



# Diocesan Boards of Education Measure 1991

1991 No. 2

## **1 Diocesan Boards of Education**

- (1) For every diocese there shall be a Diocesan Board of Education which shall have the functions assigned to it by this Measure and shall be responsible to the diocesan synod; and references in this Measure to “the Board” shall be construed as referring to the Diocesan Board of Education for the diocese concerned.
- (2) The Board shall be constituted in accordance with the provisions of Part I of the Schedule to this Measure, except that if the diocesan synod resolve that instead of being so constituted the Board shall be constituted in accordance with provisions agreed by that synod, the diocesan synod may with the consent of the bishop request the Secretary of State to make an order for the Board to be constituted in accordance with that resolution, and the Secretary of State upon receiving such a request may if he thinks fit make an order accordingly.
- (3) The Secretary of State may amend or revoke an order made under subsection (2) above only upon a request made by the diocesan synod with the consent of the bishop of the diocese, and the amendment or revocation shall be in accordance with the resolution of that synod.
- (4) The bishop, after consultation with the Board, shall appoint a director of education for the diocese who shall act as secretary of the Board.
- (5) The Board may be a body corporate or unincorporate.
- (6) The provisions of Part II of the Schedule to this Measure shall have effect with respect to the proceedings of the Board, whether the Board is constituted in accordance with the provisions of Part I of that Schedule or an order made by the Secretary of State.

## **2 Functions of Board**

- (1) The functions of the Board shall be—

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- (a) to promote or assist in the promotion of education in the diocese, being education which is consistent with the faith and practice of the Church of England;
  - (b) to promote or assist in the promotion of religious education and religious worship in schools in the diocese;
  - (c) to promote or assist in the promotion of church schools in the diocese and to advise the governors of such schools and trustees of church educational endowments and any other body or person concerned on any matter affecting church schools in the diocese;
  - (d) to promote cooperation between the Board and bodies or persons concerned in any respect with education in the diocese;
  - (e) the functions assigned to the Board by this Measure; and
  - (f) such other functions not contrary to this Measure as are assigned to the Board by the diocesan synod, other than functions relating to church schools or church educational endowments.
- (2) The Board shall have power to do all such things as are incidental or conducive to the discharge of its functions.
- (3) The Board shall make to the diocesan synod, as soon as may be after the end of each year, a report on the exercise of its functions since the last report or (in the case of the first) since the Board's establishment.

### **3 Transactions for which advice or consent of Board is required**

- (1) The governing body of any church school, and the trustees of any church educational endowment held wholly or partly for or in connection with any church school, shall obtain the advice of the Board for the diocese in which the school is situated and shall have regard to that advice before making any application to or entering into any agreement or arrangement with any body or person for or in connection with the discontinuance of the school, any change in the status, size or character of the school, significant enlargement of its premises, any disposal (whether by sale or otherwise) of the premises of the school or any part thereof, or any amalgamation of that school with any other school.
- (2) Subject to subsection (3) below, the governing body of any church school which is an aided or special agreement school shall not, unless it has obtained the consent in writing of the Board for the diocese in which the school is situated, enter into any agreement or arrangement with any body or person for or in connection with any alteration or repair of the premises of the school, being an alteration or repair in respect of which grant may be paid by the Secretary of State or of which the approval of the Secretary of State is required before it is carried out.
- (3) Subsection (2) above shall not apply in relation to any alteration or repair of premises of which the estimated cost is less than such amount as may from time to time be determined by the Board for the diocese in which the school is situated.
- (4) In the case of any Church of England voluntary school which is eligible for grant-maintained status, if the governing body decides by a resolution passed under paragraph (a) of section 60(1) of the 1988 Act to hold a ballot of parents on the question of whether grant-maintained status should be sought for the school it shall, not later than twenty-one days after the passing of the resolution, obtain the advice of the Board

for the diocese in which the school is situated and have regard to that advice before confirming that decision by a further resolution under that paragraph.

