of grant-maintained status (within the meaning of Part II of this Act) are not approved.
- (2) Any question arising as to the validity of the relevant agreement at any time on or after the appointed day shall be determined as if, at the time when the governing body entered, or purported to enter, into the agreement (and at all times thereafter), section 22 of the Education Act 1944 had had effect with the amendments made by paragraph 4 above.
- (3) As from the appointed day, section 22 of that Act shall have effect in relation to the relevant agreement with the amendments made by paragraph 4 above, except that subsection (3D) shall so have effect with the substitution for the words “if, at the time of entering into it, the governors were of the opinion that” of the words “if and to the extent that”.
- (4) In their application with respect to any time before the coming into force of paragraph 6 of Schedule 1 to the Education Act 1980 (which removed certain references to the managers or foundation managers) the provisions of this paragraph (other than this sub-paragraph) and the amendments made by paragraph 4 above shall have effect—
- (a) as if any reference to the governing body of a school included a reference to the managers of the school, and
 - (b) as if any reference to the foundation governors of the school included a reference to the foundation managers of the school.
- (5) In its application with respect to any time before the coming into force of section 21 of the Education (No. 2) Act 1986, as originally enacted, the subsection (6) inserted into section 22 of the Education Act 1944 by paragraph 4 above shall have effect with the omission of the definition of “school session”, which expression shall accordingly be given the meaning that it would have had at that time.

- (6) Nothing in this Schedule shall be taken to imply that the relevant agreement would not have been valid at any time apart from this paragraph.
- (7) Expressions used in this paragraph and in section 22 of the Education Act 1944, as amended by paragraph 4 above, have the same meaning in this paragraph as they have in that section as so amended.
- 7 (1) This paragraph applies in any case where—
- (a) at any time before the appointed day, the governing body of a county or maintained special school entered, or purported to enter, into a transfer of control agreement (the “relevant agreement”),
 - (b) the school is a county school or, as the case may be, a maintained special school on the appointed day, and
 - (c) on that day the procedure for acquisition of grant-maintained status is not for the time being pending (as defined in section 40 of this Act) or, if it is, proposals for acquisition of grant-maintained status (within the meaning of Part II of this Act) are not approved.
- (2) Any question arising as to the validity of the relevant agreement at any time on or after the appointed day shall be determined as if, at the time when the governing body entered, or purported to enter, into the agreement (and at all times thereafter)—
- (a) the Education (No. 2) Act 1986 had had effect with the substitution, for section 42, of the section 42 set out in paragraph 5 above, and
 - (b) the articles of government for the school had included the provision required by the section 42 so substituted.
- (3) As from the appointed day, section 42 of that Act, as substituted by paragraph 5 above, shall have effect in relation to the relevant agreement, except that subsection (3) shall so have effect with the substitution for the words “if, at the time of entering into it, the governing body were of the opinion that” of the words “if and to the extent that”.
- (4) Nothing in this Schedule shall be taken to imply that the relevant agreement would not have been valid at any time apart from this paragraph.
- (5) Expressions used in this paragraph and in section 42 of that Act, as substituted by paragraph 5 above, have the same meaning in this paragraph as they have in that section as so substituted.

Dissolution and discontinuance

- 8 (1) A governing body incorporated under section 238 of this Act are dissolved by virtue of this paragraph—
- (a) if the school they conduct is discontinued,
 - (b) where the school becomes a grant-maintained school or grant-maintained special school, when the local education authority cease to maintain the school, or
 - (c) if a new governing body of the school are constituted under the Education (No. 2) Act 1986.
- (2) Where such a governing body conduct two or more schools, sub-paragraph (1) above applies when, in relation to each of the schools, paragraph (a), (b) or (c) is satisfied.
- 9 (1) Where such a governing body are to be dissolved by reason of—

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- (a) the discontinuance of the county, voluntary or maintained special school which they conduct, or
 - (b) in the case of a governing body conducting two or more such schools, the discontinuance of each such school conducted by them,

they shall have power to transfer any land or other property of theirs which is used or held for the purposes of the school to any person who provides education.
 - (2) Where such a governing body are so dissolved—
 - (a) any such land or property for which no provision has been made under sub-paragraph (1) above for transfer, and
 - (b) all rights and liabilities of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school in question,

shall be transferred to and, by virtue of this Act, vest in the local education authority.
 - (3) Sub-paragraphs (1) and (2) above do not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 10 (1) This paragraph applies where such a governing body dissolved by virtue of paragraph 8 above are the governing body of two or more schools grouped in pursuance of a resolution under section 9 of the Education (No. 2) Act 1986.
- (2) Where none of the schools in the group are discontinued, then in the case of each school formerly a member of the group—
 - (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
 - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
 - (3) An order made by virtue of sub-paragraph (2) above may provide that—
 - (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of the schools in the group, and
 - (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
 - (4) Where not all of the schools in the group are discontinued, then in the case of each school formerly a member of the group which is not discontinued—
 - (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
 - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

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shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.

- (5) An order made by virtue of sub-paragraph (4) above may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of any school which is to be discontinued or the schools in the group, and
 - (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.

- (6) Sub-paragraph (5) above does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.

- 11 (1) This paragraph applies in relation to the governing body of two or more schools grouped in pursuance of a resolution under section 9 of the Education (No. 2) Act 1986.

- (2) Where one or more schools conducted by the governing body are discontinued but the governing body are not dissolved by reason of the discontinuance, then in the case of each school formerly a member of the group which is discontinued—

- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
- (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

shall be held by the governing body for the purposes of the schools in the group.

- (3) Sub-paragraph (2) above does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.

- (4) Where, in the case of one or more schools conducted by the governing body, new governing bodies are constituted under the Education (No. 2) Act 1986 to conduct those schools but the governing body are not dissolved by reason of the constitution of such bodies, then in the case of each school formerly a member of the group—

- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
- (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.

- 12 For the purposes of this Schedule, references to the discontinuance of a school are—

- (a) to its discontinuance under section 14 of the Education Act 1944 (discontinuance by governors of voluntary schools), or

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- (b) to the local education authority ceasing to maintain it in accordance with proposals under section 12 of the Education Act 1980 (discontinuance of county or voluntary schools) or section 183 of this Act.

General

- 13 (1) Where personal data are transferred under section 238(3) of this Act to a governing body incorporated by virtue of that section—
- (a) any entry made in respect of the governing body constituted immediately before the appointed day as a data user in the register maintained under section 4 of the Data Protection Act 1984, or
- (b) any application for registration as a data user made by that body under section 6 of that Act,
- shall have effect as if it were made in respect of or, as the case may be, by the governing body so incorporated.
- (2) Expressions used in sub-paragraph (1) above and in that Act shall have the same meaning in that sub-paragraph as in that Act.
- 14 Where a transfer under section 238 of this Act or this Schedule relates to registered land, it shall be the duty of the transferor to execute any such instrument under the Land Registration Acts 1925 to 1986, to deliver any such certificate under those Acts and to do such other things under those Acts as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- 15 Paragraphs 6 to 8 of Schedule 10 to the Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers effected by section 238 of this Act or this Schedule as they apply to transfers to which that Schedule applies.

SCHEDULE 14

Section 244.

SCHOOL CURRICULUM AND ASSESSMENT AUTHORITY

Status

- 1 The Authority shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and their property shall not be regarded as property of, or property held on behalf of, the Crown.

Powers

- 2 (1) The Authority may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Authority may—
- (a) acquire or dispose of land or other property,
- (b) enter into contracts,
- (c) form bodies corporate or subscribe for shares or stock,
- (d) invest any sums not immediately required for the purpose of carrying out their functions,

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- (e) accept gifts of money, land or other property, and
 - (f) borrow money.
- 3 (1) The Authority may also give to any person or body (whether or not in the United Kingdom) such assistance, other than financial assistance, as they may determine.
- (2) The Authority may give assistance under this paragraph on such terms, including terms as to payment, as they may determine.
- (3) The consent of the Secretary of State shall be required for the exercise of any power conferred by this paragraph.

Chief officer

- 4 (1) The Authority shall have a chief officer.
- (2) The first chief officer shall be appointed by the Secretary of State on such terms and conditions as he thinks fit.
- (3) Each subsequent chief officer shall be appointed by the Authority with the approval of the Secretary of State on such terms and conditions as the Authority may with the approval of the Secretary of State determine.

Chairman and chief officer: division of functions

- 5 (1) The Secretary of State may, on appointing a person to be the chairman of the Authority, confer on him such additional functions in relation to the Authority as may be specified in the appointment.
- (2) The functions for the time being conferred by virtue of appointment as chief officer of the Authority shall not include any function for the time being conferred under sub-paragraph (1) above on the chairman of the Authority.

Tenure of office

- 6 (1) A person shall hold and vacate office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or deputy chairman of the Authority.
- 7 The Secretary of State may, if satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for a continuous period of more than six months without the permission of the Authority, or
 - (b) is unable or unfit to discharge the functions of a member,
- remove him from office by giving him notice in writing and thereupon the office shall become vacant.
- 8 If the chairman or deputy chairman of the Authority ceases to be a member of the Authority, he shall also cease to be chairman or deputy chairman.

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Payments to members

- 9 (1) The Authority shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine.
- (2) The Authority shall, as regards any member in whose case the Secretary of State may so determine, pay, or make provision for the payment of, such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (3) If a person ceases to be a member of the Authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Authority to make to that person a payment of such amount as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

Staff

- 10 Subject to the approval of the Secretary of State given with the consent of the Treasury, the Authority—
- (a) may appoint such number of employees on such terms and conditions as they think fit, and
- (b) shall pay to their employees such remuneration and allowances as they may determine.
- 11 (1) Employment with the Authority shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) at the end of the list of Other Bodies there is inserted—
- “School Curriculum and Assessment Authority.”
- (2) The Authority shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (3) Where an employee of the Authority is, by reference to that employment, a participant in a scheme under section 1 of the Superannuation Act 1972 and is also a member of the Authority, the Treasury may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the Authority (whether or not any benefits are payable to or in respect of him by virtue of paragraph 9 above).

Finance

- 12 (1) The Secretary of State may make grants to the Authority of such amount as he thinks fit in respect of expenses incurred or to be incurred by the Authority in carrying out their functions.
- (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.

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- (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.

Committees

- 13 (1) The Authority may establish a committee for any purpose.
- (2) The Authority shall determine the number of a committee's members and the terms on which they are to hold and vacate office.
- (3) A committee may include persons who are not members of the Authority.
- (4) The Authority shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Delegation

- 14 The Authority may authorise the chairman, the deputy chairman, the chief officer or any committee established under paragraph 13 above to carry out such of the Authority's functions as the Authority may determine.

Proceedings

- 15 (1) A representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the Secretary of State with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 16 (1) Her Majesty's Chief Inspector of Schools in England, or a representative of his, shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide Her Majesty's Chief Inspector of Schools in England with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 17 (1) The chairman of the Curriculum Council for Wales, or a representative of his, shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the chairman of the Curriculum Council for Wales with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 18 The validity of proceedings of the Authority shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 19 Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure and that of any of their committees.

Accounts

- 20 (1) The Authority shall—
- (a) keep proper accounts and proper records in relation to the accounts,

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

- (b) prepare in respect of each financial year of the Authority a statement of accounts, and
 - (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it,
 - (b) the manner in which the information contained in it is to be presented, or
 - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph, “financial year” means the period beginning with the date on which the Authority is established and ending with the next following 31st of March, and each successive period of twelve months.

