



# Education Act 1996

## 1996 CHAPTER 56

### PART X **U.K.**

#### MISCELLANEOUS AND GENERAL

### CHAPTER III **E+W**

#### OTHER PROVISIONS ABOUT SCHOOLS

##### *Duration of school day etc.*

#### **551 Regulations as to duration of school day etc. **E+W****

- (1) Regulations may make provision with respect to the duration of the school day and school year at, and the granting of leave of absence from, any schools to which this section applies.
- (2) The schools to which this section applies are—
  - (a) any school maintained by a local education authority;
  - (b) any grant-maintained school; and
  - (c) any special school not maintained by a local education authority.

##### *Single-sex schools*

#### **552 Transitional exemption orders for purposes of Sex Discrimination Act 1975. **E+W****

- (1) Where—
  - (a) by reason of section 37(7)(b), 43(4)(b), 169(6)(b) or 199(2) 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

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- (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.
- (2) Where the governing body of a grant-maintained school publish under section 259 proposals for the school to cease to be an establishment which admits pupils of one sex only and (by virtue of section 264(1)) Part III of this Act has effect with the modifications in section 264(2) to (7) 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 260 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,
- and the Secretary of State or, as the case may be, the funding authority may make such an order accordingly.
- (4) Where in pursuance of section 339(1)(b) 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.
- (5) Where proposals made by the Secretary of State under section 502—
- (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 504(3),
- 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.
- (6) In this section—
- “the 1975 Act” means the <sup>M1</sup>Sex Discrimination Act 1975,
- “responsible body” has the same meaning as in section 22 of the 1975 Act, 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 becoming co-educational).

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#### Marginal Citations

M1 1975 c. 65.

### *Educational trusts*

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

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

### *Religious educational trusts*

#### **554 Power to make new provision as to use of endowments. E+W**

- (1) This section applies where—
  - (a) the premises of a voluntary or grant-maintained school have ceased to be used for a voluntary or (as the case may be) grant-maintained school; or
  - (b) in the opinion of the Secretary of State it is likely such premises will cease to be so used.
- (2) In such a case the Secretary of State may (subject to sections 555 and 556(1) and (2)) by order make new provision as to the use of any endowment if it is shown either—
  - (a) that the endowment is or has been held wholly or partly for or in connection with the provision at the school of religious education in accordance with the tenets of a particular religion or religious denomination; or
  - (b) that the endowment is or has been used wholly or partly for or in connection with the provision at the school of such religious education and that (subject to subsection (4)) the requirements of subsection (3) are fulfilled.
- (3) The requirements of this subsection are—
  - (a) that the school was or has been maintained as a voluntary school since 1st April 1945 (the date when Part II of the <sup>M2</sup>Education Act 1944 came into force) or, in the case of a grant-maintained school, was so maintained from that date until immediately before it became a grant-maintained school; and
  - (b) that religious education in accordance with the tenets of the religion or denomination concerned—
    - (i) is, and has been from that date, provided at the school, or
    - (ii) where the premises have ceased to be used for the purposes of the school, was provided at the school from that date until immediately before the premises ceased to be so used,

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in pursuance of section 377 or 378 or section 380 or 381 (or any corresponding earlier enactment).

- (4) For the purposes of this section—
- (a) where in the case of any school falling within subsection (3)(a) it is shown—
- (i) that religious education in accordance with the tenets of a particular religion or denomination is provided at the school, or
- (ii) if the premises have ceased to be used for the purposes of the school, such religious education was so provided immediately before the premises ceased to be so used,
- such religious education shall be taken to have been provided at the school from 1st April 1945, unless the contrary is shown; and
- (b) where religious education in accordance with such tenets is shown to have been given to any pupils at a controlled school or a grant-maintained school which was a controlled school immediately before it became a grant-maintained school, the religious education shall be taken to have been given to them at the request of their parents, unless the contrary is shown.
- (5) For the purposes of this section—
- “endowment” includes property not subject to any restriction on the expenditure of capital; and
- “shown” means shown to the satisfaction of the Secretary of State.
- (6) This section applies where the premises of a non-provided public elementary school ceased before 1st April 1945 to be used for such a school as it applies where the premises of a voluntary school have ceased to be used for such a school.

