

*Status: Point in time view as at 25/03/2022.*

**Changes to legislation:** School Standards and Framework Act 1998, SCHEDULE 32 is up to date with all changes known to be in force on or before 05 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 32

Section 144.

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### PART I

##### FUNDING

##### *Interpretation*

- 1 In this Part of this Schedule—
- “the 1996 Act” means the <sup>M1</sup>Education Act 1996;
  - “the appointed day”, in relation to any provision of this Schedule, means such day as may be appointed for the purposes of that provision by an order made by the Secretary of State.

##### Marginal Citations

M1 1996 c. 56.

##### *Continued operation of GMS grants provisions*

- 2 (1) Subject to the provisions of this paragraph, the GMS grants provisions shall continue to have effect on and after the appointed day in relation to—
- (a) any payments of maintenance grant under section 244 or 250 of the 1996 Act in respect of any financial year (or part of such a year) beginning before that day; and
  - (b) any payments of capital or special purpose grants under section 245, 246, 251 or 252 of that Act made before that day.
- (2) Regulations may provide—
- (a) for any functions of the funding authority under the GMS grants provisions—
    - (i) to be discharged instead by the Secretary of State as from a date specified in the regulations, or
    - (ii) to be discharged instead by <sup>F1</sup>local authorities] as from the appointed day (either subject to obtaining the Secretary of State’s consent or otherwise); and
  - (b) for any of those provisions to have effect, for any purposes specified in the regulations, with such modifications as are so specified.

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- (3) Regulations under sub-paragraph (2) shall not authorise a [<sup>F2</sup>local authority] to impose any requirement under section 247(1) of that Act (as it has effect by virtue of sub-paragraph (1)); but the Secretary of State may by order—
- (a) impose such a requirement; or
  - (b) waive or remove such a requirement even though a [<sup>F2</sup>local authority] is by such regulations also authorised to do so.
- (4) In this paragraph “the GMS grants provisions” means sections 244 to 254 and 256 to 258 of the 1996 Act and any regulations in force under any of those provisions immediately before the appointed day.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(3)** (with Sch. 2 para. 10(4))
- F2** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

#### Commencement Information

- I1** Sch. 32 in force at Royal Assent see. s. 145(4); by S.I. 1999/531, **art. 2** it is provided that the appointed day for the purpose of Sch. 32 para. 2(1) and (4) shall be 1.4.1999

#### *Existing loans*

- 3 (1) Any loan made under section 255 of the 1996 Act (loans to governing bodies) shall not be affected by the repeal of that section by this Act.
- (2) Where such a loan was made by the funding authority, any rights or liabilities of the authority in respect of the loan shall become rights or liabilities of the Secretary of State on the appointed day.

#### Commencement Information

- I2** Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, **art. 2(2)** it is provided that the appointed day for the purpose of Sch. 32 para. 3 shall be 1.4.1999

#### *Grants by Secretary of State in respect of planned expenditure*

- 4 (1) Regulations may provide for the payment by the Secretary of State of grants to—
- (a) the governing bodies of schools to which this paragraph applies, or
  - (b) [<sup>F1</sup>local authorities],
- in respect of relevant expenditure incurred or to be incurred by them.
- (2) Regulations under this paragraph may—
- (a) in relation to grants made to the governing bodies of any such schools, make provision corresponding to sub-paragraphs (6) and (7) of paragraph 5 of Schedule 3; and

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- (b) in relation to grants made to the governing bodies of voluntary aided schools, make in addition provision corresponding to sub-paragraphs (8) to (10) of paragraph 5 of that Schedule.
- (3) This paragraph applies to a school if immediately before the appointed day—
- (a) the school was a grant-maintained or grant-maintained special school within the meaning of the 1996 Act, or
- (b) proposals for the establishment of the school fell to be implemented in accordance with section 215 of that Act.
- (4) Each of the following provisions of Schedule 22, namely—
- (a) [F3] paragraphs A1(1)(f) and 1(1)(d)],
- (b) [F4] paragraphs A7(1)(e) and 2(1)(d)], and
- (c) [F5] paragraphs A13(1)(g) and 3(1)(e)],
- shall (subject to sub-paragraph (5) below) apply in relation to any grant made by virtue of this paragraph as if it were such a grant as is mentioned in that provision.
- (5) Sub-paragraph (4) does not apply to any grant made by virtue of this paragraph to the governing body of a voluntary aided school.
- (6) In this paragraph “relevant expenditure” means such expenditure (being expenditure arising out of an obligation incurred or decision made before the appointed day) as may be prescribed.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(3)** (with Sch. 2 para. 10(4))
- F3** Words in Sch. 32 para. 4(4)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 23(a)**; S.I. 2007/935, art. 7(p)
- F4** Words in Sch. 32 para. 4(4)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 23(b)**; S.I. 2007/935, art. 7(p)
- F5** Words in Sch. 32 para. 4(4)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 23(c)**; S.I. 2007/935, art. 7(p)

