



# Education (No. 2) Act 1986

## 1986 CHAPTER 61

### PART IV

#### MISCELLANEOUS

#### **43 Freedom of speech in universities, polytechnics and colleges.**

- (1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.
- (2) The duty imposed by subsection (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with—
  - (a) the beliefs or views of that individual or of any member of that body; or
  - (b) the policy or objectives of that body.
- (3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out—
  - (a) the procedures to be followed by members, students and employees of the establishment in connection with the organisation—
    - (i) of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and
    - (ii) of other activities which are to take place on those premises and which fall within any class of activity so specified; and
  - (b) the conduct required of such persons in connection with any such meeting or activity;and dealing with such other matters as the governing body consider appropriate.
- (4) Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of

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the code of practice for that establishment, issued under subsection (3) above, are complied with.

(5) The establishments to which this section applies are—

(a) any university;

[<sup>F1</sup>(aa) any institution other than a university within the higher education sector]

[<sup>F2</sup>(b) any establishment of higher or further education which is maintained by a local education authority;]

[<sup>F3</sup>(ba) any institution within the further education sector]

<sup>F4</sup>(c) .....

(6) In this section—

“governing body”, in relation to any university, means the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs (that is to say the body commonly called the council of the university);

“university” includes a university college and any college, or institution in the nature of a college, in a university.

(7) Where any establishment—

(a) falls within subsection (5)(b) above; or

<sup>F5</sup>(b) .....

the local education authority [<sup>F6</sup> . . .] shall, for the purposes of this section, be taken to be concerned in its government.

(8) Where a students’ union occupies premises which are not premises of the establishment in connection with which the union is constituted, any reference in this section to the premises of the establishment shall be taken to include a reference to the premises occupied by the students’ union.

**Textual Amendments**

- F1** S. 43(5)(aa) substituted (1.4.1993) (for s. 43(5)(aa) which was inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 100(2)**) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8** para. Pt. I 22(a)(i); S.I. 1992/831, art. 2, **Sch. 3**
- F2** S. 43(5)(b) substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 100(3)**
- F3** S. 43(5)(ba) inserted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, **Sch. 8 Pt. I para. 22(a)(ii)**; S.I. 1992/831, art. 2, **Sch.3**
- F4** S. 43(5)(c) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, Sch. 8 Pt. I para. 22(a)(iii), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**Appendix
- F5** S. 43(7)(b) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, Sch. 8 Pt. I, para. 22(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**Appendix
- F6** Words in s. 43(7) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, Sch. 8 Pt. I para. 22(b), **Sch.9**; S.I. 1992/831, art. 2, **Sch. 3**Appendix

**44 Political indoctrination.**

(1) The local education authority by whom any county, voluntary or special school is maintained, and the governing body and head teacher of the school shall forbid—

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- (a) the pursuit of partisan political activities by any of those registered pupils at the school who are junior pupils; and
  - (b) the promotion of partisan political views in the teaching of any subject in the school.
- (2) In the case of activities which take place otherwise than on the premises of the school concerned, subsection (1)(a) above applies only where arrangements for junior pupils to take part in the activities are made by any member of the staff of the school (in his capacity as such) or by anyone acting on his, or the school's behalf.

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

C1 S. 44 extended (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.8**; S.I. 1994/2038, art. 3, **Sch. 2**

**45 Duty to secure balanced treatment of political issues.**

The local education authority by whom any county, voluntary or special school is maintained, and the governing body and head teacher of the school, shall take such steps as are reasonably practicable to secure that where political issues are brought to the attention of pupils while they are—

- (a) at the school; or
  - (b) taking part in extra-curricular activities which are provided or organised for registered pupils at the school by or on behalf of the school;
- they are offered a balanced presentation of opposing views.

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

C2 S. 45 extended (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 8**; S.I. 1994/2038, art. 3, **Sch.2**

**46 Sex education.**

The local education authority by whom any county, voluntary or special school is maintained, and the governing body and head teacher of the school, shall take such steps as are reasonably practicable to secure that where sex education is given to any registered pupils at the school it is given in such a manner as to encourage those pupils to have due regard to moral considerations and the value of family life.

