



# Education Act 1996

## 1996 CHAPTER 56

An Act to consolidate the Education Act 1944 and certain other enactments relating to education, with amendments to give effect to recommendations of the Law Commission. [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 to be construed with 1996 c. 57 (1.11.1996) by virtue of 1996 c. 57, **ss. 46(4), 48(2)**  
Act to be construed with 1997 c. 44 (14.6.1997) by virtue of 1997 c. 44, **s. 56(2)**; S.I. 1997/1468, **art. 2(1), Sch. 1 Pt. I**  
Act to be construed with 1997 c. 59, **ss. 1-3** (31.7.1997) by virtue of 1997 c. 59, **s. 4(3)**  
Act to be construed with 1998 c. 18 (11.9.1998) by virtue of 1998 c. 18, **ss. 36(6), 55(2)**  
Act to be construed with 1998 c. 31 (24.7.1998) by virtue of 1998 c. 31, **s. 142(8)(9)**  
Act to be construed with specified provisions of Education Act 2002 (24.7.2002) by virtue of **Education Act 2002 (c. 32), ss. 212(2)-(4), 216(1)** (with **ss. 210(8), 214(4)**)
- C2** Act applied (24.7.1998) by 1998 c. 31, **ss. 20, 145(4), Sch. 2 para. 3**  
Act applied (1.6.2001) by S.I. 2001/1507, **reg. 2, Sch. 2 para. 2**
- C3** Act excluded (26.5.1999) by S.I. 1999/1287, **reg. 5(2)(3)**
- C4** Act: powers transferred in part (1.7.1999) by S.I. 1999/672, **art. 2, Sch. 1**; S.I. 1999/3178, **art. 2(1)**  
Act: power to delegate certain functions restricted (1.9.1999) by S.I. 1999/2242, **reg. 42(1)(5)**  
Act: certain functions of a local education authority made exercisable (E.) (1.4.2002) by authorised persons by **Contracting Out (Local Education Authority Functions) (England) Order 2002 (S.I. 2002/928), art. 3, Sch. 1**
- C5** Act modified (1.9.1999) by 1998 c. 31, **s. 126**

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## PART I

### GENERAL

## CHAPTER I

### THE STATUTORY SYSTEM OF EDUCATION

#### *General*

#### **1 The stages of education.**

- (1) The statutory system of public education consists of three progressive stages: primary education, secondary education and further education.
- (2) This Part—
  - (a) confers functions on the Secretary of State and local education authorities with respect to primary, secondary and further education; and
  - (b) provides for functions with respect to primary and secondary education to be conferred on the funding authorities constituted under Chapter IV.
- (3) Part I of the <sup>M1</sup>Further and Higher Education Act 1992 confers functions with respect to further education on the further education funding councils established under section 1 of that Act.
- (4) Apart from section 10 (general duty of Secretary of State), nothing in this Act confers any functions with respect to higher education.

#### **Marginal Citations**

M1 1992 c. 13.

#### **2 Definition of primary, secondary and further education.**

- (1) In this Act “primary education” means —
  - (a) full-time education suitable to the requirements of junior pupils who have not attained the age of 10 years and six months; and
  - (b) full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils within paragraph (a).
- (2) In this Act “secondary education” means—
  - (a) full-time education suitable to the requirements of pupils of compulsory school age who are either—
    - (i) senior pupils, or
    - (ii) junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with senior pupils of compulsory school age; and

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- (b) (subject to subsection (5)) full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19 which is provided at a school at which education within paragraph (a) is also provided.
- (3) Subject to subsection (5), in this Act “further education” means—
  - (a) full-time and part-time education suitable to the requirements of persons who are over compulsory school age (including vocational, social, physical and recreational training), and
  - (b) organised leisure-time occupation provided in connection with the provision of such education,  
except that it does not include secondary education or (in accordance with subsection (7)) higher education.
- (4) Accordingly, unless it is education within subsection (2)(b), full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19 is further education for the purposes of this Act and not secondary education.
- (5) For the purposes of this Act education provided for persons who have attained the age of 19 is further education not secondary education; but where a person—
  - (a) has begun a particular course of secondary education before attaining the age of 18, and
  - (b) continues to attend that course,  
the education does not cease to be secondary education by reason of his having attained the age of 19.
- (6) In subsection (3)(b) “organised leisure-time occupation” means leisure-time occupation, in such organised cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.
- (7) References in this section to education do not include references to higher education.

### 3 Definition of pupil etc.

- (1) In this Act “pupil” means a person for whom education is being provided at a school, other than—
  - (a) a person who has attained the age of 19 for whom further education is being provided, or
  - (b) a person for whom part-time education suitable to the requirements of persons of any age over compulsory school age is being provided.

[<sup>F1</sup>and references to pupils in the context of the admission of pupils to, or the exclusion of pupils from, a school are references to persons who following their admission will be, or (as the case may be) before their exclusion were, pupils as defined by this subsection.]

- (2) In this Act—
  - “junior pupil” means a child who has not attained the age of 12; and
  - “senior pupil” means a person who has attained the age of 12 but not the age of 19.

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- (3) The definition of “pupil” in subsection (1) also applies (unless the context otherwise requires) for the purposes of any instrument made or having effect as if made under the Education Acts.

#### Textual Amendments

- F1** Words in s. 3(1) inserted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 9(2)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**

### *Educational institutions*

#### 4 Schools: general.

- [<sup>F2</sup>(1) In this Act “school” means an educational institution which is outside the further education sector and the higher education sector and is an institution for providing—
- (a) primary education,
  - (b) secondary education, or
  - (c) both primary and secondary education,
- whether or not the institution also provides part-time education suitable to the requirements of junior pupils or further education.]

- (2) [<sup>F3</sup>Nothing in subsection (1) shall be taken to preclude the making of arrangements under section 19(1) (exceptional educational provision) under which part-time education is to be provided at a school; and for] the purposes of this Act an educational institution that would fall within subsection (1) but for the fact that it provides part-time rather than full-time education shall nevertheless be treated as a school if that part-time education is provided under arrangements made under section 19(1) <sup>F4</sup>. . .

- (3) For the purposes of this Act an institution is outside the further education sector if it is not—
- (a) an institution conducted by a further education corporation established under section 15 or 16 of the <sup>M2</sup>Further and Higher Education Act 1992, or
  - (b) a designated institution for the purposes of Part I of that Act (defined in section 28(4) of that Act);

and references to institutions within that sector shall be construed accordingly.

- (4) For the purposes of this Act an institution is outside the higher education sector if it is not—
- (a) a university receiving financial support under section 65 of that Act,
  - (b) an institution conducted by a higher education corporation within the meaning of that Act, or
  - (c) a designated institution for the purposes of Part II of that Act (defined in section 72(3) of that Act);

and references to institutions within that sector shall be construed accordingly.

#### Textual Amendments

- F2** S. 4(1) substituted (1.9.1997) by 1997 c. 44, s. 51; S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**

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**F3** Words in s. 4(2) substituted (1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 10(a)**; S.I. 1998/386, art.2, **Sch. 1 Pt. IV**

**F4** Words in s. 4(2) repealed (1.9.1998) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 10(b), **Sch. 8**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**

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

**C6** S. 4(1) restricted (1.9.2000 (E.) and 1.4.2001 (W.)) by 2000 c. 21, s. 110(3) (with s. 150); S.I. 2000/2114, art. 2(3), **Sch. Pt. III**; S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

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**Marginal Citations**

**M2** 1992 c. 13.

## 5 Primary schools, secondary schools and middle schools.

- (1) In this Act “primary school” means (subject to regulations under subsection (4)) a school for providing primary education, whether or not it also provides part-time education suitable to the requirements of junior pupils or further education.
- (2) In this Act “secondary school” means (subject to regulations under subsection (4)) a school for providing secondary education, whether or not it also provides further education.
- (3) In this Act “middle school” means a school in respect of which proposals authorised by section 49, 198(6) or 291 are implemented (that is, a school providing full-time education suitable to the requirements of pupils who have attained a specified age below 10 years and six months and are under a specified age above 12 years).
- (4) The Secretary of State shall make regulations for determining, or enabling him to determine, whether a middle school is to be treated for the purposes of this Act and the other enactments relating to education as a primary school or as a secondary school.
- (5) The powers conferred by sections 49, 198(6) and 291 and subsection (4) above are exercisable—
  - (a) notwithstanding anything in this Act (and in particular section 1); but
  - (b) without prejudice to the exercise of any other power conferred by this Act.

## 6 Nursery schools and special schools.

- (1) A primary school is a nursery school if it is used mainly for the purpose of providing education for children who have attained the age of two but are under [<sup>F5</sup>compulsory school age].
- (2) A school is a special school if it is specially organised, and for the time being approved, as mentioned in section 337(1).

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**Textual Amendments**

**F5** Words in s. 6(1) substituted (1.8.1998) by 1997 c. 44, s. 51(1), **Sch. 7 para.11**; S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

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### *Compulsory education*

#### **7 Duty of parents to secure education of children of compulsory school age.**

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (a) to his age, ability and aptitude, and
  - (b) to any special educational needs he may have,
- either by regular attendance at school or otherwise.

#### **8 Compulsory school age.**

- (1) Subsections (2) and (3) apply to determine for the purposes of any enactment whether a person is of compulsory school age.

[<sup>F6</sup>(2) A person begins to be of compulsory school age—

- (a) when he attains the age of five, if he attains that age on a prescribed day, and
- (b) otherwise at the beginning of the prescribed day next following his attaining that age.]

- (3) A person ceases to be of compulsory school age at the end of the day which is the school leaving date for any calendar year—

- (a) if he attains the age of 16 after that day but before the beginning of the school year next following,
- (b) if he attains that age on that day, or
- (c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age.

[<sup>F7</sup>(4) The Secretary of State may by order—

- (a) provide that such days in the year as are specified in the order shall be, for each calendar year, prescribed days for the purposes of subsection (2);
- (b) determine the day in any calendar year which is to be the school leaving date for that year.]

#### **Textual Amendments**

- F6** S. 8(2) substituted (1.8.1998) by 1997 c. 44, s. 52(2); S.I. 1998/386, art. 2, Sch. 1 Pt. III  
**F7** S. 8(4) substituted (1.8.1998) by 1997 c. 44, s. 52(3); S.I. 1998/386, art. 2, Sch. 1 Pt. III

### *Education in accordance with parental wishes*

#### **9 Pupils to be educated in accordance with parents' wishes.**

In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of State, local education authorities and the funding authorities shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.

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## CHAPTER II

### FUNCTIONS OF THE SECRETARY OF STATE

#### 10 General duty of Secretary of State.

The Secretary of State shall promote the education of the people of England and Wales.

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

C7 S. 10 amended (1.11.1996) by 1994 c. 30, s. 11A, as inserted by 1996 c. 56, ss. 582(1)(3), 583(2), Sch. 37 Pt. I para.126 (with ss. 1(4), 561, 562, Sch. 39)

#### 11 Duty in the case of primary, secondary and further education.

(1) The Secretary of State shall exercise his powers in respect of those bodies in receipt of public funds which—

(a) carry responsibility for securing that the required provision for primary, secondary or further education is made—

(i) in schools, or

(ii) in institutions within the further education sector,

in or in any area of England or Wales, or

(b) conduct schools or institutions within the further education sector in England and Wales,

for the purpose of promoting primary, secondary and further education in England and Wales.

(2) The Secretary of State shall, in the case of his powers to regulate the provision made in schools and institutions within the further education sector in England and Wales, exercise his powers with a view to (among other things) improving standards, encouraging diversity and increasing opportunities for choice.

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

C8 S. 11 amended (1.11.1996) by 1994 c. 30, s. 11A, as inserted by 1996 c. 56, ss. 582(1)(3), 583(2), Sch. 37 Pt. I para.126 (with ss. 1(4), 561, 562, Sch. 39)

## CHAPTER III

### LOCAL EDUCATION AUTHORITIES

#### *The authorities*

#### 12 Local education authorities and their areas.

(1) The local education authority for a county in England having a county council is the county council.

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- (2) The local education authority for a district in England which is not in a county having a county council is the district council.
- (3) The local education authority for a London borough is the borough council.
- (4) The local education authority for the City of London (which for the purposes of this Act shall be treated as including the Inner Temple and the Middle Temple) is the Common Council of the City of London (in their capacity as a local authority).
- (5) As respects Wales—
  - (a) the local education authority for a county is the county council; and
  - (b) the local education authority for a county borough is the county borough council.
- (6) Any reference in this Act to the area of a local education authority shall be construed in accordance with the preceding provisions of this section.

### *General functions*

## **13 General responsibility for education.**

- (1) A local education authority shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education, secondary education and further education are available to meet the needs of the population of their area.
- (2) The duty imposed by subsection (1) does not extend to matters in respect of which any duty is imposed on—
  - (a) the further education funding councils established under section 1 of the <sup>M3</sup>Further and Higher Education Act 1992, or
  - (b) the higher education funding councils established under section 62 of that Act.

#### **Marginal Citations**

**M3** 1992 c. 13.

VALID FROM 01/10/1999

#### **[<sup>F8</sup>13A Duty to promote high standards in primary and secondary education.**

- (1) A local education authority shall ensure that their functions relating to the provision of education to which this section applies are (so far as they are capable of being so exercised) exercised by the authority with a view to promoting high standards.
- (2) This section applies to education for—
  - (a) persons of compulsory school age (whether at school or otherwise); and
  - (b) persons of any age above or below that age who are registered as pupils at schools maintained by the authority;
 and in subsection (1) “functions” means functions of whatever nature.]



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#### Textual Amendments

**F8** S. 13A inserted (1.10.1998) by 1998 c. 31, s. 5 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch. 1 Pt. I.

### 14 Functions in respect of provision of primary and secondary schools.

- (1) A local education authority shall secure that sufficient schools for providing—
  - (a) primary education, and
  - (b) education that is secondary education by virtue of section 2(2)(a),are available for their area.
- (2) The schools available for an area shall not be regarded as sufficient for the purposes of subsection (1) unless they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education.
- (3) In subsection (2) “appropriate education” means education which offers such variety of instruction and training as may be desirable in view of—
  - (a) the pupils’ different ages, abilities and aptitudes, and
  - (b) the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their different needs.
- (4) A local education authority is not by virtue of subsection (1)(a) under any duty in respect of children under [<sup>F9</sup>compulsory school age].
- (5) A local education authority may secure the provision for their area of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, including provision for persons from other areas.
- (6) In exercising their functions under this section, a local education authority shall in particular have regard to—
  - (a) the need for securing that primary and secondary education are provided in separate schools;
  - (b) the need for securing that special educational provision is made for pupils who have special educational needs; and
  - (c) the expediency of securing the provision of boarding accommodation (in boarding schools or otherwise) for pupils for whom education as boarders is considered by their parents and the authority to be desirable.
- (7) The duty imposed by subsection (6)(a) does not apply in relation to middle schools or special schools.

#### Textual Amendments

**F9** Words in s. 14(4) substituted (1.8.1998) by 1997 c. 44, s. 57(1), Sch. 7 para.12; S.I. 1998/386, art. 2, Sch. 1 Pt. III

### 15 Functions in respect of provision of further education.

- (1) A local education authority shall secure the provision for their area of adequate facilities for further education.

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- (2) The duty imposed by subsection (1) does not apply in relation to—
- (a) education to which section 2(1) of the <sup>M4</sup>Further and Higher Education Act 1992 applies (that is, full-time education suitable to the requirements of persons who are over compulsory school age and under the age of 19); or
  - (b) education to which section 3(1) of that Act applies (that is—
    - (i) part-time education suitable to the requirements of persons of any age over compulsory school age, and
    - (ii) full-time education suitable to the requirements of persons who have attained the age of 19,
 where the education is provided by means of a course of a description mentioned in Schedule 2 to that Act).
- (3) However, in respect of further education falling within subsection (2)(b), a local education authority may secure the provision for their area of such facilities as appear to them to be appropriate for meeting the needs of the population of their area.
- (4) A local education authority may secure the provision of further education for persons from other areas.
- (5) In exercising their functions under this section a local education authority shall have regard to—
- (a) any educational facilities provided—
    - (i) by institutions within the higher education sector or the further education sector, and
    - (ii) by other bodies,
 which are provided for, or available for use by persons in, their area, and
  - (b) the requirements of persons over compulsory school age who have learning difficulties.
- (6) Subject to subsection (7), a person has a “learning difficulty” for the purposes of subsection (5) if—
- (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
  - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided in pursuance of the duty under subsection (1) for persons of his age.
- (7) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (8) A local education authority may do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.

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**Marginal Citations**

**M4** 1992 c. 13.

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VALID FROM 01/09/1999

**[<sup>F10</sup>15A Functions in respect of full-time education for 16 to 18 year olds.**

- (1) A local education authority may secure the provision for their area of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, including provision for persons from other areas.
- (2) Subsections (6) and (7) of section 14 shall apply in relation to functions under this section as they apply in relation to functions under that section.]