#### Commencement Information

- I3** Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, **art. 2(3)** and by S.I. 1999/1498, **art. 2** it is provided that the appointed days for Sch. 32, para. 4(3) and (6) for certain purposes shall be 1.4.1999 and 1.9.1999 respectively  
by S.I. 1999/2221, **art. 2** it is provided that the appointed day for Sch. 32 para. 4(3) and (6) for certain purposes shall be 1.9.1999

#### *Deferment of governing body’s right to delegated budget*

- 5 (1) A maintained school falling within section 49(1) shall not have a delegated budget as from the day on which section 49 comes into force if—
- (a) the governing body’s right to a delegated budget has been suspended under section 117 of the <sup>M2</sup>Education Act 1996 (suspension of financial delegation for mismanagement etc.) or section 28 of the <sup>M3</sup>School Inspections Act 1996 (suspension of right to delegated budget); and

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- (b) that suspension has not been previously revoked with effect from that or any earlier day.
- (2) Such a school shall, however, have a delegated budget as from the day with effect from which that suspension is revoked.
- (3) The Secretary of State may by order determine that a relevant school shall not have a delegated budget as from the day on which section 49 comes into force where he considers that it would not be expedient for the school to have such a budget as from that day for reasons connected with—
  - (a) the financial position, or
  - (b) the financial management,
 of the school.
- (4) Where the Secretary of State makes an order under sub-paragraph (3) in relation to a school—
  - (a) for the purposes of Part II of this Act the right of the governing body to a delegated budget shall be treated as if it had been suspended by the [<sup>F2</sup>local authority] under paragraph 1 of Schedule 15 on the day on which section 49 comes into force;
  - (b) paragraphs 2 to 4 (but not 3(1)(a)) of that Schedule shall apply to any such suspension; and
  - (c) the school shall have a delegated budget as from the day with effect from which that suspension is revoked.
- (5) Any reference in any of sections 54 to 57 to any suspension of a school’s delegated budget under Schedule 15 includes a reference to—
  - (a) any suspension of a school’s delegated budget by virtue of sub-paragraph (1); and
  - (b) (in accordance with sub-paragraph (4)), any such suspension by virtue of sub-paragraph (3).
- (6) Where the day on which section 49 comes into force is earlier than the day appointed under section 20(7) any reference in this paragraph to a maintained school is a reference to a school which is (within the meaning of the <sup>M4</sup>Education Act 1996)—
  - (a) a school maintained by a [<sup>F2</sup>local authority], or
  - (b) a grant-maintained or grant-maintained special school,
 and to which section 49 applies in accordance with regulations under section 144(1).
- (7) In this paragraph—
  - (a) “relevant school” means a maintained school which immediately before the day on which section 49 comes into force was a grant-maintained or grant-maintained special school within the meaning of the <sup>M5</sup>Education Act 1996; and
  - (b) references to a school having a delegated budget or to a governing body’s right to such a budget shall be construed in accordance with section 49(7).

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### Textual Amendments

- F2** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

### Modifications etc. (not altering text)

- C1** Sch. 32 para. 5(5)(a) modified (20.11.1998) by S.I. 1998/2670, **reg. 5(2)**

### Marginal Citations

- M2** 1996 c. 56.  
**M3** 1996 c. 57.  
**M4** 1996 c. 56.  
**M5** 1996 c. 56.

