



# Nursery Education and Grant-Maintained Schools Act 1996

1996 CHAPTER 50

**E+W**

An Act to provide for the making of grants in respect of nursery education and to permit borrowing by grant-maintained schools. [24th July 1996]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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

C1 Act: functions transferred (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

C2 Act applied (1.6.2001) by S.I. 2001/1507, reg. 2, Sch. 2 para. 2

*Grants in respect of nursery education*

**1 Arrangements for making grants. E+W**

- (1) The Secretary of State may make arrangements for the making of grants in respect of nursery education.
- (2) For the purposes of this Act “nursery education” is education provided for children (whether at schools or other premises)—
  - [<sup>F1</sup>(a) before they begin to be of compulsory school age; but]
  - (b) after such earlier time as may be prescribed (whether by reference to their having attained a particular age or any other circumstances).
- (3) Grants may be made under arrangements under this section—

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- (a) to local education authorities in respect of nursery education provided at schools maintained by them, and
  - (b) to authorities and other persons of such descriptions as may be prescribed in respect of nursery education provided by them.
- (4) The amount of a grant made under arrangements under this section shall be determined in such manner as may be prescribed; and regulations may, in particular, provide for the determination to be made by reference to an amount (or amounts) specified for the purpose by the Secretary of State.
- (5) The times at which, and the manner in which, grants made under arrangements under this section are paid shall be such as may be determined by the arrangements.
- (6) Nothing shall be taken to prevent, or to afford any right of appeal against, a refusal by any authority or person to provide (or continue to provide) a child with a place for nursery education at a maintained school if the reason for the refusal is that a relevant condition has not been complied with in relation to the child; and this subsection applies even if the child has been provided with, or offered, a place at the school before the commencement of this subsection.
- In this subsection—
- (a) “a maintained school” means a school maintained by a local education authority, a grant-maintained school or a grant-maintained special school, and
  - (b) “a relevant condition” means a prescribed condition designed to facilitate the determination of the amount of grants payable under arrangements under this section.
- (7) This section does not affect any power of the Secretary of State to make grants in respect of nursery education under any other enactment.

#### Textual Amendments

**F1** S. 1(2)(a) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.8**; S.I. 1998/386, art. 2(3), **Sch. 1 Pt.III**.

## 2 Delegation. **E+W**

- (1) Arrangements under section 1 may provide for grants to be made, or other functions relating to grants to be exercised, otherwise than by the Secretary of State.
- (2) Arrangements under section 1 which so provide may make provision for the functions concerned to be so exercised—
  - (a) either wholly or to such extent as may be specified in the arrangements, and
  - (b) either generally or in such cases or circumstances as may be so specified,
 but shall not prevent the functions concerned from being exercised by the Secretary of State.

## 3 Requirements. **E+W**

- (1) An authority or other person to whom a grant is made under arrangements under section 1 shall comply with such requirements as may be imposed by or in accordance with the arrangements.

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- (2) Such requirements—
  - (a) may be imposed on, or at any time after, the making of any grant by reference to which they are imposed, and
  - (b) may at any time be varied, waived or removed.
- (3) Such requirements may in particular, if any specified conditions are satisfied, require the repayment of the whole or any part of any grant to which they relate.

#### 4 Children with special educational needs. **E+W**

- (1) It shall be the duty of—
  - (a) any authority or other person providing funded nursery education, and
  - (b) any person employed by such an authority or other person in the provision of such education,  
  
(except where a duty is already imposed by subsection (2) of [<sup>F2</sup>section 313 of the Education Act 1996]) to have regard to the provisions of the code of practice issued under that section (practical guidance in respect of the discharge of functions under [<sup>F3</sup>Part IV] of that Act).
- (2) That code of practice may include practical guidance in respect of the provision of funded nursery education for children with special educational needs in circumstances where functions under [<sup>F4</sup>Part IV of the Education Act 1996] do not fall to be discharged.
- (3) But unless that code of practice includes provision made by virtue of subsection (2)—
  - (a) the Secretary of State shall publish a document explaining how the practical guidance contained in that code applies in circumstances where functions under [<sup>F4</sup>Part IV of the Education Act 1996] do not fall to be discharged, and
  - (b) the duty imposed by subsection (1) includes a duty to have regard to the provisions of that document.
- (4) In this section “funded nursery education” means nursery education in respect of which the Secretary of State is making (or is to make) grants under arrangements under section 1.

#### Textual Amendments

- F2** Words in s. 4(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 131(2) (a)** (with ss. 1(4), 561, 562, Sch. 39).
- F3** Words in s. 4(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 131(2) (b)** (with ss. 1(4), 561, 562, Sch. 39).
- F4** Words in s. 4(2)(3) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 131(3)** (with ss. 1(4), 561, 562, Sch. 39).

