

*Status: Point in time view as at 01/10/2002.*

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# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART II

#### NEW FRAMEWORK FOR MAINTAINED SCHOOLS

#### CHAPTER IV

##### FINANCING OF MAINTAINED SCHOOLS

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

C1 Pt. 2 Ch. 4 (ss. 45-53) modified (20.11.1998) by [S.I. 1998/2670](#), reg. 3(1)(3)

#### *Budgetary framework*

**45 Maintained schools to have budget shares. E**

- (1) For the purposes of the financing of maintained schools by local education authorities, every such school shall have, for each financial year, a budget share which is allocated to it by the authority which maintains it.
- (2) Sections [<sup>F1</sup>45A] and 47 have effect for determining the amount of a school's budget share for a financial year.
- (3) In this Chapter—
  - (a) references to schools maintained by a local education authority do not include schools which are not maintained schools as defined by section 20(7);

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- (b) references, in a context referring to a local education authority, to a maintained school or to a school maintained by such an authority shall be read as including a new school—
  - (i) which on implementation of proposals under section 28 or 31 or paragraph 5 of Schedule 7 will be a community, foundation or voluntary school or a community or foundation special school maintained by the authority, and
  - (ii) which has a temporary governing body; and
- (c) references to the governing body of a maintained school or of a school maintained by a local education authority shall accordingly be read as including the temporary governing body of a new school falling within paragraph (b).

(4) In this Chapter “new school” (without more) has the meaning given by section 72(3).

#### **Extent Information**

- E1** This version of this provision extends to England only; a separate version has been created for Wales only

#### **Textual Amendments**

- F1** Word in s. 45 substituted (E.) (1.10.2002) by [The Education Act 2002 \(Modification of Provisions\) \(England\) Regulations 2002 \(S.I. 2002/2316\)](#), **reg. 2**

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

- C2** S. 45(3)(4) modified (20.11.1998) by [S.I. 1998/2670](#), **reg. 3(4)**

## **45 Maintained schools to have budget shares. W**

- (1) For the purposes of the financing of maintained schools by local education authorities, every such school shall have, for each financial year, a budget share which is allocated to it by the authority which maintains it.
- (2) Sections 46 and 47 have effect for determining the amount of a school’s budget share for a financial year.
- (3) In this Chapter—
  - (a) references to schools maintained by a local education authority do not include schools which are not maintained schools as defined by section 20(7);
  - (b) references, in a context referring to a local education authority, to a maintained school or to a school maintained by such an authority shall be read as including a new school—
    - (i) which on implementation of proposals under section 28 or 31 or paragraph 5 of Schedule 7 will be a community, foundation or voluntary school or a community or foundation special school maintained by the authority, and
    - (ii) which has a temporary governing body; and
  - (c) references to the governing body of a maintained school or of a school maintained by a local education authority shall accordingly be read as including the temporary governing body of a new school falling within paragraph (b).

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(4) In this Chapter “new school” (without more) has the meaning given by section 72(3).

#### Extent Information

**E2** This version of this provision extends to Wales only; a separate version has been created for England only.

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

**C2** S. 45(3)(4) modified (20.11.1998) by S.I. 1998/2670, reg. 3(4)

### [<sup>F2</sup>45A Determination of specified budgets of LEA

- (1) For the purposes of this Part, a local education authority’s “LEA budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection.
- (2) For the purposes of this Part, a local education authority’s “schools budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools).
- (3) For the purposes of this Part, a local education authority’s “individual schools budget” for a financial year is the amount remaining after deducting from the authority’s schools budget for that year such planned expenditure by the authority in respect of that year as they may determine should be so deducted in accordance with regulations.
- (4) Regulations under subsection (3) may—
  - (a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority’s schools budget;
  - (b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be deducted subject to either or both of the following, namely—
    - (i) such limit or limits (however framed) as may be specified by or determined in accordance with the regulations, and
    - (ii) such other conditions as may be so specified or determined.
- (5) Before the end of January in any financial year, a local education authority shall—
  - (a) determine the proposed amount of their schools budget for the following financial year, and
  - (b) give notice of their determination to the Secretary of State and to the governing body of every school maintained by the authority.]

