



Education Act 1993

1993 CHAPTER 35

PART V

SCHOOLS FAILING TO GIVE AN ACCEPTABLE STANDARD OF EDUCATION

CHAPTER II

NEW POWERS OVER SCHOOLS REQUIRING SPECIAL MEASURES

Miscellaneous powers and restrictions

213 Schools to which sections 214 to 217 apply

Sections 214 to 217 of this Act apply only to county, voluntary and maintained special schools and do not apply to a school at any time unless, at that time—

- (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Chapter I, he did not express the opinion in the report that special measures were not required to be taken in relation to the school, and
- (d) the Secretary of State has not exercised his powers under section 220 of this Act in relation to the school.

214 Appointment of additional governors

(1) If at any time—

- (a) this section applies in relation to any county, controlled or maintained special school, and

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- (b) the conditions in subsection (2) below are satisfied,
the local education authority may appoint such number of additional governors as they think fit.
- (2) Those conditions are that—
- (a) a copy of a statement prepared—
 - (i) in the case of a school not having a delegated budget, under section 210 of this Act, and
 - (ii) in any other case, under section 211 of this Act,
has been sent to the Secretary of State,
 - (b) the local education authority have received a notice in writing in which the Secretary of State acknowledges receipt of the copy, and
 - (c) not less than ten days have elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(c) above shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) In relation to any appointment made by the local education authority by virtue of subsection (1) above to the governing body of a school—
- (a) the instrument of government for the school, or
 - (b) if the governing body of the school are constituted in accordance with arrangements under section 12 of the Education (No. 2) Act 1986 (temporary governing bodies for new schools), those arrangements,
- shall have effect as if, notwithstanding paragraph (b) of section 3(2), (3), (4) and (5) of that Act (governing bodies for county schools, etc.), the instrument or, as the case may be, arrangements authorised the local education authority to appoint such number of additional governors as they think fit.
- (5) If at any time—
- (a) this section applies in relation to an aided or special agreement school, and
 - (b) the conditions in subsection (6) below are satisfied,
- the appropriate appointing authority may appoint such number of additional foundation governors as they think fit.
- (6) Those conditions are—
- (a) that a period of ten days has elapsed since—
 - (i) in the case of a school not having a delegated budget, the period prescribed for the purposes of section 210(3) of this Act expired, and
 - (ii) in any other case, the period allowed under section 211(3) of this Act for preparing a statement under that section expired, or
 - (b) that the Secretary of State has received a copy of a statement prepared—
 - (i) in the case of a school not having a delegated budget, under section 210 of this Act, and
 - (ii) in any other case, under section 211 of this Act,
and has served notice in writing on the appropriate appointing authority stating that the power conferred by subsection (5) above is exercisable.
- (7) The Secretary of State may by notice in writing served on the appropriate appointing authority determine that subsection (6)(a) above shall have effect as if the reference to ten days were to such shorter period as he may determine.

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- (8) In the case of any appointment made by virtue of subsection (5) above to the governing body of a school—
- (a) the instrument of government for the school, or
 - (b) if the governing body are constituted in accordance with arrangements under section 12 of the Education (No. 2) Act 1986, those arrangements,
- shall have effect as if, notwithstanding section 4(3) of that Act (foundation governors for aided and special agreement schools), the instrument or, as the case may be, arrangements authorised the appropriate appointing authority to appoint such number of additional foundation governors as they think fit.
- (9) Where in the case of any aided or special agreement school which is not a Church of England school, Church in Wales school or Roman Catholic Church school there are different powers to appoint foundation governors, references in this section (other than subsection (6) and (7)) to the appropriate appointing authority are to—
- (a) all those persons who have any such power acting jointly, or
 - (b) if they are unable to agree, such of them acting jointly, or such one of them, as the Secretary of State may, after consulting all those persons, determine.

215 Suspension of right to delegated budget

- (1) If at any time—
- (a) this section applies in relation to any county, controlled or maintained special school in respect of which financial delegation is required, and
 - (b) the conditions in subsection (2) below are satisfied,
- the local education authority may by giving the governing body of the school notice of suspension suspend the right to a delegated budget with effect from the receipt by the governing body of the notice; and a copy of the notice shall be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (2) Those conditions are that—
- (a) a copy of a statement prepared under section 211 of this Act has been sent to the Secretary of State,
 - (b) the local education authority have received a notice in writing in which the Secretary of State acknowledges receipt of the copy, and
 - (c) not less than ten days have elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(c) above shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) A suspension by virtue of this section shall have effect for the purposes of Chapter III of Part I of the Education Reform Act 1988 as if made under section 37 of that Act, but subsection (8)(a) of that section (right to appeal against imposition of suspension) does not apply in relation to a suspension by virtue of this section.
- (5) Expressions used in this section and that Chapter have the same meaning as in that Chapter.