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

C3 S. 46 extended (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.8**; S.I. 1994/2038, art. 3, **Sch.2**

**[<sup>F7</sup>46A Application of sections 44 to 46 to grant-maintained schools.**

Sections 44 to 46 of this Act shall apply in relation to the governing body and head teacher of, and the junior pupils and other pupils at, a grant-maintained school as they apply in relation to the governing body and head teacher of, and the junior pupils and other pupils at, a county, voluntary or maintained special school.]

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### Textual Amendments

- F7** S. 46A inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 34**

### Modifications etc. (not altering text)

- C4** S. 46A applied (with modifications)(1.4.1994) by S.I. 1994/653, regs. 2(2), 42(1), **Sch. Pt.I**  
S. 46A applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

## 47 Abolition of corporal punishment.

(1) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil [<sup>F8</sup>to whom this subsection applies] by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.

[<sup>F9</sup>(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.

<sup>F9</sup>(1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.]

(2) Subject to subsection (3) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute battery.

(3) A person is not to be taken for the purposes of this section as giving corporal punishment by virtue of anything done for reasons that include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).

(4) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it is done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.

(5) [<sup>F10</sup>Subsection (1) above applies to a pupil]

(a) for whom education is provided—

(i) at a school maintained by a local education authority;

(ii) at a special school not so maintained; . . . <sup>F11</sup>

[<sup>F12</sup>(ia) at a grant-maintained school; or]

(iii) at an independent school which is maintained or assisted by a Minister of the Crown (including a school of which a government department is the proprietor) or assisted by a local education authority and which falls within a prescribed class;

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- (b) for whom primary or secondary education, or education which would be primary or secondary education if it were provided full-time, is provided by a local education authority otherwise than at a school; or
  - (c) to whom subsection (6) below applies and for whom education is provided at an independent school which does not fall within paragraph (a)(iii) above;
- [<sup>F10</sup>and in this section “pupil”]does not include any person who is aged eighteen or over.
- (6) This subsection applies to a person if—
    - (a) he holds an assisted place under a scheme operated by the Secretary of State under section 17 of the 1980 Act;
    - (b) any of the fees or expenses payable in respect of his attendance at school are paid by the Secretary of State under section 100 of the 1944 Act or by a local education authority under section 6 of the <sup>M1</sup>Education (Miscellaneous Provisions) Act 1953; [<sup>F13</sup>or by the funding authority or a local education authority under paragraph 9 or 10 of Schedule 2 to the Education Act 1993]
    - (c) any of the fees payable in respect of his attendance at school are paid by a local education authority under section 81 of the 1944 Act; or
    - (d) he falls within a prescribed category of persons.
  - (7) The Secretary of State may prescribe, for the purposes of subsection (6)(d) above, one or more categories of persons who appear to him to be persons in respect of whom any fees are paid out of public funds.
  - (8) A person shall not be debarred from receiving education (whether by refusing him admission to a school, suspending his attendance or otherwise) by reason of the fact that this section applies in relation to him, or if he were admitted might so apply.
  - (9) The power conferred on the Secretary of State by paragraph 4 of Schedule 4 to the 1980 Act to terminate a participation agreement under section 17 of that Act if he is not satisfied that appropriate educational standards are being maintained includes power to do so if he is not satisfied that subsection (8) above is being complied with.
  - (10) In this section “member of the staff” means—
    - (a) in relation to a person who is a pupil by reason of the provision of education for him at any school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there; and
    - (b) in relation to a person who is a pupil by reason of the provision of education for him by a local education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.
  - (11) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M2</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for the purposes corresponding to those of this section—
    - (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
    - (b) shall be subject to annulment in pursuance of a resolution of either House.