#### Textual Amendments

**F2** S. 45A inserted (1.10.2002 for E., 4.12.2003 for W.) by Education Act 2002 (c. 32), ss. 41(1), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 1); S.I. 2003/2961, art. 5, Sch. Pt. II

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### **[<sup>F3</sup>45B Power of Secretary of State to set minimum schools budget for LEA**

- (1) If it appears to the Secretary of State that, in all the circumstances, the amount proposed in a notice under section 45A(5) as a local education authority's schools budget for a financial year is inadequate, the Secretary of State may, within the period of fourteen days beginning with the day on which the notice was given, give the authority a notice under subsection (4) or (5).
- (2) If at the end of January in any financial year a local education authority have failed to give the Secretary of State a notice under section 45A(5) in relation to their schools budget for the following financial year, the Secretary of State may, at any time after the end of that January, give the authority a notice under subsection (4) or (5).
- (3) In this section and section 45C "the year under consideration" means the financial year to which the notice under section 45A(5) relates or, in a case falling within subsection (2), the financial year in relation to which such a notice ought to have been given.
- (4) A notice under this subsection is a notice determining the minimum amount of the authority's schools budget for the year under consideration.
- (5) A notice under this subsection is a notice which—
  - (a) specifies the amount which the Secretary of State would have determined as the minimum amount of the authority's schools budget for the year under consideration if he had acted under subsection (4), and
  - (b) states the Secretary of State's intention to determine the minimum amount of the authority's schools budget for the following financial year.
- (6) A notice under subsection (4) or (5) must include a statement of the Secretary of State's reasons for giving the notice.
- (7) The Secretary of State may act under different subsections in relation to different authorities.

#### **Textual Amendments**

**F3** Ss. 45B, 45C inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c.32\)](#), **ss. 42, 216** (with **ss. 210(8), 214(4)**); [S.I. 2002/2439](#), **art. 3** (with [Sch.](#))

### **45C Effect of notice under section 45B(4)**

- (1) The local education authority may, within the period of fourteen days beginning with the date of a notice under section 45B(4), give the Secretary of State notice of their objection to his determination, giving reasons for their objection.
- (2) Where the local education authority have given notice of their objection under subsection (1), the notice under section 45B(4) shall cease to have effect, but the Secretary of State may by order prescribe the minimum amount of the authority's schools budget for the year under consideration.
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(4).
- (4) An order under subsection (2) may relate to two or more authorities.

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- (5) No order under subsection (2) may be made in relation to one or more authorities in England unless a draft of the order has been laid before and approved by a resolution of the House of Commons.
- (6) Where—
- (a) a notice under section 45B(4) has been given to a local education authority and no notice of objection has been given during the period specified in subsection (1), or
  - (b) an order has been made under subsection (2),
- the local education authority shall determine a schools budget for the year under consideration which is not less than the amount specified in relation to the authority in the notice or order.]

#### Textual Amendments

**F3** Ss. 45B, 45C inserted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c.32\), ss. 42, 216](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### 46 Determination of LEA’s local schools budget and individual schools budget.

- [<sup>F4</sup>(1) For the purposes of this Part a local education authority’s “local schools budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools).
- (2) For the purposes of this Part a local education authority’s “individual schools budget” for a financial year is the amount remaining after deducting from the authority’s local schools budget for that year such planned expenditure by the authority in respect of the year as they may determine should be so deducted in accordance with regulations.
- (3) Regulations under subsection (2) may—
- (a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority’s local schools budget; and
  - (b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be so deducted subject to either or both of the following, namely—
    - (i) such limit or limits (however framed) as may be specified by the regulations; and
    - (ii) such other conditions as may be so specified.]

