



Education Act 1973

1973 CHAPTER 16

Educational trusts

2 Special powers as to certain trusts for religious education.

[^{F1}(1) Where the premises of a voluntary school or a grant-maintained school have ceased (whether before or after the passing of the Education Reform Act 1988) to be used for a voluntary school or, as the case may be, a grant-maintained school, or in the opinion of the Secretary of State it is likely they will cease to be so used, then subject to subsections (2) to (4) below, he may by order made by statutory instrument 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 [^{F2}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 (1C) below) the requirements of subsection (1A) below are fulfilled.

(1A) The requirements of this subsection are—

- (a) that the school was or has been maintained as a voluntary school since 1st April 1945 (the coming into force of Part II of the ^{M1} Education Act 1944) 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 [^{F3}religion or] denomination concerned—
 - (i) is, and from that date has been, 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;

in pursuance of section 27 or 28 of that Act (religious education in voluntary schools) or section [^{F4}139 or 140 of the Education Act 1993] (religious education in grant-maintained schools which were formerly voluntary schools).

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- (1B) 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.
- (1C) For the purposes of this section—
- (a) where in the case of any school falling within subsection (1A)(a) above it is shown—
 - (i) that religious education in accordance with the tenets of a particular [^{F5}religion or] denomination is provided at the school; or
 - (ii) where 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; 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.]
- (2) No order shall be made under subsection (1) above except on the application of the persons appearing to the Secretary of State to be the appropriate authority of the [^{F5}religion or] denomination concerned; and the Secretary of State shall, not less than one month before making an order under that subsection, give notice of the proposed order and of the right of persons interested to make representations on it, and shall take into account any representations that may be made to him by any person interested therein before the order is made; and the 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.
- (3) An order under subsection (1) above 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 [^{F6}and may consolidate any endowments to be dealt with by the scheme]; . . . ^{F7}.
- (4) Subject to subsection (3) above and to any provision affecting the endowments of any public general Act of Parliament, an order under subsection (1) above shall establish and give effect, with a view to enabling the [^{F5}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
- [^{F8}(a) in connection with schools which are voluntary schools or grant-maintained schools; or

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- (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 school or grant-maintained school at the premises that have gone or are to go out of use for such a school;] and for this purpose “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 [^{F5}religion or] denomination concerned [^{F9}including, in particular, but without prejudice to the generality of the foregoing words, use for any purpose specified in Schedule 17 to the Education Act 1993.]
- (5) A scheme given effect under this section may provide for the retention of the capital of any endowment and application of the accruing income or 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 thereby dealt with 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 (4) above.
- [^{F10}(5A) Where a scheme given effect under this section provides for the endowments dealt with by the order or any part of them to be used for the purposes specified in Schedule 17 to the Education Act 1993, 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 under this section or otherwise).]
- (6) An order under subsection (1) above may include any 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 thereby established, including in particular provisions 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 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 this section shall have effect notwithstanding any Act of Parliament (not being a public general Act), letters patent or other instrument relating to, or trust affecting, the endowments dealt with by the order; ^{F11} . . .
- (8) This section shall apply where the premises of a nonprovided 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 a voluntary school.
- (9) This section shall be construed, and the ^{M2}Education Acts 1944 to [^{F12}1993] shall have effect, as if this section were contained in the Education Act 1944.

Textual Amendments

- F1** S. 2(1)(1A)–(1C) substituted for subsection (1) by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), **ss. 112(2), 118(1)(4), 231(7), 235(6)**
- F2** Words in s. 2(1)(a) inserted (1.4.1994) by [1993 c. 35, ss. 307\(1\), Sch. 19 para. 52\(a\)](#); [S.I. 1994/507, art. 4, Sch. 2](#)
- F3** Words in s. 2(1A)(b) inserted (1.4.1994) by [1993 c. 35, ss. 307\(1\), Sch. 19 para. 52\(b\)\(i\)](#); [S.I. 1994/507, art. 4, Sch. 2](#)

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- F4** Words in s. 2(1A)(b) substituted (1.4.1994) by 1993 c. 35, ss. 307(1), **Sch. 19 para. 52(b)(ii)**; S.I. 1994/507, art. 4, **Sch.2**
- F5** Words in 2(1C),(2) and (4) inserted (1.4.1994) by 1993 c. 35, ss. 307(1), **Sch. 19 para. 52(c)**; S.I. 1994/507, art. 4, **Sch. 2**
- F6** Words in s. 2(3) inserted (1.1.1994) by 1993 c. 35, s. **288(3)**; S.I. 1993/3106, art. 4 **Sch. 1**
- F7** Words repealed by Reverter of Sites Act 1987 (c. 15, SIF 98:1), s. 8(3), **Sch.**
- F8** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 112(3)**, 118(1)(4), 231(7), 235(6)
- F9** Words in s. 2(4) inserted (1.1.1994) by 1993 c. 35, s. **288(2)**; S.I. 1993/3106, art. 4 **Sch. 1**
- F10** S. 2(5A) inserted (1.1.1994) by 1993 c. 35, s. **288(4)**; S.I. 1993/3106, art. 4 **Sch. 1**
- F11** Words in s. 2(7) repealed (1.8.1993) by 1993 c. 10, ss. 98(2), 99(1), **Sch. 7**
- F12** Words in s. 2(9) inserted (1.4.1994) by 1993 c. 35, ss. 307(1), **Sch. 19 para. 52(d)**; S.I. 1994/507, art. 4, **Sch.2**

Modifications etc. (not altering text)

- C1** S. 2 amended by Reverter of Sites Act 1987 (c. 15, SIF 98:1), s. 5

Marginal Citations

- M1** 1944 c. 31 (41:1).
M2 1944 c. 31.

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