#### Extent Information

**E1** S. 47: s. 47(11) extends to Northern Ireland

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#### Textual Amendments

- F8** Words in s. 47(1) inserted (1.10.1993) by 1993 c. 35, s. 293(2); S.I. 1993/1975, art. 9 Sch. 1
- F9** S. 47(1A)(1B) inserted (1.10.1993) by 1993 c. 35, s. 293(2); S.I. 1993/1975, art. 9 Sch. 1
- F10** Words in 47(5) substituted (1.10.1993) by 1993 c. 35, s. 293(3)(a)(b); S.I. 1993/1975, art. 9, Sch. 1
- F11** Word repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), Sch. 13 Pt. II
- F12** S. 47(5)(a)(ia) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 35
- F13** Words in s. 47(6)(b) added (1.4.1994) by 1993 c. 35, s. 307(1), Sch. 19 para. 101(b); S.I. 1994/507, art. 4, Sch.2

#### Marginal Citations

- M1** 1953 c. 33.
- M2** 1974 c. 28.

## 48 Abolition of corporal punishment: Scotland.

After section 48 of the <sup>M3</sup>Education Act (Scotland) 1980, there shall be inserted the following new section—

### *“ Corporal Punishment*

#### **48A Abolition of corporal punishment of pupils.**

- (1) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.
- (2) Subject to subsection (3) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute physical assault upon the person.
- (3) A person is not to be taken for the purposes of this section as giving corporal punishment by virtue of anything done for reasons which include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).
- (4) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it was done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.
- (5) In this section “pupil” means a person—
  - (a) for whom education is provided—
    - (i) at a public school,
    - (ii) at a grant-aided school, or
    - (iii) at an independent school, maintained or assisted by a Minister of the Crown, which is a school prescribed by regulations

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- made under this section or falls within a category of schools so prescribed.
- (b) for whom school education is provided by an education authority otherwise than at a school, or
  - (c) to whom subsection (6) below applies and for whom education is provided at an independent school which does not fall within paragraph (a)(iii) above.
- (6) This subsection applies to a person if—
- (a) he holds an assisted place under a scheme operated by the Secretary of State under section 75A of this Act.
  - (b) any of the fees or expenses payable in respect of his attendance at school are paid by the Secretary of State under section 73(f) of this Act.
  - (c) any of the fees payable in respect of his attendance at school are paid by an education authority under section 24(1)(c), 49(2)(b), 50(1) or 64(3) of this Act, or
  - (d) he falls within a category, prescribed by regulations made under this section, of persons appearing to the Secretary of State to be persons in respect of whom any fees are paid out of public funds.
- (7) In this section “member of the staff” means—
- (a) in relation to a person who is a pupil by reason of the provision of education for him at any school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there, and
  - (b) in relation to a person who is a pupil by reason of the provision of school education for him by an education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.
- (8) The Secretary of State may, by order made by statutory instrument, prescribe—
- (a) schools or categories of school for the purposes of subsection (5)(a)(iii) above; and
  - (b) categories of persons for the purposes of subsection (6)(d) above.
- (9) A person shall not be debarred from receiving education (whether by refusing him admission to, or excluding him from, a school or otherwise) by reason of the fact that this section applies in relation to him, or if he were admitted might so apply.
- (10) The power conferred on the Secretary of State by paragraph 4 of Schedule 1A to this Act to revoke a determination under section 75A of this Act if he is not satisfied that appropriate educational standards are being maintained includes power to do so if he is not satisfied that subsection (9) above is being complied with.”

#### Marginal Citations

M3 1980 c. 44.



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#### 49 Appraisal of performance of teachers.

- (1) The Secretary of State may by regulations make provision requiring local education authorities, or such other persons as may be prescribed, to secure that the performance of teachers to whom the regulations apply—
- (a) in discharging their duties; and
  - (b) in engaging in other activities connected with the establishments at which they are employed;
- is regularly appraised in accordance with such requirements as may be prescribed.
- (2) The regulations may, in particular, make provision—
- (a) requiring the governing bodies of such categories of schools or other establishments as may be prescribed—
    - (i) to secure, so far as it is reasonably practicable for them to do so, that any arrangements made in accordance with the regulations are complied with in relation to their establishments; and
    - (ii) to provide such assistance to the local education authority as the authority may reasonably require in connection with their obligations under the regulations;
  - (b) with respect to the disclosure to teachers of the results of appraisals and the provision of opportunities for them to make representations with respect to those results; and
  - (c) requiring local education authorities to have regard to the results of appraisals in the exercise of such of their functions as may be prescribed.
- (3) The regulations may be expressed to apply to any of the following categories of teacher, that is to say teachers employed—
- (a) at any school maintained by a local education authority;
  - (b) at any special school (whether or not so maintained);
  - [<sup>F14</sup>(ba) at any grant-maintained school;]
  - (c) at any [<sup>F15</sup>establishment of higher or further education maintained] by a local education authority;
  - <sup>F16</sup>(d) .....
  - <sup>F16</sup>(da) .....
  - [<sup>F17</sup>(db) at any institution within the further education sector]
  - (e) at any school or other establishment which falls within any prescribed class of school, or other establishment, of a kind mentioned in any of paragraphs (a) to [<sup>F18</sup>(db)] above; or
  - (f) by a local education authority otherwise than at a school or [<sup>F19</sup>establishment of higher or further education].
- (4) Before making any regulations under subsection (1) above, the Secretary of State shall consult—
- (a) such associations of local authorities, and representatives of teachers, as appear to him to be concerned; and
  - (b) any other person with whom consultation appears to him to be desirable.