#### Textual Amendments

**F4** S. 46 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 41\(3\), 215\(2\), 216, Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

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#### **47 Determination of school's budget share.**

- (1) For the purposes of this Part a maintained school's budget share for a financial year is such amount as the local education authority may determine, in accordance with regulations, to allocate to the school out of the authority's individual schools budget for that year.
- (2) Regulations under this section may, in particular, make provision—
  - (a) as to the time when schools' budget shares are to be initially determined by local education authorities;
  - (b) specifying—
    - (i) factors or criteria which such authorities are to take into account, or
    - (ii) requirements as to other matters with which such authorities are to comply,
 in determining such shares, whether generally or in such cases as are specified in the regulations;
  - (c) requiring adjustments to be made to such shares by such authorities in respect of—
    - (i) pupils permanently excluded from schools maintained by them, or
    - (ii) pupils admitted to schools maintained by them who have been permanently excluded from other maintained schools;
 (d) as to the treatment of new schools, including provision authorising the determination of nil amounts as the budget shares of such schools;
  - (e) authorising or requiring such authorities to take account of matters arising during the course of a financial year—
    - (i) by redetermining budget shares for that year, or
    - (ii) by making adjustments to such shares for the following year,
 in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;
  - (f) requiring consultation to be carried out by such authorities in relation to the factors or criteria which are to be taken into account in determining such shares and as to the time and manner of such consultation;
  - (g) enabling the Secretary of State, where it appears to him to be expedient to do so, to authorise such authorities to determine (or redetermine) budget shares, to such extent as he may specify, in accordance with arrangements approved by him (in place of those provided for by the regulations).
- (3) Regulations made in pursuance of subsection (2)(c) may provide for the adjustments to be made on such basis as may be prescribed, which may involve the deduction from one school's budget share of an amount which is greater or less than that allocated to another school's budget share in respect of the excluded pupil.

*[<sup>F5</sup>Schools forums*

#### **Textual Amendments**

- F5** Cross-heading and s. 47A inserted (2.9.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 43, 216](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2002](#), [art. 4](#)

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#### **47A Schools forums**

- (1) Every local education authority shall in accordance with regulations establish for their area before such date as may be prescribed a body, to be known as a schools forum, representing the governing bodies and head teachers of schools maintained by the authority and, if the authority so determine, also representing such bodies as the authority may from time to time in accordance with regulations determine.
- (2) Subsection (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.
- (3) The purpose of a schools forum is to advise the relevant authority on such matters relating to the authority's schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection.
- (4) Regulations under section 45A(3) or under subsection (3) may include provision requiring a relevant authority to have regard to advice given by their schools forum, or requiring a relevant authority to consult their schools forum in relation to prescribed matters or before taking prescribed decisions.
- (5) Regulations may make provision as to the constitution, meetings and proceedings of a schools forum.
- (6) Regulations made by virtue of subsection (5) may include provision enabling the Secretary of State in prescribed circumstances to remove from membership of a schools forum any non-schools member.
- (7) Regulations may make provision with respect to expenses of a schools forum.
- (8) Except as provided by regulations, the expenses of a schools forum shall be defrayed by the relevant authority.
- (9) In this section—
  - “non-schools member”, in relation to a schools forum, means a member other than a schools member;
  - “relevant authority”, in relation to a schools forum, means the local education authority by whom the forum is established;
  - “schools member”, in relation to a schools forum, means a member elected to represent governing bodies or head teachers of schools maintained by the relevant authority.]

#### *Local education authority schemes*

#### **48 LEAs' financial schemes.**

- (1) Each local education authority shall prepare a scheme dealing with such matters connected with the financing of the schools maintained by the authority [<sup>F6</sup>or the exercise by the governing bodies of those schools of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.)] as are required to be dealt with in the scheme by or by virtue of—
  - (a) regulations made by the Secretary of State; or
  - (b) any provision of this Part.
- (2) Regulations under subsection (1) may, in particular, require a scheme to deal with—

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- (a) the carrying forward from one financial year to another of surpluses and deficits arising in relation to schools' budget shares;
  - (b) amounts which may be charged against schools' budget shares;
  - (c) amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used;
  - (d) the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets, including conditions prescribing financial controls and procedures;
  - [<sup>F7</sup>(dd) the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the exercise of the power mentioned in subsection (1), including conditions prescribing financial controls and procedures;]
  - (e) terms on which services and facilities are provided by the authority for schools maintained by them.
- (3) Where there is any inconsistency between a scheme prepared by a local education authority under subsection (1) and any other rules or regulations made by the authority which relate to the funding or financial management of schools which they maintain, the terms of the scheme shall prevail.
- (4) Schedule 14 (which provides for the approval or imposition of schemes by the Secretary of State and for the revision of schemes) shall have effect.
- (5) In this Part any reference to "the scheme", in relation to a maintained school, is a reference to the scheme prepared (or by virtue of paragraph 1(6) of Schedule 14 treated as prepared) by the local education authority under this section, as from time to time revised under paragraph 2 of that Schedule.

