



# Education Act 1993

## 1993 CHAPTER 35

### PART II

#### GRANT-MAINTAINED SCHOOLS

#### CHAPTER VIII

#### DISCONTINUANCE OF GRANT-MAINTAINED SCHOOLS

#### *Withdrawal of grant*

#### **109 Withdrawal of grant where school is unsuitable to continue as grant-maintained school**

- (1) This section applies where the Secretary of State is satisfied that a grant-maintained school as currently constituted or conducted is unsuitable to continue as a grant-maintained school on either or both of the following grounds—
  - (a) that the number of registered pupils at the school is too small for sufficient and suitable instruction to be provided for them at reasonable cost, and
  - (b) that the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any other requirement imposed by or under this Act or any other enactment.
- (2) The Secretary of State may give to the governing body a notice in writing stating the grounds on which he considers that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained school together with full particulars of the matters relevant to each such ground.
- (3) Where any of those matters are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall also state that the funding authority's duty to maintain the school will cease on a date specified in the notice.
- (4) Where subsection (3) above does not apply, the notice shall—

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*Status: This is the original version (as it was originally enacted).*

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- (a) state that the funding authority's duty to maintain the school will cease unless the matters of which particulars are given in the notice are remedied,
  - (b) specify the measures necessary in the opinion of the Secretary of State to remedy those matters, and
  - (c) specify the time, not being less than six months after the date on which the notice is given to the governing body, within which the governing body are required to take those measures.
- (5) Where the governing body fail to take the measures required under subsection (4)(b) above by the notice within the time specified in the notice (or allowed by any previous notice under this subsection), the Secretary of State shall, within the period of two months beginning with the date next following the end of that time, either—
- (a) give notice in writing to the governing body extending the time within which those measures are required to be taken, or
  - (b) after consulting the local education authority and, if the school provides education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council, give notice in writing to the governing body that the funding authority's duty to maintain the school will cease on a specified date.
- (6) Where the Secretary of State gives a notice under subsection (2) or (5) above which states that the funding authority's duty to maintain the school will cease on a specified date—
- (a) he shall give a copy of the notice to the funding authority, and
  - (b) the funding authority shall cease to be under a duty to make maintenance grants to the governing body of the school in respect of any period beginning on or after that date and shall cease on that date to have the power to pay capital or special purpose grant to the governing body.
- (7) In relation to a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions, this section and section 110 of this Act shall have effect as if subsection (6)(a) above and section 110(4) and (5) were omitted.

## **110 Withdrawal or variation of notice under section 109**

- (1) The Secretary of State may by giving notice in writing to the governing body—
- (a) withdraw a notice under section 109(2) or (5)(b) of this Act,
  - (b) vary a notice under section 109(2) of this Act in relation to which section 109(3) of this Act applies or a notice under section 109(5)(b) of this Act by substituting another date for the date for the time being specified in the notice as the date on which the funding authority's duty to maintain the school will cease, or
  - (c) vary a notice under section 109(2) of this Act, so far as relates to any measures specified in it by virtue of section 109(4)(b) of this Act.
- (2) If by virtue of subsection (1)(c) above the Secretary of State varies a notice so as to require different measures to be taken, he shall also substitute for the time specified in the notice by virtue of section 109(4)(c) of this Act a time which is not earlier than that time or, where the time so specified has been extended under section 109(5)(a) of this Act, than that time as so extended.
- (3) Any variation under subsection (2) above of the time specified in a notice is without prejudice to any further extension of that time under section 109(5)(a) of this Act.

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- (4) Where the Secretary of State withdraws a notice by virtue of subsection (1)(a) above, he shall give notice in writing of that fact to the funding authority.
- (5) Where the Secretary of State varies a notice by virtue of subsection (1)(b) above, he shall give a copy of the notice as varied to the funding authority.