**Textual Amendments**

**F10** S. 15A inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.63** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1** (with savings in Sch. 7 paras. 2-4, 6, 7, 10, 12)

VALID FROM 28/07/2000

**[<sup>F11</sup>15B Functions in respect of education for persons over 19.**

- (1) A local education authority may secure the provision for their area of full-time or part-time education suitable to the requirements of persons who have attained the age of 19, including provision for persons from other areas.
- (2) The power under subsection (1) to secure the provision of education includes power to secure the provision—
  - (a) of training, including vocational, social, physical and recreational training, and
  - (b) of organised leisure time occupation (within the meaning of section 2(6)) which is provided in connection with the provision of education or of training within paragraph (a).
- (3) In exercising their functions under this section a local education authority shall in particular have regard to the needs of persons with learning difficulties (within the meaning of section 13(5) and (6) of the Learning and Skills Act 2000).
- (4) A local education authority may do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.
- (5) This section does not apply to higher education.]

**Textual Amendments**

**F11** S. 15B inserted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, ss. 149, 154(5), **Sch. 9 para. 55** (with s. 150); S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**

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### *Establishment etc. of schools*

#### **16 Power to establish, maintain and assist primary and secondary schools.**

- (1) For the purpose of fulfilling their functions under this Act, a local education authority may—
- (a) establish primary schools and secondary schools;
  - (b) maintain primary and secondary schools, whether established by them or not; and
  - (c) assist any primary or secondary school which is not maintained by them.
- (2) A local education authority may under subsection (1) establish, maintain and assist schools outside as well as inside their area.
- (3) A local education authority may not under subsection (1) establish a school to provide—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19.

#### **17 Powers in respect of nursery education.**

- (1) A local education authority may—
- (a) establish nursery schools;
  - (b) maintain nursery schools established by them or by an authority which was a local education authority within the meaning of any enactment repealed by the <sup>M5</sup>Education Act 1944 or an earlier Act; and
  - (c) assist any nursery school not so established.
- (2) Section 14(4) does not affect a local education authority's power under section 16(1) to establish, maintain and assist schools at which education is provided both for children under [<sup>F12</sup>compulsory school age] and for older pupils (including schools at which there are nursery classes for children under [<sup>F12</sup>compulsory school age]).

#### **Textual Amendments**

**F12** Words in s. 17(2) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.13**; S.I. 1998/386, art. 2, **Sch. 1 Pt.III**

#### **Marginal Citations**

**M5** 1944 c. 31.

### *Other arrangements for provision of education*

#### **18 Power to arrange provision of education at non-maintained schools.**

A local education authority may make arrangements for the provision of primary and secondary education for pupils at schools not maintained by them or another local education authority.

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## 19 Exceptional provision of education in pupil referral units or elsewhere.

- (1) Each local education authority shall make arrangements for the provision of suitable <sup>F13</sup> . . . education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
  - (2) Any school established (whether before or after the commencement of this Act) and maintained by a local education authority which—
    - (a) is specially organised to provide education for such children, and
    - (b) is not a county school or a special school,shall be known as a “pupil referral unit”.
  - (3) A local education authority may secure the provision of boarding accommodation at any pupil referral unit.
  - (4) A local education authority may make arrangements for the provision of suitable <sup>F13</sup> . . . education otherwise than at school for those young persons who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
- [<sup>F14</sup>(4A) In determining what arrangements to make under subsection (1) or (4) in the case of any child or young person a local education authority shall have regard to any guidance given from time to time by the Secretary of State.]
- (5) Any child for whom education is provided otherwise than at school in pursuance of this section, and any young person for whom full-time education is so provided in pursuance of this section, shall be treated for the purposes of this Act as a pupil.
  - (6) In this section “suitable education”, in relation to a child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.
  - (7) Schedule 1 has effect in relation to pupil referral units.

### Textual Amendments

**F13** Words in s. 19(1) and (4) repealed (1.9.1998) by 1997 c. 44, ss. 47(2)(3), 57(4), **Sch.8**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**

**F14** S. 19(4A) inserted (1.9.1998) by 1997 c. 44, s. 47(4); S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**

### Modifications etc. (not altering text)

**C9** S. 19 excluded (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 36(5)(c)(10), 162 (with s. 159)

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## CHAPTER IV

### THE FUNDING AUTHORITIES

#### *The Authorities*

#### **20 The Funding Agency for Schools.**

- (1) The Funding Agency for Schools shall continue in existence as a body corporate exercising in relation to England the functions conferred on them.
- (2) The agency shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (3) In appointing the members of the agency the Secretary of State shall have regard to the desirability of including—
  - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of such education;
  - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of education in voluntary schools, or in grant-maintained schools having foundation governors;
  - (c) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession; and
  - (d) persons who appear to him to have experience of, and to have shown capacity in, providing for children with special educational needs.
- (4) Before appointing any member of the agency the Secretary of State shall consult—
  - (a) a body appearing to him to be representative of the Church of England, and
  - (b) a body appearing to him to be representative of the Roman Catholic Church, in matters relating to the provision of education in voluntary schools, or in grant-maintained schools having foundation governors.
- (5) Schedule 2 has effect in relation to the agency.

#### **21 The Schools Funding Council for Wales.**

- (1) The Secretary of State may by order make provision for the establishment of a body corporate to be known as the Schools Funding Council for Wales to exercise in relation to Wales, as from such date as may be specified in the order, the functions conferred on them.
- (2) The council shall consist of not less than eight nor more than 12 members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (3) In appointing the members of the council the Secretary of State shall have regard to the desirability of including—
  - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of such education;

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- (b) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession; and
  - (c) persons who appear to him to have experience of, and to have shown capacity in, providing for children with special educational needs.
- (4) Schedule 2 has effect in relation to the council.

### *Functions*

## **22 Functions of funding authorities.**

- (1) The functions which are or may be exercisable by a funding authority include in particular those which are or may be so exercisable by virtue of—
- (a) section 23 (value-for-money studies of grant-maintained schools);
  - (b) section 27 (responsibility for provision of school places to be held together with, or to the exclusion of, local education authority); and
  - (c) Chapter VI of Part III (funding of grant-maintained schools).
- (2) Schedule 3 enables the Secretary of State to transfer to a funding authority certain functions of his with respect to education.

## **23 Value-for-money studies of grant-maintained schools.**

- (1) Each funding authority shall make arrangements for carrying out such value-for-money studies of grant-maintained schools in England or, as the case may be, Wales as in their opinion are required or as the Secretary of State may direct.
- (2) The authority shall, in particular—
- (a) in forming an opinion as to whether any value-for-money study is required to be carried out in pursuance of this section, have regard to the desirability of value-for-money studies being carried out at regular intervals, and
  - (b) in determining the scope of any value-for-money study to be carried out in pursuance of this section otherwise than on the direction of the Secretary of State, have regard to the scope of any value-for-money study which is being or has recently been carried out.
- (3) In this section “value-for-money study”, in relation to any grant-maintained school, means—
- (a) any examination into the economy, efficiency and effectiveness with which the governing body of the school have, in discharging their functions, used grant made by the authority, and
  - (b) any study designed to improve economy, efficiency and effectiveness in the management or operations of the school.

## **24 Supervision of funding authorities by the Secretary of State.**

- (1) In exercising their functions each funding authority shall comply with any directions contained in an order made by the Secretary of State.

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- (2) In respect of the exercise by the funding authority of functions in respect of any grant-maintained school, such directions may relate to grant-maintained schools generally or to any class or description of such schools.
- (3) Before making an order under this section, the Secretary of State shall consult the funding authority unless, for reasons of urgency, it is not in his opinion reasonably practicable for him to do so.
- (4) Sections 496 and 497 (powers of Secretary of State where local education authority etc. are acting unreasonably or are in default) shall apply in relation to a funding authority and the functions conferred on them by or under the Education Acts as they apply in relation to local education authorities and the functions conferred on them by or under this Act.
- (5) Subsection (4) does not prejudice the generality of subsection (1).

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

**C10** S. 24: power to modify conferred (1.4.1999) by 1998 c. 31, s. 132(4); S.I. 1999/1016, art. 2(1), Sch. 1

*Supplemental*

**25 Grants to funding authorities.**

The Secretary of State may make grants to a funding authority of such amounts and subject to such terms and conditions as he may determine.

**26 Meaning of “funding authority”.**

- (1) Any reference in this Act to a funding authority—
  - (a) in relation to schools, or local education authority areas, in England is to the Funding Agency for Schools, and
  - (b) in relation to schools, or local education authority areas, in Wales is, subject to subsection (2), to the Schools Funding Council for Wales,
 and in any other context is to the agency or the council.
- (2) Before the Schools Funding Council for Wales begin to exercise their functions, any reference in this Act (other than this Part) to a funding authority in relation to schools, or local education authority areas, in Wales is to be read as a reference to the Secretary of State.

**CHAPTER V**

ALLOCATION OF RESPONSIBILITY FOR EDUCATION AT  
SCHOOL BETWEEN LEA AND FUNDING AUTHORITY

**27 Responsibility for providing sufficient school places.**

- (1) In respect of the area of any local education authority, the Secretary of State may—



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- (a) where he wishes responsibility for providing sufficient school places to be held by the funding authority as well as the local education authority, make an order under this paragraph, and
  - (b) where he wishes that responsibility to be held by the funding authority alone, make an order under this paragraph;
- and such an order may relate to primary education, to secondary education or to both.
- (2) An order under subsection (1) shall state—
- (a) the local education authority area to which the order applies;
  - (b) whether the order is made under paragraph (a) or (b) of that subsection;
  - (c) the kind (that is primary or secondary) or kinds of education to which the order relates; and
  - (d) the date as from which the order is to have effect.
- (3) No order may be made in respect of any area under subsection (1) unless—
- (a) in the case of an order under subsection (1)(a) or (b), it appears to the Secretary of State that subsection (4) is, or has at any time been, satisfied, or
  - (b) in the case of an order under subsection (1)(b), the local education authority have at any time requested the Secretary of State to make the order and subsection (4) is, or has at any time been, satisfied,
- in relation to the kind of education to which the order relates or, as the case may be, each of the kinds of education to which the order relates.
- (4) This subsection is satisfied—
- (a) for the purposes of—
    - (i) subsection (3)(a) in its application to an order under subsection (1)(a), or
    - (ii) subsection (3)(b),
 if not less than 10 per cent. of the pupils for whom education is provided in county, voluntary and grant-maintained schools in the area are registered pupils at grant-maintained schools;
  - (b) for the purposes of subsection (3)(a) in its application to an order under subsection (1)(b), if not less than 75 per cent. of the pupils for whom education is provided in county, voluntary and grant-maintained schools in the area are registered pupils at grant-maintained schools.
- (5) For the purposes of subsection (3) the kind of education to which an order relates—
- (a) where an order is expressed to relate only to primary education, includes any secondary education provided in a primary school and excludes any primary education provided in a secondary school, and
  - (b) where an order is expressed to relate only to secondary education, includes any primary education provided in a secondary school and excludes any secondary education provided in a primary school.
- (6) The effect of an order under this section is set out in Schedule 4.
- (7) The kind or kinds of education to which an order under subsection (1)(a) or (b) relates are referred to in this Act, in relation to such an order, as “relevant education”.

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## CHAPTER VI

### SUPPLEMENTAL

#### *Allocation of functions*

#### **28 Resolution of disputes as to allocation of functions.**

Any dispute as to whether any functions are exercisable by a funding authority or a local education authority shall be determined by the Secretary of State.

#### *Provision of information*

#### **29 Provision of information by local education authorities.**

- (1) A local education authority shall—
  - (a) make such reports and returns to the Secretary of State, and
  - (b) give to the Secretary of State such information,
 as he may require for the purpose of the exercise of his functions under this Act.
- (2) A local education authority shall—
  - (a) make such reports and returns to the funding authority, and
  - (b) give to the funding authority such information,
 as the funding authority may require for the purpose of the exercise of their functions.
- (3) A local education authority shall—
  - (a) compile such information, and
  - (b) make such provision for conducting, or assisting the conduct of, research,
 as may be required for the purpose of providing the Secretary of State and the funding authority, in such form and at such times as may be prescribed, with such information relating to the provision of primary or secondary education in the area of the local education authority as may be prescribed.
- (4) The Secretary of State shall exercise his powers under subsection (3) so as to secure, in particular, the provision of information relating to the provision of education for children with special educational needs.
- (5) A local education authority shall, at such time or times and in such manner as may be required by regulations, publish such information as may be so required with respect to their policy and arrangements in respect of any matter relating to primary or secondary education.
- (6) Nothing in subsection (5) applies in relation to—
  - (a) nursery schools, or
  - (b) children who will be under [<sup>F15</sup>compulsory school age] at the time of their proposed admission.

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### Textual Amendments

**F15** Words in s. 29(6)(b) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.14**; S.I. 1998/386, **art. 2, Pt.III**

## **30 Provision of information by funding authorities.**

- (1) A funding authority—
  - (a) shall provide the Secretary of State with such information or advice in connection with any function of his relating to the provision of education as he may from time to time require; and
  - (b) may provide the Secretary of State with such information or advice relating to such provision as they think fit.
- (2) The information and advice provided under subsection (1) shall be provided in such manner as the Secretary of State may from time to time determine.
- (3) A funding authority shall—
  - (a) make such reports and returns to any local education authority, and
  - (b) give to any local education authority such information,as the local education authority may require for the purpose of the exercise of their functions.
- (4) A funding authority shall—
  - (a) compile such information, and
  - (b) make such provision for conducting, or assisting the conduct of, research,as may be required for the purpose of providing the Secretary of State and local education authorities, in such form and at such times as may be prescribed, with such information relating to the provision of education in any area to which an order under section 27 applies as may be prescribed.
- (5) The Secretary of State shall exercise his powers under subsection (4) so as to secure, in particular, the provision of information relating to the provision of education for children with special educational needs.

## **PART II**

### **SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES**

#### **CHAPTER I**

##### **PRELIMINARY**

## **31 County schools and voluntary schools.**

- (1) A primary or secondary school which is maintained by a local education authority is a county school if—
  - (a) it was established by a local education authority, or
  - (b) it was not so established but—

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- (i) it has been maintained as a county school since before the commencement of this Act, or
  - (ii) it is maintained as a county school in pursuance of proposals under section 35(1)(b), or
  - (iii) it is maintained as a county school in pursuance of an order under section 50.
- (2) A primary or secondary school which is maintained by a local education authority is a voluntary school if it is not within paragraph (a) or (b) of subsection (1).
- (3) Nothing in this section applies to—
- (a) a nursery school;
  - (b) a special school; or
  - (c) a pupil referral unit within the meaning of section 19.

### **32 Categories of voluntary schools: controlled, aided and special agreement schools.**

- (1) There are three categories of voluntary school—
- (a) controlled schools,
  - (b) aided schools, and
  - (c) special agreement schools.
- (2) A voluntary school is a controlled school if no order such as is mentioned in subsection (3) or (4) is in force in respect of it.
- (3) A voluntary school is an aided school if there is in force an order to that effect made under section 48, 51, 54 or 58 of this Act (or under section 15 of the <sup>M6</sup>Education Act 1944, section 2 of the <sup>M7</sup>Education Act 1946 or section 54 of the <sup>M8</sup>Education (No. 2) Act 1986).
- (4) A voluntary school is a special agreement school if there is in force an order to that effect made under section 15 of the Education Act 1944 (which provided for the making of such an order where a special agreement had been made in respect of a school).
- (5) In this Act “special agreement” means an agreement made under Schedule 3 to the Education Act 1944 or deemed to have been so made by virtue of paragraph 11 of that Schedule (agreement providing for the making of a grant by a local education authority to persons specified in the agreement in consideration of their execution of proposals for the establishment of a school or the alteration of the premises of a school).
- (6) Schedule 5 to this Act (which reproduces certain of the provisions of Schedule 3 to that Act) has effect in relation to special agreements.

#### **Marginal Citations**

- M6** 1944 c. 31.  
**M7** 1946 c. 50.  
**M8** 1986 c. 61.

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### **33 Maintained nursery schools and maintained special schools.**

- (1) In this Act—
- “maintained nursery school” means a nursery school which is maintained by a local education authority; and
  - “maintained special school” means (in accordance with section 337(3)) a special school which is maintained by a local education authority.
- (2) Chapter II of Part IV (special educational needs) has effect in relation to the establishment and approval of schools as maintained special schools.

### **34 Meaning of “maintain” etc.**

- (1) In this Act—
- (a) in relation to a school maintained (or proposed to be maintained) by a local education authority, “the local education authority” means that authority; and
  - (b) in relation to schools falling within subsections (2) to (5), “maintain” shall be read in accordance with those subsections.
- (2) In the case of a county school, a maintained nursery school or a maintained special school, the local education authority’s duty to maintain the school includes the duty of defraying all the expenses of maintaining it.
- (3) In the case of a controlled school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - (b) the duty under section 60 of providing new premises for the school under and in accordance with that section.
- (4) In the case of an aided or special agreement school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, except any expenses that by virtue of section 59 or a special agreement are payable by the governing body, and
  - (b) the duty under section 61 of providing new premises for the school under and in accordance with that section.
- (5) It is hereby declared that for the purposes of this Act the expenses of maintaining a voluntary school include the payment of rates.