Documents

- 21 The application of the seal of the Authority shall be authenticated by the signature—
- (a) of the chairman or some other person authorised either generally or specially by the Authority to act for that purpose, and
 - (b) of one other member.
- 22 Any document purporting to be an instrument made or issued by or on behalf of the Authority and to be duly executed by a person authorised by the Authority in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 15

Section 253.

AMENDMENTS CONSEQUENTIAL ON SECTION 253

The Public Records Act 1958 (c. 51)

- 1 In Schedule 1 to the Public Records Act 1958, in Part II of the Table at the end of paragraph 3, for “Curriculum Council for Wales” there is substituted “Curriculum and Assessment Authority for Wales”.

The Superannuation Act 1972 (c. 11)

- 2 In Schedule 1 to the Superannuation Act 1972, in the list of Other Bodies, for “Curriculum Council for Wales” there is substituted “Curriculum and Assessment Authority for Wales”.

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

The House of Commons Disqualification Act 1975 (c. 24)

- 3 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) for the entry relating to the Curriculum Council for Wales there is substituted—

“Any member of the Curriculum and Assessment Authority for Wales established under section 14 of the Education Reform Act 1988 in receipt of remuneration.”

The Education Reform Act 1988 (c. 40)

- 4 (1) The Education Reform Act 1988 is amended as follows.
- (2) In section 11(13), for “the Curriculum Council for Wales” there is substituted “the Curriculum and Assessment Authority for Wales”.
- (3) In section 14, for “Council”, in each place where it occurs, there is substituted “Authority”.
- (4) In section 16(6), for “the Curriculum Council for Wales” there is substituted “the Curriculum and Assessment Authority for Wales”.
- (5) Section 21 is amended as follows—
- (a) in subsection (2), for “the Curriculum Council for Wales” there is substituted “the Curriculum and Assessment Authority for Wales”; and
- (b) for “the Council”, in each place where it occurs, there is substituted “the Authority”.
- (6) In Schedule 2, for “Council”, in each place where it occurs, there is substituted “Authority”.

The Charities Act 1993 (c. 10)

- 5 In Schedule 2 to the Charities Act 1993 (exempt charities) for paragraph (f) there is substituted—
- “(f) the Curriculum and Assessment Authority for Wales;”.

The Education Act 1993 (c. 35)

- 6 (1) The Education Act 1993 is amended as follows.
- (2) In Schedule 14, in paragraph 17, for “the Curriculum Council for Wales”, in both places where it occurs, there is substituted “the Curriculum and Assessment Authority for Wales”.
- (3) In Schedule 19, in paragraph 43(1), for “the Curriculum Council for Wales” there is substituted “the Curriculum and Assessment Authority for Wales”.

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

SCHEDULE 16

Section 266

SCHOOL ADMISSION APPEALS

- 1 Part I of Schedule 2 to the Education Act 1980 (constitution of committees hearing appeals against admission decisions) is amended as follows.

Schools maintained by local education authorities

- 2 (1) For paragraph 1(2) there is substituted—
- “(2) An appeal committee shall consist of—
- (a) one person nominated by the authority from among persons who are eligible to be lay members; and
- (b) two, four or six other members nominated by the authority from among persons appointed by the authority under this paragraph.
- (2A) The authority shall not nominate a person under sub-paragraph (2)(a) above if he could be appointed by them under sub-paragraph (3)(a) below or is employed by them.
- (2B) Sufficient persons may be appointed by the authority to enable two or more committees to sit at the same time.”
- (2) In paragraph 1(3) after “appointed” there is inserted “by the authority”.
- (3) In paragraph 1(4) “by more than one” is omitted.
- (4) For paragraph 1(5) there is substituted—
- “(5) A person who is a member of the authority or employed by the authority shall not be chairman of an appeal committee.”

Aided and special agreement schools

- 3 (1) For paragraph 2(2) there is substituted—
- “(2) An appeal committee shall consist of—
- (a) one person nominated by the governors from among persons who are eligible to be lay members; and
- (b) two, four or six other members nominated by the governors from among persons appointed by them under this paragraph.
- (2A) The governors shall not nominate under sub-paragraph (2)(a) above a person who falls within sub-paragraph (3)(a) or (b) below or is employed by the local education authority by which the school is maintained.
- (2B) Sufficient persons may be appointed by the governors to enable two or more committees to sit at the same time.”
- (2) In paragraph 2(3) after “appointed” there is inserted “by the governors”.
- (3) For paragraph 2(4) there is substituted—
- “(4) In an appeal committee—

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

- (a) three members shall be nominated from among those mentioned in sub-paragraph (3)(b) above, in the case of a committee consisting of seven members;
- (b) two members shall be so nominated, in the case of a committee consisting of five members; and
- (c) one member shall be so nominated, in the case of a committee consisting of three members.”

Lay members

4 After paragraph 4 there is inserted—

“Lay members

- 4A (1) A person is eligible to be a lay member for the purposes of paragraphs 1(2)(a) and 2(2)(a) above if—
- (a) he is a person without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
 - (b) he satisfies the conditions specified in sub-paragraph (2) below.
- (2) Those conditions are—
- (a) in the case of a person to be nominated as a lay member for the purposes of paragraph 1(2)(a) above, that he does not have, or has not at any time had, any connection with—
 - (i) the local education authority in question, or
 - (ii) any person who is a member of, or employed by, that authority,of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority, and
 - (b) in the case of a person to be nominated as a lay member for the purposes of paragraph 2(2)(a) above, that he does not have, or has not at any time had, any connection with—
 - (i) the school in question, or
 - (ii) any person who is a member of, or employed by, the governing body of that school,of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.”

SCHEDULE 17

Sections 287 and 288

UNIFORM STATUTORY TRUSTS FOR EDUCATIONAL ENDOWMENTS

- 1 The trustees may, after payment of any expenses incurred in connection with the administration of the trust, apply the capital and income of the relevant trust assets for any of the following purposes—
- (a) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of any relevant school in the area,

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

- (b) for the maintenance of any relevant school in the area,
 - (c) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of a teacher's house for use in connection with any relevant school in the area, and
 - (d) for the maintenance of a teacher's house for use in connection with any relevant school in the area.
- 2 The trustees may also, after payment of any expenses incurred in connection with the administration of the trust, apply the income of the relevant trust assets for any of the following purposes—
- (a) in or towards the provision of advice, guidance and resources (including materials) in connection with any matter related to the management of, or education provided at, any relevant school in the area,
 - (b) the provision of services for the carrying out of any inspection of any relevant school in the area required by the Education (Schools) Act 1992, and
 - (c) to defray the cost of employing or engaging staff in connection with—
 - (i) the application of income of the relevant trust assets for either of the purposes referred to in sub-paragraphs (a) and (b) above, or
 - (ii) the application of capital or income of the relevant trust assets for any of the purposes referred to in paragraph 1 above.

SCHEDULE 18

Section 298

PUPIL REFERRAL UNITS

General adaptations of enactments

- 1 References in any enactment to the proprietor or governing body of a school shall be read, in relation to a pupil referral unit, as references to the local education authority.
- 2 References in any enactment to the head teacher of a school shall be read, in relation to a pupil referral unit, as references to the teacher in charge of the unit (whether known as the head teacher or not).

Modifications of enactments by regulations

- 3 Regulations may provide for any enactments relating to schools maintained by local education authorities (or schools including such schools)—
- (a) to apply in relation to pupil referral units,
 - (b) to apply in relation to such units with such modifications as may be prescribed, or
 - (c) not to apply in relation to such units.

Registration

- 4 (1) A person who is registered as a pupil at a school other than a pupil referral unit shall not, by reason only of being registered also as a pupil at such a unit, cease for the purposes of the Education Acts to be treated as a registered pupil at that school.

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

- (2) In this Schedule, “registered” means shown in the register kept under section 80 of the Education Act 1944.

Application of Local Government Act 1986

- 5 A pupil referral unit is a maintained school for the purposes of section 2A(1)(b) of the Local Government Act 1986 (prohibition on promoting homosexuality).

Curriculum

- 6 (1) Section 17 of the Education (No. 2) Act 1986 (duty of LEA to state policy) applies in relation to pupil referral units as it applies in relation to county schools.
- (2) In relation to every pupil referral unit, the Secretary of State, the local education authority and the teacher in charge shall exercise their functions with a view to securing that the curriculum for the unit satisfies the requirements of section 1 of the Education Reform Act 1988 (balanced and broadly based curriculum) and of any other enactment which applies to the curriculum for pupil referral units.
- (3) Each local education authority shall, with the approval of the Secretary of State, make arrangements for the consideration and disposal of any complaint to the effect that the authority, or the teacher in charge of any pupil referral unit—
- (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 any enactment referred to in sub-paragraph (2) above, or
 - (b) have failed to discharge any such duty.
- (4) The Secretary of State shall not entertain under section 68 or 99 of the Education Act 1944 any complaint in respect of any local education authority, being a complaint—
- (a) for which arrangements are required to be made under sub-paragraph (3) above, or
 - (b) that a local education authority have failed to exercise their powers to secure compliance by the teacher in charge of a pupil referral unit with any such duty as is referred to in that sub-paragraph,
- unless a complaint in respect of the local education authority or, as the case may be, the teacher in charge of the unit has been made in respect of the same matter and disposed of in accordance with arrangements under that sub-paragraph.

Discipline

- 7 The teacher in charge of a pupil referral unit may on disciplinary grounds exclude a pupil from the unit.

Political indoctrination, political issues and sex education

- 8 Sections 44 to 46 of the Education (No. 2) Act 1986 (political indoctrination, treatment of political issues and sex education) apply in relation to pupil referral units as they apply in relation to county schools.

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

Charges

- 9 (1) Sections 106 to 111 and 118 of the Education Reform Act 1988 (charges) apply in relation to pupil referral units as if the references to governing bodies were omitted.
- (2) Section 111(2)(b) of that Act shall have effect in relation to a pupil provided with board and lodging at a unit as if after “that” there were inserted “for the time being”.

Application of Environmental Protection Act 1990

- 10 A pupil referral unit is an educational institution for the purposes of Part IV of the Environmental Protection Act 1990 (litter).

Information

- 11 Each local education authority shall make available, on such occasions, and in such form and manner, as may be prescribed, to registered parents of registered pupils at any pupil referral unit such information about the unit as may be prescribed.

Disapplication of Schedule 2

- 12 Schedule 2 to this Act does not apply in relation to pupil referral units or the provision for pupils at such units of board and lodging (whether at units or elsewhere).

Children with special educational needs

- 13 Sections 161(1) to (4), 162 and 168(5)(b) of this Act, and paragraph 3(4) of Schedule 10 to this Act, apply in relation to pupil referral units as they apply in relation to maintained schools.

School attendance orders

- 14 (1) Where a pupil referral unit is named in a school attendance order—
- (a) the local education authority shall inform the teacher in charge of the unit, and
 - (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the unit, that authority shall admit the child to the unit;
- but paragraph (b) above does not affect any power to exclude from a unit a pupil who is already a registered pupil there.
- (2) The reference to a school in section 193(4) of this Act does not include a pupil referral unit.
- (3) A local education authority shall, before deciding to specify a particular pupil referral unit in a notice under section 193(2) of this Act where another local education authority are responsible for determining the arrangements for the admission of pupils to the unit, consult that authority and, if they decide to specify the unit in the notice, they shall serve notice in writing of their decision on that authority.
- (4) Section 194(7) and (8) of this Act applies where a notice is served on a local education authority under sub-paragraph (3) above as it applies where notice is served under subsection (6) of that section.