216 Grouping and de-grouping

- (1) If at any time—

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- (a) this section applies in relation to any county, voluntary or maintained special school, and
- (b) the local education authority have received a copy of the report referred to in section 213(a) of this Act,

they may not pass a resolution under section 9 of the Education (No. 2) Act 1986 (grouping of schools under single governing body) for two or more schools to be grouped if any of the schools is a school to which this section applies.

(2) If at any time—

- (a) this section applies in relation to any county, voluntary or maintained special school, and
- (b) the Secretary of State has received a copy of the report referred to in section 213(a) of this Act,

he may by order under section 9(6) of the Education (No. 2) Act 1986 bring to an end any grouping under that section of schools which include a school to which this section applies, whether or not the grouping is one in respect of which his consent was at any time required under section 10 of that Act.

217 Prohibition on ballot under Part II

(1) If at any time—

- (a) this section applies in relation to any county or voluntary school, and
- (b) the governing body have received a copy of the report referred to in section 213(a) of this Act,

then, notwithstanding anything in sections 25 or 26 of this Act, the governing body of the school may not secure that any ballot is held under Chapter II of Part II of this Act.

(2) If at any time—

- (a) this section applies in relation to a maintained special school, and
- (b) the governing body have received a copy of the report referred to in section 213(a) of this Act,

regulations under section 186 of this Act shall not apply in relation to the school.

Education associations

218 Power to establish education associations

(1) Where—

- (a) the powers conferred by section 220 of this Act are exercisable by the Secretary of State in relation to a school, and
- (b) he is of the opinion that the school should be conducted by a body corporate established under this section and that no suitable body corporate have been so established,

he may by order provide for the establishment of a body corporate under the name given in the order.

(2) Bodies corporate established under this section shall be known as “education associations”.

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- (3) An education association shall consist of not less than five members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (4) Before making an order under this section in the case of a voluntary school, the Secretary of State shall consult—
 - (a) if it is a Church of England school, Church in Wales school or Roman Catholic Church school, the appropriate diocesan authority, and
 - (b) in any other case, the person who appoints the foundation governors.
- (5) An education association—
 - (a) must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and shown capacity in, any position carrying responsibility for the provision of such education,
 - (b) if the association conduct any school which was a voluntary school, must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, the provision of education in voluntary schools, and
 - (c) if the association conduct a special school, must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, providing for children with special educational needs,but one person may satisfy the requirement in paragraph (a) above as well as that in paragraph (b) or (c) above.
- (6) Schedule 12 to this Act has effect in respect of education associations.
- (7) Subject to the following provisions of this Chapter—
 - (a) references in any enactment to the governing body of any school, or to the foundation governors of any school, are to be read, in relation to a school conducted by an education association, as references to that association, and
 - (b) references in any enactment to the governors of any school are to be read, in relation to a school conducted by an education association, as references to the members of the association.
- (8) Where an education association conduct more than one school, then, subject to the following provisions of this Chapter, any provision of an enactment which applies to schools shall apply separately in relation to each of the schools.

219 Supervision of education associations by the Secretary of State

- (1) An education association shall, in exercising their functions, comply with any directions given by the Secretary of State.
- (2) Before giving a direction under this section, the Secretary of State shall consult the education association or (as the case may be) each education association to which the direction applies unless, for reasons of urgency, it is not in his opinion reasonably practicable for him to do so.
- (3) The Secretary of State shall publish any directions given by him under this section in such manner as he thinks fit.

220 Transfer of responsibility for conducting school to an education association

- (1) The powers conferred by this section are exercisable by the Secretary of State in relation to any county school or voluntary school at any time if, at that time—
 - (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
 - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
 - (c) the Secretary of State has received a statement prepared under section 210 of this Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired, and
 - (d) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school, he did not express the opinion in the report that special measures were not required to be taken in relation to the school.

- (2) Where—
 - (a) the powers conferred by this section are exercisable by the Secretary of State in relation to a school,
 - (b) he is of the opinion that the school should be conducted by an education association, and
 - (c) if the school is a voluntary school, he has consulted the person who appoints the school's foundation governors and such other persons as he thinks appropriate,

he may by order provide for the school to be conducted by an education association named in the order as from such date as may be specified in the order (referred to in this Part of this Act as the “transfer date”).

- (3) On making an order under this section the Secretary of State shall give notice in writing of the order to the governing body and head teacher of the school, to the local education authority and (except in the case of a school in Wales before the Schools Funding Council for Wales begin to exercise their functions) the funding authority.

- (4) On the transfer date—
 - (a) the local education authority whose duty it was immediately before that date to maintain the school as a county or voluntary school shall cease to have that duty, and
 - (b) any special agreement relating to the school shall cease to have effect.

221 Effect of order under section 220

- (1) This section applies in relation to a school where an order under section 220 of this Act has been made.
- (2) A school conducted by an education association may not cease to be so conducted unless—
 - (a) it becomes a grant-maintained school, or
 - (b) the school is discontinued.
- (3) The following subsections have effect subject to the following provisions of this Chapter.

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- (4) Subject to subsection (7) below, references in any enactment to grant-maintained schools include schools conducted by education associations.
- (5) References in any enactment to schools the governing bodies of which are incorporated under Chapter II of Part II of this Act (however expressed) include schools conducted by education associations.
- (6) Subject to subsection (7) below, references in any enactment—
 - (a) to any school becoming grant-maintained (whether the reference is to its acquiring grant-maintained status or is expressed in any other form), or
 - (b) to the date of implementation of the proposals under which it becomes grant-maintained,are in the case of schools conducted by education associations references to the school beginning to be conducted by the association or, as the case may be, to the transfer date.
- (7) References in any enactment to schools the governing bodies of which are incorporated under Chapter IV of Part II of this Act (however expressed) do not include schools conducted by education associations.

222 Functions of education associations

- (1) Where an order under section 220 of this Act provides for an education association to conduct a school, the association may as from the transfer date conduct the school; and their power under this subsection is to conduct a school of the same description as the school immediately before that date.
- (2) An education association shall conduct any school for which they are the governing body so as to secure, so far as it is practicable to do so, the elimination of any deficiencies in the conduct of the school identified in any report made by a registered inspector or member of the Inspectorate.
- (3) A school conducted by an education association shall not be regarded as of a different description, where changes have been made in the character or premises of the school since the transfer date, to that immediately before that date if the changes—
 - (a) did not require authorisation under Chapter VII of Part II of this Act, or
 - (b) were authorised under that Chapter.
- (4) Subject to any provision made by the articles of government for the school, an education association may provide education at any school conducted by them which is neither primary nor secondary education if—
 - (a) it is part-time education suitable to the requirements of persons of any age over compulsory school age, or full-time education suitable to the requirements of persons who have attained the age of nineteen years,
 - (b) it is part-time education suitable to the requirements of junior pupils who have not attained the age of five years and the school provides full-time education for junior pupils of the same age, or
 - (c) they do so as agents for a local education authority under arrangements made with the authority for the purpose.

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223 Conduct of school

- (1) Each school conducted by an education association shall be conducted in accordance with an instrument to be known as the articles of government.
- (2) Subject to any express provision of the articles of government, the school shall be conducted in accordance with any trust deed relating to it.
- (3) The initial articles of government for such a school shall be such as are prescribed and, subject to subsection (4) below, shall have effect as from the transfer date.
- (4) Such of the articles as may be prescribed shall have effect as from such date prior to the transfer date as may be prescribed.
- (5) The education association may, with the consent of the Secretary of State—
 - (a) make new articles of government in place of the existing articles for the school, or
 - (b) modify the existing articles for the school.
- (6) The Secretary of State may by a direction under this section, in the case of schools conducted by education associations, any class of such schools specified in the direction or any particular school conducted by an education association so specified, require each education association conducting any school to which the direction applies to modify its articles of government in any manner so specified.
- (7) Before giving a direction under this section, the Secretary of State shall consult each education association conducting any school to which the direction applies.

224 School conducted by education association acquiring grant-maintained status

- (1) Where the Secretary of State—
 - (a) has received a copy of a report under section 227(2) of this Act in respect of a school conducted by an education association, and
 - (b) is of the opinion that the school should become a grant-maintained school,
 he may give notice in writing of his opinion to the head teacher of the school, the education association, the local education authority and (except in the case of a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions) the funding authority.
- (2) An education association which receive a notice under subsection (1) above in respect of a school shall, within the period of three months beginning with the receipt of the notice, publish proposals under section 32 of this Act.
- (3) In relation to proposals published under section 32 of this Act by virtue of this section and the incorporation of a governing body in pursuance of such proposals, Chapters II and V of Part II of this Act shall have effect—
 - (a) as if the school to which the proposals relate had continued, after the transfer date, to be a county or, as the case may be, voluntary school, and
 - (b) with such other modifications as may be prescribed.

225 Discontinuance of school conducted by education association

- (1) Where the Secretary of State is of the opinion that a school conducted by an education association should be discontinued, he shall give notice in writing of his opinion and of the discontinuance date to—
 - (a) the education association,
 - (b) the local education authority,
 - (c) the funding authority (except in the case of a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions), and
 - (d) 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.
- (2) The education association shall cease to conduct the school—
 - (a) on the date specified in the notice, or
 - (b) if at the request of the education association the Secretary of State subsequently fixes another date (whether in substitution for the date specified in the notice or in substitution for a date previously fixed under this subsection), on that date.
- (3) Where the Secretary of State has given notice under this section, he may by order make provision for the disposal of the school property and the discharge of any liabilities of the education association in respect of the school.
- (4) An order under subsection (3) above may make any such provision (except provision for the dissolution of the education association) as is made by, or may be made by an order under, sections 111 to 116 of this Act where proposals for the discontinuance of a grant-maintained school have been approved under section 106 of this Act.

226 Winding-up of education association

- (1) Where subsection (2) below applies to the school or, as the case may be, each of the schools conducted or formerly conducted by an education association, the Secretary of State may by order provide for the dissolution of the association and the transfer to him of the property, rights and liabilities of the association.
- (2) This section applies where—
 - (a) the Secretary of State has approved proposals for the school to become a grant-maintained school, or
 - (b) the Secretary of State has given notice under section 225 of this Act of his opinion that the school should be discontinued.

227 Reports showing school no longer requires special measures

- (1) Where, on the completion of any inspection of a school conducted by an education association under section 2(2)(b), 3(1), 6(2)(b) or 7(1) of the Education (Schools) Act 1992 by a member of the Inspectorate, he is of the opinion that special measures are not required to be taken in relation to the school, he shall prepare in writing a report of the inspection and a summary of the report and state his opinion in the report.

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- (2) The member of the Inspectorate shall send a copy of the report, together with a summary of it, to the head teacher of the school, the education association and the Secretary of State.
- (3) The education association shall—
 - (a) make any copy report and summary sent to them under subsection (2) above available for inspection by members of the public at such times and at such place as may be reasonable,
 - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary as soon as is reasonably practicable.
- (4) Section 9 of that Act does not apply to schools conducted by education associations.

228 Regulations for the purposes of Chapter II

- (1) Regulations may provide for any enactments relating to grant-maintained schools (or schools including grant-maintained schools), including enactments relating to the acquisition of grant-maintained status, to have effect in relation to—
 - (a) the transfer to an education association under section 220 of this Act of responsibility for the conduct of any school and the subsequent conduct of the school by the association,
 - (b) the discontinuance under section 225 of this Act of any school conducted by an education association, and
 - (c) the transfer to a governing body incorporated in pursuance of proposals published by virtue of section 224 of this Act of responsibility for the conduct of any school conducted by an education association,
 with such modifications as seem to the Secretary of State to be necessary or desirable.
- (2) Subsection (1) above does not apply in relation to schools which are or were maintained special schools; but regulations may provide for sections 220 to 227 of this Act to have effect in relation to any such schools as they have effect in relation to county schools but with such modifications as seem to the Secretary of State to be necessary or desirable.
- (3) Regulations may make such provision as the Secretary of State considers necessary or desirable in relation to—
 - (a) the transfer to an education association under section 220 of this Act of responsibility for the conduct of any maintained special school and the subsequent conduct of the school by the association, and
 - (b) where a former maintained special school is being conducted by an education association, the discontinuance of the school under section 225 of this Act.
- (4) In relation to any former maintained special school being conducted by an education association—
 - (a) section 186 of this Act shall apply as it applies to any maintained special school, but as if the reference in subsection (1) to the school ceasing to be maintained by the local education authority were to its ceasing to be conducted by an education association, and

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- (b) section 224 of this Act shall apply—
 - (i) as if the reference in subsection (1) to a grant-maintained school were to a grant-maintained special school,
 - (ii) as if the reference in subsection (2) to section 32 of this Act were to section 186 of this Act, and
 - (iii) with the omission of subsection (3).