## **CHAPTER II**

### **ESTABLISHMENT, ALTERATION ETC. OF COUNTY AND VOLUNTARY SCHOOLS**

*County schools: establishment, alteration or change of site*

### **35 County school: proposals for establishment, alteration or new site.**

- (1) Where a local education authority intend—
- (a) to establish a new county school,

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- (b) to maintain as a county school a school which is not for the time being a county school,
  - (c) to make any significant change in the character, or any significant enlargement of the premises, of a county school, or
  - (d) to transfer a county school to a new site in the area,
- then (subject to subsections (2) and (8)) they shall publish their proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (2) The requirement to publish proposals under subsection (1)(d) does not apply in relation to the transfer of a county school to a new site if—
- (a) the school is intended to return to its existing site within three years of the time of the transfer; or
  - (b) the local education authority are satisfied that it is expedient that the school should be transferred to the new site either—
    - (i) because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they conform to the standards prescribed under section 542, or
    - (ii) in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning; or
  - (c) the transfer is authorised by an order made under section 16(1) of the <sup>M9</sup>Education Act 1944 (transfer of county schools etc. to new sites).
- (3) Proposals published under this section shall include particulars—
- (a) of the time or times at which it is intended to implement the proposals, and
  - (b) of the number of pupils intended to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and shall be accompanied by a statement of the effect of section 36.
- (4) For the purposes of subsection (3)(b) pupils intended to be admitted to the school for nursery education shall be disregarded, and pupils—
- (a) already admitted to the school for nursery education, and
  - (b) intended to be transferred to a reception class at the school,
- shall be treated as intended to be admitted to the school on their transfer.
- (5) Before publishing any proposals under this section a local education authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority shall have regard to any guidance given from time to time by the Secretary of State.
- (6) Before publishing any proposals under subsection (1)(c) which (if implemented) would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the local education authority shall consult the appropriate further education funding council.
- (7) Before formulating any proposals under subsection (1)(c) or (d) in respect of a school which is (within the meaning of Part III) eligible for grant-maintained status, the local education authority shall consult the school's governing body.

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- (8) No proposals shall be published under this section in respect of any school in respect of which proposals for acquisition of grant-maintained status have been approved under section 194.

**Marginal Citations**

M9 1944 c. 31.

### 36 Objections to proposals under section 35.

- (1) Objections to any proposals published by a local education authority under section 35 may be submitted to the authority by any of the following—
- (a) any ten or more local government electors for the authority's area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M10</sup>Further and Higher Education Act 1992 applies), and
  - (d) any other local education authority concerned.
- (2) Objections may be so submitted within the period of two months after the first publication of the proposals.
- (3) Where—
- (a) an order under section 27 (allocation of responsibility for providing sufficient school places) applies to the area of a local education authority, and
  - (b) the authority publish proposals under section 35 which affect the provision of relevant education in that area,
- the funding authority shall be included among the persons who may submit objections under subsection (1) to the proposals.
- (4) Within one month after the end of the period mentioned in subsection (2), the local education authority by whom the proposals were published shall transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) within that period, together with the authority's observations on them.
- (5) For the purposes of this section proposals under section 35 shall be taken to have been first published—
- (a) on the day on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
  - (b) where different such requirements are satisfied on different days, on the last of those days.
- (6) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (5) be taken to be satisfied on the first day in respect of which it is satisfied.

**Marginal Citations**

M10 1992 c. 13.

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### **37 Approval or rejection by Secretary of State of proposals under section 35.**

- (1) Proposals published by a local education authority under section 35 require the approval of the Secretary of State if subsection (2), (3) or (4) applies.
- (2) This subsection applies if the proposals are for the maintenance as a county school of a school which is for the time being a voluntary school.
- (3) This subsection applies if either—
  - (a) the Secretary of State, within two months after the submission to him of the published proposals, gives notice to the local education authority that the proposals require his approval, or
  - (b) objections have been made under section 36 and any of them have not been withdrawn in writing within the period specified in subsection (2) of that section.
- (4) This subsection applies if either—
  - (a) the proposals are first published after proposals for acquisition of grant-maintained status for the school have been published under section 193 but before those proposals are determined or withdrawn, or
  - (b) after the proposals have first been published but before they are determined or withdrawn, proposals for acquisition of grant-maintained status for the school are published under section 193;

and references in this subsection to proposals being first published shall be construed in accordance with section 36(5) and (6).
- (5) Where any proposals require the approval of the Secretary of State under this section, he may (subject to subsections (6) to (8))—
  - (a) reject them,
  - (b) approve them without modification, or
  - (c) after consultation with the local education authority, approve them with such modifications as he thinks desirable.
- (6) In a case where subsection (2) applies, the Secretary of State shall not approve the proposals unless he has, in accordance with Schedule 6, approved an agreement under that Schedule between the local education authority and the school's governing body for the transfer to the authority of all necessary interests in the school premises.
- (7) In a case where subsection (4) applies, the Secretary of State—
  - (a) shall consider both sets of proposals together, but
  - (b) shall not determine the proposals published under section 35 until he has made his determination with respect to the proposals published under section 193.
- (8) If the Secretary of State approves the proposals published under section 193, he shall approve the proposals published under section 35 if—
  - (a) they are proposals under subsection (1)(c) or (d) of that section, and
  - (b) the governing body incorporated under section 195 give their consent,

but otherwise he shall reject the proposals published under section 35.
- (9) Any proposals under section 35(1)(c) or (d) which are approved under subsection (8) shall be treated for the purposes of Part III (grant-maintained schools) as if they had been—



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- (a) published under section 259 (change of character etc. of grant-maintained school), and
  - (b) approved under section 261,
- and section 262 (approval of school premises) shall apply accordingly.

**38 Determination by LEA whether to implement proposals under section 35.**

- (1) Where any proposals published by a local education authority under section 35 do not require the approval of the Secretary of State under section 37, the authority shall determine whether the proposals should be implemented.
- (2) The determination must be made not later than four months after the submission of the proposals to the Secretary of State under section 35.
- (3) A local education authority shall notify the Secretary of State of any determination made by them under this section.

**39 Approval of school premises.**

- (1) Where a local education authority publish proposals under section 35, they shall submit to the Secretary of State for his approval such particulars with respect to the premises or proposed premises of the school as he may require.
- (2) The particulars shall be so submitted at such time, and in such form and manner, as the Secretary of State may direct.
- (3) Schedule 6 has effect in relation to agreements for the transfer of premises in pursuance of proposals for a voluntary school to become a county school, and the approval of such agreements by the Secretary of State.

**40 Implementation of proposals under section 35, etc.**

- (1) Subject to subsection (3), a local education authority shall implement any proposals of theirs—
  - (a) which have been approved by the Secretary of State under section 37, or
  - (b) which they have determined under section 38 to implement.
- (2) Where any particulars have been submitted under section 39 in connection with the proposals, the proposals shall be implemented in accordance with the particulars as approved by the Secretary of State.
- (3) The Secretary of State may, at the request of a local education authority, modify any proposals which the authority are required to implement by virtue of this section.
- (4) Subject to subsection (5), neither a local education authority nor any other person shall do or undertake to do anything for which proposals are required to be published and submitted under section 35 until the requirements of that section and section 39 have been complied with and any approval necessary under section 37 or 39 has been given.
- (5) The Secretary of State may in any case allow such steps to be taken pending compliance with any such requirements and the giving of any such approval as he considers reasonable in the circumstances.

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*Voluntary schools: establishment, alteration or change of site*

**41 Voluntary school: proposals for establishment, alteration or new site.**

- (1) Where any persons propose—
- (a) that a school which they or persons whom they represent propose to establish should be maintained by a local education authority as a voluntary school, or
  - (b) that a school established by them or by persons whom they represent which is not a voluntary school should be so maintained as a voluntary school,
- then (subject to subsection (9)) they shall publish proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (2) Where the governing body of a school which is maintained by a local education authority as a voluntary school intend—
- (a) to make a significant change in the character, or a significant enlargement of the premises, of the school, or
  - (b) to transfer the school to a new site,
- then (subject to subsections (3) and (9)) they shall publish proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (3) The requirement to publish proposals under subsection (2)(b) does not apply in relation to the transfer of a voluntary school to a new site if—
- (a) the transfer is authorised by an order made under section 47(1) of this Act (or under section 16(1) of the <sup>M11</sup>Education Act 1944); or
  - (b) the school is intended to return to its existing site within three years of the time of the transfer.
- (4) No proposals under subsection (1) shall be approved by the Secretary of State under section 43 if the school or proposed school is to provide—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19 years;
- and the reference in subsection (2)(a) to a change in the character of a school does not include a change in character resulting only from persons beginning or ceasing to be provided with education falling within paragraph (a) or (b) above.
- (5) Proposals published under this section shall include particulars—
- (a) of the time or times at which it is intended to implement the proposals, and
  - (b) of the number of pupils intended to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented;
- and shall be accompanied by a statement of the effect of section 42.
- (6) For the purposes of subsection (5)(b) pupils intended to be admitted to the school for nursery education shall be disregarded, and pupils—
- (a) already admitted to the school for nursery education, and
  - (b) intended to be transferred to a reception class at the school,
- shall be treated as intended to be admitted to the school on their transfer.

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- (7) Before publishing any proposals under this section, the persons concerned shall—
- (a) in the case of proposals under subsection (1), consult the local education authority, and
  - (b) in the case of proposals under either subsection (1) or subsection (2), consult such other persons as appear to them to be appropriate;
- and in discharging their duty under this subsection they shall have regard to any guidance given from time to time by the Secretary of State.
- (8) Before publishing any proposals under subsection (2)(a) which (if implemented) would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the governing body shall consult the appropriate further education funding council.
- (9) No proposals shall be published under this section in respect of any school in respect of which proposals for acquisition of grant-maintained status have been approved under section 194.

**Marginal Citations**

M11 1944 c. 31.

**42 Objections to proposals under section 41.**

- (1) Objections to any proposals published under section 41 may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area of the local education authority referred to in subsection (1) or (as the case may be) subsection (2) of that section,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M12</sup>Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.
- (2) Objections may be so submitted within the period of two months after the first publication of the proposals.
- (3) Where the proposals are to transfer a school to a site in a different area, objections under subsection (1) to the proposals may also be so submitted by any ten or more local government electors for that area.
- (4) Where—
- (a) an order under section 27 applies to the area of a local education authority, and
  - (b) any persons publish proposals under section 41 which affect the provision of relevant education in the area,
- the funding authority shall be included among the persons who may submit objections under subsection (1) above to the proposals.
- (5) For the purposes of this section proposals under section 41 shall be taken to have been first published—

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- (a) on the day on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
  - (b) where different such requirements are satisfied on different days, on the last of those days.
- (6) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (5) be taken to be satisfied on the first day in respect of which it is satisfied.

#### Marginal Citations

M12 1992 c. 13.

### 43 Approval or rejection by Secretary of State of proposals under section 41.

- (1) Proposals published under section 41 require the approval of the Secretary of State.
- (2) The Secretary of State may (subject to subsections (3) to (6))—
- (a) reject such proposals,
  - (b) approve them without modification, or
  - (c) after consultation with the persons making the proposals and the local education authority by whom the school is, or is to be, maintained, approve them with such modifications as he thinks desirable.
- (3) This subsection applies if either—
- (a) the proposals are first published after proposals for acquisition of grant-maintained status for the school have been published under section 193 but before those proposals are determined or withdrawn, or
  - (b) after the proposals have first been published but before they are determined or withdrawn, proposals for acquisition of grant-maintained status for the school are published under section 193;
- and references in this subsection to proposals being first published shall be construed in accordance with section 42(5) and (6).
- (4) In a case where subsection (3) applies, the Secretary of State—
- (a) shall consider both sets of proposals together, but
  - (b) shall not determine the proposals published under section 41 until he has made his determination with respect to the proposals published under section 193.
- (5) If the Secretary of State approves the proposals published under section 193, he—
- (a) shall approve the proposals published under section 41 if they were made for the purpose of ensuring consistency in the provision of education made in the area of the local education authority, but
  - (b) shall otherwise reject the proposals published under that section.
- (6) Any proposals under section 41 which are approved under subsection (5) shall be treated for the purposes of Part III as if they had been—
- (a) published under section 259 (change of character etc. of grant-maintained school), and
  - (b) approved under section 261,
- and section 262 (approval of school premises) shall apply accordingly.

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- (7) Where the proposals published under section 41 are to transfer the school to a site in a different area, subsection (2)(c) above requires consultation with the local education authority by whom the school is maintained as well as with the authority by whom it is to be maintained.

#### **44 Approval of school premises.**

- (1) Where any proposals are published under section 41, the persons making the proposals shall submit to the Secretary of State for his approval such particulars in respect of the premises or proposed premises of the school as he may require.
- (2) The particulars shall be so submitted at such time, and in such form and manner, as the Secretary of State may direct.
- (3) Before submitting any particulars under this section, the persons making the proposals shall consult the local education authority by whom the school is, or is to be, maintained.
- (4) Where the proposals published under section 41 are to transfer the school to a site in a different area, subsection (3) requires consultation with the local education authority by whom the school is to be maintained.

#### **45 Implementation of proposals under section 41, etc.**

- (1) Subject to subsections (2) and (4), where any proposals are approved under section 43, they shall be implemented—
- (a) in the case of proposals published under section 41(1), by the persons making them or the persons whom they represent (as the case may require) and by the local education authority referred to in that subsection, or
  - (b) in the case of proposals published under section 41(2), by the school's governing body.
- (2) Subject to subsection (4), it shall be the duty of the local education authority—
- (a) in the case of any proposals so approved for the transfer of a controlled school to a new site, to implement the proposals (and any associated proposals for a change in the character of the school) so far as they involve the provision of premises or the removal or provision of equipment; and
  - (b) in any other case, to implement so much of any proposals so approved as relates to the provision of—
    - (i) playing fields, or
    - (ii) buildings which are to form part of the school premises but are not to be school buildings.
- (3) Where any particulars have been submitted under section 44 in connection with the proposals, the proposals shall be implemented in accordance with the particulars as approved by the Secretary of State.
- (4) The Secretary of State may modify any proposals required to be implemented by virtue of this section, but shall do so—
- (a) in the case of proposals published under section 41(1), only at the request of the local education authority referred to in that subsection, and

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- (b) in the case of proposals published under section 41(2), only at the request of the governing body of the school.
- (5) Subject to subsection (6), no person shall do or undertake to do anything for which proposals are required to be published and submitted under section 41 until the requirements of that section and section 44 have been complied with and any approval necessary under section 43 or 44 has been given.
- (6) The Secretary of State may in any case allow such steps to be taken pending compliance with any such requirements and the giving of any such approval as he considers reasonable in the circumstances.
- (7) Where proposals for the transfer of a school to a site in a different area are approved under section 43, then—
  - (a) in the case of any voluntary school—
    - (i) the reference in subsection (2) above to the local education authority is to be read as referring to the authority for the new area, and
    - (ii) upon the transfer the duty to maintain the school shall transfer to that authority; and
  - (b) in the case of any controlled school, section 60 (together with section 62) shall apply as if the duty to maintain the school had been transferred to the local education authority for the new area.

#### **46 Establishment of a new voluntary school in substitution for an old one.**

- (1) This section applies where—
  - (a) proposals for the establishment of any school or schools are submitted to the Secretary of State under section 41(1); and
  - (b) in connection with those proposals it is claimed that the school or schools should be maintained by the local education authority as a voluntary school or voluntary schools in substitution for any other voluntary school or schools (whether maintained by that or another local education authority) which is or are to be discontinued.
- (2) If the Secretary of State—
  - (a) approves the proposals under section 43, and
  - (b) is satisfied that the new school or schools will be maintained as mentioned in subsection (1)(b) above,
 he may by order direct that the new school or schools shall be established in substitution for the school or schools which is or are to be discontinued.
- (3) Where an order is made under this section, section 173 shall not apply with respect to the discontinuance of that school or those schools.
- (4) Before making an order under this section, the Secretary of State shall consult—
  - (a) any local education authority who in his opinion will be affected by the making of the order; and
  - (b) the governing body of any voluntary school which in his opinion will be so affected.
- (5) An order under this section may—
  - (a) impose such conditions on any such local education authority or governing body, and

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(b) contain such incidental and consequential provisions,  
as the Secretary of State thinks fit.