- (5) The parent of a child in respect of whom a school attendance order is in force may not under section 195 of this Act request the local education authority to amend the order by substituting a pupil referral unit for the school named in the order.
- (6) Where a child is a registered pupil at both a pupil referral unit and at a school other than a unit, the references in section 199 of this Act to the school at which he is a registered pupil shall be read as references to the unit.

SCHEDULE 19

Section 307.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Children and Young Persons Act 1933 (c. 12)

- 1 Section 10 of the Children and Young Persons Act 1933 (vagrants preventing children from receiving education) is omitted.
- 2 In section 30(1)(a) of that Act (interpretation) for the words from “for the purposes” to the end of paragraph (a) there is substituted “over compulsory school age (construed in accordance with section 277 of the Education Act 1993)”.

The Education Act 1944 (c. 31)

- 3 The Education Act 1944 is amended as follows.
- 4 Section 1(1) (general duty of Secretary of State) is omitted.
- 5 In section 6(1) (local education authorities) the words from “Subject” to “Act” are omitted.
- 6 Section 9(5) (definition of special school) is omitted.
- 7 In section 15 (voluntary schools) for “the maintenance contribution payable by the Minister under this Act”, in subsections (2) and (5), there is substituted “grants under section 281 of the Education Act 1993”.
- 8 In section 16(1) (transfer of schools to new sites, etc), “any county school or” and the words following “the new site” are omitted.
- 9 In section 26(4)(a) (special provisions as to religious education in county schools) after “particular” there is inserted “religion or”.
- 10 Section 35 (compulsory school age) is omitted.
- 11 Sections 37 (school attendance orders), 39 (duty of parents to secure regular attendance of registered pupils) and 40 (enforcement of school attendance) are omitted.
- 12 In section 50 (provision of board and lodging otherwise than at school)—
 - (a) in subsection (1) “by them” is omitted, and
 - (b) in subsection (2) after “with respect to the” there is inserted “religion or”.
- 13 In section 52 (recovery of cost of board and lodging otherwise than at school), in paragraph (a) of the proviso to subsection (1), “by the authority” is omitted.
- 14 In section 54 (power to ensure cleanliness)—

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

- (a) in subsection (1) after “by them” there is inserted “and grant-maintained schools within their area”,
 - (b) in subsection (6) after “authority” there is inserted “or at a grant-maintained school”, and
 - (c) in subsection (7)—
 - (i) after “by the authority” there is inserted “or at a grant-maintained school within the area of the authority”, and
 - (ii) for “this Act” there is substituted “Part IV of the Education Act 1993”.
- 15 In section 55 (transport), at end of subsection (3) there is added “and to any wish of his parent for him to be provided with education at a school or institution in which the religious education provided is that of the religion or denomination to which his parent adheres”.
- 16 Section 56 (power to provide education otherwise than at school) is omitted.
- 17 In section 58 (adaptation of enactments relating to employment of children) “for the purposes of this Act” is omitted.
- 18 In section 63(2) (exemption from local Acts and byelaws of buildings approved by the Secretary of State) after “plans for” there is inserted “or particulars in respect of”.
- 19 That subsection shall have effect as if the reference to plans approved by the Secretary of State included particulars given in pursuance of section 151(2)(b) of this Act.
- 20 In section 76 (pupils to be educated in accordance with the wishes of their parents) —
- (a) for “this Act” there is substituted “the Education Acts 1944 to 1993”, and
 - (b) before “and local education authorities” there is inserted “the funding authorities”.
- 21 In section 80(1) (registration of pupils at schools) after “to the Secretary of State” there is inserted “to the funding authorities”.
- 22 Sections 102 and 103 (contributions and grants by Secretary of State to aided and special agreement schools) are omitted.
- 23 In section 105 (power of Secretary of State to make loans to aided and special agreement schools in respect of initial expenditure)—
- (a) in subsection (2)—
 - (i) in paragraph (c)(i) after “premises” there is inserted “or on a transfer of the school to a new site” and for “a maintenance contribution” there is substituted “grants under section 281 of the Education Act 1993”,
 - (ii) in paragraph (c)(iii) for the words from “which” to the end there is substituted “being expenses in respect of which grants under section 281 of the Education Act 1993 may be paid”,
 - (iii) paragraph (d) is omitted, and
 - (iv) in the words following that paragraph, “maintenance contribution” is omitted and for “either of the last two foregoing sections” there is substituted “section 281 of the Education Act 1993”, and
 - (b) in subsection (3) after “representative of any” there is inserted “religion or”.

- 24 In section 114 (interpretation)—
- (a) in subsection (1)—
 - (i) for the definition of “compulsory school age” there is substituted—

““Compulsory school age” shall be construed in accordance with section 277 of the Education Act 1993”,
 - (ii) in the definition of “registered pupil”, for “pupil registered as such” there is substituted “person registered as a pupil”,
 - (iii) in the definition of “secondary school”, “primary or” is omitted, and
 - (iv) in the definition of “special educational needs” and “special educational provision”, for “1 of the Education Act 1981” there is substituted “156 of the Education Act 1993”, and
 - (b) for subsection (1E)(b) there is substituted—

“(b) sections 25 to 27, 29, 37, 60, 63 and 65 of the Education Act 1993, paragraph 9 of Schedule 6 to that Act and Schedule 7 to that Act”.
- 25 In section 116 (saving as to persons of unsound mind and persons detained by order of a court) after “this Act” there is inserted “or by or under the Education Act 1993”.
- 26 In the First Schedule (local administration) Part I is omitted.
- 27 In the Fifth Schedule (procedure for preparing and bringing into operation an agreed syllabus of religious education)—
- (a) in paragraph 2(a) for “and other religious denominations” there is substituted “denominations and other religions and denominations of such religions”,
 - (b) in the proviso to paragraph 2 for “to represent other religious denominations” there is substituted “under sub-paragraph (a) above”,
 - (c) in paragraph 3 before “denomination”, in each place, there is inserted “religion”, and
 - (d) in paragraph 4—
 - (i) for “religious” there is substituted “religion”, and
 - (ii) for the words from “vacancy occurs” to the end there is substituted “person resigns or is withdrawn from the committee the authority shall appoint someone in his place in the same manner as that in which they made the original appointment”.
- 28 In the Eighth Schedule (amendment of enactments), the entry relating to section 10 of the Children and Young Persons Act 1933 is omitted.

The Education Act 1946 (c. 50)

- 29 In the First Schedule to the Education Act 1946 (maintenance of voluntary schools), in paragraph 2, for “section one hundred and three of the principal Act” there is substituted “section 281 of the Education Act 1993”.

The Education (Miscellaneous Provisions) Act 1948 (c. 40)

- 30 Section 9 of the Education (Miscellaneous Provisions) Act 1948 (presumption of age in proceedings to enforce attendance at school) is omitted.

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

The Education (Miscellaneous Provisions) Act 1953 (c. 33)

- 31 In section 6(2) of the Education (Miscellaneous Provisions) Act 1953 (payment of tuition and boarding fees for pupils at non-maintained schools)—
- (a) for “the Education Act 1981” there is substituted “Part III of the Education Act 1993”,
 - (b) for “not maintained by them or another local education authority” (in both places) there is substituted “which is not a maintained school”,
 - (c) for “schools maintained by them and schools maintained by other local education authorities” there is substituted “maintained schools”,
 - (d) for “provided by them” in paragraphs (a)(ii) and (b) there is substituted “provided”,
 - (e) paragraph (a)(iii) is omitted, and
 - (f) at the end there is added—

“and in this subsection “maintained school” means any school maintained by a local education authority and any grant-maintained or grant-maintained special school, and paragraph (b) does not apply where section 190(2) of the Education Act 1993 applies”.

- 32 Section 10 of that Act (amendment of procedure for making school attendance orders) is omitted.

The Agriculture (Safety, Health and Welfare Provisions) Act 1956 (c. 49)

- 33 In section 24(1) of the Agriculture (Safety, Health and Welfare Provisions) Act 1956 (interpretation) for “for the purposes of the Education Act 1944” there is substituted “(construed in accordance with section 277 of the Education Act 1993)”.

The Public Records Act 1958 (c. 51)

- 34 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3 (organisations whose records are public records) there are inserted at the appropriate places—
- “Curriculum Council for Wales”,
 - “Funding Agency for Schools”,
 - “School Curriculum and Assessment Authority”, and
 - “Schools Funding Council for Wales”.

The Church Schools (Assistance by Church Commissioners) Measure 1958 (1958 No. 2)

- 35 In section 2(1) of the Church Schools (Assistance by Church Commissioners) Measure 1958 (interpretation) for “1953” there is substituted “1993”.

The Factories Act 1961 (c. 34)

- 36 In section 176(1) of the Factories Act 1961 (general interpretation) for the definition of “child” there is substituted—

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

““child” means any person who is not over compulsory school age (construed in accordance with section 277 of the Education Act 1993) or over school age for the purposes of the Education (Scotland) Act 1946”.

The Education Act 1962 (c. 12)

37 Section 9 of the Education Act 1962 (school leaving dates in England and Wales) is omitted.

The Education Act 1964 (c. 82)

- 38 (1) Section 1 of the Education Act 1964 (middle schools) is amended as follows.
- (2) In subsection (1), after “1980” there is inserted “proposals with respect to a grant-maintained school or proposed grant-maintained school are submitted to the Secretary of State under sections 48, 49, 96 or 97 of the Education Act 1993 or proposals with respect to a county school are published under section 272 of that Act”.
- (3) In subsection (3), for “1962” there is substituted “1993”.

The Education Act 1967 (c. 3)

39 Section 1 of the Education Act 1967 (extended powers of Secretary of State to make contributions etc.) is omitted.

The Criminal Justice Act 1967 (c. 80)

40 In Schedule 3 to the Criminal Justice Act 1967 (increase of fines), the entries relating to section 10 of the Children and Young Persons Act 1933 and section 40(1) of the Education Act 1944 are omitted.

The Education Act 1968 (c. 17)

41 In section 1(1) of the Education Act 1968 (changes to character, size or situation of schools) for “1967” there is substituted “1993”.

The Children and Young Persons Act 1969 (c. 54)

42 Paragraphs 2 and 13 of Schedule 5 to the Children and Young Persons Act 1969 (minor and consequential amendments of enactments) are omitted.

The Local Authorities (Goods and Services) Act 1970 (c. 39)

- 43 (1) Subject to sub-paragraph (2) below, in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) “public body” shall include the School Curriculum and Assessment Authority and the Curriculum Council for Wales.
- (2) The provision in sub-paragraph (1) above shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person shall be a public body for the purposes of the Act).

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

The Local Authority Social Services Act 1970 (c. 42)

44 At the end of Schedule 1 to the Local Authority Social Services Act 1970 (enactment conferring functions assigned to social service committee) there is added—

“Education Act 1993.

Help for local education authority in exercising functions under Part III of the Act”.

Section 166.

The Education (Handicapped Children) Act 1970 (c. 52)

45 In section 1(1)(b) of the Education (Handicapped Children) Act 1970 (mentally handicapped children) for the words from “for purposes” to the end of paragraph (b) there is substituted “of compulsory school age (construed in accordance with section 277 of the Education Act 1993)”.

The Superannuation Act 1972 (c. 11)

46 Employment with a funding authority shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed), at the end of the list of Other Bodies there is inserted—

“The Funding Agency for Schools.

The Schools Funding Council for Wales.”