## PART II

### OTHER PROVISIONS

#### *Limit on class sizes*

- 6 (1) The transitional provision which may be made for the purposes of section 1 by regulations under section 144(1) includes provision with respect to any relevant time—
- (a) for disapplying to any extent in relation to existing maintained schools (whether or not subject to compliance with any prescribed requirements) section 411(6), 416(1) or 426(1) of the <sup>M6</sup>Education Act 1996 (provisions about admission numbers);
  - (b) for otherwise modifying any of the provisions (whether statutory provisions or articles of government) which are relevant to the determination or publication of the arrangements—
    - (i) for the admission of pupils to such schools, or
    - (ii) for appeals by parents against decisions taken in relation to the admission of pupils to such schools,or to the procedure relating to such appeals;
  - (c) for requiring or authorising bodies responsible for determining such arrangements to determine and publish fresh arrangements, subject to such consultation as may be prescribed, where arrangements previously determined (or previously determined and published) by them are to any extent inconsistent with the provisions mentioned in paragraph (b) as they have effect in accordance with the regulations.
- (2) Regulations made in pursuance of paragraph (b) of sub-paragraph (1) may, in particular, modify the provisions mentioned in that paragraph so that they apply in relation to existing maintained schools with the addition of provisions whose purposes correspond to those of any of paragraphs 6(5), 10(5) and 11 of Schedule 23 to this Act.
- (3) In this paragraph—  
“existing maintained school” means—

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- (a) any county or voluntary school, or
- (b) any grant-maintained school,

within the meaning of the <sup>M7</sup>Education Act 1996;  
“relevant time”, in relation to an existing maintained school, means any time after the coming into force of regulations under section 1 by virtue of which any limit on class sizes is to apply, or be varied, in relation to the school.

**Marginal Citations**

- M6** 1996 c. 56.  
**M7** 1996 c. 56.

*School Teachers’ Pay and Conditions Act 1991*

F67

**Textual Amendments**

- F6** Sch. 32 para. 7 repealed (1.8.2003) by [Education Act 2002 \(c. 32\)](#), s. 216(2), Sch. 21 para. 119, **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 2

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

- C2** Sch. 32 para. 7 applied with modification (from 1.9.1998 to 1.9.1999) by [S.I. 1998/2115](#), **regs.2,3** and 4

*Orders for purposes of section 20(5)*

- 8 The Secretary of State may only make an order under section 20(5) where he considers it appropriate to do so on an application made for the purpose by—
- (a) the former maintaining authority (within the meaning of that provision), or
  - (b) the [<sup>F2</sup>local authority] in whose area the school in question will be situated immediately before the appointed day,
- and received by him not later than 30th November 1998.

**Textual Amendments**

- F2** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s [Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

*Notice by trustees to terminate former voluntary school’s occupation of land*

- 9 (1) This paragraph applies where—
- (a) at any time before the appointed day, whether before or after the date on which this Act is passed, any trustees (being entitled to do so) have given to the governing body of a former voluntary school a notice which is effective to terminate, on or after that day, the school’s occupation of any land held by the trustees for the purposes of the school; and

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- (b) the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site.
- (2) Paragraph 8(2) of Schedule 22 shall apply in relation to the land to which such a notice relates as it applies in relation to the land to which a notice falling within section 30(10) relates.
- (3) Section 30(12) and (13) shall apply, with any necessary modifications, for the purposes of sub-paragraph (1)(b) as they apply for the purposes of section 30(10)(b).
- (4) In this paragraph "former voluntary school" means—
  - (a) any voluntary school, or
  - (b) any grant-maintained school which was a voluntary school immediately before becoming grant-maintained or was established by promoters, within the meaning of the <sup>M8</sup>Education Act 1996, which on the appointed day becomes a foundation or voluntary school within the meaning of this Act.

#### Marginal Citations

**M8** 1996 c. 56.

#### *Transfer of sites provided under sections 60 and 61 of the Education Act 1996*

- 10 (1) This paragraph applies where—
- (a) before the appointed day a site was provided for a school by a [<sup>F2</sup>local authority] under section 60 or 61 of the <sup>M9</sup>Education Act 1996 (obligation of [<sup>F1</sup>local authorities] to provide new sites and buildings for voluntary schools); but
  - (b) no conveyance was made in respect of that site under section 60(2) or (as the case may be) section 61(2) of that Act before that day.
- (2) Where the site was provided under section 60 of that Act, sub-paragraphs (3) to (11) (but not (7)(b)) of paragraph 2 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.
- (3) Where the site was provided under section 61 of that Act, sub-paragraphs (3) to (9) of paragraph 4 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(3)** (with Sch. 2 para. 10(4))
- F2** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

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**Marginal Citations**

**M9** 1996 c. 56.



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