#### **47 Order authorising transfer of voluntary school to new site.**

- (1) Where the Secretary of State is satisfied that the transfer of a voluntary school to a new site is expedient—
  - (a) because it is not reasonably practicable to make to the existing premises of the school any alterations necessary to secure that they conform to the standards prescribed under section 542, or
  - (b) in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning,he may by order authorise the transfer of the school to the new site.
- (2) The Secretary of State shall not, however, make any such order in the case of an aided or special agreement school unless he is satisfied that the school's governing body will be able and willing, with the assistance of any grant made under section 65, to defray the expenses mentioned in section 59(5).
- (3) Before making an order under this section the Secretary of State shall consult—
  - (a) any local education authority who in his opinion will be affected by the making of the order; and
  - (b) the governing body of any voluntary school which in his opinion will be so affected.
- (4) An order under this section may—
  - (a) impose such conditions on any such local education authority or governing body, and
  - (b) contain such incidental and consequential provisions,  
as the Secretary of State thinks fit.

#### *Status of new voluntary school*

#### **48 Order that school is to be controlled or aided school.**

- (1) Where, at or before the time when any proposals are submitted to the Secretary of State under section 41(1), an application is duly made to the Secretary of State with respect to the school to which the proposals relate, he may (subject to the following provisions of this section) by order direct—
  - (a) that the school shall be a controlled school; or
  - (b) that the school shall be an aided school.
- (2) Where on an application for an order under subsection (1)(b) the Secretary of State is satisfied that the governing body of the school will be able and willing, with the assistance of grants under section 65, to defray the expenses that would fall to be borne by them by virtue of section 59(2) and (3) as the governing body of an aided school, he shall make an order directing that the school shall be an aided school.
- (3) Where on an application for an order under subsection (1)(b)—

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- (a) the Secretary of State is not satisfied that the governing body will be able to defray those expenses without the assistance of both—
    - (i) grants under section 65, and
    - (ii) a loan under section 67, and
  - (b) it appears to him that the area to be served by the school will not be also served by a county or controlled school,
- he shall comply with subsection (4) before determining the application.
- (4) The Secretary of State—
- (a) shall consult such persons or bodies of persons as appear to him to be representative of any religion or religious denomination which, in his opinion having regard to the circumstances of the area, is likely to be concerned, and
  - (b) unless he is satisfied after that consultation that the holding of a local inquiry is unnecessary, cause such an inquiry to be held.

#### *Proposals for a middle school*

#### **49 Proposals under section 35 or 41 for a middle school.**

Proposals published under section 35 or 41 with respect to a school maintained or to be maintained by a local education authority may, if the authority or persons making them think fit—

- (a) specify an age below 10 years and six months and an age above 12 years, and
- (b) provide that the school is to be a school for providing full-time education suitable to the requirements of pupils whose ages are between the ages so specified.

#### *Division of a single school into two or more schools*

#### **50 Division of a county school.**

- (1) Where—
  - (a) a county school is organised in two or more departments, and
  - (b) the local education authority submit to the Secretary of State proposals that the school should be divided into two or more separate schools,

the Secretary of State may by order direct that the school shall be divided into two or more separate county schools.
- (2) Any such order shall come into operation on such date as may be specified in the order; and as from that date the local education authority shall maintain as a county school each of the separate schools constituted in pursuance of the order.
- (3) An order under this section may contain such incidental, consequential and supplemental provisions as the Secretary of State thinks fit, and may, in particular, include provision for defining the premises of each of the separate schools to be constituted in pursuance of the order.
- (4) The constitution of a separate school in pursuance of an order under this section does not amount to the establishment of a new school for the purposes of section 35(1).



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- (5) In this section “department”, in relation to a school, means a part of the school organised under a separate head teacher.

## **51 Division of a voluntary school.**

- (1) Where—
- (a) a controlled or aided school is organised in two or more separate departments, and
  - (b) the governing body, after consulting the local education authority, submit to the Secretary of State proposals that the school should be divided into two or more separate schools,
- the Secretary of State may by order direct that the school shall be divided into two or more separate voluntary schools.
- (2) Where the school is a controlled school, the order shall direct that each of the schools into which it is to be divided shall be a controlled school.
- (3) Where the school is an aided school, the order shall direct that each of the schools into which it is to be divided shall be an aided school; except that, if the governing body request the Secretary of State to direct that all or any of those schools shall be controlled schools, the order shall direct accordingly.
- (4) An order under this section shall come into operation on such date as may be specified in the order; and as from that date the local education authority shall maintain as a voluntary school each of the separate schools constituted in pursuance of the order.
- (5) An order under this section may contain such incidental, consequential and supplemental provisions as the Secretary of State thinks fit, and may, in particular, include provision for defining the premises of each of the separate schools to be constituted in pursuance of the order.
- (6) The constitution of a separate school in pursuance of an order under this section does not amount to the establishment of a new school for the purposes of section 41(1).
- (7) No order shall be made under this section for the division of a school in respect of which a special agreement is in force.
- (8) In this section “department”, in relation to a school, means a part of the school organised under a separate head teacher.

### *Change of status from controlled school to aided school*

## **52 Proposals for changing a controlled school to an aided school.**

- (1) Where the governing body of a controlled school propose to apply for an order under section 54 directing that the school should become an aided school, they shall, after consultation with the local education authority—
- (a) publish their proposals in such manner as may be required by regulations, and
  - (b) submit a copy of the published proposals to the Secretary of State.
- (2) Proposals published under this section shall be accompanied by a statement which—
- (a) explains the effect of section 53; and
  - (b) specifies the date on which the proposals are intended to be implemented.

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- (3) A governing body who submit proposals to the Secretary of State under this section shall provide him with such information as he may reasonably require in order to be able to give proper consideration to them.

### **53 Objections to proposals.**

- (1) Objections to any proposals published under section 52 may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area of the local education authority by whom the school is maintained;
  - (b) the governing body of any voluntary school affected by the proposals; and
  - (c) any local education authority concerned.
- (2) Objections may be so submitted within the period of two months beginning with the date on which the proposals are first published.
- (3) For the purposes of this section proposals under section 52 shall be taken to have been first published—
- (a) on the day on which the requirements of regulations under that section with respect to the publication of the proposals are satisfied; or
  - (b) where different such requirements are satisfied on different days, on the last of those days.
- (4) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (3) be taken to be satisfied on the first day in respect of which it is satisfied.

### **54 Order by Secretary of State.**

- (1) On an application duly made to him by the governing body of any controlled school the Secretary of State may by order direct that, as from such date as is specified in the order, the school shall be an aided school.
- (2) The Secretary of State shall not make an order under this section unless he is satisfied that the governing body will be able and willing—
- (a) with the assistance of grants under section 65, to defray the expenses mentioned in section 59(2) and (3), and
  - (b) to pay to the local education authority any compensation payable by the governing body under section 56.
- (3) Where the Secretary of State proposes, in making an order under this section, to specify under subsection (1) a date which is different from that specified in pursuance of section 52(2)(b), he shall first consult the governing body and the local education authority as to the date which it would be appropriate to specify in the order.
- (4) Where, in consequence of an order made under this section, an amount will be payable by a governing body by way of compensation under section 56, the order—
- (a) shall specify the amount of the compensation so payable and the date by which it must be paid; and
  - (b) may impose such conditions in relation to its payment as the Secretary of State thinks fit.

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- (5) An order under this section may make such provision (including provision modifying any provision made by or under this Act) as the Secretary of State considers appropriate in connection with the transition of the school in question from controlled to aided status.
- (6) In particular, an order under this section may make provision—
  - (a) as to the circumstances in which, and purposes for which, the school is to be treated before the date specified under subsection (1) as if it were an aided school;
  - (b) as to the time by which the new instrument of government and articles of government (appropriate for an aided school) are to be made for the school, and the consent and consultation required before they are made;
  - (c) where the local education authority propose to pass a resolution under section 89 to group the school when it becomes an aided school, as to the consent required before that resolution is passed;
  - (d) as to the appointment and dismissal of staff for the school;
  - (e) as to the arrangements to be made in relation to the admission of pupils to the school; and
  - (f) as to functions exercisable by, or in relation to, the governing body or the governors of any category specified in the order.

## **55 Variation of order under section 54.**

- (1) Where the Secretary of State has made an order under section 54, he may, on the application of the local education authority or the foundation governors of the school, by order vary the order under that section so as to specify—
  - (a) a different date from that specified under subsection (1) of that section, or
  - (b) a different amount from that specified under subsection (4) of that section.
- (2) The foundation governors of a school shall consult the other governors before applying to the Secretary of State under this section.
- (3) Before making an order under this section the Secretary of State shall consult—
  - (a) the local education authority, where the application is by the foundation governors, and
  - (b) the foundation governors, where the application is by the local education authority.
- (4) Where foundation governors are consulted by the Secretary of State under subsection (3), they shall, before giving him their views, consult the other governors of the school.

## **56 Compensation payable by governing body to local education authority.**

- (1) Where a controlled school becomes an aided school by virtue of an order under section 54, the governing body shall pay to the local education authority, in accordance with the order, an amount by way of compensation for relevant capital expenditure incurred in respect of the school by the authority or a predecessor of theirs.
- (2) In subsection (1) “relevant capital expenditure” means—

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- (a) expenditure incurred under section 60 (or under paragraph 1 of Schedule 1 to the <sup>M13</sup>Education Act 1946) in providing buildings which form part of the school premises;
  - (b) expenditure incurred under section 63 (or under section 2 of the <sup>M14</sup>Education (Miscellaneous Provisions) Act 1953) in defraying expenses of establishing the school; or
  - (c) expenditure incurred under section 64 (or under section 1 of the Education Act 1946) in defraying expenses of enlarging the school.
- (3) The amount payable by way of compensation under this section shall be—
- (a) such as may be agreed by the governing body and the local education authority, or
  - (b) failing such agreement, such as the Secretary of State thinks fit, having regard to the current value of the property in question.
- (4) The Secretary of State may, for the purpose of assisting him in any determination which he is required to make under subsection (3), appoint such person as he thinks competent to advise him on the valuation of property.
- (5) No contribution, grant or loan shall be paid, or other payment made, by the Secretary of State to the governing body of a controlled school in respect of any compensation payable by them under this section.

#### **Marginal Citations**

**M13** 1946 c. 50.

**M14** 1953 c. 33.

*Change of status from aided or special agreement school to controlled or aided school*

#### **57 Change to controlled school where governing body unable or unwilling to carry out financial obligations.**

- (1) If at any time the governing body of an aided school are unable or unwilling to carry out all their obligations under section 59, they shall apply to the Secretary of State for an order revoking—
- (a) the order made under section 48, 54 or 58 (or under section 15 of the <sup>M15</sup>Education Act 1944 or section 54 of the <sup>M16</sup>Education (No. 2) Act 1986), or
  - (b) the direction in an order made under section 51 (or under section 2 of the <sup>M17</sup>Education Act 1946),
- by virtue of which the school is an aided school.
- (2) If at any time the governing body of a special agreement school are unable or unwilling to carry out all their obligations under section 59, they shall apply to the Secretary of State for an order revoking the order made under section 15 of the Education Act 1944 by virtue of which the school is a special agreement school.
- (3) For the purposes of this section the governing body of an aided school or a special agreement school shall not be regarded as unable to carry out any of their obligations under section 59 if they are able to carry them out with the benefit of assistance under section 68 of this Act.

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- (4) Where an application is made to him under this section, the Secretary of State shall by order revoke the order or direction in question, and the school in question shall thereupon become a controlled school in accordance with section 32(2).

**Marginal Citations**

- M15** 1944 c. 31.  
**M16** 1986 c. 61.  
**M17** 1946 c. 50.

**58 Change to controlled or aided school on repayment of grant under special agreement.**

- (1) Where the Secretary of State is satisfied that the grant made in respect of a school in pursuance of a special agreement has been repaid as mentioned in paragraph 5 of Schedule 5, he shall, on an application made for the purpose by the school's governing body, by order revoke the order under section 15 of the Education Act 1944 by virtue of which the school is a special agreement school.
- (2) Where the Secretary of State—
- (a) makes an order under this section, and
  - (b) is satisfied that the governing body of the school will be able and willing, with the assistance of grants under section 65, to defray the expenses that would fall to be borne by them by virtue of section 59(2) and (3) as the governing body of an aided school,
- he shall by order direct that the school shall be an aided school.
- (3) Where in any other case the Secretary of State makes an order under this section, the school in question shall thereupon become a controlled school in accordance with section 32(2).

## CHAPTER III

### FUNDING OF VOLUNTARY SCHOOLS

#### *Obligations of governing bodies*

**59 Obligations of governing bodies of voluntary schools.**

- (1) The governing body of a controlled school are (in accordance with section 34(3)) not responsible for any of the expenses of maintaining the school.
- (2) In the case of an aided or special agreement school, the expenses of discharging any liability incurred by or on behalf of—
- (a) the governing body of the school,
  - (b) any former governors of the school, or
  - (c) any trustees of the school,
- in connection with the provision of premises or equipment for the purposes of the school are payable by the governing body of the school.

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- (3) In addition, any expenses incurred—
- (a) in making to the school buildings of an aided or special agreement school such alterations as may be required by the local education authority for the purpose of securing that the school premises conform to the standards prescribed under section 542, or
  - (b) in effecting repairs to the school buildings, other than repairs falling within subsection (4),
- are payable by the governing body of the school.
- (4) The governing body of an aided or special agreement school are not responsible—
- (a) for repairs to the interior of the school buildings, or
  - (b) for repairs to those buildings necessary in consequence of the use of the school premises, in pursuance of a direction or requirement of the local education authority, for purposes other than those of the school.
- (5) Where an order is made under section 47 authorising the transfer of an aided or special agreement school to a new site, the expenses of providing any school buildings to be provided on the new site are payable by the governing body of the school.

*Obligations of LEAs as regards new sites and buildings*

**60      **Obligation of LEAs to provide new sites and buildings for controlled schools.****

- (1) In the case of a controlled school, the local education authority shall provide—
- (a) any new site which is to be provided in addition to, or instead of, the school's existing site (or part of its existing site), and
  - (b) any buildings which are to form part of the school premises,
- other than any site or buildings that persons other than the authority are under a duty to provide by virtue of proposals required to be implemented under section 45 (or, where a special agreement is in force in respect of the school, under that agreement).
- (2) Where a new site is provided for a school under this section, the local education authority shall convey their interest in the site, and in any buildings on the site which are to form part of the school premises, to the trustees of the school to be held on trust for the purposes of the school.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the conveyance, it shall be made to such persons as the Secretary of State thinks proper.
- (4) Where—
- (a) an interest in premises which are to be used for the purposes of a school is conveyed under this section, and
  - (b) the conveyance is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons or their successors shall pay to the local education authority so much of that sum as the Secretary of State may determine to be just having regard to the value of the interest conveyed.

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- (5) In subsection (4)(b) the reference to proceeds of the sale of other premises includes a reference to consideration for the creation or disposition of any kind of interest in other premises.
- (6) Any sum paid under subsection (4) shall be treated for the purposes of section 14 of the <sup>M18</sup>Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (7) The Secretary of State shall not make a determination under subsection (4) in respect of any property subject to a trust which has arisen under section 1 of the <sup>M19</sup>Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) unless he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.

#### Marginal Citations

M18 1841 c.38.

M19 1987 c. 15.

## 61 Obligation of LEAs to provide new sites for aided and special agreement schools.

- (1) In the case of an aided or special agreement school, the local education authority shall provide any new site—
  - (a) which is to be provided in addition to or instead of the school’s existing site (or part of its existing site), and
  - (b) which is not a site that persons other than the authority are under a duty to provide by virtue of proposals required to be implemented under section 45 or under a special agreement.
- (2) Where a new site is provided for a school under this section, the local education authority shall convey their interest in the site, and in any buildings on the site which are to form part of the school premises, to the trustees of the school to be held on trust for the purposes of the school.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the conveyance, it shall be made to such persons as the Secretary of State thinks proper.
- (4) Where—
  - (a) a new site is provided for a school under this section, and
  - (b) work is required to be done to the site for the purpose of clearing it or making it suitable for building purposes,the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as will secure that the cost of the work is borne by the authority.
- (5) Where—
  - (a) a new site is provided for a school under this section, and
  - (b) there are buildings on the site which are of value for the purposes of the school,the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments

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of their respective rights and liabilities, as appear to be desirable having regard to the governing body's duties under section 59 with respect to the school buildings.

- (6) Where it appears to the Secretary of State that provision for any payment or other adjustment ought to have been made under subsection (4) or (5) but has not been made, he may give directions providing for the making of such payment or other adjustment as he thinks proper.

## **62 Provisions supplementary to sections 60 and 61.**

- (1) In sections 60(1) and (2) and 61 "site" does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.
- (2) Where, after premises have been conveyed to the trustees of a school under section 60 or 61, a person acquires the premises or part of them from the trustees (whether compulsorily or otherwise), the Secretary of State may require the trustees or their successors to pay to the local education authority by whom the premises were conveyed so much of the compensation or purchase money paid in respect of the acquisition as he thinks just having regard—
- (a) to the value of the premises conveyed by the authority, and
  - (b) to any sums received by the authority in respect of the premises under section 60 or 61.
- (3) In subsection (2) "premises" includes any interest in premises.
- (4) Subsection (2) does not apply in the case of an institution which is, or has at any time been, within the further education sector.