47 A funding authority shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to paragraph 46 above in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

48 Where an employee of a funding authority ceases to be such an employee and becomes a member of the authority and was by reference to his employment by the authority a participant in a scheme under section 1 of that Act, the Treasury may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the authority (whether or not any benefits are payable to him by virtue of paragraph 5 of Schedule 1 to this Act).

The Local Government Act 1972 (c. 70)

49 Section 101(9)(a) of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) is omitted.

50 In section 104(2)(a) of that Act (teachers not disqualified for being members of committees) for “for the purposes of the enactments relating to education” there is substituted “wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities”.

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

The Education Act 1973 (c. 16)

- 51 Section 1(2)(b) of the Education Act 1973 (general provisions as to educational trusts) is omitted.
- 52 In section 2 of that Act (special powers as to certain trusts for religious education)—
- (a) in subsection (1)(a) after “particular” there is inserted “religion or”,
 - (b) in subsection (1A)(b)—
 - (i) before “denomination” there is inserted “religion or”, and
 - (ii) for “85 or 86 of the Education Reform Act 1988” there is substituted “139 or 140 of the Education Act 1993”,
 - (c) in subsections (1C), (2) and (4) before “denomination”, in each place where it occurs, there is inserted “religion or”, and
 - (d) in subsection (9) for “1971” there is substituted “1993”.

The Matrimonial Causes Act 1973 (c. 18)

- 53 In section 29(2)(a) of the Matrimonial Causes Act 1973 (age limit on making certain orders in favour of children) for the words from “(that is to say” to “that section)” there is substituted “(construed in accordance with section 277 of the Education Act 1993)”.

The Education (Work Experience) Act 1973 (c. 23)

- 54 In section 1(4) of the Education (Work Experience) Act 1973 (interpretation)—
- (a) for “1973” there is substituted “1993”, and
 - (b) for the words from “by virtue of” to the end there is substituted “he would cease to be of compulsory school age”.

The House of Commons Disqualification Act 1975 (c. 24)

- 55 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices)—
- (a) there are inserted at the appropriate places—
 - “Any member of an education association in receipt of remuneration”,
 - “Any member of the Funding Agency for Schools in receipt of remuneration”, and
 - “Any member of the Schools Funding Council for Wales in receipt of remuneration”, and
 - (b) for the entry relating to the National Curriculum Council there is substituted—
 - “Any member of the School Curriculum and Assessment Authority established under section 244 of the Education Act 1993 in receipt of remuneration”.

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

The Sex Discrimination Act 1975 (c. 65)

56 In section 23(1) of the Sex Discrimination Act 1975 (other discrimination by local education authorities) for “1981” there is substituted “1993”.

57 After section 23B of that Act (discrimination by Scottish Further and Higher Education Funding Councils) there is inserted—

“23C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales.

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions by or under the Education Acts 1944 to 1993 to do any act which constitutes sex discrimination.”

58 In section 24(2)(d) of that Act (designated establishments) after “school age” there is inserted “(construed in accordance with section 277 of the Education Act 1993)”.

59 In section 25 of that Act (general duty in public sector of education)—

(a) in subsections (2) and (4) for “and 23” there is substituted “23, 23A and 23C”, and

(b) after subsection (6)(d) there is added—

“(e) the Funding Agency for Schools and the Schools Funding Council for Wales.”.

60 In section 82(1) of that Act (general interpretation) the definition of “upper limit of compulsory school age” is omitted.

61 In paragraph 1 of Schedule 2 to that Act (transitional exemption orders for educational admissions) for “89 of the Education Reform Act 1988” there is substituted “96 of the Education Act 1993”.

62 (1) Where under section 183(2)(b) of this Act a local education authority serve notice of proposals for a maintained special school to cease to be an establishment which admits pupils of one sex only, the responsible body shall be treated as having applied for the making by the Secretary of State of a transitional exemption order, and the Secretary of State may make such an order accordingly.

(2) Where under section 96 of this Act the governing body of a grant-maintained school publish proposals for the school to cease to be an establishment which admits pupils of one sex only and Part II of this Act has effect with the modifications in section 101(2) to (7) of this Act in relation to the proposals, then—

(a) paragraph 1 of Schedule 2 to the 1975 Act shall not apply unless the proposals require the approval of the Secretary of State, and

(b) in any other case, the governing body shall be treated as having applied for the making by the funding authority of a transitional exemption order, and the funding authority may make such an order accordingly.

(3) Where under section 97 of this Act the funding authority submit to the Secretary of State a copy of proposals for a school to cease to be an establishment which admits pupils of one sex only, then—

(a) if the proposals require the approval of the Secretary of State, the governing body shall be treated as having applied for the making by him of a transitional exemption order, and

(b) in any other case, the governing body shall be treated as having applied for the making by the funding authority of such an order,

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

and the Secretary of State or, as the case may be, the funding authority may make such an order accordingly.

- (4) Where proposals made by the Secretary of State under section 234 of this Act—
- (a) are for a school to cease to be an establishment which admits pupils of one sex only, and
 - (b) have effect as mentioned in section 236(3) of this Act,

the responsible body shall be treated as having applied for the making by the Secretary of State of a transitional exemption order, and the Secretary of State may make such an order accordingly.

- (5) Where—
- (a) by reason of section 273(4)(b) of this Act any proposals for a school to cease to be an establishment which admits pupils of one sex only may not be determined until the Secretary of State has made his determination with respect to any proposals for acquisition of grant-maintained status, and
 - (b) the proposals for acquisition of grant-maintained status and the proposals for the school to cease to be such an establishment are approved (with or without modification),

paragraph 1 of Schedule 2 to the 1975 Act shall not apply but the new governing body shall be treated as having applied for the making by the Secretary of State of a transitional exemption order, and he may make such an order accordingly.

- (6) In this paragraph—
- “responsible body” has the same meaning as in section 22 of the 1975 Act,
 - “the 1975 Act” means the Sex Discrimination Act 1975, and
 - “transitional exemption order” has the same meaning as in section 27 of the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments turning co-educational).

The Education (School-leaving Dates) Act 1976 (c. 5)

63 The Education (School-leaving Dates) Act 1976 is repealed.

The Race Relations Act 1976 (c. 74)

64 In section 18(1) of the Race Relations Act 1976 (other discrimination by local education authorities) for “1981” there is substituted “1993”.

65 After section 18B of that Act (discrimination by Scottish Further and Higher Education Funding Councils) there is inserted—

“18C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales.

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions by or under the Education Acts 1944 to 1993 to do any act which constitutes racial discrimination.”

66 In section 19 of that Act (general duty in public sector of education)—

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

- (a) in subsections (2) and (4) for “and 18” there is substituted “18, 18A and 18C”, and
- (b) after subsection (6)(d) there is added—
 - “(e) the Funding Agency for Schools and the Schools Funding Council for Wales.”.

67 In section 78(1) of that Act (general interpretation) the definition of “upper limit of compulsory school age” is omitted.

The Criminal Law Act 1977 (c. 45)

68 In Schedule 6 to the Criminal Law Act 1977 (increase of fines for certain summary offences) the entry relating to the Education Act 1944 is omitted.

The National Health Service Act 1977 (c. 49)

69 In section 28A(2) of the National Health Service Act 1977 (power to make payments to local education authority) for “1981” there is substituted “1993”.

70 In paragraph 1(a)(ii) of Schedule 1 to that Act (medical and dental inspection and treatment of pupils etc.) for the words from “special arrangements” to “1981” there is substituted “section 163 or 298 of the Education Act 1993”.

The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

71 In section 5(2)(a) of the Domestic Proceedings and Magistrates' Courts Act 1978 (age limit on making certain orders in favour of children) for the words from “(that is to say” to “that section)” there is substituted “(construed in accordance with section 277 of the Education Act 1993)”.

The Education Act 1980 (c. 20)

72 The Education Act 1980 is amended as follows.

73 In section 7 (appeals against admission decisions) after “functions” there is inserted “(other than a decision leading to or embodied in a direction under section 13 of the Education Act 1993)”.

74 In section 9(2) (nursery schools and special schools) for “7 of the Education Act 1981” there is substituted “168 of the Education Act 1993”.

75 Sections 10 (determination of school to be named in school attendance order) and 11 (amendment of school attendance order) are omitted.

76 In section 13(1) (establishment and alteration of voluntary schools) “after consultation with the authority” is omitted.

77 In section 14 (approval of school premises)—

- (a) in subsection (1)(c), after “school” there is inserted “or the transfer of a school to a new site”, and
- (b) subsection (4) is omitted.

78 In section 16 (provisions supplementary to sections 12 to 15), after subsection (1) there is inserted—

“(1A) Subsection (1) above does not apply to the transfer of a school to a new site—

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

- (a) if the transfer is authorised by an order under section 16(1) of the Education Act 1944,
- (b) if at the time of transfer the school is intended to return to the existing site within three years, or
- (c) if in the case of a county school the new site is in the same area and the local education authority are satisfied that it is expedient that the school should be transferred to the new site either because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they conform to the prescribed standards or in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning.”

79 In section 22 (school meals) after subsection (4) there is inserted—

“(4A) Where the governing body of a school which has a delegated budget within the meaning of Chapter III of Part I of the Education Reform Act 1988 provide pupils or other persons who receive education at the school with milk, meals or other refreshment, they—

- (a) must charge for anything so provided,
- (b) must charge every pupil the same price for the same quantity of the same item, and
- (c) must charge every person other than a pupil the same price for the same quantity of the same item.”

80 Paragraph 10 of Schedule 1 (school government: consequential amendments) is omitted.

81 In paragraph 1(3) and (4) of Schedule 2 (constitution of appeal committees) “or of any education committee of the authority”, in each place where it occurs, is omitted.

The Education Act 1981 (c. 60)

82 The Education Act 1981 is repealed except for sections 2(1), 11(1) and 17, the definition of “principal Act” in section 20(1), sections 20(2) and (3) and 21, paragraph 1 of Schedule 2, paragraphs 3, 4, 6, 7, 8(1) and (2)(b) and (d), 11, 12 and 14 of Schedule 3 and Schedule 4.

The Representation of the People Act 1983 (c. 2)

83 In paragraph 22(1)(i) of Schedule 1 to the Representation of the People Act 1983 (use of schools for the purpose of taking a poll) after “authority” there is inserted “a grant-maintained school”.

The Value Added Tax Act 1983 (c. 55)

84 In Note (2) of Group 6 of Schedule 6 to the Value Added Tax Act 1983 (meaning of “school” for purposes of determining whether provision of education is an exempt supply) for “1981” there is substituted “1993”.

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

The Registered Homes Act 1984 (c. 23)

- 85 In section 1(6) of the Registered Homes Act 1984 (requirement of registration: independent schools) for “11(3)(a) of the Education Act 1981” there is substituted “189(1) of the Education Act 1993”.

The Building Act 1984 (c. 55)

- 86 In section 4(1)(a) of the Building Act 1984 (exemption of educational buildings etc.) for the words from “plans” to the end there is substituted—
- “(i) plans that have been approved by the Secretary of State,
 - (ii) particulars submitted and approved under section 14 of the Education Act 1980 or under regulations made under section 218(7) of the Education Reform Act 1988,
 - (iii) particulars approved or adopted under section 51, 99 or 185 of the Education Act 1993, or
 - (iv) particulars given in a direction under section 151 of that Act.”