- (5) Without prejudice to subsection (2) of section 89 of the 1988 Act, no proposals shall be published under that section for the purpose of making a significant change in the religious character of a church school unless the Board for the diocese in which the school is situated has given its consent in writing to the change in question.
- (6) Where the giving of advice under subsection (1) or (4) or consent under subsection (2) or (5) above is to be considered at any meeting of the Board, at least fourteen days' notice of the time and place at which the meeting is to be held shall be given by the secretary of the Board to the secretary of the governing body of the school concerned, and the governors of that school shall be entitled to attend that meeting.

#### **4 Advice of Board required for alteration of purposes of church educational endowments**

The trustees of any church educational endowment held wholly or partly for or in connection with a church school shall obtain the advice of the Board for the diocese in which the school is situated and shall have regard to that advice before making or agreeing to the making of any alteration in the purposes for which the endowment may be applied.

#### **5 Proposals for acquisition of grant-maintained status**

The statement annexed under subsection (5) of section 62 of the 1988 Act to proposals for acquisition of grant-maintained status for a Church of England voluntary school shall include an account of the advice given by the Board under section 3(4) above and provide confirmation that the governing body of the school has had regard to that advice and, if it has departed from it, its reasons for so doing.

#### **6 Board to be consulted in certain cases**

- (1) Without prejudice to section 13(1) of the 1988 Act, a local education authority shall consult the Board for any diocese in which the authority exercises its functions before appointing a person to represent the Church of England as a member of a standing advisory council on religious education under section 11 of that Act.
- (2) Before making any modifications of a trust deed or other instrument relating to a church school by order under section 102 of the 1988 Act the Secretary of State shall consult the Board for the diocese in which the school is situated, as well as the persons with whom consultation is required by subsection (1) of that section.

#### **7 Powers of Board to give directions to governing bodies of aided church schools**

- (1) Where the Board is satisfied that the governing body of any aided church school in the diocese is discharging its functions in relation to any matter affecting the status, continuance, size or character of the school or any significant enlargement of its premises in a manner which is not in the best interests of that school or of church schools generally or that the governing body of any such school has failed to discharge its functions in relation to any such matter, the Board shall have power to give directions to that governing body as to the exercise of those functions.

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- (2) Where the giving of directions under subsection (1) above is to be considered at any meeting of the Board, at least fourteen days' notice of the time and place at which the meeting is to be held shall be given by the secretary of the Board to the secretary of the governing body of the school concerned, and the governors of that school shall be entitled to attend that meeting; and no directions shall be given unless they have been approved by a two-thirds majority of the members of the Board present and voting at the meeting.
- (3) It shall be the duty of a governing body to comply with any lawful directions given to it under subsection (1) above and if, before the expiration of the period of six months beginning on the date on which the directions are given, the governing body fails to comply with directions with respect to any of the following matters, that is to say—
- (a) an application under section 15(4) of the Education Act 1944 (revocation of order whereby school is an aided school); or
  - (b) the submission to the Secretary of State of proposals under section 13(1)(b) of the Education Act 1980 (change in character of school),
- the Board may itself make that application or submit those proposals and the provisions of the Education Acts 1944 to 1988 shall apply in relation to anything done by the Board by virtue of this subsection as if it had been done by the governing body of the school.
- (4) Where the Board gives any directions under subsection (1) above it shall cause a report thereon to be laid before the next meeting of the diocesan synod.
- (5) In this section any reference to the functions of a governing body shall be construed as excluding functions in relation to the acquisition of grant-maintained status.

## **8 Powers of Board to give directions to trustees of church educational endowments**

- (1) Where the Board is satisfied that the trustees of any church educational endowment held wholly for a church school in the diocese are discharging their functions in relation to the endowment in such a manner that the endowment is not being applied in the best interests of the school or that the trustees of any such endowment have failed to discharge their functions in relation to that endowment, the Board shall have power to give directions to those trustees as to the exercise of those functions; and it shall be the duty of the trustees to comply with those directions before the expiration of the period of six months beginning with the date on which the directions are given.
- (2) Where the Board gives any directions under subsection (1) above it shall as soon as practicable cause a report thereon to be laid before the diocesan synod.

