



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART II

#### HIGHER AND FURTHER EDUCATION

### CHAPTER III

#### FINANCE AND GOVERNMENT OF LOCALLY FUNDED FURTHER AND HIGHER EDUCATION

##### *Withdrawal of delegated powers*

#### **150 Withdrawal of delegated powers for mismanagement, etc**

- (1) Where it appears to a local education authority, in the case of any institution in respect of which financial delegation is required for the current financial year under a scheme, that the governing body of the institution—
- (a) have been guilty of a substantial or persistent failure to comply with any requirements applicable under the scheme; or
  - (b) are not managing the appropriation or expenditure of the sum put at their disposal or granted to them for the purposes of the institution in a satisfactory manner;

the authority may take any action permitted by subsection (2) below.

- (2) The actions so permitted are—
- (a) complete suspension of the governing body's right to a delegated budget;
  - (b) the limitation of that right to part only of the budget share of the institution concerned; and
  - (c) the restriction, in any manner that appears to the authority to be appropriate in the circumstances, of the discretion of the governing body to spend any sum made available or granted to them in respect of the institution's budget share or any part of it as they think fit for the purposes of the institution.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Subject to subsection (5) below, a local education authority shall give the governing body of any institution in respect of which they propose to take any action permitted by subsection (2) above not less than one month's notice of the action they propose.
- (4) Any such notice shall specify the grounds for the proposed action, giving particulars of any failure alleged on the part of the governing body to comply with any requirements applicable under the scheme and of any alleged mismanagement on their part.
- (5) A local education authority may take the action to which such a notice relates before the expiry of the period of notice if it appears to them to be necessary to do so by reason of gross incompetence or mismanagement on the part of the governing body concerned or other emergency; but in such a case the authority shall immediately give to the Secretary of State written notification of their action and the reasons for it.
- (6) During any period when a governing body's right to a delegated budget is subject to any suspension or limitation imposed under this section the duty of the local education authority concerned under section 142(2) of this Act shall not apply in relation to that governing body or (as the case may require) shall apply only in relation to such part of the budget share of the institution concerned as is not subject to the limitation.
- (7) During any period when a governing body's discretion to spend the budget share of the institution concerned is subject to any restriction imposed under this section, the power of the governing body under subsection (6)(a) of that section shall be subject to that restriction.
- (8) In imposing any suspension, limitation or restriction under subsection (2) above in relation to the governing body of any institution to which section 148 of this Act applies a local education authority may also impose such suspension, limitation or restriction as appears to them to be appropriate in that connection on the powers conferred on the governing body under or by virtue of that section or section 149 of this Act.
- (9) Without prejudice to subsection (8) above, in imposing any such suspension, limitation or restriction in relation to any institution such an authority may exclude or modify, for the period during which the suspension, limitation or restriction applies, any provision of the articles of government of the institution which appears to them to be inconsistent with the operation of the suspension, limitation or restriction.
- (10) It shall be the duty of the authority concerned—
  - (a) to review before the beginning of every financial year any suspension, limitation or restriction under this section which is for the time being in force;
  - (b) for the purposes of that review, to afford the governing body concerned an opportunity of making representations with respect to that suspension, limitation or restriction and to have regard to any representations made by that body; and
  - (c) to revoke any such suspension, limitation or restriction where they consider it appropriate to do so.
- (11) The authority shall give the governing body concerned written notification of their decision on any such review.
- (12) The revocation of any such suspension, limitation or restriction shall take effect as from the beginning of the next following financial year.
- (13) A governing body shall be entitled to appeal to the Secretary of State against—

- (a) the imposition of any suspension, limitation or restriction under this section; and
  - (b) any refusal of a local education authority to revoke any such suspension, limitation or restriction on any review required under this section.
- (14) On any such appeal the Secretary of State shall have regard, in making his determination, to the gravity of the default on the part of the governing body and the likelihood of its continuance or recurrence.
- (15) On any such appeal the Secretary of State—
- (a) may allow or reject the appeal; and
  - (b) may give such directions as he thinks fit to the authority for giving effect to his determination.