#### Textual Amendments

**F14** S. 49(3)(ba) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 36



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- F15** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 101(2)**
- F16** S. 49(3)(d)(da) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8, Pt. I para. 23(a), **Sch.9**; S.I. 1992/831, art. 2, **Sch. 3** Appendix
- F17** S. 49(3)(db) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I**, para.23(b); S.I. 1992/831, **art. 2**, Sch. 3
- F18** Words in 49(3)(e) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8 Pt. I para.23(c)**; S.I. 1992/831, **art. 2**, Sch. 3,
- F19** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 101(6)**

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

- C5** S. 49 excluded (1.10.1998) by 1998 c. 30 s. 19(7) (with s. 42(8)); S.I. 1998/2215, **art.2**

**50 Grants for teacher training, etc.**

- (1) The Secretary of State may by regulations make provision for the payment by him to [<sup>F20</sup>persons other than local education authorities] of grants to facilitate and encourage the training of—
  - (a) teachers; [<sup>F21</sup>and
  - (b) such other classes of person as may be prescribed]
- (2) For the purposes of this section “training” includes—
  - (a) further training, whether or not the person undergoing it is already qualified;
  - (b) the provision of experience (whether or not within education) which is likely to benefit a person in his [<sup>F22</sup>employment];
  - (c) training a person with a view to his continuing to be employed in education but in a different capacity; and
  - (d) the study of matters connected with, or relevant to, education.
- (3) Regulations under this section may, in particular—
  - (a) provide for grants to be payable only in respect of training approved by the Secretary of State for the purposes of the regulations;
  - (b) make provision whereby the making of payments by the Secretary of State in pursuance of the regulations is dependent on the fulfilment of such conditions as may be prescribed or otherwise determined by the Secretary of State; and
  - (c) make provision requiring <sup>F23</sup> . . . persons, to whom payments have been made in pursuance of the regulations to comply with such requests as may be prescribed or so determined.

<sup>F24</sup>(4) . . . . .

**Textual Amendments**

- F20** Words in s. 50(1) substituted (1.4.1994) by 1993 c. 35, s. 278(6)(a); S.I. 1994/507, art. 4, **Sch. 2**
- F21** S. 50(1)(b) substituted (1.4.1994) for s. 50(1)(b)-(g) and preceding word by 1993 c. 35, s. 278(6)(b); S.I. 1994/507, art. 4, **Sch.2**
- F22** Words in s. 50(2)(b) substituted (1.4.1994) by 1993 c. 35, s. 307(1)(3), **Sch. 19 para. 102(a)**; S.I. 1994/507, art. 4, **Sch.2**
- F23** Words in s. 50(3)(c) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 102(b)(i), **Sch. 21 Pt.II**; S.I. 1994/507, art. 4, **Sch. 2** Appendix

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**F24** S. 50(4) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 102(b)(ii), **Sch. 21 Pt.II**; S.I. 1994/507, art. 4, **Sch. 2** Appendix