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**Textual Amendments**

**F5** S. 5 repealed (1.10.1998) by 1998 c. 31, s. 140(3), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch.1 Pt. I**.

**6 Disclosure of information. U.K.**

Schedule 2 (nursery education grants: disclosure of information) shall have effect.

*Borrowing by grant-maintained schools*

**F67** ..... **E+W**

**Textual Amendments**

**F6** S. 7 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

*Supplementary*

**8 Orders and regulations. E+W**

- (1) In this Act “prescribed” means prescribed by regulations made by the Secretary of State.
- (2) Any power to make an order or regulations under this Act shall be exercised by statutory instrument.
- (3) A statutory instrument containing any regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any regulations made under this Act—
  - (a) may make different provision for different cases or different areas, and
  - (b) may contain such incidental, supplementary, saving or transitional provisions as the Secretary of State considers appropriate.

**9 Financial provisions. E+W**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any sums required by the Secretary of State for making grants under arrangements under section 1 or for making payments to any person exercising any function by virtue of section 2,
  - (b) any administrative expenses incurred by the Secretary of State under this Act, and
  - (c) any increase attributable to this Act in sums payable out of money provided by Parliament under any other Act.
- (2) There shall be paid into the Consolidated Fund—

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- (a) sums received by the Secretary of State by virtue of section 3(3), and
- (b) fees received by Her Majesty's Chief Inspector of Schools in England, or Her Majesty's Chief Inspector of Schools in Wales, under Schedule 1.

## 10 Consequential amendments and repeals. **E+W**

Schedule 3 (consequential amendments) and Schedule 4 (repeals) shall have effect.

## 11 Citation, interpretation, commencement and extent. **U.K.**

(1) This Act may be cited as the Nursery Education and Grant-Maintained Schools Act 1996.

[<sup>F7</sup>(2) This Act shall be construed as one with the Education Act 1996.]

(3) The provisions of this Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different provisions and for different purposes.

(4) Apart from section 6 and Schedule 2 and this section, this Act extends to England and Wales only.

### Subordinate Legislation Made

- P1** [S. 11\(3\)](#) power partly exercised (31.7.1996): 1.9.1996 appointed for specific provisions by [S.I. 1996/2022, art. 2](#).
- [S. 11\(3\)](#) power partly exercised (10.12.1996): different dates appointed for specified provisions by [S.I. 1996/3192](#).

### Textual Amendments

- F7** [S. 11\(2\)](#) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\), Sch. 37 Pt. I para.132](#) (with [ss. 1\(4\), 561, 562, Sch. 39](#)).

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## SCHEDULES

### <sup>F8</sup>SCHEDULE 1 **E+W**

#### Textual Amendments

**F8** Sch. 1 repealed and superseded (1.10.1998) by 1998 c. 31, ss. 122(1)(2), 140(3), Schs. 26,31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch.1 Pt. I.

### SCHEDULE 2 **U.K.**

Section 6.

#### NURSERY EDUCATION GRANTS: DISCLOSURE OF INFORMATION

- 1 (1) This Schedule applies to—
- (a) civil servants in the Department for Education and Employment, civil servants in the Welsh Office and any other persons who carry out the administrative work of the Department for Education and Employment or the Welsh Office, and
  - (b) any person exercising any function by virtue of section 2 and any persons who are employed by (or are directors or other officers of) any such person or who carry out the administrative work of any such person.
- (2) In this Schedule “social security information” means information of a prescribed description which was obtained by reason of the exercise by the Secretary of State of any of his functions under the <sup>M3</sup>Social Security Contributions and Benefits Act 1992 or the <sup>M4</sup>Social Security Administration Act 1992.

#### Marginal Citations

**M3** 1992 c. 4.  
**M4** 1992 c. 5.

- 2 The Secretary of State may supply to any person to whom this Schedule applies any such social security information as the person may require for or in connection with the exercise of any function relating to grants in respect of nursery education.
- 3 (1) A person who is or has been a person to whom this Schedule applies is guilty of an offence if he discloses without lawful authority any social security information relating to a particular person which he acquired while acting as a person to whom this Schedule applies.
- (2) It is not an offence under this paragraph—