### *Financial assistance for controlled schools*

## **63 Payment by LEA of expenses of establishing controlled school.**

- (1) Where—
- (a) proposals for the establishment of a school are submitted to the Secretary of State under section 41(1),
  - (b) no application is made under section 48 for an order directing that the school shall be an aided school, and
  - (c) the persons submitting the proposals and the local education authority satisfy the Secretary of State that subsection (3) below applies,
- the Secretary of State may by order direct that the whole or a specified part of the promoters' expenses of establishment shall be defrayed by the local education authority.
- (2) In subsection (1) "the promoters' expenses of establishment" means so much of the cost incurred in establishing the school as would, but for the order, fall to be defrayed by the persons who establish it.
- (3) This subsection applies if the establishment of the school is required for the purpose of providing accommodation for pupils for whom, or for a substantial proportion of whom, accommodation would have been provided in some other school—
- (a) which is or was a voluntary school, or
  - (b) which is or was a grant-maintained school, having been a voluntary school immediately before it became grant-maintained,



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if that other school had not been discontinued or had not otherwise ceased to be available for the purpose.

#### **64 Payment by LEA of expenses of enlarging controlled school.**

- (1) Where the Secretary of State—
  - (a) is satisfied, on an application made to him by the governing body of a controlled school and the local education authority—
    - (i) that there should be a significant enlargement of the school premises, and
    - (ii) that subsection (2) or subsection (3) applies, and
  - (b) approves proposals for the enlargement under section 43,he may by order direct that the cost of implementing the proposals shall be defrayed by the local education authority.
- (2) This subsection applies if the enlargement is wholly or mainly required for the purpose of providing accommodation for pupils for whom accommodation would have been provided in another voluntary school if that other school had not been discontinued or had not otherwise ceased to be available for the purpose.
- (3) This subsection applies if the enlargement is desirable for either or both of the following reasons—
  - (a) for the better provision of primary or secondary education at the premises to be enlarged;
  - (b) for securing that enough suitable primary or secondary schools are available for the area of the authority.

*Financial assistance by Secretary of State for aided and special agreement schools*

#### **65 Grants in respect of expenditure on premises or equipment.**

- (1) The Secretary of State may—
  - (a) in the case of any aided school or special agreement school, or
  - (b) where proposals have been approved under section 43 for a school or proposed school to be maintained as a voluntary school and the Secretary of State has made an order under section 48 directing that the school is to be an aided school,make grants to the governing body in respect of qualifying expenditure incurred by them.
- (2) In subsection (1) “qualifying expenditure” means expenditure in respect of the provision, alteration or repair of premises or equipment for the school or proposed school.
- (3) The amount of any grant paid under this section to the governing body in respect of any such expenditure—
  - (a) shall not exceed 85 per cent. of the expenditure, and
  - (b) in the case of any prescribed class or description of such expenditure, shall be such as may be determined in accordance with regulations.

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- (4) The times at which, and the manner in which, payments are made in respect of grant under this section shall be such as may be determined from time to time by the Secretary of State.
- (5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this section to make grants in respect of expenditure on—
- (a) such alterations to school buildings as are referred to in section 59(3)(a), or
  - (b) the repair of school buildings,
- give priority to paying grant in respect of expenditure which is necessary for the performance by governing bodies of their duties; and the amount of any grant paid in the exercise of that power in respect of such expenditure on the repair of school buildings shall be 85 per cent. of the expenditure.
- (6) A governing body to whom any payment is made in respect of grant under this section shall comply with such requirements determined by the Secretary of State as he may from time to time impose.
- (7) Such requirements—
- (a) may be imposed on, or at any time after, the making of any payment by reference to which they are imposed, and
  - (b) may at any time be waived, removed or varied by the Secretary of State.
- (8) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the Secretary of State of the whole or any part of the following amount.
- (9) That amount is—
- (a) the amount of the payments made in respect of the grant under this section, or
  - (b) so much of the value of any premises or equipment in respect of which grant was paid under this section as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.
- (10) No such requirement as is referred to in subsection (8) may be imposed where any payment is made in respect of grant under this section if—
- (a) the grant is made in respect of the provision, alteration or repair of premises for a school or proposed school, and
  - (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.
- (11) No grant may be paid under this section—
- (a) in respect of any expenses incurred in the provision of any premises which it is the duty of the local education authority to provide, or
  - (b) in the case of a special agreement school, in respect of expenses incurred in the execution of proposals to which the special agreement relates or of repairs or alterations for the execution of which provision is made by the agreement.
- (12) In relation to a proposed school, the references in this section to the governing body, in relation to any time before such a body are constituted, are to the persons who propose to establish the school; and where requirements are imposed in relation to grant paid under this section to such persons, the requirements shall be complied with by the governing body, when they are constituted, as well as by those persons.

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(13) In this section “repair” does not include repair falling within section 59(4).

## 66 Grants in respect of preliminary expenditure.

- (1) The Secretary of State may pay grants to the governing body of an aided or special agreement school in respect of any preliminary expenditure incurred by them for the purposes of a scheme for the transfer of the school to a new site or the enlargement or alteration of the school premises.
- (2) Where any persons propose or are considering whether to propose—
  - (a) that a school established by them, or by persons whom they represent, should be maintained by a local education authority as an aided school, or
  - (b) that a school which may be so established should be so maintained,the Secretary of State may pay grants to them in respect of any preliminary expenditure incurred by them for the purposes of a scheme for the provision of a site for the school or of any buildings which would be school buildings.
- (3) Grants under subsection (1) or (2) may be paid in respect of a scheme such as is mentioned in that subsection whether or not—
  - (a) the details of such a scheme had been formulated at the time when the expenditure was incurred,
  - (b) where such details were not formulated at that time, they are subsequently formulated,
  - (c) the governing body or persons in question had determined to proceed with such a scheme at that time, or
  - (d) where they had not determined to proceed with such a scheme at that time, they subsequently determine to proceed with such a scheme.
- (4) Expenditure in respect of which such grants are payable includes, in particular, costs incurred in connection with—
  - (a) the preparation of plans and specifications for any proposed construction, enlargement or alteration of buildings which are or would be school buildings, and
  - (b) estimating the sums which would be expended if any such works were carried out,but does not include any sums expended in carrying out any such works.
- (5) A grant under subsection (1) or (2) shall not exceed 85 per cent. of the expenditure in respect of which it is paid.
- (6) Where—
  - (a) a grant is paid under subsection (1) in the case of any school, or
  - (b) a grant is paid under subsection (2) in the case of any school which becomes, or is established as, a voluntary school,the grant shall for the purposes of section 173 be treated as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the school premises.

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## **67 Loans in respect of initial expenses.**

- (1) Where, on the application of the governing body of an aided or special agreement school and after consulting persons representing the governing body, the Secretary of State—
  - (a) is satisfied that the governing body’s share of any initial expenses required in connection with the school premises will involve capital expenditure, and
  - (b) having regard to all the circumstances of the case, considers that that expenditure ought properly to be met by borrowing,
 he may make a loan to the governing body for the purpose of helping them meet that expenditure.
- (2) The amount, rate of interest and other terms and conditions applicable to the loan shall be such as may be specified in an agreement made between the Secretary of State and the governing body with the consent of the Treasury.
- (3) For the purposes of this section “initial expenses” are expenses of any of the following categories—
  - (a) expenses to be incurred in pursuance of a special agreement;
  - (b) expenses to be incurred in providing school buildings on a site to which the school is to be transferred pursuant to an order under section 47;
  - (c) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises or on the transfer of the school to a new site, being expenses in respect of which grants may be paid under section 65;
  - (d) expenses to be incurred in providing a site or school buildings for a new school, being expenses in respect of which grants may be paid under section 65.
- (4) For the purposes of this section the governing body’s share of any initial expenses shall be taken to be so much of the expenses as remains to be borne by the governing body after taking into account the amount of any grant under section 65 or under a special agreement that may be paid or payable in respect of them.

*Assistance by LEAs for governing bodies of aided and special agreement schools*

## **68 Assistance in respect of maintenance and other obligations of governing body.**

A local education authority may give to the governing body of an aided or special agreement school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation under—

- (a) section 45(1), or
- (b) section 59.

*Assistance by LEAs for promoters of new voluntary schools*

## **69 Assistance for promoters of new voluntary school.**

A local education authority may give to persons required under section 45(1) to implement proposals involving the establishment of a school such assistance as the authority think fit in relation to the carrying out by those persons of their obligations under that provision.

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### *Miscellaneous and supplemental*

#### **70 Duty to convey interest in premises provided under section 68 or 69.**

- (1) Where assistance under section 68 or 69 consists of the provision of any premises for use for the purposes of a school, the local education authority shall convey their interest in the premises to the trustees of the school to be held on trust for the purposes of the school.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the conveyance, it shall be made to such persons as the Secretary of State thinks proper.
- (3) Where trustees make a disposal of an interest conveyed to them by a local education authority under subsection (1), they shall be liable to pay to that authority an amount equal to the net proceeds of the disposal.
- (4) In subsection (3)—
  - “disposal” includes part disposal; and
  - “net proceeds”, in relation to a disposal, means the amount accruing on the disposal less any expenditure reasonably incurred for the purposes of making it.

#### **71 Powers of Secretary of State where LEA make default in maintaining voluntary school.**

- (1) Where it appears to the Secretary of State that a local education authority have made default in the discharge of their duties relating to the maintenance of a voluntary school, he may—
  - (a) direct that any act done by or on behalf of the school’s governing body for the purpose of securing the proper maintenance of the school shall be taken to have been done by or on behalf of the authority, and
  - (b) reimburse to the governing body any sums which in his opinion they have properly expended for that purpose.
- (2) The amount of any sum reimbursed under subsection (1) shall be recoverable by the Secretary of State as a debt due to him from the authority; and without prejudice to any other method of recovery the whole or any part of any such sum may be deducted from any sums payable to the authority by the Secretary of State in pursuance of any regulations relating to the payment of grants.

#### **72 Endowments for maintenance of voluntary schools.**

Where any sums accruing in respect of the income of an endowment are required by virtue of the provisions of a trust deed to be applied towards the maintenance of a voluntary school, those sums shall not be payable to the local education authority but shall be applied by the governing body of the school—

- (a) towards the discharge of their obligations, if any, under section 59, or
- (b) in such other manner, if any, as may be determined by a scheme for the administration of the endowment made after 1st April 1945.

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**73 Sums paid for letting or hiring of premises of voluntary schools.**

Any sum which is paid to the governing body or trustees of a voluntary school in respect of the letting or hiring of any part of the school premises other than school buildings shall be paid over to the local education authority.

**74 Execution by LEA of certain works in case of controlled schools.**

- (1) Where a local education authority are liable to defray the cost of carrying out any building work, repair work or work of a similar character which is required for the purposes of a controlled school, the work shall, if the authority so determine, be carried out by employees of theirs.
- (2) If the authority make such a determination, the governing body and any trustees of the school shall provide the authority and the authority's employees with all such facilities as they may reasonably require for the purpose of securing that the work is carried out properly.

**75 Disapplication of restriction on local authority disposals.**

Subsection (2) of section 123 of the <sup>M20</sup>Local Government Act 1972 (local authority prohibited from making disposal of land under that section below market value without consent of the Secretary of State) shall not apply in the case of a disposal—

- (a) to the governors of an aided or special agreement school, or
- (b) to persons proposing to establish a school which is proposed to be maintained by a local education authority as a voluntary school and to be an aided school.

**Marginal Citations**

M20 1972 c. 70.

**CHAPTER IV**

GOVERNMENT OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

*Instruments of government*

**76 Instruments of government.**

- (1) For every county, voluntary and maintained special school there shall be an instrument (known as the instrument of government) providing for the constitution of the school's governing body.
- (2) The instrument of government shall be made by order of the local education authority.
- (3) The instrument of government—
  - (a) shall contain such provisions as are required by this Chapter or by any other enactment; and
  - (b) shall not contain any provision which is inconsistent with any provision made by or under this Act or any other enactment.

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- (4) The instrument of government shall comply with any trust deed relating to the school.
- (5) This section has effect subject to section 89 (grouping of two or more schools under a single governing body) and sections 96 and 97 (temporary governing body for new school pending constitution of its governing body).

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

**C11** S. 76 excluded (1.1.1999) by S.I. 1998/3097, reg.3

**77 Procedure for making and altering instruments of government.**

- (1) Before making an order under section 76, a local education authority shall consult the governing body and the head teacher of the school concerned.
- (2) Before making an order under section 76 in respect of a voluntary school, a local education authority shall also—
  - (a) secure the agreement of the governing body to the terms of the proposed order;
  - (b) secure the agreement of the foundation governors to any provisions which are of particular concern to those governors; and
  - (c) have regard to the way in which the school has been conducted.
- (3) Where the governing body of a county, voluntary or maintained special school make a proposal to the local education authority for the alteration of the provision made by the instrument of government for the school, the authority shall consider their proposal.
- (4) Where—
  - (a) the foundation governors of a voluntary school make a proposal to the local education authority for the alteration of the provision made by the instrument of government for the school, and
  - (b) the proposal relates solely to one or more matters which are of particular concern to those governors,the authority shall consider their proposal.
- (5) Where a local education authority—
  - (a) propose to make an order under section 76 but cannot secure any agreement required by subsection (2), or
  - (b) refuse, in the case of a voluntary school, to make such an order in response to a proposal of a kind mentioned in subsection (3) or (4),the authority or (as the case may be) the governing body or foundation governors may refer the matter to the Secretary of State.
- (6) On a reference to him under subsection (5), the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the status of the school as a controlled, aided or (as the case may be) special agreement school.
- (7) Where it appears to the Secretary of State—
  - (a) that an order, or proposed order, under section 76 is in any respect inconsistent with the provisions of any trust deed relating to the school concerned, and
  - (b) that it is expedient in the interests of the school that the provisions of the trust deed should be modified for the purpose of removing the inconsistency,

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he may by order make such modifications in the trust deed as appear to him to be just and expedient for that purpose.

- (8) References in this section to an order, or proposed order, under section 76 are references to an order, or proposed order, under that section embodying or varying an instrument of government.

### *Categories of governor*

## **78 Categories of governor.**

- (1) In this Act “co-opted governor”, in relation to a county, voluntary or maintained special school, means a person appointed to be a member of the school’s governing body by being co-opted by those governors of the school who have not themselves been so appointed (and accordingly does not include a governor of the school appointed in accordance with any provision made by virtue of section 81 (appointment of parent governors by governing body as a whole)).
- (2) In this Act “foundation governor”, in relation to a voluntary school, means a person appointed to be a member of the school’s governing body, otherwise than by a local education authority or a minor authority, for the purpose of securing (so far as is practicable)—
  - (a) that the character of the school as a voluntary school is preserved and developed, and
  - (b) in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it.
- (3) In this Act “parent governor”, in relation to a county, voluntary or maintained special school, means—
  - (a) a person who is elected as a member of the school’s governing body by parents of registered pupils at the school and is himself such a parent at the time when he is elected, or
  - (b) (in the case of a county, controlled or maintained special school) a person who is appointed as a member of the governing body in accordance with any provision made by virtue of section 81.
- (4) In this Act “teacher governor”, in relation to a county, voluntary or maintained special school, means a person who is elected as a member of the school’s governing body by teachers at the school and who is himself such a teacher at the time when he is elected.
- (5) In relation to any group of schools under section 89 for which the instrument of government makes by virtue of section 93 provision with respect to the election of parent or teacher governors, any reference in subsection (3) or (4) to a person being elected as there mentioned is a reference to his being so elected in accordance with any such provision made by virtue of section 93.



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*Governing bodies of county, controlled and maintained special schools*

**79 Constitution of the governing body of a county, controlled or maintained special school.**

- (1) Subject to section 80 (representative governors for certain schools), the instrument of government for a county or maintained special school shall provide for the governing body to consist of the following (and no others)—
- (a) the head teacher, unless he chooses not to be a governor, and
  - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the size of the school.

<b>Category of governor</b>	<b>School with less than 100 registered pupils</b>	<b>School with 100 or more but less than 300 registered pupils</b>	<b>School with 300 or more but less than 600 registered pupils</b>	<b>School with 600 or more registered pupils</b>
Parent governors	2	3	4	5
Governors appointed by the local education authority	2	3	4	5
Teacher governors	1	1	2	2
Co-opted governors	3	4	5	6

- (2) Subject to section 80, the instrument of government for a controlled school shall provide for the governing body to consist of the following (and no others)—
- (a) the head teacher, unless he chooses not to be a governor, and
  - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the size of the school.