#### **Textual Amendments**

- F6** Words in s. 48(1) inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 3 para. 2\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F7** S. 48(2)(dd) inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 3 para. 2\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

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

- C3** S. 48 excluded (10.3.1999) by [S.I. 1999/362](#), [reg. 6\(5\)](#).

### *Financial delegation*

#### **49 Maintained schools to have delegated budgets.**

- (1) Every maintained school shall have a delegated budget.
- (2) A new school shall have a delegated budget as from the school opening date, unless a different date applies by virtue of subsection (3).
- (3) Such a school shall have a delegated budget—
  - (a) as from a date earlier than the school opening date if the local education authority so determine; or
  - (b) as from a later date if the authority so determine with the written approval of the Secretary of State; or



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- (c) as from such date as the Secretary of State may determine, if the authority have determined that the school should have a delegated budget as from a later date but that date is not approved by him.
- (4) Subject to—
- section 50 (right of governing body to spend budget share where school has a delegated budget),
  - paragraph 4 of Schedule 15 (power of governing body to spend amounts out of budget share where delegation of budget suspended),
  - section 489(2) of the <sup>M1</sup>Education Act 1996 (education standards grants), and
  - any provisions of the scheme,
- a local education authority may not delegate to the governing body of any maintained school the power to spend any part of the authority's [<sup>F8</sup>LEA budget or schools budget]
- (5) Any amount made available by a local education authority to the governing body of a maintained school (whether under section 50 or otherwise)—
- shall remain the property of the authority until spent by the governing body or the head teacher; and
  - when spent by the governing body or the head teacher, shall be taken to be spent by them or him as the authority's agent.
- (6) Subsection (5)(b) does not apply to any such amount where it is spent—
- by way of repayment of the principal of, or interest on, a loan, or
  - (in the case of a voluntary aided school) to meet [<sup>F9</sup>expenses payable by the governing body under paragraph 3(1) or (2) of Schedule 3][<sup>F9</sup>expenditure payable by the governing body under paragraph 3(1) of Schedule 3] or paragraph 14(2) of Schedule 6.
- (7) In this Part—
- references to a school having a delegated budget are references to the governing body of the school being entitled to manage the school's budget share; and
  - where a school has a delegated budget the governing body are accordingly said to have a right to a delegated budget.

#### Textual Amendments

- F8** Words in s. 49(4) substituted (1.10.2002 for E.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, **Sch. 21 para. 100(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3** (with Sch.)
- F9** Words in s. 49(6)(b) substituted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), **art. 4**

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

- C4** S. 49(6)(b) modified (20.11.1998) by [S.I. 1998/2670](#), **reg. 3(5)**

#### Marginal Citations

- M1** 1996 c. 56.

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## 50 Effect of financial delegation.

- (1) Where a maintained school has a delegated budget in respect of the whole or part of a financial year the local education authority shall secure that in respect of that year there is available to be spent by the governing body—
  - (a) where the school has a delegated budget in respect of the whole of that year, a sum equal to the school’s budget share for the year, or
  - (b) where the school has a delegated budget in respect of only part of that year, a sum equal to that portion of the school’s budget share for the year which has not been spent.
- (2) The times at which, and the manner in which, any amounts are made available by the authority to the governing body in respect of any such sum shall be such as may be provided by or under the scheme.
- (3) Subject to any provision made by or under the scheme, the governing body may spend any such amounts as they think fit—
  - (a) for any purposes of the school; or
  - (b) (subject also to any prescribed conditions) for such purposes as may be prescribed.
- (4) In subsection (3) “purposes of the school” does not include purposes wholly referable to the provision of—
  - [<sup>F10</sup>(za) facilities and services under section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.),]
  - (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19;
 but any such purposes may be prescribed by regulations under paragraph (b) of that subsection.
- (5) Nothing in subsection (3) shall be read as authorising the payment of allowances to governors otherwise than in accordance with regulations under paragraph 6 of Schedule 11 (or, in the case of temporary governors of a new school, regulations under section 44(5)).
- (6) The governing body may delegate to the head teacher, to such extent as may be permitted by or under the scheme, their powers under subsection (3) in relation to any amount such as is mentioned in that subsection.
- (7) The governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under subsection (3) or (6).