The Disabled Persons (Services, Consultation and Representation) Act 1986(c. 33)

- 87 In section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education)—
- (a) in subsection (1)(a) after “1981” there is inserted “or 168 of the Education Act 1993”,
 - (b) in subsection (8)—
 - (i) for “4 of Schedule 1 to the Education Act 1981” there is substituted “7 of Schedule 10 to the Education Act 1993”, and
 - (ii) for “made under section 7” there is substituted “maintained under section 168”, and
 - (c) in subsection (9) for “the Education Act 1981” there is substituted “Part III of the Education Act 1993”.

The Education (No. 2) Act 1986 (c. 61)

- 88 The Education (No. 2) Act 1986 is amended as follows.
- 89 In section 5(4)(b) (appointment of parent governors by governing body) the words after “by the authority” are omitted.
- 90 In section 9(5) (grouping)—
- (a) at the end of paragraph (a) there is inserted “or
 - (iv) section 183 of the Education Act 1993 (establishment, etc. of maintained special schools)”,
 and “or” at the end of sub-paragraph (ii) is omitted, and
 - (b) paragraph (b) is omitted,
- and that section shall have effect as if the transfer of a school to a new site in pursuance of section 16(1A)(c) of the Education Act 1980 were an alteration of a kind mentioned in subsection (5) of that section.
- 91 In section 11 (reviews)—

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

- (a) after subsection (2)(a)(iii) there is inserted “or
(iv) section 183 of the Education Act 1993
(establishment, etc. of maintained special
schools)”,
and “or” at the end of sub-paragraph (ii) is omitted,
 - (b) subsection (2)(b) is omitted,
 - (c) in subsection (2)(c) “or (b)” is omitted,
 - (d) in subsections (3) and (6), for “(b)” there is substituted “(iv)”, and
 - (e) subsection (7) is omitted.
- 92 In section 12 (temporary governing bodies)—
- (a) in subsection (1)(a) after “the 1980 Act” there is inserted “or section 184
of the Education Act 1993”,
 - (b) in subsection (2)(a)(i) after “school” there is inserted “or a new school
which is specially organised to make special educational provision for
pupils with special educational needs”,
 - (c) subsection (3) is omitted, and
 - (d) in subsection (4) after “published” there is inserted “or, as the case may be,
notice of the proposal has been duly served”.
- 93 In section 13 (effect of change of circumstances), in subsection (2), “or (b)” is
omitted.
- 94 In section 18 (review of curriculum), for subsection (7)(b) there is substituted—
“(b) the implementation of any proposal under section 183 of the
Education Act 1993 (establishment, alteration and discontinuance
of maintained special schools)”.
- 95 In section 22 (discipline), in paragraph (a)(ii) after “behaviour” there is inserted
“and respect for others”.
- 96 In section 23 (exclusions) “or indefinite” in paragraphs (a)(ii) and (b) is omitted.
- 97 In section 24 (reinstatement in county etc. schools)—
- (a) in paragraph (a)(i), for “after consulting the governing body” there is
substituted “(after giving the governing body an opportunity to express
their views and after considering any views expressed within the prescribed
period by the governing body)”,
 - (b) in paragraph (b), for “an exclusion which is for an indefinite period or is
permanent” there is substituted “permanent exclusion”,
 - (c) paragraphs (c) and (e) are omitted, and
 - (d) in paragraph (f), “or (c)” is omitted.
- 98 In section 25 (reinstatement in aided etc. schools)—
- (a) in paragraph (c), for “consult the governing body” there is substituted “give
the governing body an opportunity to express their views and to consider
any views expressed within the prescribed period by the governing body”,
and
 - (b) paragraphs (d), (e) and (f) are omitted.
- 99 Regulations may provide that, where a local education authority or governing body
of a school are required under section 24 or 25 of that Act to take any step, the duty
must, subject to prescribed exceptions, be performed within the prescribed period;

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

- but such provision shall not relieve the authority or body of the duty to take any step which has not been taken within that period.
- 100 In section 38 (duties of local education authority and governing body in relation to appointment of staff)—
- (a) in subsection (4)(c) the words after “to the post” are omitted, and
 - (b) in subsection (6)(b) “or (4)(c)(ii)” is omitted,
- and any provision made by virtue of subsection (4)(c)(ii) of that section in the articles of government for any county, controlled, special agreement or maintained special school shall cease to have effect.
- 101 In section 47 (abolition of corporal punishment)—
- (a) in subsection (5)(b), for the words from “primary” (where first mentioned) to “full-time” there is substituted “education”, and
 - (b) at the end of subsection (6)(b) there is added “or by the funding authority or a local education authority under paragraph 9 or 10 of Schedule 2 to the Education Act 1993”.
- 102 In section 50 (grants for teacher training, etc.)—
- (a) in subsection (2)(b) for “capacity as an employee of the kind in question” there is substituted “employment”, and
 - (b) the following are omitted—
 - (i) in subsection (3)(c) “local education authorities, and other”, and
 - (ii) subsection (4).
- 103 In section 51 (recoupment)—
- (a) in subsection (8) for the words from the beginning to “references to” there is substituted “The reference in subsection (2) above to further education does not include a reference to”,
 - (b) subsection (9) is omitted,
 - (c) in subsection (10) for “pupil” there is substituted “person”,
 - (d) in subsection (11) for “this section” there is substituted “the regulations”, and
 - (e) subsection (13) is omitted.
- 104 In section 52 (recoupment: cross-border provisions) for subsection (2) there is substituted—
- “(2) Section 51(3) and (4) of this Act applies for the purposes of this section as it applies for the purposes of that”.
- 105 In section 54(12) (change of status of controlled school to aided school) paragraph (f) is omitted.
- 106 In section 58(1) (travelling and subsistence allowances for governors), in paragraph (a) for “county, voluntary and maintained special schools” there is substituted “any county, voluntary or maintained special school which does not have a delegated budget (construed in accordance with section 33(6)(b) of the Education Reform Act 1988)”.
- 107 In section 63 (orders and regulations)—
- (a) in subsection (3) for “or different circumstances” there is substituted “circumstances or areas”, and
 - (b) subsection (4) is omitted.

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

- 108 In section 65(1) (interpretation) the definition of “the 1981 Act” is omitted.
- 109 Schedule 2 (new schools) is amended as follows—
- (a) in paragraph 2(1)(b) for “section 4” there is substituted “sections 4 and 4A”,
 - (b) in paragraph 2(2)—
 - (i) after “4” there is inserted “4A”, and
 - (ii) paragraph (b) is omitted,
 - (c) in paragraph 5(2), for “12(3) or (4)” there is substituted “12(4)” and in paragraph (b) the words after “proposal” are omitted,
 - (d) in paragraph 7(7) the words after “by the authority” are omitted, and
 - (e) in paragraph 9 after “Any person” there is inserted “other than a person who is to be named in the instrument of government as a sponsor of the school”.

The Local Government Act 1988 (c. 9)

- 110 Section 1(1)(j) of the Local Government Act 1988 (defined authorities) is omitted.
- 111 In Schedule 2 to that Act the words from “A joint education committee” to “1944” are omitted.

The Education Reform Act 1988 (c. 40)

- 112 The Education Reform Act 1988 is amended as follows.
- 113 In section 3(3) (foundation subjects and key stages)—
- (a) for “and (5)” there is substituted “(5) and (5A)”, and
 - (b) in paragraph (d) for the words from “majority”, in the second place in which it occurs, to the end there is substituted “expiry of the school year in which the majority of pupils in his class cease to be of compulsory school age”.
- 114 In section 8(2) (religious education required in the basic curriculum) for “84 to 86 of this Act” there is substituted “138 to 140 of the Education Act 1993”.
- 115 In section 9(7) (parent of boarder at maintained school requesting access to particular worship or religious education) after “particular” there is inserted “religion or”.
- 116 In section 11 (standing advisory councils on religious education)—
- (a) in subsection (4)(a) for “and other religious denominations” there is substituted “denominations and other religions and denominations of such religions”, and
 - (b) at the end of that section there is added—
 - “(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 the Curriculum Council for Wales.”
- 117 In section 13 (advisory councils: supplementary provisions) in subsections (1), (2) and (7)(b) before “denomination”, in each place, there is inserted “religion”.
- 118 Section 14 (establishment of curriculum and assessment councils) is amended as follows—

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

- (a) in subsection (2) for “Each” there is substituted “The”,
 - (b) in subsection (3) for the words from “Curriculum Council, that” to “shall be” there is substituted “Council, in relation to Wales, shall be, so far as relevant for the purposes of advancing education”, and at the end of paragraph (c) there is inserted—
 - “(ca) to advise the Secretary of State on such other matters connected with the provision of education in maintained schools in Wales, or in non-maintained special schools there, as the Secretary of State may specify by order;”,
 - (c) in subsection (5) for “a” there is substituted “the”,
 - (d) in subsection (6) for “each” there is substituted “the”, and
 - (e) in subsection (7) for “each” there is substituted “the”.
- 119 In section 16 (development work and experiments)—
- (a) in subsection (3)(a) and (b) for “Curriculum Council” there is substituted “appropriate curriculum authority”, and
 - (b) at the end there is added—
 - “(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 Curriculum Council for Wales.”.
- 120 In section 18 (pupils with statements of special educational needs) for “7 of the 1981 Act” there is substituted “168 of the Education Act 1993”.
- 121 In section 19 (temporary exceptions for individual pupils)—
- (a) in subsection (4)(c)(ii) for “7 of the 1981 Act” there is substituted “168 of the Education Act 1993”, and
 - (b) in subsection (6) for “5 of the 1981 Act” there is substituted “167 of the Education Act 1993”.
- 122 (1) Section 20 (procedure for making certain orders: England) is amended as follows.
- (2) In subsection (2), for “National Curriculum Council” there is substituted “School Curriculum and Assessment Authority”.
- (3) For “the Council”, in each place where it occurs, there is substituted “the Authority”.
- 123 In section 22(3) (provision of information) for “section 58(5)(j) of this Act” there is substituted “paragraph 8 of Schedule 6 to the Education Act 1993”.
- 124 In section 24(2) (extension of certain provisions) for “14(4) of this Act” there is substituted “245(1) of the Education Act 1993”.
- 125 In section 36 (delegation to governing body of management of school’s budget share)—
- (a) in subsection (4) after “of this Act” there is inserted “and section 1(4A) of the Education (Grants and Awards) Act 1984 (grants for education support and training)”, and
 - (b) after subsection (5A) there is inserted—
 - “(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.”