<b>Category of governor</b>	<b>School with less than 100 registered pupils</b>	<b>School with 100 or more but less than 300 registered pupils</b>	<b>School with 300 or more but less than 600 registered pupils</b>	<b>School with 600 or more registered pupils</b>
Parent governors	2	3	4	5
Governors appointed by the local	2	3	4	5

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education authority				
Teacher governors	1	1	2	2
Foundation governors	2	3	4	4
Co-opted governors	1	1	1	2

- (3) Where the instrument of government so provides, a county, controlled or maintained special school with 600 or more registered pupils shall be treated for the purposes of this section as one with 300 or more but less than 600 registered pupils.
- (4) Where the head teacher of a county, controlled or maintained special school is a governor he shall be treated for all purposes as being an ex officio governor.

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

C12 S. 79(1)(2) excluded (1.11.1996) by 1996 c. 57, ss. 27(4), 48(2).

**80 Appointment of representative governors in place of co-opted governors.**

- (1) The instrument of government for a primary school which is a county or controlled school serving an area for which there is a minor authority shall provide for one governor to be appointed by that authority.
- (2) The instrument of government for a maintained special school which is established in a hospital shall provide—
- (a) (if the hospital is vested in the Secretary of State) for one governor to be appointed by the Health Authority; or
  - (b) (if the hospital is vested in a National Health Service trust) for one governor to be appointed by that trust.
- (3) The instrument of government for a maintained special school which is not established in a hospital shall, if the school has less than 100 registered pupils, provide for one governor to be appointed—
- (a) by a voluntary organisation designated by the local education authority, in relation to the school, as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised; or
  - (b) jointly by two or more voluntary organisations so designated as appropriate voluntary organisations concerned with such matters;
- or, if the school has 100 or more registered pupils, shall provide for two governors to be appointed as mentioned in paragraph (a) or (b).
- (4) Where, by virtue of subsection (3) above, an instrument of government is required to provide for the appointment of two governors, it may make different provision in relation to the appointment of one governor from that made in relation to the appointment of the other.
- (5) Where a local education authority are satisfied, in relation to any special school, that there is no voluntary organisation which it would be appropriate to designate for

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the purposes of subsection (3), that subsection shall not apply to the instrument of government for the school.

- (6) An instrument of government which is required by this section to provide for the appointment of a governor shall name the person or persons by whom the governor is to be appointed.
- (7) Subject to subsection (8), an instrument of government which is required by this section to provide for the appointment of one or (as the case may be) two governors shall in consequence provide for the appointment of one or two fewer co-opted governors than would otherwise be provided for.
- (8) If that instrument of government is for a controlled school which—
  - (a) has less than 600 registered pupils, or
  - (b) is, by virtue of subsection (3) of section 79, to be treated for the purposes of that section as having less than 600 such pupils,the instrument shall not provide for the appointment of any co-opted governor.
- (9) In subsections (7) and (8) references to co-opted governors are references to governors required to be co-opted by virtue of section 79 but do not include co-opted foundation governors.

## **81 Appointment of parent governors by governing bodies.**

- (1) The instrument of government for a county or controlled school, or for a maintained special school which is not established in a hospital, may provide that if at the time when the instrument is made, or at any later time when there is a vacancy for a parent governor—
  - (a) at least 50 per cent. of the registered pupils at the school are boarders, and
  - (b) it would, in the opinion of the local education authority, be impracticable for there to be an election of parent governors,the parent governors, or (as the case may be) the parent governor required to fill that vacancy, shall be appointed by the other members of the governing body.
- (2) Where, in the opinion of the local education authority, it is likely to be impracticable for there to be elections of parent governors at a maintained special school which is established in a hospital, the instrument of government for the school may provide for the parent governors to be appointed by the other members of the governing body.
- (3) The instrument of government for a county, controlled or maintained special school at which parent governors are to be, or may be, elected shall provide for the required number of parent governors to be made up by parent governors appointed by the other members of the governing body if—
  - (a) one or more vacancies for parent governors are required to be filled by election; and
  - (b) the number of parents standing for election as parent governors is less than the number of vacancies.
- (4) The instrument of government for a county, controlled or maintained special school shall require governors, in appointing a parent governor under a provision made by virtue of this section—
  - (a) to appoint a person who is the parent of a registered pupil at the school, where it is reasonably practicable to do so, and

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- (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age.
- (5) Such an instrument shall also provide that governors shall not appoint as a parent governor under such a provision any person who is—
- (a) an elected member of the local education authority, or
  - (b) an employee of the authority or of the governing body of any aided school maintained by the authority.

## **82 Review of the constitution of governing bodies.**

- (1) The constitution of the governing body of a county, controlled or maintained special school shall be reviewed in accordance with this section on, or as soon as is reasonably practicable after, the occurrence of any event which is a relevant event in relation to the school.
- (2) For the purposes of this section any of the following is a “relevant event” in relation to a school—
- (a) the implementation of any proposals falling within subsection (3);
  - (b) where no such proposals have been implemented in relation to the school before the fourth anniversary of the date on which the current instrument of government for the school was made, that anniversary; and
  - (c) where a relevant event has previously occurred in relation to the school, the fourth anniversary of the latest such event.
- (3) Proposals fall within this subsection if they provide for an increase in the number of registered pupils at the school and are—
- (a) proposals under section 35(1)(c) or (d) (alteration of character or premises of a county school or transfer to a new site) or proposals which would fall to be published under section 35(1)(d) but for section 35(2)(b);
  - (b) proposals under section 41(2)(a) or (b) (alteration of character or premises of a voluntary school or transfer to a new site);
  - (c) proposals that the Secretary of State should make an order under section 47 (transfer of voluntary school to a new site); or
  - (d) proposals under section 339(1)(b) (prescribed alteration to maintained special school).
- (4) Any review which is required by virtue of the implementation of proposals falling within subsection (3)(a) or (d) shall be carried out by the local education authority; and any other review which is required by this section shall be carried out by the governing body.
- (5) Whenever a local education authority or governing body are required to carry out a review under this section, they shall consider—
- (a) whether the governing body are properly constituted; and
  - (b) whether the provision made by the instrument of government for the school is in any respect different from that which a new instrument of government would be required to make.
- (6) Where a governing body have carried out a review under this section and have established that the provision made by the instrument of government is in one or more respects different from that which a new instrument of government would be required to make, they shall report the fact to the local education authority.

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- (7) Where proposals falling within subsection (3)(a) or (d) have been implemented in relation to a school, the local education authority shall determine the date on which, for the purposes of this section, they are to be taken to have been implemented and shall notify the governing body accordingly.

### **83 Adjustment in number of governors.**

- (1) Where—
- (a) a county, controlled or maintained special school has more governors of a particular category than are provided for by the instrument of government for the school, and
  - (b) the excess is not eliminated by the required number of governors of that category resigning,
- such number of governors of that category as is required to eliminate the excess shall cease to hold office.
- (2) The governors who are to cease to hold office shall be selected on the basis of seniority, the longest-serving governor being the first to be selected, and so on.
- (3) Where it is necessary for the purposes of subsection (2) to select one or more governors from a group of equal seniority, it shall be done by drawing lots.
- (4) Subsections (2) and (3) do not apply in relation to foundation governors.
- (5) The instrument of government for a controlled school shall make provision for the procedure to be adopted whenever subsection (1) requires a foundation governor to cease to hold office.

#### *Governing bodies of aided and special agreement schools*

### **84 Constitution of the governing body of an aided or special agreement school.**

- (1) The instrument of government for an aided or special agreement school shall provide for the governing body to include—
- (a) the head teacher, unless he chooses not to be a governor,
  - (b) at least one parent governor,
  - (c) at least one governor appointed by the local education authority,
  - (d) at least one teacher governor if the school has less than 300 registered pupils, and at least two teacher governors if it has 300 or more registered pupils, and
  - (e) foundation governors.
- (2) The instrument shall provide for such number of foundation governors as will lead to their outnumbering the other governors—
- (a) by two, if the governing body will consist of not more than 18 governors; or
  - (b) by three, if it will consist of more than 18 governors,
- and shall provide for at least one of the foundation governors to be (at the time of his appointment) a parent of a registered pupil at the school.
- (3) If the school is a primary school serving an area for which there is a minor authority, the instrument shall provide for the governing body to include also at least one governor appointed by that authority.

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- (4) Where the head teacher of an aided or special agreement school has chosen not to be a governor, he shall nevertheless be counted as one for the purposes of calculating the required number of foundation governors.
- (5) Subject to subsection (2), nothing in this section shall be taken to prevent the instrument of government for such a school from providing for the governing body to include governors in addition to those required by virtue of this section.
- (6) Where the head teacher of such a school is a governor he shall be treated for all purposes as being an ex officio governor.

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

C13 S. 84(2) amended (1.11.1996) by 1996 c. 57, ss. 27(8), 48(2)

**85 Sponsor governors for aided secondary schools.**

- (1) The instrument of government for any secondary school which is an aided school shall, if a direction given by the Secretary of State under this section so requires—
  - (a) name as a sponsor of the school a person specified in the direction, and
  - (b) provide for the governing body of the school to include such number of governors appointed by the sponsor, not exceeding four, as is so specified.
- (2) A direction under this section in respect of a school, other than one under subsection (4) or (5)—
  - (a) may only be given at the request, or with the consent, of the governing body, and
  - (b) may make provision (including the modification of any provision made by or under this Chapter) as to the time by which a new instrument of government is to be made and the consent and consultation which is to be required before it is made.
- (3) A direction under this section varying or revoking a previous direction—
  - (a) may only be made after consulting the governing body, and
  - (b) may make provision (including the modification of any provision made by or under this Chapter) as to the time by which a new instrument of government is to be made and the consent and consultation which is to be required before it is made.
- (4) Where proposals approved under section 43—
  - (a) provide for a secondary school to be maintained by the local education authority as a voluntary school, and
  - (b) name a person as a sponsor of the school, and
  - (c) provide for the governing body of the school to include a specified number of governors, not exceeding four, appointed by the sponsor,

the Secretary of State shall, if he makes an order under section 48 directing that the school shall be an aided school, give a direction under this section for the purpose of implementing the proposals.
- (5) Where an order under section 54 directs that a secondary school shall be an aided school and the proposals published by the governing body under section 52—

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- (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body of the school to include a specified number of governors, not exceeding four, appointed by the sponsor,
- the Secretary of State shall give a direction under this section for the purpose of implementing the proposals.
- (6) Where the instrument of government for any secondary school which is an aided school names two or more persons as sponsors of the school—
- (a) the number of governors appointed under the instrument by virtue of this section may not exceed four, and
  - (b) the instrument may not provide for any of those governors to be appointed by two or more sponsors acting jointly.
- (7) Where in pursuance of this section the instrument of government for a school names a person as a sponsor of the school, section 84(2) shall have effect as if it required the instrument to provide for such number of foundation governors as will lead to their outnumbering the other governors by two.
- (8) In this section “direction” means a direction contained in an order made by the Secretary of State.

*Governing bodies: general*

**86 Instrument of government to reflect current circumstances of school.**

- (1) Subject to subsection (2) and paragraph 5(2) of Schedule 10 (which makes in relation to new schools provision similar to that made by subsection (2) in relation to existing schools), the instrument of government for a county, voluntary or maintained special school shall make such provision as is appropriate having regard to all the circumstances of the school as at the date on which the instrument is made.
- (2) Where proposals falling within section 82(3) have been implemented in relation to a school, then for the purposes of subsection (1) the number of registered pupils at the school shall, until the actual number of registered pupils at the school reaches the maximum number of pupils provided for by the proposals, be deemed to be that maximum number.
- (3) Where subsection (2) applies in relation to a school—
- (a) the local education authority, or
  - (b) if the proposals fall within section 82(3)(b) [<sup>F16</sup>or (c)], the governing body,
- may determine that it shall cease to apply (but without prejudice to its operation in relation to the implementation of any further proposals).

**Textual Amendments**

**F16** Words in s. 86(3)(b) inserted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.15**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. I**

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## **87 Effect of change in circumstances of school.**

- (1) Where the effect of any subsequent change in the circumstances of a county, voluntary or maintained special school is that the provision made by the instrument of government for the school differs in any respect from the provision which a new instrument of government would be required to make, the local education authority shall (subject to subsection (2))—
  - (a) vary the instrument of government in such manner as is necessary to remove any such difference, or
  - (b) make a new instrument of government.
- (2) For the purposes of subsection (1) any change in the number of registered pupils at a county, controlled or maintained special school occurring after the instrument of government for the school is made, or (as the case may be) varied, may be disregarded until a review under section 82 establishes that the provision made by the instrument differs in any respect from the provision which a new instrument of government for the school would be required to make.
- (3) Where section 86(2) has applied in relation to a school but the local education authority or (as the case may be) governing body have subsequently determined that it should cease to apply, subsections (1) and (2) above shall have effect as if a change in the number of registered pupils at the school had occurred at the time when that determination was made.
- (4) The instrument of government for a county, voluntary or maintained special school may make provision which would be appropriate in the event of such a change in the circumstances of the school as is anticipated by that provision (including in particular a change in the number of registered pupils at the school).
- (5) No provision made by the instrument of government for a county, controlled or maintained special school in anticipation of a change in the number of registered pupils at the school shall have effect before it is established, by a review under section 82, that a new instrument of government would be required to make that provision.

## **88 Incorporation, membership and proceedings etc. of governing bodies.**

- (1) Any governing body of a county, voluntary or maintained special school constituted in pursuance of this Chapter shall be constituted as a body corporate; and Schedule 7 has effect in relation to the incorporation of any such governing body.
- (2) Schedule 8 has effect in relation to the membership and proceedings of, and other matters relating to, any such governing body.

*Grouping of schools under a single governing body*

## **89 Grouping of schools under a single governing body.**

- (1) Subject to subsection (2), a local education authority may resolve that any two or more schools maintained by them shall be grouped for the purposes of this Chapter.
- (2) If the instrument of government of any of the schools names a person as a sponsor of the school, a local education authority may only pass a resolution under subsection (1) if all the schools are secondary schools.



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- (3) Where any schools are grouped under this section, they shall—
- (a) be treated for the purposes of this Chapter as a single school; and
  - (b) have a single governing body constituted under a single instrument of government.
- (4) A group shall be treated for the purposes of this Chapter—
- (a) as an aided school, if it contains at least one aided school;
  - (b) as a special agreement school, if it contains at least one special agreement school and paragraph (a) does not apply;
  - (c) as a controlled school, if it contains at least one controlled school and neither paragraph (a) nor paragraph (b) applies;
  - (d) as a maintained special school, if it consists only of maintained special schools; and
  - (e) as a county school, if none of paragraphs (a) to (d) applies.
- (5) In this Part—
- “group” means two or more schools grouped under this section; and  
“grouped school” means a school which forms a part of a group.
- (6) Any reference in any enactment to the governing body or governors of a school shall be construed, in relation to any grouped school, as a reference to the governing body or governors of the group.

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

- C14** S. 89 restricted (1.11.1996) by 1996 c. 57, ss. 29(1), 48(2)  
S. 89 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)  
S. 89 applied (24.7.1998 for certain purposes only) by 1998 c. 31, ss. 36(2), 145(3)(5), Sch. 10 para. 1(7) (with ss. 138(9), 144(6)).

**90 Consent of Secretary of State as to grouping.**

- (1) Subject to subsection (2), a local education authority shall, before resolving to group any schools under section 89, obtain the consent of the Secretary of State to the proposed grouping.
- (2) The Secretary of State’s consent is not required if—
- (a) the group will consist only of two primary schools;
  - (b) both of the schools serve substantially the same area;
  - (c) neither of the schools is a special school; and
  - (d) where they are in Wales, there is no significant difference between them in their use of the Welsh language.
- (3) Where—
- (a) two primary schools have been grouped in circumstances in which, by virtue of subsection (2), the Secretary of State’s consent to the grouping was not required, and
  - (b) a change of circumstances occurs such that a proposal to group those schools made after that change would require his consent,
- the local education authority shall obtain his consent to their continuing to be grouped.

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- (4) The Secretary of State may give his consent to any grouping (or continued grouping) of schools subject to such conditions as to the duration of the grouping as he sees fit to impose.
- (5) Where the Secretary of State's consent is required to the grouping or continued grouping of any schools, sections 79 to 81, 84 and 85 and paragraph 2(2) of Schedule 8 (representation of local business community on governing body) shall apply in relation to the group subject to such modifications (if any) as he may direct.
- (6) Any dispute as to whether, for the purposes of this section—
  - (a) two primary schools are to be regarded as serving substantially the same area, or
  - (b) there is any significant difference between two primary schools in their use of the Welsh language,
 shall be determined by the Secretary of State.

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

C15 S. 90 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**91 Consent of, or consultation with, governing body as to grouping.**

- (1) A local education authority shall not pass a resolution under section 89 applying to a voluntary school without first obtaining the consent of the school's governing body.
- (2) A local education authority shall not pass a resolution under section 89 applying to a county or maintained special school without first consulting the school's governing body.