#### Marginal Citations

M2 1944 c. 31.

### 555 Procedure applicable to orders under section 554. **E+W**

- (1) No order shall be made under section 554 except on the application of the persons appearing to the Secretary of State to be the appropriate authority of the religion or denomination concerned.
- (2) The Secretary of State shall, not less than one month before making an order under section 554, give notice of the proposed order and of the right of persons interested to make representations on it.
- (3) Such notice shall be given—
- (a) by giving to any persons appearing to the Secretary of State to be trustees of an endowment affected by the proposed order a notice of the proposal to make it, together with a draft or summary of the provisions proposed to be included; and
- (b) by publishing, in such manner as the Secretary of State thinks sufficient for informing any other persons interested, a notice of the proposal to make the order and of the place where any person interested may (during a period of not less than a month) inspect such a draft or summary, and by keeping a draft or summary available for inspection in accordance with the notice.

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- (4) The Secretary of State shall take into account any representations made to him by any person interested before the order is made.
- (5) In this section “endowment” has the same meaning as in section 554.

## **556 Content of orders under section 554. E+W**

- (1) An order under section 554—
  - (a) may require or authorise the disposal by sale or otherwise of any land or other property forming part of an endowment affected by the order, including the premises of the school and any teacher’s dwelling-house; and
  - (b) may consolidate any endowments to be dealt with by the scheme.
- (2) Subject to subsection (1), and to any provision affecting the endowments which is a provision of a public general Act of Parliament, an order under section 554 shall establish and give effect, with a view to enabling the religion or denomination concerned to participate more effectively in the administration of the statutory system of public education, to a scheme or schemes for the endowments dealt with by the order to be used for appropriate educational purposes either—
  - (a) in connection with schools which are voluntary schools or grant-maintained schools; or
  - (b) partly in connection with such schools (or either description of such schools) and partly in other ways related to the locality served by the voluntary or grant-maintained school at the premises that have gone or are to go out of use for such a school.
- (3) In subsection (2) “use for appropriate educational purposes” means use for educational purposes in connection with the provision of religious education in accordance with the tenets of the religion or denomination concerned (including in particular, but without prejudice to the generality of the foregoing, use for any purpose specified in Schedule 36).
- (4) A scheme given effect under section 554—
  - (a) may provide for the retention of the capital of any endowment and application of the accruing income; or
  - (b) may authorise the application or expenditure of capital to such extent and subject to such conditions as may be determined by or in accordance with the scheme;and any such scheme may provide for the endowments dealt with by the scheme or any part of them to be added to any existing endowment applicable for any such purpose as is authorised for the scheme by subsection (2).
- (5) Where a scheme given effect under section 554 provides for the endowments dealt with by the order or any part of them to be used for the purposes specified in Schedule 36, any such scheme may provide for the endowments thereby dealt with or any part of them to be added to any existing endowment applicable for those purposes (whether it is so applicable by virtue of a scheme given effect to under that section or otherwise).
- (6) Section 568(5) does not apply to an order under section 554, but such an order may include such incidental or supplementary provisions as appear to the Secretary of State to be necessary or expedient either for the bringing into force or for the operation of any scheme established by it, including in particular provisions—

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- (a) for the appointment and powers of trustees of the property comprised in the scheme or, if the property is not all applicable for the same purposes, of any part of that property; and
  - (b) for the property or any part of it to vest by virtue of the scheme in the first trustees under the scheme or trustees of any endowment to which it is to be added or, if not so vested, to be transferred to them.
- (7) Any order under section 554 shall have effect despite any Act of Parliament (other than a public general Act), letters patent or other instrument relating to, or trust affecting, the endowments dealt with by the order.
- (8) In this section “endowment” has the same meaning as in section 554.