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

- 126 Chapter IV of Part I is omitted except for section 100(2) and (4) (provision of benefits and services for pupils by local education authorities).
- 127 In section 106 (prohibition of charges, etc. in maintained schools) for “57(5) of this Act” there is substituted, in each place, “ 68(8) of the Education Act 1993”.
- 128 In section 110(1) (charges and remissions policies) for “57(5) of this Act” there is substituted “ 68(8) of the Education Act 1993”.
- 129 In section 111 (charges for board and lodging at boarding schools)—
- (a) in subsection (1), for the words from “at the expense of” to the end there is substituted “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”,
 - (b) in subsection (2), for paragraph (b) and the words following it there is substituted—
 - “(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”,
 - (c) for subsection (3)(b) there is substituted—
 - “(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”,
 - (d) subsection (4) is omitted, and
 - (e) in subsection (5)—
 - (i) for “a local education authority” there is substituted “the local education authority for the pupil’s area”, and
 - (ii) in paragraph (b), after “payable” there is inserted “to another local education authority or” and “provided under arrangements made by the authority” is omitted.
- 130 In section 119(2) (interpretation of Part I) “52(4), 89 or 92” is omitted.
- 131 In section 163(1) (new education authorities for inner London) for “1988” there is substituted “1993”.
- 132 In section 166(5) (responsibility for schools) for “1988” there is substituted “1993”.
- 133 In section 197(6) (Education Assets Board to comply with directions) for “1992” there is substituted “1993”.
- 134 In section 198 (transfers under Parts I and II)—
- (a) in subsection (1)—
 - (i) “74” is omitted, and

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- (ii) after “of this Act” there is inserted “or section 38 of the Education Act 1993”, and
- (b) in subsection (4) after “under this Act” in each place there is inserted “or under the Education Act 1993”.
- 135 Section 200 (grant-maintained schools: school property) is omitted.
- 136 In section 218(7) (school etc. regulations) after “approval” there is inserted “or, in such cases as may be prescribed, the approval of the funding authority”.
- 137 In section 230 (stamp duty) the following are omitted—
 - (a) in subsection (1) the words from “section 74” to “96(2)”, and
 - (b) subsections (2), (3) and (4)(b).
- 138 In section 232 (orders and regulations)—
 - (a) in subsection (2) for “35(6)” there is substituted “35(4)”, and
 - (b) the following are omitted—
 - (i) in subsection (2) “53(2), 58(2), 59(1), 91, 94, 102”, and
 - (ii) in subsection (4)(b) “52(7)”.
- 139 In section 235 (general interpretation) the following are omitted—
 - (a) in subsection (1)—
 - (i) the definition of “the 1981 Act”, and
 - (ii) in the definition of “transfer date”, “74(9)”,
 - (b) in subsection (3)(b) “subject to section 75(2) of this Act”, and
 - (c) in subsection (5) “74”.
- 140 Paragraph 9 of Schedule 1 is omitted.
- 141 In Schedule 2 (curriculum and assessment councils) in paragraph 8(1) (payments for members) for paragraph (b) there is substituted—
 - “(b) shall, as regards any member of the Council in whose case the Secretary of State may so determine, pay, or make provision for the payment of, such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.”
- 142 For paragraph 10(b) of Schedule 3 (appointment etc. of staff during financial delegation) there is substituted—
 - “(b) less than 50 per cent. of the person’s remuneration will be, or is, met from the school’s delegated budget.”
- 143 Schedule 5 is omitted.
- 144 In Schedule 10 (supplementary provisions with respect to transfers)—
 - (a) in paragraph 1(4)(a)(i) (division and apportionment of property etc.) after “under this Act” there is inserted “or under the Education Act 1993”,
 - (b) in paragraph 2(1)(b) (identification of property, etc.) after “this Act” there is inserted “or of the Education Act 1993”,
 - (c) in paragraph 5 (proof of title by certificate) after “of this Act” there is inserted “or of the Education Act 1993”,
 - (d) in paragraph 7 (construction of agreements) after “of this Act” in each place there is inserted “or of the Education Act 1993”, and
 - (e) in paragraph 9(6)(b) (third parties affected by vesting provisions) after “of this Act” there is inserted “or of the Education Act 1993”.

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

145 In Schedule 12 (minor and consequential amendments) paragraphs 26 to 28, 33 and 83 to 85 are omitted.

The Employment Act 1989 (c. 38)

146 In section 10(6) (removal of restrictions relating to employment of young persons) for “for the purposes of the Education Act 1944” there is substituted “(construed in accordance with section 277 of the Education Act 1993)”.

The Children Act 1989 (c. 41)

147 Section 27(4) of the Children Act 1989 (duty of local authority to assist local education authority) is omitted.

148 In section 28(4) of that Act (local authority support for children and families: consultation with local education authorities) for “the Education Act 1981” there is substituted “Part III of the Education Act 1993”.

149 In section 36(8) of that Act (consultation in respect of education supervision orders) the words from “social” to “of the” are omitted.

150 In section 105(1) of that Act (interpretation), in the definition of “special educational needs” for “1981” there is substituted “1993”.

151 In paragraph 3 of Schedule 2 to that Act (local authority support for children and families: assessment of children’s needs) for “the Education Act 1981” there is substituted “Part III of the Education Act 1993”.

152 In Part III of Schedule 3 to that Act (education supervision orders), in paragraph 13—

(a) in sub-paragraph (1) for the words from “sections” to “children and” there is substituted “section 36 of the Education Act 1944 (duty to secure education of children) and section 199 of the Education Act 1993 (duty”, and

(b) in sub-paragraph (2)—

(i) in paragraph (a)(i) for “37 of the Act of 1944” there is substituted “192 of that Act”,

(ii) in paragraph (b)(i) for “37” there is substituted “192”, and

(iii) in paragraph (b)(ii) for “that Act” there is substituted “the Education Act 1944”.

153 In paragraph 3(3) of Schedule 9 (child minding and day care: exemption of certain schools) for “section 52(3) of the Education Reform Act 1988” there is substituted “the Education Act 1993”.

154 Paragraphs 4 and 36 of Schedule 12 to that Act (minor amendments) are omitted.

155 Paragraphs 4 and 8 of Schedule 13 to that Act (consequential amendments) are omitted.

The Local Government and Housing Act 1989 (c. 42)

156 In section 13 of the Local Government and Housing Act 1989 (voting rights of members of committees)—

(a) subsection (2)(b) is omitted,

(b) for subsection (5) there is substituted—

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“(5) Nothing in this section shall prevent the appointment of a person who is not a member of a local education authority as a voting member of—

- (a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority,
- (b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities, or
- (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee’s functions with respect to education,

where that appointment is required by directions given by the Secretary of State under section 297 of the Education Act 1993 (power of Secretary of State to direct appointment of members of committees).”,

- (c) subsection (6) is omitted, and
- (d) in subsection (7) for “education committee or sub-committee of an education committee” there is substituted “committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection

157 In Schedule 1 to that Act (political balance on local authority committees) in paragraph 4—

- (a) in sub-paragraph (1)—
 - (i) the definition of “education committee” is omitted, and
 - (ii) in paragraph (a) of the definition of “ordinary committee”, “education committee, their” is omitted, and
- (b) in sub-paragraph (2) in paragraph (a) of the definition of “ordinary committee”, “education committee or” is omitted.

158 Paragraph 98 of Schedule 11 to that Act (minor and consequential amendments) is omitted.

The Planning (Consequential Provisions) Act 1990 (c. 11)

159 Paragraph 78 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (consequential amendments) is omitted.

The National Health Service and Community Care Act 1990 (c. 19)

160 Paragraph 22 of Schedule 9 to the National Health Service and Community Care Act 1990 (minor and consequential amendments) is omitted.

The School Teachers' Pay and Conditions Act 1991 (c. 49)

161 In section 2 of the School Teachers' Pay and Conditions Act 1991 (orders relating to statutory conditions of employment), in subsections (6) and (7) for “section 3” there is substituted “sections 3 and 3A”.

The Diocesan Boards of Education Measure 1991 (1991 No. 2)

- 162 The Diocesan Boards of Education Measure 1991 is amended as follows.
- 163 In section 3 (transactions for which advice or consent of Diocesan Board required)
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- (a) in subsection (4) for the words from “by a resolution” to the end there is substituted “to hold a meeting to consider whether to hold a ballot of parents on the question of whether grant-maintained status should be sought for the school, it shall—
- (a) give to the secretary of the Board for the diocese in which the school is situated at least seven days' notice that such a meeting is to be held at such time and place as is specified in the notice, and
- (b) have regard to any relevant advice given by the Board, when considering at the meeting whether to hold a ballot of parents on that question,
- and in paragraph (b) above, “relevant advice” means advice given in connection with the acquisition of grant-maintained status for the school whether given for the purposes of that school or for Church of England voluntary schools generally”,
- (b) in subsection (5) for “89 of the 1988 Act” there is substituted “96 of the Education Act 1993”, and
- (c) in subsection (6) “or (4)” is omitted.
- 164 In section 5 (proposals for acquisition of grant-maintained status)—
- (a) for “subsection (5) of section 62 of the 1988 Act” there is substituted “paragraph 2 of Schedule 3 to the Education Act 1993”, and
- (b) for “the advice given by the Board under section 3(4) above” there is substituted “any relevant advice (defined in section 3(4) above) given by the Board”.
- 165 In section 6(2) (Board to be consulted in certain cases) for “102 of the 1988 Act” there is substituted “136 of the Education Act 1993”.
- 166 In section 7(3) (powers of Board to give directions to governing bodies of aided church schools) for “1988” there is substituted “1993”.
- 167 In section 10 (interpretation)—
- (a) for the definition of “church school” in subsection (1) there is substituted—
- ““church school” means—
- (a) a Church of England voluntary school,
- (b) a grant-maintained school which was such a voluntary school immediately before it became grant-maintained,
- (c) a grant-maintained school established in pursuance of proposals published under section 49 of the Education Act 1993 where either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 3 to that Act provides for religious education at the school to accord with the faith and practice of the Church of England, or
- (d) a grant-maintained school in respect of which proposals for the required provision for religious education to be

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provision for religious education in accordance with the faith and practice of the Church of England are approved under section 98 of that Act”, and

- (b) in subsection (3)—
 - (i) after “the 1988 Act” there is inserted “or the Education Act 1993”, and
 - (ii) for “that Act” there is substituted “those Acts”.

The Further and Higher Education Act 1992 (c. 13)

- 168 Section 13 of the Further and Higher Education Act 1992 (provision of further education in grant-maintained schools) is omitted.
- 169 Section 59(5) of that Act (changes to special schools) is omitted.
- 170 In section 90(1) of that Act (interpretation), in the definition of “the Education Acts”, for “1992” there is substituted “1993”.
- 171 In Schedule 8 to that Act (minor and consequential amendments)—
 - (a) paragraphs 18 and 29 are omitted, and
 - (b) in paragraph 62(3) after “this Act” there is inserted “or (as the case may be) the Education Act 1993”.

The Local Government Finance Act 1992 (c. 14)

- 172 Paragraph 58 of Schedule 13 to the Local Government Finance Act 1992 (minor and consequential amendments) is omitted.

The Education (Schools) Act 1992 (c. 38)

- 173 (1) In section 9 of the Education (Schools) Act 1992 (schools inspection)—
 - (a) in subsection (3) in paragraph (e) for the words from “11(3)(a)” to the end there is substituted “189(1) of the Education Act 1993 (approval of independent schools for children with statements)”,
 - (b) at the end of subsection (6) there is inserted “or to the content of collective worship which falls to be inspected under section 13”, and
 - (c) in subsection (7) for “section” there is substituted “Act”.
- (2) Schedule 2 to that Act is amended as follows.
- (3) In paragraph 1, for the words from “body” (at the end of the definition of “appropriate authority”) to the end there is substituted—

“inspection by a member of the Inspectorate” means a section 9 inspection carried out by a member of the Inspectorate or an inspection under section 2(2)(b), 3(1), 6(2)(b) or 7(1),

“member of the Inspectorate” means the Chief Inspector, any of Her Majesty’s Inspectors of Schools in England or, as the case may be, Wales and any additional inspector, and

“section 9 inspection” means an inspection under section 9,

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and for the purposes of this Part of this Schedule, special measures are required to be taken in relation to a school if the school is failing or likely to fail to give its pupils an acceptable standard of education.”

(4) For “an inspection” in paragraphs 2, 3(5), 4(1), 5(1), 6 and 7 there is substituted “a section 9 inspection” and for “Every inspection” in paragraph 3(1) there is substituted “Every section 9 inspection”.

(5) For paragraph 9 there is substituted—

“9 (1) Where a section 9 inspection by a registered inspector has been completed, the inspector shall make in writing a report of the inspection and a summary of the report.