**51 Recoupment.**

- (1) Subject to subsection (2) below, where any provision for primary, secondary or further education is made by a local education authority in respect of a pupil who belongs to the area of another such authority, the providing authority shall, on making a claim within the prescribed period, be entitled to be paid by the other authority—
  - (a) such amount as the authorities may agree; or
  - (b) failing agreement, such amount as may be determined in accordance with a direction given by the Secretary of State under this subsection.
- (2) Subsection (1) above does not apply to provision for—
  - (a) primary education made (otherwise than in a hospital) in respect of a pupil who has not attained the age of five years; or
  - (b) further education <sup>F25</sup> . . . . .

unless it is made with the consent of the authority from whom payment is claimed.
- (3) Any direction under subsection (1) above may—
  - (a) be a general direction applying to all cases to which it is expressed to apply or a direction applying to a particular case;
  - (b) be designed to provide for the amounts payable by one authority to another to reflect average costs incurred by local education authorities in the provision of education (whether in England and Wales as a whole or in any particular area or areas); and
  - (c) be based on figures for average costs determined by such body or bodies representing local education authorities, or on such other figures relating to costs so incurred, as the Secretary of State considers appropriate.
- (4) A direction applying to a particular case may be given notwithstanding that a general direction would otherwise apply to that case.
- <sup>F26</sup>(5) . . . . .
- <sup>F26</sup>(6) . . . . .
- (7) References in this section to provision for education include references to provision of any benefits or services for which provision is made by or under the enactments relating to education.
- (8) References in subsections [<sup>F27</sup>(1) and (2)] above to further education do not include references to further education of a kind such that expenditure on its provision would fall within paragraph 6 of Schedule 10 to the <sup>M4</sup>Local Government Planning and Land Act 1980.
- (9) A local education authority may make a payment to another such authority under subsection (1) above notwithstanding that no claim has been made by the other authority under that subsection.
- (10) For the purposes of this section any question whether a pupil belongs, or does not belong, to the area of a particular local education authority shall be decided, as it would for the purposes of the 1980 Act, in accordance with section 38(5) of that Act and the regulations made under that section.

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- (11) Any dispute between local education authorities as to whether one of them is entitled to be paid any amount by another under this section shall be determined by the Secretary of State.
- (12) Section 31(8) of the <sup>M5</sup>London Government Act 1963 (obligations in relation to pupils from outside the area of local education authority) shall cease to have effect.
- [<sup>F28</sup>(13) References in this section to a pupil, in relation to any school or other institution, include any person who receives education at the school or institution.]

#### Textual Amendments

- F25** Words in s. 51(2)(b) repealed (1.4.1993 but so that this repeal shall not have effect in relation to further education made by a local education authority before 1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93, Sch. 8 Pt. I para. 24\(a\), Sch.9; S.I. 1992/831, art. 2, Sch. 3 Appendix](#)
- F26** S. 51(5)(6) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93, Sch. 8 Pt. I, para. 24\(b\), Sch.9; S.I. 1992/831, art. 2, Sch. 3, Appendix](#)
- F27** Words in s. 51(8) substituted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\), Sch. 8 Pt. I, para. 24\(c\); S.I. 1992/831, art.3](#)
- F28** S. 51(13) added (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\), s. 93\(1\), Sch. 8 Pt. I, para. 24\(d\); S.I. 1992/831, art. 3](#)

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

- C6** Ss. 51, 52 modified by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 82\(4\)\(5\), 231\(7\), 235\(6\)](#)
- C7** S. 51 modified (1.4.1994) by [1993 c. 35, s. 95\(1\) \(with s. 155\(11\)\); S.I. 1994/507, art. 4, Sch.2](#)

#### Marginal Citations

- M4** 1980 c. 65.
- M5** 1963 c. 33.

## 52 Recoupment: cross-border provisions.

- (1) The Secretary of State may make regulations requiring or authorising payments of amounts determined by or under the regulations to be made by one authority to another where—
- the authority receiving the payment makes, in such cases or circumstances as may be specified in the regulations, provision for education in respect of a [<sup>F29</sup>person] having such connection with the area of the paying authority as may be so specified; and
  - one of the authorities is a local education authority and the other an education authority in Scotland.
- (2) The basis on which amounts payable under the regulations are to be determined shall be such as the Secretary of State sees fit to specify in the regulations and may, in particular, be similar to that adopted by him in relation to directions given under section 51(1) of this Act.
- (3) Any question concerning the connection of any [<sup>F30</sup>person] with the area of a particular local education authority or education authority shall be decided in accordance with the provisions of the regulations.

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- (4) The reference in subsection (1) above to provision for education includes a reference to provision of any benefits or services for which provision is made by or under the enactments relating to education.

#### Textual Amendments

**F29** Word in s. 52(1)(a) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I, para.25; S.I. 1992/831, art. 2, Sch.3

**F30** Word in s. 52(3) substituted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I, para.25; S.I. 1992/831, art. 2, Sch. 3.

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

**C8** Ss. 51, 52 modified by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 82(4)(5), 231(7), 235(6)

**C9** S. 52 modified (1.4.1994) by 1993 c. 35, s. 95(1) (with s. 115(11)); S.I. 1994/507, art. 3(1) (subject to savings in Sch. 3)

### 53 School transport.

In section 55 of the 1944 Act (provision of transport and other facilities), the following subsection shall be added at the end—

“(3) In considering whether or not they are required by subsection (1) above to make arrangements in relation to a particular pupil, the local education authority shall have regard (amongst other things) to the age of the pupil and the nature of the route, or alternative routes, which he could reasonably be expected to take.”

### 54 Change of status of controlled school to aided school.

- (1) On an application duly made to him by the governing body of any controlled school, the Secretary of State may by order direct that as from the date specified in the order the school shall be an aided school.
- (2) The Secretary of State shall not make an order under this section unless he is satisfied that the governing body will be able and willing—
  - (a) with the assistance of any maintenance contribution payable by him under the 1944 Act, to defray the expenses which would fall to be borne by them under section 15(3)(a) of that Act; and
  - (b) to pay to the local education authority any compensation payable by the governing body under section 55 of this Act.
- (3) Where the governing body of a controlled school propose to apply for an order under this section they shall, after consulting the local education authority—
  - (a) publish their proposals in such manner as may be required by regulations made by the Secretary of State;
  - (b) submit a copy of the published proposals to him; and
  - (c) provide him with such information as he may reasonably require in order to enable him to give proper consideration to the proposals.
- (4) The published proposals shall be accompanied by a statement which explains the effect of subsection (5) below and specifies the date on which the proposals are intended to be implemented.

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- (5) Before the end of the period of two months beginning with the day on which the proposals are first published, any of the following may submit objections to the proposals to the Secretary of State—
  - (a) any ten or more local government electors for the area;
  - (b) the governing body of any voluntary school affected by the proposals;
  - (c) any local education authority concerned.
- (6) Where, in consequence of an order made under this section, an amount will be payable by a governing body by way of compensation under section 55 of this Act, the order—
  - (a) shall specify the amount so payable and the date by which it must be paid; and
  - (b) may impose such conditions in relation to its payment as the Secretary of State thinks fit.
- (7) Where the Secretary of State proposes, in making an order under this section, to specify as the date from which the school is to be an aided school a different date to that proposed by the governing body, he shall first consult both that body and the local education authority as to the date which it would be appropriate to specify in the order.
- (8) On the application of the local education authority or of the foundation governors of the school any such order may be varied, by order made by the Secretary of State, so as to specify—
  - (a) a different date to that specified under subsection (1) above; or
  - (b) a different amount to that specified under subsection (6) above.
- (9) Before applying to the Secretary of State under subsection (8) above for the variation of an order, the foundation governors of the school shall consult the other governors.
- (10) Before making any variation under subsection (8) above the Secretary of State shall consult—
  - (a) the local education authority, in the case of an application for variation made by foundation governors; and
  - (b) the foundation governors of the school, in the case of any application for variation made by the local education authority.
- (11) Where foundation governors are consulted by the Secretary of State under subsection (10)(b) above, they shall, before giving him their views, consult the other governors of the school.
- (12) Any order under this section may make such provision (including the modification of any provision made by or under this Act) as the Secretary of State considers appropriate in connection with the transition of the school in question from controlled to aided status and may, in particular, make provision—
  - (a) as to the circumstances in which, and purposes for which, the school is to be treated, before the specified date, as if it were an aided school;
  - (b) as to the time by which the new instrument of government and articles of government (appropriate for an aided school) are to be made for the school and the consent and consultation which is to be required before they are made;
  - (c) where the local education authority propose to pass a resolution (under section 9 of this Act) to group the school when it becomes an aided school, as to the consent required before that resolution is passed;
  - (d) as to the appointment and dismissal of staff for the school;

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- (e) as to the arrangements to be made in relation to the admission of pupils to the school;
  - <sup>F31</sup>(f) .....
  - (g) as to functions exercisable by, or in relation to, the governing body or the governors of any category so specified.
- [<sup>F32</sup>(13) For the purposes of this section proposals under this section shall be taken to have first been published—
- (a) on the day on which the requirements of regulations under this section with respect to the publication of the proposals are satisfied; or
  - (b) where different requirements such as are mentioned in paragraph (a) above are satisfied on different days, on the last of those days.
- (14) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (13) above be taken to be satisfied on the first day in respect of which it is satisfied.]

#### Textual Amendments

- F31** S. 54(12)(f) repealed (1.4.1994) by 1993 c. 35, ss. 307(1)(3), 308(3), Sch. 19 para. 105, Sch. 21 Pt. II; S.I. 1994/507, art. 4, Sch. 2 Appendix
- F32** S. 54(13)(14) inserted by Education Reform Act 1988 (c. 40, SIF 41:1), 231(7), 235(6), 237(1), Sch. 12 para. 102

## 55 Compensation payable by governing body on change from controlled to aided status.

- (1) Where a controlled school becomes an aided school by virtue of an order made under section 54 of this Act, the governing body shall pay to the local education authority (in accordance with the order) such sum, by way of compensation for capital expenditure on the school—
- (a) as may be agreed by that body and the authority; or
  - (b) failing such agreement, as the Secretary of State thinks fit having regard to the current value of the property in question.
- (2) In subsection (1) above “capital expenditure” means any expenditure incurred by the local education authority, or by any predecessor of theirs, in respect of the school under—
- (a) section 2 of the <sup>M6</sup>Education (Miscellaneous Provisions) Act 1953 (power of Secretary of State, in certain circumstances, to require local education authority to defray expenses of establishing a controlled school);
  - (b) section 1 of the <sup>M7</sup>Education Act 1946 (power of Secretary of State, in certain circumstances, to require expenses incurred in enlarging controlled school to be paid by local education authority); or
  - (c) paragraph 1 of Schedule 1 to the Act of 1946 (provision of buildings etc. for voluntary schools);
- other than expenditure which could have been so incurred in respect of the school if it had always been an aided school.

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- (3) The Secretary of State may, for the purpose of assisting him in any determination which he is required to make under subsection (1) above, appoint such person as he thinks competent to advise him on the valuation of property.
- (4) No contribution, grant or loan shall be paid, or other payment made, by the Secretary of State to the governing body of any controlled school in respect of any compensation payable by them under this section.

#### Marginal Citations

**M6** 1953 c. 33.

**M7** 1946 c. 50.

### 56 Reports to Secretary of State.

The governing body of every—

(a) county, voluntary and maintained special school; . . . <sup>F33</sup>

(b) . . . . . <sup>F33</sup>

shall make such reports and returns, and give such information, to the Secretary of State as he may require for the purpose of the exercise of his functions in relation to education.

#### Textual Amendments

**F33** Word “and” and s. 56(b) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), s. 231(7), 235(6), 237(2), [Sch. 13 Pt. II](#)

### 57 Information and training for governors.

Every local education authority shall secure—

(a) that every governor of a county, voluntary or special school maintained by them is provided (free of charge) with—

(i) a copy of the instrument of government, and of the articles of government, for the school; and

(ii) such other information as they consider appropriate in connection with the discharge of his functions as a governor; and

(b) that there is made available to every such governor (free of charge) such training as the authority consider necessary for the effective discharge of those functions.