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

C16 S. 91 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**92 Procedure for making or altering the instrument of government for a group.**

- (1) Before making an order under section 76 embodying the first instrument of government for a group, the local education authority shall consult the governing body and head teacher of each school within the group.
- (2) Before making such an order in respect of a group which contains one or more voluntary schools, the local education authority shall also—
  - (a) secure the agreement of the governing body of each of those schools to the terms of the proposed order,
  - (b) secure the agreement of the foundation governors of each of those schools to any provision which will be of particular concern to the foundation governors of the group, and
  - (c) have regard to the way in which those schools have been conducted.
- (3) Where an order such as is mentioned in subsection (1) has been made, section 77 shall apply in relation to any subsequent order embodying or varying the instrument

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of government for the group, or any proposal for the making of such an order, as if the group—

- (a) (where it contains one or more voluntary schools) were a single voluntary school; or
- (b) (in any other case) were a single county school.

(4) Any agreement required by subsection (2) shall be treated for the purposes of section 77(5) as having been required by section 77(2).

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

C17 S. 92 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

### 93 Election of parent and teacher governors for a group.

The instrument of government for a group—

- (a) may provide for the local education authority to have power to determine, in relation to every election of parent or teacher governors, the school or schools within the group—
  - (i) the parents of registered pupils at which are entitled to stand and vote at the election, or
  - (ii) the teachers at which are entitled to stand and vote at the election, as the case may be; and
- (b) where it so provides, shall require the authority to ensure that the position after any such election will be that there is no school within the group which will not have had an opportunity to participate in accordance with paragraph (a) in the election of at least one of the parent or (as the case may be) teacher governors of the group.

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

C18 S. 93 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

### 94 Review of grouping.

- (1) Where subsection (2) applies in relation to a school which is grouped with one or more other schools under section 89, the local education authority shall review the grouping of those schools and consider whether or not it should be brought to an end.
- (2) This subsection applies in relation to a school if—
  - (a) proposals relating to it are made under—
    - (i) section 35 (establishment, alteration etc. of county schools),
    - (ii) section 41 (establishment, alteration etc. of voluntary schools),
    - (iii) section 52 (controlled schools becoming aided schools),
    - (iv) section 167 (discontinuance of county, voluntary and nursery schools), or
    - (v) section 339 (establishment etc. of special schools); or

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- (b) it is proposed that the Secretary of State should make an order relating to it under section 46 (establishment of new voluntary schools in substitution for old ones) or section 47 (transfer of voluntary schools to new sites); or
  - (c) the Secretary of State makes an order relating to it—
    - (i) under section 50 or section 51 (division of county or voluntary school), or
    - (ii) under section 57 or 58(1) (revocation of orders by virtue of which schools are aided or special agreement schools); or
  - (d) it is transferred to a new site in circumstances falling within section 35(2)(b).
- (3) Where on a review under this section a local education authority consider that any grouping of schools should be continued, and the Secretary of State's consent to the grouping, or to the continued grouping, of the schools was at any time required by section 90, the authority shall—
- (a) report to the Secretary of State on the results of their review; and
  - (b) provide him with such information as he may reasonably require with a view to enabling him to consider whether or not the grouping should be brought to an end.

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

**C19** S. 94 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**95 Termination of grouping.**

- (1) The Secretary of State may by order bring to an end any grouping under section 89 in respect of which his consent was at any time required by section 90.
- (2) Any grouping under section 89 may, if the group does not contain a voluntary school, be brought to an end by resolution of the local education authority.
- (3) Any such grouping may, if the group contains a voluntary school but not one whose instrument of government names any person as a sponsor of the school, be brought to an end—
  - (a) by resolution of the local education authority made with the agreement of the governing body, or
  - (b) by one year's notice given either by the authority to the governing body or by the governing body to the authority.
- (4) Any order under section 76 embodying an instrument of government for two or more schools which are grouped under section 89 shall be taken to have been revoked—
  - (a) in the case of a group which was established for a specified period, at the end of that period, or
  - (b) at the time when the grouping is brought to an end in accordance with subsection (1), (2) or (3).

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

**C20** S. 95 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**C21** S. 95(1) extended (1.11.1996) by 1996 c. 57, ss. 29(2), 48(2)

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### Government of new schools

#### 96 Temporary governing bodies for new county or maintained special schools.

- (1) Where—
- (a) the Secretary of State has approved under section 37 or section 340 proposals of a kind mentioned in subsection (2), or
  - (b) a local education authority have determined under section 38 to implement any proposals made by them under section 35,
- the local education authority shall (unless they have already exercised their power to do so under subsection (3)) make an arrangement for the constitution of a temporary governing body for the school in question pending the constitution of its governing body under an instrument of government.
- (2) The proposals referred to in subsection (1) are any proposals made by a local education authority—
- (a) to establish a new county school;
  - (b) to maintain as a county school a school which is neither a county school nor a voluntary school; or
  - (c) to establish a new school which is specially organised to make special educational provision for pupils with special educational needs.
- (3) Where any such proposals have been duly published under section 35 or (as the case may be) notice of them has been duly served under section 339, the local education authority may make an arrangement such as is mentioned in subsection (1) in anticipation of the Secretary of State's approval of the proposals or (as the case may be) the determination by the authority that they should be implemented.
- (4) An arrangement made under subsection (3) shall come to an end if—
- (a) the proposals are withdrawn, or
  - (b) the Secretary of State rejects them under section 37 or (as the case may be) section 340, or
  - (c) (in the case of proposals made under section 35), the local education authority determine under section 38 not to implement them.
- (5) An arrangement made under this section shall, unless it has been brought to an end under subsection (4), come to an end when the requirement for there to be an instrument of government for the school takes effect under section 99.

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

- C22** S. 96(1)(3) modified (1.1.1999) (*temp.*) by S.I. 1998/3097, **reg.4**  
**C23** S. 96(5) excluded (1.1.1999) by S.I. 1998/3097, **reg. 8(b)**

#### 97 Temporary governing bodies for new voluntary schools.

- (1) Where the Secretary of State has approved under section 43 any proposals that a school—
- (a) which was established by those making the proposals, or by the persons whom they represent, and is not a voluntary school, or
  - (b) which is proposed to be so established,

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should be maintained by a local education authority as a voluntary school, the local education authority shall (unless they have already exercised their power to do so under subsection (2)) make an arrangement for the constitution of a temporary governing body for the school pending the constitution of its governing body under an instrument of government.

- (2) Where any such proposals have been duly published under section 41, the local education authority may make an arrangement such as is mentioned in subsection (1) in anticipation of the Secretary of State's approval of the proposals.
- (3) If the proposals so published are for the school in question to be maintained as a controlled school, the authority shall consult the persons making the proposals—
  - (a) as to whether the power given to the authority by subsection (2) should be exercised, and
  - (b) if the authority propose to exercise it, as to the date on which the arrangement should be made.
- (4) If the proposals so published are for the school in question to be maintained as an aided school, the authority and the persons making the proposals shall consider—
  - (a) whether the power given to the authority by subsection (2) should be exercised, and
  - (b) where they agree that it should, on what date the arrangement should be made.
- (5) Where, in a case within subsection (4), the authority and the persons making the proposals fail to agree on the question mentioned in paragraph (a) or on that mentioned in paragraph (b), either of them may refer the matter to the Secretary of State.
- (6) On a reference under subsection (5), the Secretary of State shall give such direction as he thinks fit.
- (7) An arrangement made under subsection (2) shall come to an end if—
  - (a) the proposals are withdrawn, or
  - (b) the Secretary of State rejects them under section 43.
- (8) An arrangement made under this section, other than one which has been brought to an end under subsection (7), shall come to an end when the requirement for there to be an instrument of government for the school takes effect under section 99.

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

**C24** S. 97(1)(2) modified (1.1.1999) (*temp.*) by S.I. 1998/3097, reg.4

**C25** S. 97(8) excluded (1.1.1999) by S.I. 1998/3097, reg. 8(e)

**98 Constitution, membership and proceedings etc. of temporary governing bodies.**

Schedule 9 has effect in relation to the constitution, membership and proceedings of, and other matters relating to, temporary governing bodies.

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**99 Transition from temporary governing body to governing body constituted under an instrument of government.**

- (1) The requirement for there to be an instrument of government for a school (imposed by section 76) shall take effect in relation to a new school from the date on which the relevant proposals are implemented.
- (2) Where a question arises as to which date is to be taken for the purposes of this section to be the date on which the relevant proposals are implemented, it shall be determined by the Secretary of State.
- (3) Schedule 10 has effect in relation to the transition from a temporary governing body to a governing body constituted under an instrument of government.

*Grouping of new schools*

**100 Grouping of new schools.**

- (1) This section applies for the purposes of grouping a new school under section 89 with effect from the relevant time.
- (2) Any provision of sections 89 to 91 which operates by reference to the existence or absence of any particular circumstances in the case of a school, or to the status of a school, shall be treated (so far as necessary for the purposes mentioned in subsection (1) above) as so operating by reference to the position as it will be at the relevant time.
- (3) In addition section 91 shall have effect for those purposes as if any reference to a school’s governing body were a reference to its temporary governing body.
- (4) In this section “the relevant time”, in relation to a new school, means the time when the requirement for there to be an instrument of government for the school takes effect under section 99.

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

**C26** S. 100 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(d)

**CHAPTER V**

FINANCIAL DELEGATION TO GOVERNING BODIES OF  
COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

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## CHAPTER VI

### CONDUCT AND STAFFING OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

#### *Articles of government*

#### **127 Articles of government.**

- (1) For every county, voluntary and maintained special school there shall be an instrument (known as the articles of government) in accordance with which the school is to be conducted.
- (2) The articles of government shall be made by order of the local education authority.
- (3) The articles of government—
  - (a) shall contain such provisions as are required by this Chapter or by any other enactment; and
  - (b) shall not contain any provision which is inconsistent with any provision made by or under this Act or any other enactment.
- (4) The articles of government shall comply with any trust deed relating to the school.

#### **128 Procedure for making and altering articles of government.**

- (1) Before making an order under section 127, a local education authority shall consult the governing body and the head teacher of the school concerned.
- (2) Before making an order under section 127 in respect of a voluntary school, a local education authority shall also—
  - (a) secure the agreement of the governing body to the terms of the proposed order; and
  - (b) have regard to the way in which the school has been conducted.
- (3) Where the governing body of a county, voluntary or maintained special school make a proposal to the local education authority for the alteration of the provision made by the articles of government for the school, the authority shall consider their proposal.
- (4) Where a local education authority—
  - (a) propose to make an order under section 127 but cannot secure any agreement required by subsection (2), or
  - (b) refuse, in the case of a voluntary school, to make such an order in response to a proposal of a kind mentioned in subsection (3),
 the authority or (as the case may be) the governing body may refer the matter to the Secretary of State.
- (5) On a reference to him under subsection (4), the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the status of the school as a controlled, aided or (as the case may be) special agreement school.
- (6) Where it appears to the Secretary of State—
  - (a) that an order, or proposed order, under section 127 is in any respect inconsistent with the provisions of any trust deed relating to the school, and



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- (b) that it is expedient in the interests of the school that the provisions of the trust deed should be modified for the purpose of removing the inconsistency, he may by order make such modifications in the trust deed as appear to him to be just and expedient for that purpose.
- (7) References in this section to an order, or proposed order, under section 127 are references to an order, or proposed order, under that section embodying or varying the articles of government for a school.

### **129 Overriding, and amendment, of articles where school has a delegated budget.**

- (1) During any period when a school has a delegated budget under such a scheme as is mentioned in section 101(1), any provisions of the articles of government of the school which are inconsistent with the operation during that period of any provisions of Chapter V or of the scheme shall be of no effect to the extent of the inconsistency.
- (2) If a school's articles of government contain any provisions to which subsection (1) applies ("inconsistent provisions"), the local education authority shall amend the articles so as to include in relation to each inconsistent provision the statement required by subsection (3).
- (3) The statement shall specify—
- (a) the inconsistent provision,
  - (b) the provision of Chapter V or of the scheme with the operation of which it is inconsistent (the "overriding provision"), and
  - (c) the extent of the inconsistency,
- and shall indicate that, during any period when the school has a delegated budget, the inconsistent provision is superseded by the overriding provision to the extent of the inconsistency.
- (4) Any amendment required by subsection (2) shall be made within the period of five years beginning with the date on which begins the financial year in which the school first has a delegated budget under the scheme.
- (5) Any such amendment shall be made by order under section 127; but section 128 shall not apply in relation to an order made under section 127 by virtue of this subsection.

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

**C27** S. 129 amended (1.4.1999) by S.I. 1999/711, reg. 3

### *Conduct of schools: general*

### **130 Governing body to have general responsibility for conduct of school.**

The articles of government for a county, voluntary or maintained special school shall provide for the conduct of the school to be under the direction of the governing body, but subject—

- (a) to any provision of the articles conferring specific functions on a person other than the governing body, and

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- (b) to any provision (other than a provision of the articles) made by or under this Act or any other enactment.

**131 Consultation with governing body not required in urgent cases.**

Regulations may make provision as to the circumstances in which, in any case where—

- (a) any provision made by or under Chapter IV or this Chapter requires the governing body of a county, voluntary or maintained special school to be consulted before a particular step is taken by the local education authority or the head teacher, and
- (b) the authority or head teacher require to take that step as a matter of urgency but are unable to contact the chairman or vice-chairman of the governing body,
- the authority or (as the case may be) the head teacher may proceed without consulting the governing body.

**132 Separate departments of school to be treated as separate schools.**

- (1) Where a county, voluntary or maintained special school is organised in two or more separate departments, each with a head teacher, any provision made by or under this Act which confers functions on or in relation to the head teacher of the school shall have effect as if each department were a separate school.
- (2) Subsection (1) does not apply where the school's articles of government provide otherwise.

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

- C28** S. 132 excluded (26.5.1999) by S.I. 1999/1287, reg. 3(1)  
 s. 132 modified (*temp.* 26.5.1999 to immediately before 1.9.1999) by S.I. 1999/1287, reg. 3(2)

*Staffing of schools without delegated budgets*

**<sup>F17</sup>133 Staffing of county, controlled, special agreement and maintained special schools without delegated budgets.**

- (1) A county, controlled, special agreement or maintained special school shall have a complement of teaching and non-teaching posts determined by the local education authority.
- (2) The complement shall include—
- (a) all full-time teaching posts, and
- (b) all part-time teaching posts which are to be filled by persons whose only employment with the authority will be at the school.
- (3) The complement shall not include any staff employed by the authority solely in connection with either or both of the following—
- (a) the provision of meals;
- (b) the supervision of pupils at midday.
- (4) Schedule 13 has effect in relation to the staffing of county, controlled, special agreement and maintained special schools.

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- (5) The appointment and dismissal of staff (including teachers) at a county, controlled, special agreement or maintained special school shall be under the control of the local education authority, subject to—
- (a) any provision made by the articles of government for the school in accordance with Schedule 13,
  - (b) section 135 and any provision made by the articles of government in accordance with that section (appointment and dismissal of clerk to governing body),
  - (c) sections 143 and 144 (appointment and dismissal of teachers of religious education), and
  - (d) in the case of a school for which there is a temporary governing body, Schedule 19 (conduct and staffing of new schools).
- (6) This section is subject to section 136 (staffing of county, controlled and special agreement schools with delegated budgets).

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**Textual Amendments**

**F17** Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

**<sup>F18</sup>134 Staffing of aided schools without delegated budgets.**

- (1) In the case of an aided school the functions of the local education authority and of the governing body with respect to—
- (a) the appointment of teachers, and
  - (b) subject to section 145 (dismissal of teachers of religious education), the dismissal of teachers,
- shall be regulated by the articles of government.
- (2) The articles of government shall make provision—
- (a) for the appointment of the teachers by the governing body, and
  - (b) for enabling the local education authority to determine the number of teachers to be employed.
- (3) The articles of government shall make provision for enabling the local education authority—
- (a) to prohibit the dismissal of teachers without the authority's consent, except for reasons for which under section 145 the governing body may dismiss a teacher without the authority's consent; and
  - (b) to require the dismissal of any teacher.
- (4) The articles of government may make such provision as may be agreed between the local education authority and the governing body or, in default of such agreement, as may be determined by the Secretary of State, for enabling the authority—
- (a) to prohibit the appointment, without the authority's consent, of teachers to be employed for giving secular education; and
  - (b) to give directions as to the educational qualifications of the teachers to be employed for giving secular education.

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- (5) The local education authority may give directions to the governing body of an aided school as to the number and conditions of service of persons employed at the school for the purposes of the care and maintenance of the school premises.
- (6) Where the trust deed relating to the school provides for a person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement under section 151) the use of those premises is or would be under the control of any such person, the reference in subsection (5) to the governing body shall be read as a reference to that person.
- (7) This section is subject to section 137 (staffing of aided schools with delegated budgets).