(2) Where the inspector is of the opinion that special measures are required to be taken in relation to the school he shall submit a draft of the report of the inspection to the Chief Inspector.

(3) If the Chief Inspector so requests, an inspector who has submitted a draft under sub-paragraph (2) shall provide the Chief Inspector with such further information as the Chief Inspector may specify.

(4) The Chief Inspector shall inform an inspector who has submitted a draft under sub-paragraph (2) whether he agrees or disagrees with the inspector’s opinion.

(5) Where—

(a) the Chief Inspector informs the inspector that he disagrees with the inspector’s opinion, but

(b) the inspector remains of the opinion that special measures are required to be taken in relation to the school,

the inspector may not make a report expressing that opinion unless the terms in which he makes the report are substantially the same (except as to the statement required by sub-paragraph (7)(b)) as the draft or as a subsequent draft submitted to the Chief Inspector under this sub-paragraph.

(6) Where a subsequent draft is submitted under sub-paragraph (5), the Chief Inspector shall inform the inspector whether he agrees or disagrees with the inspector’s opinion.

(7) A report made by a registered inspector who is of the opinion that special measures are required to be taken in relation to the school shall—

(a) state his opinion, and

(b) state whether the Chief Inspector agrees or disagrees with his opinion.

(8) If a report of an inspection of a school by a registered inspector is made in circumstances where—

(a) he is of the opinion that special measures are not required to be taken in relation to the school, but

(b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either that person was a member of the

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Inspectorate or the report stated that the Chief Inspector agreed with his opinion,

the person making the report shall state his opinion in the report.

- 9A (1) Where on the completion of any inspection of a school under section 2(2)(b), 3(1), 6(2)(b) or 7(1) by a member of the Inspectorate, he is of the opinion that special measures are required to be taken in relation to the school, he shall—
- (a) prepare in writing a report of the inspection and a summary of the report, and
 - (b) state his opinion in the report.
- (2) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
 - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- the member of the Inspectorate shall prepare in writing a report of the inspection and a summary of the report and state his opinion in the report.
- (3) A report of a section 9 inspection of a school by a member of the Inspectorate shall, if he is of the opinion that special measures are required to be taken in relation to the school, state his opinion.
- (4) If a report of a section 9 inspection of a school by a member of the Inspectorate is made in circumstances where—
- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
 - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- the member of the Inspectorate shall state his opinion in the report.
- 9B (1) The carrying out of a section 9 inspection shall be completed by the time allowed under sub-paragraph (2) and the making of the report required by paragraph 9 shall be completed within the period allowed under sub-paragraph (2).
- (2) The time, and the period, allowed shall be such as may be prescribed, subject to any such extension of the period as the Chief Inspector may consider necessary to make; but the total period allowed must not exceed the prescribed period extended by three months.
- (3) The Chief Inspector shall give notice in writing of any extension under sub-paragraph (2) to—
- (a) the inspector,
 - (b) the appropriate authority, and

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- (c) the Secretary of State, except in the case of a maintained nursery school.
 - (4) This paragraph does not apply to a section 9 inspection carried out by a member of the Inspectorate.
- 9C
- (1) In the case of a report of a section 9 inspection of a school, the person making it shall without delay—
 - (a) send a copy of the report together with the summary of it to the appropriate authority for the school, and
 - (b) if it states that he is of the opinion that special measures are required to be taken in relation to the school, and either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, send a copy of the report and summary to the Secretary of State.
 - (2) In the case of a report of an inspection of a school made by a member of the Inspectorate which is required by paragraph 9A to state that he is of the opinion that special measures are required to be taken in relation to the school, the member of the Inspectorate shall send a copy of the report together with the summary of it to the appropriate authority for the school and to the Secretary of State.
 - (3) In any case, copies of the report and summary shall be sent by the person who made the report to the Chief Inspector (unless the report was made by a member of the Inspectorate).
 - (4) In the case of—
 - (a) a special school which is not a maintained or grant-maintained special school, or
 - (b) an independent school approved by the Secretary of State under section 189(1) of the Education Act 1993 (approval of independent schools for children with statements),the appropriate authority shall without delay send a copy of any report and summary sent to them under sub-paragraph (1) or (2) to the funding authority, or any local education authority, if the authority are paying fees in respect of the attendance of a registered pupil at the school.
 - (5) The appropriate authority shall—
 - (a) make any report and summary sent to the authority under sub-paragraph (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
 - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary as soon as is reasonably practicable.”
 - (6) For paragraphs 10 and 11 there is substituted—
 - “10 (1) Where—
 - (a) a report of a section 9 inspection of a school, or

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- (b) a report of an inspection of a school made by a member of the Inspectorate which is required by paragraph 9A to state that he is of the opinion that special measures are required to be taken in relation to the school,

is sent to the appropriate authority they shall prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.

- (2) It is the duty of the appropriate authority to prepare the statement within the period allowed by this sub-paragraph, that is—
 - (a) such period as may be prescribed, or
 - (b) if, in the case of any report where the person making it states that he is of the opinion that special measures are required to be taken in relation to the school, and either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, the Secretary of State is of the opinion that the urgency of the case requires a shorter period, such period as the Secretary of State may direct,

but this sub-paragraph does not relieve the appropriate authority of any duty to prepare a statement which has not been performed within that period.

- (3) Where such a statement has been prepared by the appropriate authority they shall, before the end of the prescribed period, send copies of it—
 - (a) to the Chief Inspector,
 - (b) to the Secretary of State, except in the case of a maintained nursery school, and
 - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.

- (4) In the case of—
 - (a) a special school which is not a maintained or grant-maintained special school, or
 - (b) an independent school approved by the Secretary of State under section 189(1) of the Education Act 1993 (approval of independent schools for children with statements),

the appropriate authority shall, before the end of the prescribed period, send a copy of any such statement prepared by them to the funding authority, or any local education authority, if the authority are paying fees in respect of the attendance of a registered pupil at the school.

- (5) The appropriate authority shall—
 - (a) make any statement prepared by them under this paragraph available for inspection by members of the public, at such times and at such place as may be reasonable,
 - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.

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- 11 (1) This paragraph applies in circumstances where—
- (a) in a report of an inspection of a school the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
 - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
 - (c) a statement has been prepared under paragraph 10 or the period prescribed for the purposes of sub-paragraph (3) of that paragraph has expired, and
 - (d) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school, he did not express the opinion in the report that special measures were not required to be taken in relation to the school.
- (2) Regulations may make provision with a view to securing that any measures taken by the appropriate authority for improving the standard of education at the school are monitored in accordance with the regulations by such persons as may be prescribed.
- (3) The regulations may, in particular, provide for reports to be made by such persons and at such intervals as may be prescribed.
- (4) The regulations may authorise the Secretary of State to require the Chief Inspector to conduct further inspections of the school and prepare further reports of such inspections.
- (5) In respect of cases where any report prepared in pursuance of a requirement imposed by virtue of sub-paragraph (4) above—
- (a) states that, in the opinion of the person who prepared the report, special measures are required to be taken in relation to the school, but the grounds for that opinion are substantially different from the grounds for the opinion in any preceding report by a registered inspector or member of the Inspectorate, or
 - (b) states that, in the opinion of that person, special measures are not required to be taken in relation to the school,
- the regulations may make provision corresponding to any of the provisions made by this Part of this Schedule.”

(7) For paragraph 12 there is substituted—

- “12 (1) Where an inspection of a school is required under section 9 but the Chief Inspector is satisfied that it is not reasonably practicable to secure that the school is inspected by a suitable registered inspector, he shall secure that it is inspected by a member of the Inspectorate.
- (2) Where an inspection is conducted by a member of the Inspectorate by virtue of this paragraph, this Act shall have effect (unless the context otherwise requires) in relation to the inspection as if the member of the Inspectorate were a registered inspector.
- (3) If the Chief Inspector so elects in the case of any inspection of a school by a member of the Inspectorate under section 2(2)(b), 3(1), 6(2)(b) or 7(1), that inspection shall be treated for the purposes of section 9(1) and (2)
- ”

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and this Part of this Schedule as if it were an inspection under section 9 and the member of the Inspectorate were a registered inspector”.

- (8) In paragraph 14(4)—
- (a) in paragraph (b), for “the prescribed fee” there is substituted “such fee as they think fit (not exceeding the cost of supply)”, and
 - (b) in paragraph (c), after “education” there is inserted “or, as the case may be, who takes part in acts of collective worship the content of which falls to be inspected under section 13”.
- (9) In paragraph 15(3)—
- (a) in paragraph (b), for “the prescribed fee” there is substituted “such fee as they think fit (not exceeding the cost of supply)”, and
 - (b) in paragraph (c), after “education” there is inserted “or, as the case may be, who takes part in acts of collective worship the content of which falls to be inspected under section 13”.

The Tribunals and Inquiries Act 1992 (c. 53)

- 174 In paragraph 15(c) of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under general supervision of Council on Tribunals), for “section 58(5)(d) of the Education Reform Act 1988 (c. 40)” there is substituted “paragraph 5(1) of Schedule 6 to the Education Act 1993”.

The Charities Act 1993 (c. 10)

- 175 In Schedule 2 to the Charities Act 1993 (exempt charities) after paragraph (d) there is inserted—
- “(da) the School Curriculum and Assessment Authority;”.

SCHEDULE 20

Section 307.

TRANSITIONAL PROVISIONS AND SAVINGS

Instruments and articles for grant-maintained schools incorporated under the old law

- 1 (1) This paragraph applies in relation to a grant-maintained school the governing body of which were incorporated under Chapter IV of Part I of the Education Reform Act 1988.
- (2) If at the commencement of section 56 of this Act both an instrument of government and articles of government have been made for the school under that Chapter the instrument and articles so made—
- (a) shall have effect as if they contained such modifications as may be required by an order under section 308 of this Act, and
 - (b) shall (as so modified) have effect as if made by an order under section 57 of this Act and in accordance with Part II of this Act.
- (3) If sub-paragraph (2) above does not apply—
- (a) the instrument and articles of government prescribed by virtue of section 56 of this Act shall have effect as from the commencement of that section, and

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- (b) Part III of Schedule 7 to this Act shall have effect while those instruments are in force with such modifications as may be required by an order under section 308 of this Act.

Grants: transitional arrangements

- 2 (1) A commencement order may provide for any functions conferred on the Secretary of State by or under the old grants code or the transitory grants code for Wales, so far as relating to any amounts which—
- (a) fall, or may fall, to be paid in a financial year for which section 81 of this Act has effect or, as the case may be, after the commencement of section 82 or 83 of this Act, or
- (b) have been paid by the Secretary of State,
- in respect of any grant under that code, to be exercisable instead by the funding authority.
- (2) The order may provide for functions exercisable by the funding authority by virtue of sub-paragraph (1) above to be exercised in accordance with the order.
- (3) In this paragraph—
- “commencement order” means, in relation to England, an order under section 308 of this Act and, in relation to Wales, an order under section 4 of this Act,
- “the old grants code” means sections 79 and 80 of the Education Reform Act 1988 as they apply in relation to England, and
- “the transitory grants code for Wales” means sections 86 to 91 of this Act.

Meaning of “funding authority” before Funding Agency for Schools begin to exercise functions

- 3 (1) Before the Funding Agency for Schools begin to exercise their functions, references in the relevant provisions to the funding authority shall be read in relation to schools in England or the governing bodies of such schools as references to the Secretary of State.
- (2) The relevant provisions are—
- (a) paragraph 1(3) of Schedule 3 to this Act, and
- (b) paragraph 6 of Schedule 4 to this Act.