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- (a) to disclose information in the form of a summary or collection of information so framed as not to enable social security information relating to any particular person to be ascertained from it, or
  - (b) to disclose social security information which has previously been disclosed to the public with lawful authority.
- (3) It is a defence for a person charged with an offence under this paragraph to prove that at the time of the alleged offence—
- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (4) For the purposes of this paragraph a disclosure is to be regarded as made with lawful authority if, and only if, it is made—
- (a) by a person in accordance with his official duty as a civil servant,
  - (b) by any other person either—
    - (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the Secretary of State or by any person authorised by the Secretary of State, or
    - (ii) to the Secretary of State or in accordance with an authorisation duly given by the Secretary of State or by any person authorised by the Secretary of State,
  - (c) in accordance with any enactment or order of a court,
  - (d) for the purposes of instituting, or otherwise for the purposes of, any proceedings before a court, or
  - (e) with the consent of the person to whom the information relates or of any person authorised to act on his behalf.
- (5) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

SCHEDULE 3 **E+W**

Section 10.

CONSEQUENTIAL AMENDMENTS

*The Education Act 1944 (c.31)*

F17<sub>1</sub> .....

**Textual Amendments**

**F17** Sch. 3 para. 1 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), Sch. 38 Pt.I (with ss. 1(4), 561, 562, Sch. 39).

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

F18<sup>2</sup> .....

**Textual Amendments**  
F18 Sch. 3 para. 2 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), Sch. 38 Pt.I (with ss. 1(4), 561, 562, Sch. 39).

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

F19<sup>3</sup> .....

**Textual Amendments**  
F19 Sch. 3 para. 3 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), Sch. 38 Pt.I (with ss. 1(4), 561, 562, Sch. 39).

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

F20<sup>4</sup> .....

**Textual Amendments**  
F20 Sch. 3 para. 4 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), Sch. 38 Pt.I (with ss. 1(4), 561, 562, Sch. 39).

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

F21<sup>5</sup> .....

**Textual Amendments**  
F21 Sch. 3 para. 5 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), Sch. 38 Pt.I (with ss. 1(4), 561, 562, Sch. 39).

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

F22<sup>6</sup> .....

**Textual Amendments**  
F22 Sch. 3 para. 6 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), Sch. 38 Pt.I (with ss. 1(4), 561, 562, Sch. 39).

*The Education Reform Act 1988 (c.40)*

F23<sup>7</sup> .....



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**Textual Amendments**

**F23** Sch. 3 para. 7 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

*The Further and Higher Education Act 1992 (c.13)*

F24<sup>8</sup> .....

**Textual Amendments**

**F24** Sch. 3 para. 8 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

*The Local Government Finance Act 1992 (c.14)*

- 9 (1) Section 55 of the Local Government Finance Act 1992 (limitation of council tax: special transitional provisions where local authority's budget requirement for financial year is to be compared with notional amount rather than authority's budget requirement for preceding financial year) is amended as follows.
- (2) In subsection (1), after paragraph (c) insert "or
- (d) as regards any financial year to which this paragraph applies and any authority to which grants are made under arrangements under section 1 of the Nursery Education and Grant-Maintained Schools Act 1996."
- (3) After that subsection insert—
- “(1A) Subsection (1)(d) above applies to—
- (a) the first financial year in which grants are made to any authority under arrangements under section 1 of the Nursery Education and Grant-Maintained Schools Act 1996,
- (b) either or both of the next two financial years if, in the opinion of the Secretary of State, the basis of comparison referred to in section 54(1)(b) above would be inappropriate for the year in the case of the authority concerned because of a change in the basis of distribution (within the meaning of section 78A(2) of the 1988 Act) which is related to the making of grants under such arrangements, and
- (c) any financial year in which grants are first made under such arrangements in respect of education provided for a particular description of children.”

*The Education Act 1993 (c.35)*

F25<sup>10</sup> .....

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**Textual Amendments**

**F25** Sch. 3 para. 10 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

**F26** 11 .....

**Textual Amendments**

**F26** Sch. 3 para. 11 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

**F27** 12 .....

**Textual Amendments**

**F27** Sch. 3 para. 12 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 582(3), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

**F28** 13 .....

**Textual Amendments**

**F28** Sch. 3 para. 13 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

**F29** 14 .....

**Textual Amendments**

**F29** Sch. 3 para. 14 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

*The Value Added Tax Act 1994 (c.23)*

**F30** 15 .....

**Textual Amendments**

**F30** Sch. 3 para. 15 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt.I** (with ss. 1(4), 561, 562, Sch. 39).

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SCHEDULE 4 **E+W**

Section 10.

## REPEALS

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1993 c. 35.	The Education Act 1993.	In section 308(2), the words “(referred to in this Act as “the Education Acts”)”.  In Schedule 19, paragraphs 54(a), 56, 64, 69, 84, 131 and 170.
1994 c. 30.	The Education Act 1994.	In Schedule 2, paragraph 10(3).

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