



Nursery Education and Grant-Maintained Schools Act 1996

1996 CHAPTER 50

Grants in respect of nursery education

1 Arrangements for making grants.

- (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)—
 - (a) before their first school term starting after they have attained the age of five years (or, if they do not attend school, before such broadly corresponding time as may be prescribed), 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—
 - (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

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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.

2 Delegation.

- (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.

- (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.
- (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.

- (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 section 157 of the ^{M1}Education Act 1993) 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 Part III of that Act).

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- (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 Part III of the Education Act 1993 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 Part III of the Education Act 1993 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.

Marginal Citations

M1 1993 c. 35.

5 Inspections.

Schedule 1 (nursery education grants: inspections etc.) shall have effect.

Commencement Information

II S. 5 wholly in force at 1.4.1997; s. 5 not in force at Royal Assent see s. 11(3); s. 5 in force for certain purposes at 1.9.1996 by S.I. 1996/2022, arts. 2, 3; s. 5 in force at 10.12.1996 and 1.1.1997 for certain purposes and 1.4.1997 in so far as not already in force by 1996/3192, arts. 2-6.

6 Disclosure of information.

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

Borrowing by grant-maintained schools

7 Power to borrow.

- (1) Section 68 of the Education Act 1993 (powers of governing body of grant-maintained school) is amended as follows.
- (2) In subsection (5), after paragraph (b) insert—
 - “(ba) to borrow such sums as the governing body think fit and, in connection with such borrowing, to grant any mortgage, charge or other security over any land or other property of the governing body,”.
- (3) For subsection (6) substitute—
 - “(6) The power to borrow sums and grant security mentioned in subsection (5) (ba) above may only be exercised with the written consent of the Secretary of State (which may be given for particular borrowing or for borrowing of a

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particular class); but this subsection does not apply in relation to loans under section 92 of this Act.”

- (4) In subsection (7), for the words from “above” to “may” substitute “ above may ”.

Supplementary

8 Orders and regulations.

- (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.

- (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—
 - (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.

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

11 Citation, interpretation, commencement and extent.

- (1) This Act may be cited as the Nursery Education and Grant-Maintained Schools Act 1996.
- (2) This Act shall be construed as one with the ^{M2}Education Act 1944 and shall be included among the Acts which may be cited as the Education Acts 1944 to 1996.

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- (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](#).

Marginal Citations

M2 [1944 c. 31](#).

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