### Textual Amendments

**F10** S. 50(4)(za) inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 3 para. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2002](#), art. 4; [S.I. 2003/1718](#), art. 5, [Sch. Pt. II](#)

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#### Commencement Information

- II** S. 50 wholly in force; s. 50 not in force at Royal Assent see s. 145(3); s. 50(3) and (4) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I, Sch. 2 Pt. I para. 1](#) and s. 50 in force at 1.4.1999 (so far as it is not already in force) by Sch. 1 Pt. IV of the same S.I.

#### *Suspension of financial delegation*

### **51 Suspension of financial delegation for mismanagement etc.**

Schedule 15 (which provides for the suspension by a local education authority of a governing body's right to a delegated budget in the case of failure to comply with requirements as to delegation or of financial mismanagement, etc.) shall have effect.

#### *[<sup>F11</sup>Expenditure incurred for community purposes*

#### Textual Amendments

- F11** Cross-heading and s. 51A inserted (2.9.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 40, 216, Sch. 3 para. 4](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2002, art. 4](#)

### **51A Expenditure incurred for community purposes**

- (1) Expenditure incurred by the governing body of a maintained school in the exercise of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.) shall, as against third parties, be treated as part of the expenses of maintaining the school under section 22, but if met by the local education authority may be recovered by them from the governing body.
- (2) Except as provided by regulations under section 50(3)(b), no expenditure incurred by the governing body of a maintained school in the exercise of the power referred to in subsection (1) shall be met from the school's budget share for any financial year.
- (3) Subsection (2) applies at a time when the school does not have a delegated budget by virtue of any suspension under section 17 or Schedule 15, as well as a time when it does have a delegated budget.]

#### *Information*

### **52 Financial statements.**

- (1) Before the beginning of each financial year a local education authority shall prepare a statement containing such information relating to their planned expenditure in that year as may be prescribed.
- (2) After the end of each financial year a local education authority shall prepare a statement containing such information with respect to the following matters as may be prescribed—
  - (a) the planned expenditure in that year specified in the statement prepared by the authority under subsection (1),

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- (b) expenditure actually incurred, or treated by the authority as having been incurred, by them in the year, and
  - (c) any other resources allocated by the authority in the year to schools maintained by them during any part of the year.
- (3) A statement under this section shall—
- (a) be prepared in such form, and
  - (b) be published in such manner and at such times,
- as may be prescribed.
- (4) The authority shall furnish the governing body and head teacher of each school maintained by them with a copy of each statement prepared by the authority under this section or, if regulations so provide, with a copy of such part or parts of it as may be prescribed.
- (5) A governing body provided with such a copy under subsection (4) shall secure that a copy of it is available for inspection (at all reasonable times and free of charge) at the school.
- (6) Subsection (5) does not apply to a temporary governing body of a new school at any time before the school opening date.

### **53 Certification of statements by Audit Commission.**

- (1) A local education authority shall, if directed to do so by the Secretary of State, require the Audit Commission for Local Authorities and the National Health Service in England and Wales to make arrangements in accordance with section 28(1)(d) of the <sup>M2</sup>Audit Commission Act 1998 for certifying—
- (a) such statement or statements prepared by the authority under section 52 above, or
  - (b) such part or parts of any such statement or statements,
- as may be specified in the directions; and for the purposes of section 28(1)(d) of that Act any statement under section 52 above shall be treated as a return by the authority.
- (2) The arrangements made by the Audit Commission in pursuance of subsection (1) shall include arrangements for sending to the Secretary of State—
- (a) a copy of the statement or statements so certified, or
  - (b) a copy of the part or parts so certified,
- as the case may be.
- (3) Directions given under subsection (1) may relate to any local education authority or to local education authorities generally or to any class or description of such authorities.

#### **Marginal Citations**

**M2** 1998 c. 18.

**Status:**

Point in time view as at 01/10/2002.

**Changes to legislation:**

School Standards and Framework Act 1998, Chapter IV is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.