Education committees etc and members of those committees

- 4 (1) Sub-paragraph (2) below applies to—
- (a) any education committee established in accordance with paragraph 1 of Part II of the First Schedule to the Education Act 1944, and
- (b) any sub-committee of any such committee appointed in accordance with paragraph 10 of that Part,
- which is in existence immediately before the commencement of section 296 of this Act.
- (2) Any committee or sub-committee to which this sub-paragraph applies shall, for the purposes of any enactment, be treated as if it had been—
- (a) appointed at the commencement of that section—

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- (i) in the case of a committee, by the local authority, or
 - (ii) in the case of a sub-committee, by the committee appointed by the authority,
- in accordance with section 102(1) of the Local Government Act 1972, and
- (b) so appointed wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority or, as the case may be, the committee's functions with respect to education.
- (3) Sub-paragraph (4) below applies to any person who is immediately before the commencement of section 296 of this Act a member of an education committee or sub-committee of such a committee appointed for a term of office.
- (4) Any person to whom this sub-paragraph applies shall, for the purposes of any enactment, be treated—
- (a) as if he had been appointed at the commencement of that section as a member of a committee or sub-committee appointed as mentioned in sub-paragraph (2) above for the residue of that term, and
 - (b) if he was a member of an education committee or sub-committee by virtue of directions given by the Secretary of State under paragraph 5A of Part II of the First Schedule to the Education Act 1944, as if he had been appointed at the commencement of that section as a member of a committee or sub-committee appointed as mentioned in sub-paragraph (2) above by virtue of directions given by the Secretary of State under section 297 of this Act.

Lay members for existing admission appeal committees

- 5 Paragraph 13(4) of Schedule 5 to this Act does not apply to any appeal committee constituted, before the commencement of that Schedule, in accordance with the instrument of government for any grant-maintained school for the purposes referred to in section 58(5)(d) of the Education Reform Act 1988 (articles of government - admission appeal committees) while all the members of the committee are persons who were nominated before commencement.
- 6 No amendment made by Schedule 16 to this Act applies to any appeal committee while all the members of the committee are persons who were nominated before the commencement of the amendment.

General

- 7 The provisions of this Schedule are without prejudice to the generality of section 301(6) of this Act.

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SCHEDULE 21

Sections 303 and 307.

REPEALS

PART I

REPEALS CONSEQUENTIAL ON PARTS II, III AND IV

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1933 c. 12.	The Children and Young Persons Act 1933.	Section 10.
1944 c. 31.	The Education Act 1944.	Sections 9(5), 37, 39 and 40. In the Eighth Schedule, the entry relating to section 10 of the Children and Young Persons Act 1933.
1948 c. 40.	The Education (Miscellaneous Provisions) Act 1948.	Section 9.
1953 c. 33.	The Education (Miscellaneous Provisions) Act 1953.	Section 10.
1967 c. 80.	The Criminal Justice Act 1967.	In Schedule 3, the entries relating to section 10 of the Children and Young Persons Act 1933 and section 40(1) of the Education Act 1944.
1969 c. 54.	The Children and Young Persons Act 1969.	In Schedule 5, paragraphs 2 and 13.
1973 c. 16.	The Education Act 1973.	Section 1(2)(b).
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entry relating to the Education Act 1944.
1980 c. 20.	The Education Act 1980.	Sections 10 and 11. In Schedule 1, paragraph 10.
1981 c. 60.	The Education Act 1981.	The whole Act except for sections 2(1), 11(1) and 17, the definition of “principal Act” in section 20(1), sections 20(2) and (3) and 21, paragraph 1 of Schedule 2, paragraphs 3, 4, 6, 7, 8, (1) and (2)(b) and (d), 11, 12 and 14 of Schedule 3 and Schedule 4.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1986 c. 61.	The Education (No. 2) Act 1986.	<p>In section 9(5), the “or” at the end of paragraph (a)(ii), and paragraph (b).</p> <p>In section 11, the “or” at the end of subsection (2)(a)(ii), subsection (2)(b), “or (b)” in subsection (2)(c) and subsection (7).</p> <p>Section 12(3).</p> <p>In section 13(2), “or (b)”.</p> <p>In section 65(1) the definition of “the 1981 Act”.</p> <p>In Schedule 2, paragraph 2(2)(b) and, in paragraph 5(2)(b), the words after “proposal”.</p>
1988 c. 40.	The Education Reform Act 1988.	<p>Chapter IV of Part I except for section 100(2) and (4).</p> <p>In section 119(2), “52(4), 89 or 92”.</p> <p>In section 198(1) “74”.</p> <p>Section 200.</p> <p>In section 230, the words in subsection (1) from “section 74” to “96(2)” and subsections (2), (3) and (4)(b).</p> <p>In section 232, in subsection (2) “53(2), 58(2), 59(1), 91, 94, 102” and in subsection (4)(b) “52(7)”.</p> <p>In section 235, in subsection (1) the definition of “the 1981 Act” and, in the definition of “transfer date”, “74(9)”, in subsection (3)(b) “subject to section 75(2) of this Act”, and in subsection (5) “74”.</p> <p>In Schedule 1, paragraph 9.</p> <p>Schedule 5.</p> <p>In Schedule 12, paragraphs 26 to 28, 33 and 83 to 85.</p>

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1989 c. 41.	The Children Act 1989.	In Schedule 12, paragraphs 4 and 36. In Schedule 13, paragraphs 4 and 8.
1989 c. 42.	The Local Government and Housing Act 1989.	In Schedule 11, paragraph 98.
1990 c. 11.	The Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraph 78.
1990 c. 19.	The National Health Service and Community Care Act 1990.	In Schedule 9, paragraph 22.
1992 c. 13.	The Further and Higher Education Act 1992.	Section 13. Section 59(5). In Schedule 8, paragraphs 18 and 29.
1992 c. 14.	The Local Government Finance Act 1992.	In Schedule 13, paragraph 58.

PART II

OTHER REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1944 c. 31.	The Education Act 1944	Section 1(1). In section 6, the words in subsection (1) from “Subject” to “Act” and subsection (2). In section 16(1), “any county school or” and the words following “the new site”. Section 35. In section 50(1) “by them”. In paragraph (a) of the proviso to section 52(1), “by the authority”. Section 56. In section 58 “for the purposes of this Act”. Sections 102 and 103.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 105(2), paragraph (d) and, in the words following that paragraph, “maintenance contribution”.
		In section 114(1), in the definition of “secondary school”, “primary or”.
		Parts I and II of the First Schedule.
		In paragraph 13(4) of the Fifth Schedule “either”.
1946 c. 50.	The Education Act 1946.	In Part II of the Second Schedule, the entry relating to section 102 of the Education Act 1944.
1948 c. 40.	The Education (Miscellaneous Provisions) Act 1948.	In the First Schedule, the entry relating to section 56 of the Education Act 1944.
1953 c. 33.	The Education (Miscellaneous Provisions) Act 1953.	Section 6(2)(a)(iii).
		Section 8(1).
1959 c. 60.	The Education Act 1959.	The whole Act.
1962 c. 12.	The Education Act 1962.	Section 9.
1967 c. 3.	The Education Act 1967.	Section 1.
1968 c. 17.	The Education Act 1968.	Section 3(4).
		In Schedule 1, paragraphs 1 and 4.
1972 c. 11.	The Superannuation Act 1972.	In Schedule 1, in the list of Other Bodies, the entries relating to the National Curriculum Council and the School Examinations and Assessment Council.
1972 c. 70.	The Local Government Act 1972	Section 101(9)(a).
1975 c. 2.	The Education Act 1975.	The whole Act.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entry relating to membership of the School Examinations and Assessment Council.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1975 c. 65.	The Sex Discrimination Act 1975.	In section 82(1) the definition of the expression “upper limit of compulsory school age”. In paragraph 1 of Schedule 2 “in accordance with subsection (1) or (2) of that section”.
1976 c. 5.	The Education (School-leaving Dates) Act 1976.	The whole Act.
1976 c. 74.	The Race Relations Act 1976.	In section 78(1) the definition of the expression “upper limit of compulsory school age”.
1980 c. 20.	The Education Act 1980.	In section 12(3) “voluntary”. In section 13(1) “after consultation with the authority”. In section 13(3) “voluntary”. Section 14(4). In Schedule 1, in paragraph 1(2) “102”, paragraph 12, in paragraph 21 “(1) and” and paragraphs 22 and 23. In paragraph 1 of Schedule 2, in sub-paragraph (3) “or of any education committee of the authority” in each place where it occurs and in sub-paragraph (4) “or of any education committee of the authority” and “by more than one”. In Schedule 3, paragraphs 4 and 13.
1984 c. 11.	The Education (Grants and Awards) Act 1984.	In section 1(3)(b), “not exceeding 70 per cent. of the expenditure so approved”. In section 3, subsections (2) and (5) and, in subsection (3), the words “not being regulations to which subsection (2) above applies”.
1986 c. 61.	The Education (No. 2) Act 1986.	In section 5(4)(b) the words after “by the authority”.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		<p>In section 23(a)(ii) and (b) “or indefinite”.</p> <p>Section 24(c) and (e) and, in paragraph (f), “or (c)”.</p> <p>Section 25(d), (e) and (f).</p> <p>In section 38, in subsection (4)(c) the words after “to the post” and, in subsection (6)(b), “or (4)(c) (ii)”.</p> <p>In section 50, in subsection (3)(c) the words “local education authorities, and other”, and subsection (4).</p> <p>Section 51(9) and (13).</p> <p>Section 54(12)(f).</p> <p>Section 63(4).</p> <p>In Schedule 2, in paragraph 7(7) the words after “by the authority”.</p>
1988 c. 9.	The Local Government Act 1988	Section 1(1)(j).
1988 c. 40.	The Education Reform Act 1988.	<p>In Schedule 2, the words from “A joint education committee” to “1944”.</p> <p>In section 14, in subsection (1), paragraph (a), the word “and” immediately following paragraph (b), paragraph (c) and the words “each of”, subsection (4) and, in subsection (5), the words “or (as the case may be) subsection (4)(g)”.</p> <p>In section 25(1), the definition of the expression “the Curriculum Council”.</p> <p>Section 42(4)(f) to (i) and (5) (b).</p> <p>In section 111, subsection (4) and, in subsection (5)(b), the words “provided under</p>

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		arrangements made by the authority”.
		In Schedule 2, paragraphs 1 and 9, in paragraph 10(5) the words from “and accordingly” to the end and, in paragraph 18, the words “in such form as the Secretary of State may direct with the approval of the Treasury”.
		In paragraph 2 of Schedule 4, sub-paragraphs (3)(b) and (c) and (4)(b) and (c).
1989 c. 41.	The Children Act 1989	Section 27(4).
		In section 36(8), the words from “social” to “of the”.
1989 c. 42.	The Local Government and Housing Act 1989	In section 13, subsections (2) (b) and (6).
		In paragraph 4 of Schedule 1, in sub-paragraph (1) the definition of “education committee” and, in paragraph (a) of the definition of “ordinary committee”, “education committee, their” and in sub-paragraph (2), in paragraph (a) of the definition of “ordinary committee”, “education committee or”.
		In Schedule 11, paragraph 4.
1991 No. 2.	The Diocesan Boards of Education Measure 1991	In section 3(6) “or (4)”.
1992 c. 13.	The Further and Higher Education Act 1992.	In Schedule 8, paragraphs 6 and 24(a), (c) and (d).
1993 c. 10.	The Charities Act 1993.	In Schedule 2, paragraphs (e) and (g).