## **9 Attendance of diocesan director of education at aided school governing bodies' proceedings**

Where, in the case of an aided church school, the chief education officer of the local education authority concerned or officer of the authority nominated by him is entitled, by virtue of section 45(6) of the 1988 Act, to attend any proceedings of the governing body of the school for the purpose of giving advice to the governing body the diocesan director of education concerned shall also be entitled to attend the proceedings for that purpose.

## 10 Interpretation

(1) In this Measure—

“the 1988 Act” means the Education Reform Act 1988;

“church educational endowment” means an educational endowment which includes among the purposes for which it may be applied religious education according to the faith and practice of the Church of England;

“Church of England voluntary school” means a voluntary school in respect of which any trust deed or other instrument requires provision to be made at the school for religious education according to the faith and practice of the Church of England or in which, in the absence of any such instrument, such provision has been made by custom and practice;

“church school” means a Church of England voluntary school or a grant-maintained school which was such a voluntary school immediately before it became a grant-maintained school;

“educational endowment” means an endowment which, or the income of which, may be applied for the purposes of education;

“endowment” includes property not subject to any restriction on the expenditure of capital.

(2) Any reference in this Measure to a change in the character of a school means a change in the religious character of the school or a change in character resulting from education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as for girls, or for girls as well as for boys, or from the making or alteration of arrangements for the admission of pupils by reference to ability or aptitude; and any reference to a matter affecting the character of a school shall be construed accordingly.

(3) Expressions used in this Measure which are also used in the 1988 Act shall, unless the context otherwise requires, have the same meanings as in that Act.

## 11 Amendment and repeal

(1) In section 5(5) of the Parochial Church Councils (Powers) Measure 1956—

(a) for the words “diocesan education committee of the diocese” there shall be substituted the words “diocesan board of education for the diocese”; and

(b) the words from “In this subsection” to the end of the section shall be omitted.

(2) The Diocesan Education Committees Measure 1955 is hereby repealed.

## 12 Transitional provisions

(1) Any diocesan education committee constituted, or deemed to be constituted, in accordance with the Schedule to the Diocesan Education Committees Measure 1955 shall, if in existence on the date on which this Measure comes into force, be deemed to be a Diocesan Board of Education constituted in accordance with Part I of the Schedule to this Measure and shall continue in existence until the 1st January next after the first elections of elected members of the Board held under Part I of the Schedule to this Measure.

(2) Any diocesan education committee constituted in accordance with an order made by the Minister of Education or the Secretary of State under section 1 of the Diocesan Education Committees Measure 1955 shall, if that order is in force on the date

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on which this Measure comes into force, be deemed to be a Diocesan Board of Education constituted in accordance with an order made by the Secretary of State under section 1(2) of this Measure, and the order made under the said Measure of 1955 shall continue in force until—

- (a) such time as a new Diocesan Board of Education is constituted in accordance with Part I of the Schedule to this Measure or with an order so made; or
- (b) on the expiry of the period of three years following the coming into force of this Measure,

whichever first occurs.

- (3) Any diocesan education committee which is deemed to be a Diocesan Board of Education by virtue of subsection (1) or (2) above shall not have power to give directions under section 7 or 8 of this Measure.

### **13 Short title, extent and commencement**

- (1) This Measure may be cited as the Diocesan Boards of Education Measure 1991.
- (2) This Measure shall extend to the whole of the provinces of Canterbury and York, except the Channel Islands and the Isle of Man, but may be applied to the Channel Islands, as defined in the Channel Islands (Church Legislation) Measures 1931 and 1957, or either of them, in accordance with those Measures, and may be extended to the Isle of Man by or under Act of Tynwald.
- (3) This Measure shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint.