



# Education Reform Act 1988

## CHAPTER 40

### EDUCATION REFORM ACT 1988

#### PART I

#### CHAPTER I

#### THE CURRICULUM

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- 9 Exceptions, special arrangements and supplementary and consequential provisions.

##### *Duties with respect to certain requirements*

- 10 Duties with respect to certain requirements.

*Status: Point in time view as at 06/04/2008.*

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- 11 Standing advisory councils on religious education.
- 12 Determination by advisory councils of the cases in which the requirement for Christian collective worship is not to apply.
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- 38 Schemes: determination of budget shares.
- 39 Schemes: provision for financial delegation.
- 40 Initial implementation of delegation requirements under schemes.
- 41 Extension of delegation requirement under schemes in the case of primary schools.
- 42 Publication of schemes and financial statements, etc.
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*Financial delegation: appointment and dismissal of staff*

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- 52 Duty of Secretary of State to maintain certain schools.

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- 60 Initiation of procedure for acquisition of grant-maintained status.
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- 74 Transfer of property, etc., to governing body of grant-maintained school.
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- 91 Change of site.

*Discontinuance of grant-maintained schools*

- 92 Discontinuance by governing body.
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- 94 Winding up.
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- 97 Discharge, transfer and termination of liabilities, etc.
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- 106 Prohibition of charges, etc., in maintained schools.
- 107 Provision for cases where education is provided partly during and partly outside school hours.
- 108 Recovery of wasted examination fees.
- 109 Permitted charges.
- 110 Charges and remissions policies.
- 111 Charges for board and lodging at boarding schools.

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- 112 Extension of powers as to trusts for religious education.
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- 114 Extension of power to require local education authority to defray expenses of establishing controlled school.
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*Chapter V: general and supplementary provisions*

- 117 Obligation to enter pupils for prescribed public examinations.
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- 119 Interpretation of Part I.

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## PART II

### HIGHER AND FURTHER EDUCATION

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##### LOCAL EDUCATION AUTHORITY FUNCTIONS WITH RESPECT TO HIGHER AND FURTHER EDUCATION

- 120 (1) A local education authority shall no longer be under...

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- 121 Initial incorporation of higher education institutions maintained by local education authorities.
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- 125 Articles of government.
- 125A Charitable status of a higher education corporation.
- 126 Transfer of property, etc., to higher education corporations.
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- 129 Designation of institutions.
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- 130 Transfer of property, etc., to certain designated institutions.

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- 133 Payments by Polytechnics and Colleges Funding Council in respect of persons employed in the provision of higher or further education.
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- 136 Transfer to Polytechnics and Colleges Funding Council of property and staff of NAB.
- 137 Control of disposals of land.
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- 148 Delegation of powers as to appointment and dismissal of staff.
- 149 Costs of dismissal, premature retirement or voluntary severance.

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- 151 Instrument and articles of government required for maintained further and higher education institutions.
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- 153 Government of designated assisted institutions.

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- 154 New further and higher education institutions.
- 155 Interpretation of Chapter III and supplementary provisions.

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- 157 Variation of trust deeds, etc.
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- 159 Information with respect to educational provision in institutions providing further or higher education.
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- 163 New local education authorities for areas in inner London.
- 164 Extension of functions of London Residuary Body.

##### *Disposal of functions and property of ILEA*

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- 167 Education in Inner London
- 168 Transfers of property, rights and liabilities.
- 169 Approval of management structure and senior appointments in initial period.

##### *Staff*

- 170 Establishment and functions of staff commission.
- 171 Remuneration of employees.
- 172 Power to transfer staff.
- 173 Compensation for loss of employment or loss or diminution of emoluments.
- 174 Continuity of employment in certain cases of voluntary transfer.
- 175 Offers of employment by inner London councils.

##### *Functions of London Residuary Body*

- 176 Provision of services and facilities by London Residuary Body.
- 177 Repayment by London Residuary Body of loans to ILEA.
- 178 Liability of London Residuary Body for redundancy and compensation payments.
- 179 Payment of pensions and pensions increase by London Residuary Body.
- 180 Custody of residuary property, etc.
- 181 Power of London Residuary Body to pay compensation.
- 182 Preparation of ILEA's final accounts.
- 183 Directions of Secretary of State.



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*Financial provisions and winding up of London Residuary Body*

- 184 Preparatory expenditure of inner London councils.
- 185 London Residuary Body: financial provisions.
- 186 Transitional functions of London Residuary Body in respect of block grant.
- 187 Winding-up of London Residuary Body.

*Control of ILEA's contracts and disposals*

- 188 Control of contracts.
- 189 Control of disposals.
- 190 Wrongful contracts or disposals.
- 191 Penalties for contravention of section 188 or 189.

*Miscellaneous and supplementary*

- 192 Charities.
- 193 Information and access to documents.
- 194 Concurrent employment.
- 195 Continuity of exercise of functions.
- 196 Interpretation of Part III.

**PART IV**

MISCELLANEOUS AND GENERAL

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- 197 Education Assets Board.
- 198 Transfers under Parts I and II.
- 199 Loan liabilities excepted from transfer under Part II.
- 200 Grant-maintained schools: school property.
- 201 Wrongful disposals.

*Academic tenure*

- 202 The University Commissioners.
- 203 Duty of Commissioners.
- 204 Powers of Commissioners.
- 205 Procedure for exercise of Commissioners' powers.
- 206 Exclusion of visitor's jurisdiction.
- 207 Power to make incidental, etc., provisions by Order in Council.
- 208 Corresponding provision for Northern Ireland.

*Grants*

- 209 Grants in respect of mandatory awards.
- 210 Grants for the education of travellers and displaced persons.
- 211 Grants in respect of special provision for immigrants
- 212 Grants relating to aided or special agreement schools.
- 213 Grants: miscellaneous.

*Unrecognised degrees*

- 214 Unrecognised degrees.
- 215 Unrecognised degrees: enforcement.

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- 216 Identification of bodies granting or providing courses for recognised awards.
- 217 Unrecognised degrees: Northern Ireland and Channel Islands.

*Miscellaneous provisions*

- 218 School and further and higher education regulations.
- 218A Regulations under section 218(6): further provision.
- 219 Powers of the Secretary of State in relation to certain educational institutions.
- 220 Extension of functions of Audit Commission.
- 221 Avoidance of certain contractual terms.
- 222 Application of employment law during financial delegation.
- 223 Temporary exclusion of section 5 of Data Protection Act 1984 in relation to data transferred to new bodies.
- 224 Superannuation for staff of Further Education Unit.
- 225 Recoupment as between local education authorities.
- 226 Services for schools in other member States providing education for British children.

*Wales*

- 227 Application to Wales.
- 228 Transfer of property to grant-aided institutions in Wales.
- 229 Power to make different provision for Wales in regulations under the 1944 and 1967 Acts.

*Supplementary*

- 230 Stamp duty.
- 231 Power to make incidental, consequential, transitional and supplementary provisions.
- 232 Orders and regulations.
- 233 Expenses.
- 234 Meaning of “assisted” for the purposes of the 1944 Act and Acts construed as one with it.
- 235 General interpretation.
- 236 Commencement.
- 237 Amendments and repeals.
- 238 Citation, extent etc.

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SCHEDULES

SCHEDULE 1 —

*The Education Act 1944 (c. 31)*

- 1 The following section shall be substituted for section 26 of...
- 2 (1) In section 27 of that Act (special provisions as...
- 3 (1) In section 28 of that Act (special provisions as...
- 4 The word “education” shall be substituted for the word “instruction”—...
- 5 In section 77 of that Act (inspection of educational establishments)—...
- 6 In section 114(1) of that Act (interpretation) the word “education”...
- 7 (1) In Schedule 5 to that Act (procedure for preparing...

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*The Child Care Act 1980 (c. 5)*

8 In the Child Care Act 1980 the word “education” shall...

*The Education Act 1981 (c. 60)*

9 .....

SCHEDULE 2 —

*Preliminary*

1 .....

*Status*

2 The Authority shall not be regarded as a servant or...

*Powers*

3 The Authority shall have power to do anything which is...

4 (1) The Authority shall also have power to furnish assistance,...

*Chief officer*

5 (1) The Authority shall have a chief officer who shall...

*Qualifications of members and tenure of office*

6 (1) A person shall hold and vacate office as a...

7 (1) If the Secretary of State is satisfied that a...

*Salaries, allowances and pensions for members*

8 (1) The Authority— (a) shall pay the members of the...

*House of Commons disqualification*

9 .....

*Staff*

10 (1) The Authority may, with the approval of the Secretary...

*Finance*

11 (1) The Secretary of State may make grants to the...

*Committees*

12 (1) The Authority may establish a committee for any purpose....

*Delegation of functions*

13 The Authority may authorise the chairman, the deputy chairman, the...

13A (1) The chairman of the School Curriculum and Assessment Authority,...

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### *Proceedings*

- 14 The validity of proceedings of the Authority shall not be...  
15 The Authority shall have power to regulate its own procedure...

### *Application of seal and proof of instruments*

- 16 The application of the seal of the Authority shall be...  
17 Any document purporting to be an instrument made or issued...

### *Accounts*

- 18 (1) It shall be the duty of the Authority—

#### SCHEDULE 3 —

### *Appointment of head teacher and deputy head teacher*

- 1 (1) This paragraph applies in relation to any appointment to...

### *Appointment of other teachers*

- 2 (1) Subject to sub-paragraph (2) below, sub-paragraphs (4) to (11)...

### *Appointments: advice of chief education officer and head teacher*

- 3 (1) The chief education officer of the local education authority...

### *Appointment of non-teaching staff*

- 4 (1) Where the governing body of any school to which...

### *The clerk to the governing body*

- 5 (1) In the case of any vacancy in the office...

### *Discipline*

- 6 (1) The regulation of conduct and discipline in relation to...

### *Suspension*

- 7 (1) In the case of any school to which section...

### *Dismissal, etc.*

- 8 (1) Where the governing body of any school to which...  
9 (1) Subject to sub-paragraph (2) below, a local education authority...

### *School meal staff*

- 10 Nothing in paragraphs 4 and 6 to 9 above shall...

### *Interpretation*

- 11 (1) References in this Schedule to a vacancy in any...

#### SCHEDULE 4 —

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*New county and voluntary schools: general*

- 1 (1) This paragraph applies to any new school other than...

*Application of schemes in relation to new schools*

- 2 (1) For the purposes of that Chapter, a new school...

*New special schools*

- 3 (1) In sections 43 and 50 of this Act—

*Staff*

- 4 (1) Subject to the following provisions of this paragraph, section...

*Financial delegation and statements apart from schemes*

- 5 Section 49 of this Act shall not apply in relation...  
6 Section 50(9) of this Act shall not apply in relation...

*Supplementary*

- 7 (1) Section 51(4) of this Act shall not apply in...

SCHEDULE 5 — Transition to Grant-Maintained Status

*Transition to grant-maintained status*

- 1 (1) Where the Secretary of State approves proposals for acquisition...  
2 The provision that may be made by an order under...  
3 (1) The Secretary of State may make grants to the...  
4 The duty of a local education authority to maintain a...  
5 At any time on or after the date on which...  
6 On and after the incorporation date in relation to a...

*Transition from initial governing body to regulation by instrument of government*

- 7 A person who is a governor of any category (within...  
8 Where the number of governors of any category for such...

*Proceedings and tenure of office*

- 9 The proceedings of the governing body of such a school...  
10 No provision of the instrument of government for such a...  
11 In relation to a member of the initial governing body...  
12 For the purposes of subsection (10) of section 56, a...

SCHEDULE 6 — Courses of Higher Education

- 1 The descriptions of courses referred to in sections 120(1) and...  
2 For the purposes of paragraph 1(g) above a professional examination...  
3 For the purposes of paragraph 1(h) above a course is...

SCHEDULE 7 — The Higher Education Corporations

*Preliminary*

- 1 (1) A higher education corporation established under section 121 of...

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*Initial constitution*

- 2 (1) Paragraphs 3 and 4 below provide for the initial...
- 3 (1) A corporation shall consist of— (a) not less than...
- 4 (1) The initial nominee members of a corporation shall consist...

*Initial appointments*

- 5 (1) The Secretary of State is the appointing authority for...

*Determination of membership numbers*

- 6 (1) Following the appointment by the Secretary of State of...

*Subsequent appointments*

- 7 (1) Appointments of members of a corporation at any time...

*General provisions with respect to qualifications of members and tenure of office*

- 8 (1) A member of a corporation shall hold and vacate...
- 9 (1) Subject to the following provisions of this paragraph, a...
- 10 If at any time a corporation are satisfied that any...

*Allowances to members*

- 11 A corporation shall have power to pay to the members...

*Election of chairman*

- 12 (1) The members of a corporation shall elect a chairman...

*Committees*

- 13 (1) A corporation may establish a committee for any purpose....

*Proceedings*

- 14 The validity of any proceedings of a corporation or of...
- 15 In the event of an equality of votes at any...

*Application of seal and proof of instruments*

- 16 The application of the seal of the corporation shall be...
- 17 Every document purporting to be an instrument made or issued...

*Accounts*

- 18 (1) It shall be the duty of each corporation—

*Efficiency studies*

- 19 .....

Schedule 7A — Instruments of government made by Privy Council

*Name of corporation*

- 1 The instrument shall empower the corporation to change their name...

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### *Membership*

- 2 The instrument shall make provision for the membership of the...  
3 (1) The corporation shall consist of— (a) not less than...

### *Numbers*

- 4 (1) The corporation shall make a determination with respect to...

### *Appointments*

- 5 (1) Subject to section 124C of this Act, no appointment...

### *Tenure of office etc.*

- 6 Subject to any other requirements of this Act, the instrument...

### *Officers*

- 7 The instrument shall provide for one or more officers to...

### *Committees*

- 8 The instrument may provide for the corporation to establish committees...

### *Allowances*

- 9 The instrument may provide for the corporation to pay allowances...

### *Seal of corporation*

- 10 The instrument shall provide for the authentication of the application...

### *Interpretation*

- 11 References in this Schedule, in relation to a corporation, to...

## SCHEDULE 8 — The Funding Councils and the Assets Board

### *Preliminary*

- 1 References below in this Schedule to the Corporation are references...

### *Supplementary powers*

- 2 (1) Subject to sub-paragraph (2) below, the Corporation shall have...

### *Chief officer*

- 3 (1) One of the members of the Corporation shall be...

### *Qualifications of members and tenure of office*

- 4 (1) A person shall hold and vacate office as a...  
5 If the Secretary of State is satisfied that a member...

### *Salaries, allowances and pensions for members*

- 6 (1) The Corporation— (a) shall pay to the members of...

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### *House of Commons disqualification*

7 In Part III of Schedule 1 to the House of...

### *Staff*

8 (1) The Corporation may appoint such employees as the Corporation...

### *Committees*

9 (1) The Corporation may establish a committee for any purpose....

### *Scottish and Welsh Committees of Universities Funding Council*

10 The Universities Funding Council shall establish committees under paragraph 9...

### *Delegation of Functions*

11 The Corporation may authorise the chairman, the chief officer or...

### *Proceedings*

12 Without prejudice to any other rights the Secretary of State...

13 The validity of any proceedings of the Corporation or of...

14 Subject to the preceding provisions of this Schedule, the Corporation...

### *Application of seal and proof of instruments*

15 The application of the seal of the Corporation shall be...

16 Every document purporting to be an instrument made or issued...

### *Accounts*

17 (1) It shall be the duty of the Corporation—

### SCHEDULE 9 — Determination of Full-time Equivalent Enrolment Numbers

#### *Full-time equivalent enrolment numbers*

1 (1) The full-time equivalent enrolment number at any time of...

#### *Table for determining full-time equivalents for sandwich courses and part-time study*

2 The following table applies for the purpose of determining the...

#### *Interpretation of paragraphs 1 and 2*

3 (1) For the purposes of paragraph 1(1)(a) above a student...

#### *Amendment of paragraphs 1 to 3*

4 The Secretary of State may by order amend paragraphs 1...

#### *Exclusion of non-EEC students*

5 For the purpose of determining under those paragraphs the full-time...

### SCHEDULE 10 — Supplementary Provisions with respect to Transfers



*Status: Point in time view as at 06/04/2008.*

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*Division and apportionment of property etc.*

- 1 (1) Any property, rights and liabilities of a transferor authority...

*Identification of property, rights and liabilities*

- 2 (1) It shall be the duty of the transferor and...

*Resolution of disputes*

- 3 (1) The Education Transfer Council shall notify the Secretary of...

*Right to production of documents of title*

- 4 (1) Where a transfer to which this Schedule applies relates...

*Proof of title by certificate*

- 5 The Education Transfer Council may issue a certificate stating that...

*Construction of agreements*

- 6 (1) Where in the case of any transfer to which...  
7 (1) Without prejudice to the generality of paragraph 6 above,...  
8 The provisions of paragraphs 6 and 7 above shall have...

*Third parties affected by vesting provisions*

- 9 (1) Without prejudice to the generality of paragraphs 6 to...

*Delivery of documents to transferee*

- 10 When it appears to the Education Transfer Council, in the...

SCHEDULE 11 — The University Commissioners

*Appointment*

- 1 (1) The Secretary of State shall appoint five persons to...

*Tenure of office*

- 2 (1) A person may at any time by notice in...

*Duration*

- 3 (1) Subject to sub-paragraph (2) below, the Commissioners' duties and...

*Powers*

- 4 The Commissioners shall have power to do anything which appears...

*Remuneration*

- 5 The Secretary of State may pay the Commissioners such remuneration...

*Staff*

- 6 (1) The Commissioners may appoint such employees as they think...

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*Expenses*

7 The expenses of the Commissioners shall be defrayed by the...

*Proceedings*

8 (1) The Secretary of State shall appoint one of the...

SCHEDULE 12 — Minor and Consequential Amendments

Part I — AMENDMENTS RELATING TO GRANT-MAINTAINED SCHOOLS

*The Education Act 1944 (c. 31)*

- 1 .....
- 2 .....
- 3 .....
- 4 .....
- 5 .....
- 6 .....
- 7 .....

*The Education (Miscellaneous Provisions) Act 1953 (c. 33)*

- 8 .....

*The Charities Act 1960 (c. 58)*

- 9 .....
- 10 .....

*The Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 11 .....

*The Tribunals and Inquiries Act 1971 (c. 62)*

- 12 .....

*The Local Government Act 1972 (c. 70)*

- 13 .....

*The Education (Work Experience) Act 1973 (c. 23)*

- 14 .....

*The Sex Discrimination Act 1975 (c. 65)*

- 15 .....
- 16 .....
- 17 .....

*The Race Relations Act 1976 (c. 74)*

- 18 .....
- 19 .....

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*The National Health Service Act 1977 (c. 49)*

20 .....  
21 .....  
22 .....

*The Employment Protection (Consolidation) Act 1978 (c. 44)*

23 .....

*The Education Act 1980 (c. 20)*

24 .....  
25 .....

*The Education Act 1981 (c. 60)*

26 .....  
27 .....  
28 .....

*The Local Government (Miscellaneous Provisions) Act 1982 (c. 30)*

29 (1) Section 40 of the Local Government (Miscellaneous Provisions)  
Act...

*The Representation of the People Act 1983 (c. 2)*

30 .....  
31 .....  
32 In paragraph 1(1) of Schedule 5 to that Act (arrangements...

*The Building Act 1984 (c. 55)*

33 .....

*The Education (No. 2) Act 1986 (c. 61)*

34 .....  
35 .....  
36 .....  
37 .....

*The Teachers' Pay and Conditions Act 1987 (c. 1)*

38 .....  
39 .....

Part II — AMENDMENTS CONSEQUENTIAL ON ABOLITION OF ILEA

40 .....

*The Local Government Act 1972 (c. 70)*

41 In section 70 of the Local Government Act 1972 (restriction...  
42 In section 78(2) of that Act (electoral arrangements: supplementary),  
for...  
43 In section 146A(1)(a) of that Act (miscellaneous powers of local...  
44 In section 177(2) of that Act (allowances to members of...  
45 In section 236(1) of that Act (byelaws), for the words...

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- 46 In section 238 of that Act (evidence of byelaws), for...
- 47, 48 .....
- 49 .....

*The Representation of the People Act 1983 (c. 2)*

- 50 In section 35(4) of the Representation of the People Act...
- 51 In section 40(2) of that Act (timing as to local...

*The Health Service Joint Consultative Committees (Access to Information) Act 1986 (c. 24)*

- 52 In section 1(1) of the Health Service Joint Consultative Committees...

*The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 53 (1) Section 7 of the Disabled Persons (Services, Consultation and...  
Part III — OTHER AMENDMENTS

*The Education Act 1944 (c. 31)*

- 54 .....
- 55 .....
- 56 .....
- 57 .....
- 58 .....
- 59 .....

*The Education Act 1946 (c. 50)*

- 60 .....

*The Education (Miscellaneous Provisions) Act 1948 (c. 40)*

- 61 .....
- 62 .....

*The Charities Act 1960 (c. 58)*

- 63 .....
- 64 .....

*The Factories Act 1961 (c. 34)*

- 65 In section 97(7) of the Factories Act 1961 (facilities for...

*The Veterinary Surgeons Act 1966 (c. 36)*

- 66 In Schedule 3 to the Veterinary Surgeons Act 1966 (treatment...

*The Parliamentary Commissioner Act 1967 (c. 13)*

- 67 In Schedule 2 to the Parliamentary Commissioner Act 1967 (which...

*The Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 68 .....

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*The Chronically Sick and Disabled Persons Act 1970 (c. 44)*

69 (1) Section 8(2) of the Chronically Sick and Disabled Persons...  
70 .....

*The Local Government Act 1974 (c. 7)*

71 In paragraph 5(2) of Schedule 5 to the Local Government...

*The Sex Discrimination Act 1975 (c. 65)*

72 In section 22 of the Sex Discrimination Act 1975 (discrimination...  
73 In section 24(2) of that Act (power to designate institutions)—...  
74 In section 25(6)(c) of that Act (general duty in public...  
75 In section 28 of that Act (exception for physical training),...  
76 .....  
77 .....

*The Race Relations Act 1976 (c. 74)*

78 In section 17 of the Race Relations Act 1976 (discrimination...  
79 .....

*The Employment Protection (Consolidation) Act 1978 (c. 44)*

80 .....

*The Education Act 1980 (c. 20)*

81 .....  
82 .....

*The Education Act 1981 (c. 60)*

83 .....  
84 .....  
85 .....

*The Agricultural Training Board Act 1982 (c. 9)*

86 (1) Section 4 of the Agricultural Training Board Act 1982...

*The Industrial Training Act 1982 (c. 10)*

87 (1) Section 5 of the Industrial Training Act 1982 (functions...  
88 In section 13(1) of that Act (proposals for exemption certificates)—...  
89 In section 14 (exemption certificates), in subsection (1) for the...

*The Local Government (Miscellaneous Provisions) Act 1982 (c. 30)*

90 In section 40(2) of the Local Government (Miscellaneous Provisions)  
Act...

*The Education (Fees and Awards) Act 1983 (c. 40)*

91 (1) Section 1 of the Education (Fees and Awards) Act...

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*The Further Education Act 1985 (c. 47)*

- 92 (1) Section 1 of the Further Education Act 1985 (supply...  
93 (1) Section 2 of that Act (powers of local authorities...  
94 In section 3(8)(a) (financial and accounting provisions), for the word...

*The Housing Act 1985 (c. 68)*

- 95 In paragraph 10(4) of Schedule 1 to the Housing Act...

*The Agricultural Holdings Act 1986 (c. 5)*

- 96 In paragraph 2 of Schedule 6 to the Agricultural Holdings...

*The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 97 (1) Section 5 of the Disabled Persons (Services, Consultation and...  
98 In section 6(1) of that Act (review of dates when...

*The Education (No. 2) Act 1986 (c. 61)*

- 99 .....  
100 (1) Section 43 of that Act (freedom of speech in...  
101 (1) Section 49(3) of that Act (appraisal of performance of...  
102 .....  
103 .....  
104 In section 61(1) of that Act (minimum age for governors...  
105 In section 65(1) of that Act (interpretation) after the definition...  
106 .....

*The Local Government Act 1988 (c. 9)*

- 107 In paragraph 5(4) of Schedule 1 to the Local Government...

SCHEDULE 13 — Repeals

Part I — REPEALS COMING INTO FORCE ON ABOLITION OF ILEA

Part II — OTHER REPEALS

**Status:**

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