



Education (No. 2) Act 1986

1986 CHAPTER 61

PART I

INTRODUCTORY

1 Instruments of government and articles of government

- (1) For every county, voluntary and maintained special school there shall be—
 - (a) an instrument providing for the constitution of a governing body of the school (to be known as the instrument of government); and
 - (b) an instrument in accordance with which the school is to be conducted (to be known as the articles of government).
- (2) The instrument of government and articles of government shall be made by order of the local education authority.
- (3) The instrument of government shall contain such provisions as are required either by Part II of this Act (which is concerned, among other things, with the size and composition of governing bodies and the procedures for electing members and filling vacancies) or by any other enactment.
- (4) The articles of government shall contain such provisions as are required either by Part III of this Act (which is concerned, among other things, with the manner in which schools are to be conducted and the allocation of functions between the local education authority, the governing body and the head teacher) or by any other enactment.
- (5) The instrument of government and articles of government shall—
 - (a) contain no provision which is inconsistent with any provision made by or under this Act or any other enactment ; and
 - (b) comply with any trust deed relating to the school.
- (6) This section is subject to the following provisions of this Act—
 - (a) section 9 (which provides for two or more schools to be grouped under a single governing body in certain circumstances) ; and

Status: This is the original version (as it was originally enacted).

- (b) section 12 (which provides for certain existing, or proposed, schools to have temporary governing bodies pending the constitution of governing bodies under instruments of government).

2 Procedure in relation to making etc. of instruments and articles

- (1) Before making any order under section 1 of this Act, a local education authority shall consult the governing body and the head teacher of the school concerned.
- (2) Before making any such order in respect of a voluntary school, a local education authority shall—
- (a) secure the agreement of the governing body to the terms of the proposed order ;
 - (b) if it embodies or varies an instrument of government, secure the agreement of the foundation governors to any provisions which are of particular concern to those governors; and
 - (c) have regard to the way in which the school has been conducted.
- (3) Where the governing body of any county, voluntary or maintained special school make a proposal to the local education authority for the alteration of the provision made by the instrument of government, or articles of government, for the school, it shall be the duty of the authority to consider their proposal.
- (4) Where—
- (a) the foundation governors of a voluntary school make a proposal to the local education authority for the alteration of the provision made by the instrument of government for the school; and
 - (b) the proposal relates solely to one or more matters which are of particular concern to those governors;
- it shall be the duty of the authority to consider their proposal.
- (5) Where a local education authority—
- (a) propose to make an order under section 1 but cannot secure any agreement required by subsection (2) above ; or
 - (b) refuse, in the case of a voluntary school, to make such an order in response to a proposal of a kind mentioned in subsection (3) or (4) above;
- the authority or (as the case may be) the governing body or foundation governors may refer the matter to the Secretary of State.
- (6) On any reference to him under subsection (5) above, the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the status of the school as a controlled, aided or (as the case may be) special agreement school.
- (7) Where it appears to the Secretary of State—
- (a) that an order, or proposed order, under section 1 is in any respect inconsistent with the provisions of any trust deed relating to the school; and
 - (b) that it is expedient in the interests of the school that the provisions of the trust deed should be modified for the purpose of removing the inconsistency ;
- he may by order make such modifications in the trust deed as appear to him to be just and expedient for that purpose.