### 58 Travelling and subsistence allowances for governors of schools and establishments of further education.

(1) A local education authority may, in accordance with the provisions of a scheme made by them for the purposes of this section, pay travelling and subsistence allowances to governors of—

(a) [<sup>F34</sup>any county, voluntary or maintained special school which does not have a delegated budget (construed in accordance with section 33(6)(b) of the Education Reform Act 1988)]; and



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- [<sup>F35</sup>(b) any establishment of higher or further education which is maintained by a local education authority;]
- (2) Such a scheme may make different provision in relation to schools or other establishments of different categories (including provision for allowances not to be paid in respect of certain categories) but shall not make different provision in relation to different categories of governor of the same school or establishment.
- <sup>F36</sup>(3) . . . . .
- <sup>F36</sup>(4) . . . . .
- (5) Subject to subsection (6) below, a local education authority may pay travelling and subsistence allowances to persons appointed to represent them on the governing bodies of—
- [<sup>F37F36</sup>(a) . . . . .
- (ab) establishments of higher or further education which are not maintained by them <sup>F38</sup> . . . ; or]
- (b) any independent school or special school which is not maintained by them.
- (6) A local education authority shall not pay any allowance under subsection (5) above for expenses in respect of which the person incurring them is entitled to reimbursement by any person other than the authority or if—
- (a) the authority have not made any scheme under subsection (1) above; or
- (b) the arrangements under which the allowance would otherwise be payable—
- (i) provide for allowances which are to any extent more generous than the most generous payable by the authority under any such scheme; or
- (ii) contain any provision which the authority would not have power to include in any such scheme.
- (7) No allowance may be paid to any governor of a school or establishment of a kind mentioned in subsection (1) above in respect of the discharge of his functions as such a governor, otherwise than under this section.

#### Textual Amendments

- F34** Words in s. 58(1)(a) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para.106**; S.I. 1994/507, art. 4, **Sch.2**
- F35** S. 58(1)(b) substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 103(2)**
- F36** S. 58(3)(4)(5)(a) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 26(a), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**, Appendix
- F37** S. 58(5)(a)(ab) substituted for s. 58(5)(a) by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 103(5)**
- F38** Words in s. 58(5)(ab) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 26(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**, Appendix

## 59 Repeal of section 4 of 1944 Act.

Section 4 of the 1944 Act (which makes provision in relation to the two central advisory councils for education) shall cease to have effect.

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## **60 Discontinuance of Secretary of State’s duty to make annual reports.**

- (1) Section 5 of the 1944 Act (which requires the Secretary of State to make an annual report to Parliament) shall cease to have effect.
- (2) The Secretary of State’s report under that section for the year 1985 shall be the last such report that he is required to make.

## **61 Minimum age for governors of establishments of further education.**

- (1) No person shall be qualified for membership of the governing body of any institution [<sup>F39</sup>which is maintained by a local education authority and which provides higher education or further education (or both)];  
unless he is a student of the institution or is aged eighteen or over at the date of his election or appointment.
- (2) The Secretary of State may by regulations make provision restricting—
  - (a) in relation to such matters or classes of matter as may be prescribed;
  - (b) in such circumstances as may be prescribed; and
  - (c) to such extent as may be prescribed;the participation of any student of such an institution who is a member of its governing body in the proceedings of that body.
- (3) The instrument of government for any such institution may make such provision in relation to restricting the participation of any such student in the proceedings of its governing body (in addition to that made by the regulations) as the regulations may authorise.

### **Textual Amendments**

**F39** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 104](#)

## **62 Access to papers etc. of governing bodies.**

- (1) The Secretary of State may make regulations requiring the governing body—
  - (a) of every county, voluntary [<sup>F40</sup>grant-maintained] and maintained special school; and
  - (b) of every institution of a kind mentioned in section 61 of this Act;to make available, to such persons or classes of person as may be prescribed, such documents and information relating to the meetings and proceedings of the governing body as may be prescribed.
- (2) Documents and information required by the regulations to be made available shall be made available in such form and manner, and at such times, as may be prescribed.

### **Textual Amendments**

**F40** Word inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 37](#)

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

- C10** S. 62 applied (with modifications) (1.4.1994) by S.I. 1994/653, regs. 2(2), 42(1), **Sch. Pt.I**  
S. 62 applied (9.5.1994) by S.I. 1994/1064, reg. 8(1), **Sch. 2 Pt.I**

**Status:**

Point in time view as at 01/04/1994.

**Changes to legislation:**

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