### **557 Adoption of statutory trusts. E+W**

- (1) This section applies to endowments which are—
- (a) regulated by a qualifying scheme under the Endowed Schools Acts 1869 to 1948 as applied by section 86(1) of the <sup>M3</sup>Education Act 1944 or by an order under section 554 of this Act or section 2 of the <sup>M4</sup>Education Act 1973; and
  - (b) held under any such scheme or order on trusts which provide for capital or income or both to be applicable for or in connection with—
    - (i) the provision of religious education at relevant schools, or relevant schools of any description (but not only at a particular school or schools) in a diocese or other geographical area; or
    - (ii) the provision of premises for relevant schools, or relevant schools of any description (but not only at a particular school or schools) at which religious education is or is to be provided in a diocese or other geographical area;
- but this section does not apply to an endowment if or in so far as it constitutes a religious education fund.
- (2) The trustees of any endowments to which this section applies may, by resolution complying with subsection (6), adopt the uniform statutory trusts as the trusts on which those endowments are to be held.
- (3) The uniform statutory trusts are those set out in Schedule 36.
- (4) On the adoption by trustees of the uniform statutory trusts in respect of any endowments the scheme or order which regulates the endowments shall have effect as if the uniform statutory trusts are incorporated in the scheme or order to the exclusion of the corresponding provisions of the scheme or order.
- (5) The trustees of two or more endowments which are held on the uniform statutory trusts may, by resolution complying with subsection (6), consolidate all or any of those endowments and, where they do so, the endowments shall be treated, for all purposes, as held for the purposes of a single charity.
- (6) For a resolution to comply with this subsection—
- (a) it must be passed by a simple majority of the trustees or, if the trustees are a body corporate or a company, by a simple majority of the members of the body corporate or an ordinary resolution of the company; and
  - (b) it must be recorded in the records of the decisions of the trustees affecting the endowments of the trust.

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(7) Where trustees pass a resolution under subsection (2), it shall be their duty to send a copy of the resolution to the Secretary of State.

(8) The uniform statutory trusts applicable to endowments to which this section applies shall not affect—

(a) the rights of any person under the third proviso to section 2 of the <sup>M5</sup>School Sites Act 1841, under section 86(3) of the <sup>M6</sup>Education Act 1944 or under section 1 of the <sup>M7</sup>Reverter of Sites Act 1987 (rights replacing certain reversionary interests in land), or

(b) the rights of any local education authority which have arisen under paragraph 7 or 8 of the First Schedule to the <sup>M8</sup>Education Act 1946 (rights in relation to school sites provided by such authorities) or which may arise under section 60(4) or 62(2),

except in so far as any right falling within paragraph (a) above is or has been extinguished by an order under section 554 of this Act or section 2 of the <sup>M9</sup>Education Act 1973 made by virtue of section 5 of the Reverter of Sites Act 1987.

(9) In this section—

“company” means a company formed under the Companies Acts;

“the Companies Acts” means the <sup>M10</sup>Companies Act 1985, the <sup>M11</sup>Companies Act 1948 or any Act repealed by that Act of 1948;

“endowment” has the same meaning as in section 554;

“provision”, in relation to premises, means provision by the purchase of a site, the erection of premises or the maintenance, improvement or enlargement of premises;

“qualifying scheme” means a scheme in force on 1st January 1994 (the date when section 287 of the <sup>M12</sup>Education Act 1993 came into force);

“relevant school” means a voluntary school or a grant-maintained school;

“religious education” means religious education in accordance with the tenets of a particular religion or religious denomination; and

“religious education fund” includes a Sunday school fund.

(10) In Schedule 36 as incorporated in any scheme or order—

“the area” means the diocese or other geographical area within which the trust assets may be applied under the scheme or order, as the case may be;

“relevant school” means a relevant school at which the religious education provided for in the scheme or order, as the case may be, is or is to be provided; and

“the relevant trust assets” means the endowments in respect of which the trustees have adopted the uniform statutory trusts, including the income derived therefrom.

#### Marginal Citations

**M3** 1944 c. 31.

**M4** 1973 c. 16.

**M5** 1841 c. 38.

**M6** 1944 c. 31.

**M7** 1987 c. 15.

**M8** 1946 c. 50.

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| <b>M9</b>  | 1973 c. 16. |
| <b>M10</b> | 1985 c. 6.  |
| <b>M11</b> | 1948 c. 38. |
| <b>M12</b> | 1993 c. 35. |



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