#### Textual Amendments

**F18** Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

### **135 Appointment etc. of clerk to governing body of school other than aided school.**

- (1) The articles of government for a county or maintained special school shall provide for the clerk to the governing body to be appointed by the local education authority in accordance with arrangements determined by them in consultation with the governing body.
- (2) The clerk to the governing body of a controlled or special agreement school shall be appointed—
  - (a) where the articles of government make provision in relation to his appointment, in accordance with that provision, or
  - (b) where paragraph (a) does not apply, by the local education authority in accordance with arrangements determined by them in consultation with the governing body.
- (3) Arrangements determined in respect of a school by virtue of subsection (1) or under subsection (2)(b) may be varied by the authority in consultation with the governing body.
- (4) The articles of government for a county or maintained special school shall require the local education authority not to dismiss the clerk except in accordance with arrangements determined by them in consultation with the governing body.
- (5) The clerk to the governing body of a controlled or special agreement school may not be dismissed except—
  - (a) where the articles of government make provision in relation to his dismissal, in accordance with that provision, or
  - (b) where paragraph (a) does not apply, in accordance with arrangements determined by the local education authority in consultation with the governing body.
- (6) The articles of government for a county, controlled, special agreement or maintained special school shall require the local education authority to consider any representations made to them by the governing body as to the dismissal of their clerk.

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- (7) Subsections (1) to (6) are subject to section 136 (staffing of county, controlled, and special agreement schools with delegated budgets).
- (8) The articles of government for a county, controlled, special agreement or maintained special school shall enable the governing body, where the clerk fails to attend a meeting of theirs, to appoint one of their number to act as clerk for the purposes of that meeting (but without prejudice to his position as a governor).

### *Staffing of schools with delegated budgets*

#### **136 Staffing of county, controlled and special agreement schools with delegated budgets.**

- (1) This section applies to a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) None of the following shall apply in relation to the school—
  - (a) section 133 and Schedule 13,
  - (b) section 135(1) to (6), and
  - (c) any provision made by the articles of government for the school in accordance with Schedule 13 or section 135(1) to (6).
- (3) Instead Schedule 14 has effect in relation to the staffing of the school, subject, however, to the provisions of sections 143 and 144 (appointment and dismissal of teachers of religious education).

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

**C29** Ss. 136-140 extended (1.4.1999) by S.I. 1999/711, reg. 4

Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

#### **137 Staffing of aided schools with delegated budgets.**

- (1) This section applies to an aided school at any time when it has a delegated budget.
- (2) None of the following shall apply in relation to the school—
  - (a) any provision of the articles of government for the school conferring any functions on a local education authority with respect to the number, appointment or dismissal of teachers or other staff to be employed at the school (including any such provision which is required by section 134), and
  - (b) section 134(5).
- (3) If, apart from any provision of the articles of government excluded by subsection (2)
  - (a) they would not otherwise have power to do so, the governing body may appoint, suspend and dismiss staff as they think fit.
- (4) Subsection (3) has effect subject to any provision of the articles of government (other than one excluded by subsection (2)(a)).
- (5) The governing body shall, on dismissing any member of the staff of the school employed by them, notify the local education authority in writing of the reasons for the dismissal.

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- (6) Paragraphs 23 to 28 of Schedule 14 apply in relation to the dismissal or withdrawal from the school of any member of the staff who is employed by the local education authority as they apply in relation to the dismissal or withdrawal from a county, controlled or special agreement school which has a delegated budget of a person employed to work at the school.

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

**C30** Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

**138 Staffing of aided schools with delegated budgets: advisory rights of chief education officer.**

- (1) Subsection (2) applies if, in the case of an aided school which has a delegated budget—
- (a) the governing body of the school have agreed with the local education authority to accord to the authority’s chief education officer advisory rights in relation to the appointment or dismissal of teachers at the school, or
  - (b) in default of such agreement, the Secretary of State has determined that it would be appropriate that such advisory rights should be accorded to the chief education officer.

- (2) During any period when the agreement or determination under subsection (1) is effective, the chief education officer, or an officer of the authority nominated by him, shall be entitled to attend all relevant proceedings of the governing body for the purpose of giving advice to the governing body.

For this purpose “relevant proceedings” means proceedings (including interviews) relating to any action to which the advisory rights accorded to the chief education officer extend.

- (3) Advisory rights accorded by an agreement or determination under subsection (1) may relate to the appointment or dismissal, or both to the appointment and to the dismissal, either—
- (a) of head teachers and deputy head teachers alone, or
  - (b) of all teachers at the school.
- (4) The agreement of a governing body for the purposes of subsection (1)(a) must be given in writing and may only be withdrawn by notice in writing to the local education authority.
- (5) A determination by the Secretary of State for the purposes of subsection (1)(b) may be withdrawn at any time (without prejudice to a further determination for those purposes).

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

**C31** Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

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### 139 Staffing of schools with delegated budgets: payments in respect of dismissal, etc.

- (1) This section applies to a county or voluntary school at any time when it has a delegated budget.
  - (2) It shall be for the governing body to determine—
    - (a) whether any payment should be made by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school, and
    - (b) the amount of any such payment.
  - (3) Subsection (2) does not, however, apply in relation to a payment which the authority are required to make—
    - (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned, or
    - (b) under any statutory provision.
  - (4) The local education authority—
    - (a) shall take such steps as may be required for giving effect to any determination of the governing body under subsection (2), and
    - (b) shall not make, or agree to make, a payment in relation to which that subsection applies except in accordance with such a determination.
  - (5) <sup>F19</sup>Subject to subsection (5A),]Costs incurred by the local education authority in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of the school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.
- <sup>F20</sup>(5A) Subsection (5) does not apply to costs incurred by the local education authority in respect of any premature retirement of a member of the staff of the school occurring on or after the date of the passing of the Education Act 1997; and such costs shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body (whether before or after the retirement occurs) that they shall not be so met.
- (5B) The agreement of the local education authority for the purposes of subsection (5A) must be given in writing on or after the date of the passing of that Act.]
- (6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5).
  - (7) In subsection (6) the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the <sup>M21</sup>Employment Rights Act 1996.

#### Textual Amendments

**F19** Words in s. 139(5) inserted (21.3.1997) by 1997 c. 44, s. 50(2)(4)

**F20** S. 139(5A)(5B) inserted (21.3.1997) by 1997 c. 44, s. 50(3)(4)

#### Marginal Citations

**M21** 1996 c. 18

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#### 140 Staffing for non-school activities in community schools.

- (1) This section applies to a county or voluntary school which has a delegated budget and is a community school.
- (2) For the purposes of this section a school is a “community school” if—
  - (a) activities other than school activities (“non-school activities”) are carried on on the school premises, and
  - (b) all non-school activities which are so carried on are carried on under the management or control of the school’s governing body.
- (3) A scheme such as is mentioned in section 101(1) may provide for applying sections 136(2), 137(6) and 139 and Schedule 14 in relation to persons employed to work—
  - (a) partly for the purposes of school activities and partly for the purposes of non-school activities carried on on the premises of a school to which this section applies, or
  - (b) solely for the purposes of non-school activities so carried on, as if all activities so carried on were school activities.

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

- C32** Ss. 136, 140 extended (1.4.1999) by S.I. 1999/711, reg. 4  
 Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

#### 141 Amendment of articles of government relating to staffing.

- (1) Within the period of five years beginning with the date on which begins the financial year in which a county or voluntary school first has a delegated budget under a scheme, the local education authority shall amend the school’s articles of government in accordance with this section.
- (2) If the school is a county, controlled or special agreement school, the articles of government shall be amended so as to include a statement—
  - (a) specifying the provisions made by the articles in accordance with Schedule 13 or section 135(1) to (6), and
  - (b) indicating that those provisions are superseded by section 136 and Schedule 14 during any period when the school has a delegated budget.
- (3) If the school is an aided school the articles of government shall be amended so as to include a statement—
  - (a) specifying the provisions of the articles which are within section 137(2)(a), and
  - (b) indicating that those provisions are superseded by sections 137 and 138 during any period when the school has a delegated budget.
- (4) An amendment under this section shall be made by order under section 127; but section 128 shall not apply in relation to an order made under section 127 by virtue of this section.



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## **142 Application of provisions to maintained special schools.**

Section 120(4) confers power on the Secretary of State to make in any of the following, namely—

- (a) sections 136 to 141,
- (b) Schedule 14, and
- (c) paragraphs 2 and 18 to 24 of Schedule 19,

amendments appearing to him to be required in consequence of any provision made in regulations under section 120(1) (application of schemes to maintained special schools).

### *Appointment and dismissal of teachers of religious education*

## **143 Appointment etc. of reserved teachers in controlled schools.**

- (1) Where the number of the teaching staff of a controlled school is more than two, the teaching staff shall include persons who—
  - (a) are selected for their fitness and competence to give such religious education as is required in accordance with arrangements under section 377(2) (arrangements for religious education in accordance with the school's trust deed or with the practice observed before the school became a controlled school), and
  - (b) are specifically appointed to do so.
- (2) In this Chapter “reserved teacher”, in relation to a controlled school, means a person employed at the school in pursuance of subsection (1).
- (3) The number of reserved teachers in a controlled school shall not exceed one-fifth of the number of the teaching staff, including the head teacher (and for this purpose, where the number of the teaching staff is not a multiple of five, it shall be treated as if it were the next higher multiple of five).
- (4) The head teacher of a controlled school shall not, while holding the post of head teacher of such a school, be a reserved teacher.
- (5) Where the local education authority propose to appoint a person to be a reserved teacher in a controlled school, the authority—
  - (a) shall consult the foundation governors, and
  - (b) shall not so appoint that person unless the foundation governors are satisfied as to his fitness and competence to give such religious education as is mentioned in subsection (1)(a).
- (6) If the foundation governors of a controlled school consider that a reserved teacher has failed to give such religious education efficiently and suitably, they may require the local education authority to dismiss him from employment as a reserved teacher in the school.
- (7) In subsection (5) “foundation governor” includes a temporary foundation governor.

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#### **144 Appointment etc. of reserved teachers in special agreement schools.**

- (1) In this Chapter “reserved teacher”, in relation to a special agreement school, means a person who in pursuance of provision made in the special agreement is employed to give religious education—
  - (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) (where provision for that purpose is not made by any such deed) in accordance with the practice observed in the school before it became a voluntary school.
- (2) Where the special agreement made with respect to a special agreement school provides for the employment of reserved teachers and the local education authority propose to appoint a person to be a reserved teacher in the school, the authority—
  - (a) shall consult the foundation governors, and
  - (b) shall not appoint that person unless the foundation governors are satisfied as to his fitness and competence to give such religious education as is mentioned in subsection (1).
- (3) If the foundation governors of a special agreement school consider that a reserved teacher has failed to give such religious education efficiently and suitably, they may require the local education authority to dismiss him from employment as a reserved teacher in the school.
- (4) In subsection (2) “foundation governor” includes a temporary foundation governor.

#### **145 Dismissal of teachers of religious education in aided schools.**

If a teacher appointed to give religious education in an aided school (other than education in accordance with an agreed syllabus) fails to give such education efficiently and suitably, he may be dismissed on that ground by the governing body without the consent of the local education authority.

*Religious opinions of staff etc.*

#### **146 Religious opinions of staff etc.**

- (1) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship—
  - (a) from being a teacher in a county school or from being a teacher (other than a reserved teacher) in a controlled or special agreement school, or
  - (b) from being employed (otherwise than as a teacher) for the purposes of a county or voluntary school.
- (2) No teacher in a county school, and no teacher (other than a reserved teacher) in a controlled or special agreement school, shall be required to give religious education.
- (3) No teacher in a county school, and no teacher (other than a reserved teacher) in a controlled or special agreement school, shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
  - (a) by reason of the fact that he does or does not give religious education, or
  - (b) by reason of his religious opinions or of his attending or omitting to attend religious worship.

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- (4) No teacher in an aided school, and no reserved teacher in a controlled or special agreement school, shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
- (a) by reason of the fact that he gives religious education, or
  - (b) by reason of his religious opinions or of his attending religious worship.

*School terms, holidays and sessions*

**147 Responsibility for determining dates of terms and holidays and times of sessions.**

- (1) In the case of a county, controlled or maintained special school—
  - (a) the articles of government shall require the local education authority to determine the dates when the school terms and holidays are to begin and end; and
  - (b) the governing body shall determine the times of the school sessions.
- (2) In the case of an aided or a special agreement school the articles of government shall require the governing body to determine—
  - (a) the dates and times when the school terms and holidays are to begin and end, and
  - (b) the times of the school sessions.
- (3) In this section and section 148 “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

**148 Procedure for changing times of sessions at a county, controlled or maintained special school.**

- (1) Where the governing body of a county, controlled or maintained special school propose to make any change in the times of the school sessions, they shall—
  - (a) before taking any of the actions mentioned in paragraphs (b) to (h), consult the local education authority and the head teacher;
  - (b) prepare a statement—
    - (i) indicating that they propose to make a change in those times,
    - (ii) specifying the proposed change and when they propose that it should take effect,
    - (iii) drawing attention to any comment on the proposal included as an annex to the statement by virtue of paragraph (c) and including such response to the comment as they may consider appropriate, and
    - (iv) giving details of the date, time and place of the meeting which they are required to hold by virtue of paragraph (f);
  - (c) if so required by the local education authority, include as an annex to that statement such written comment on the proposal as the authority may provide for that purpose;
  - (d) produce that statement and any annex in such language or languages (in addition to English), if any, as they consider appropriate or as the local education authority may direct;
  - (e) take such steps as are reasonably practicable to secure—

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- (i) that the parents of all registered pupils at the school are given (free of charge) a copy of the statement and any annex not less than two weeks before the meeting which the governing body are required to hold by virtue of paragraph (f), and
  - (ii) that copies of the statement and any annex are available for inspection (at all reasonable times and free of charge) at the school during the two-week period immediately preceding that meeting;
  - (f) provide an opportunity for discussion of the proposal at a meeting which is open to —
    - (i) all parents of registered pupils at the school,
    - (ii) the head teacher, and
    - (iii) such other persons as the governing body may invite;
  - (g) consider any comments made at the meeting on the proposal before determining whether any change in those times should be made and (if so) whether the proposal should be implemented with or without any modification; and
  - (h) not less than three months before any change in those times is to take effect—
    - (i) inform the local education authority of the change and of when it is to take effect, and
    - (ii) take such steps as are reasonably practicable to secure that the parents of all registered pupils at the school are so informed.
- (2) No change in the times of a school session shall be made under this section so as to take effect otherwise than at the beginning of a school year.
- (3) The proceedings at any meeting required to be held by virtue of subsection (1)(f) shall be under the control of the governing body.
- (4) Any question whether any person is to be treated for the purposes of this section as the parent of a registered pupil at the school shall be determined by the local education authority.
- (5) Section 147(3) applies for the purposes of this section.

#### *Control of school premises*

### **149 County and maintained special schools: control of use of premises outside school hours.**

- (1) The articles of government for every county and maintained special school shall provide—
- (a) for the use of the school premises outside school hours to be under the control of the governing body except to the extent provided by any transfer of control agreement into which they may enter by virtue of paragraph (c);
  - (b) for the governing body in exercising control of the use of the school premises outside school hours—
    - (i) to comply with any directions given to them by the local education authority by virtue of this sub-paragraph; and
    - (ii) to have regard to the desirability of the premises being made available for community use;

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- (c) for the governing body to have power to enter into a transfer of control agreement if their purpose, or one of their purposes, in doing so is to promote community use of the school premises outside school hours; and
  - (d) for the governing body, where they enter into a transfer of control agreement, to secure so far as reasonably practicable that the controlling body exercises control in accordance with any directions given to the governing body by virtue of paragraph (b)(i).
- (2) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of any directions given to the governing body by virtue of subsection (1)(b)(i);
  - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
    - (i) shall do so in accordance with any directions from time to time notified to that body in pursuance of paragraph (a) above; and
    - (ii) shall have regard to the desirability of the premises being made available for community use outside school hours; and
  - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
    - (i) the use of the specified premises at those times shall be under the control of the governing body, and
    - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
 even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (3) Subsection (4) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.
- (4) In such a case paragraph (c) of subsection (2) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (5) In this section—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
  - “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;
  - “school hours” means any time during a school session or during a break between sessions on the same day, and “outside school hours” shall be construed accordingly;

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“school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with sections 147 and 148; and

“transfer of control agreement” means an agreement which (subject to subsection (2) above) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times outside school hours as may be so specified, of such body or person as may be so specified.

### **150 Voluntary schools: control of use of premises.**

- (1) The occupation and use of the premises of a voluntary school shall be under the control of the governing body, subject to—
  - (a) any directions given by the local education authority under subsection (2) (in the case of a controlled school) or section 152(3) (in the case of an aided or special agreement school);
  - (b) any transfer of control agreement entered into by the governing body under section 151; and
  - (c) any requirements of an enactment other than this Act or regulations made under it.
- (2) The local education authority may give such directions as to the occupation and use of the premises of a controlled school as they think fit, subject to section 152(1) and (2).
- (3) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under section 151) the use of those premises is or would be under the control of such a person—
  - (a) this section, and
  - (b) sections 151 and 152,
 shall have effect in relation to the school with the substitution of references to that person for references to the governing body.

### **151 Voluntary schools: transfer of control agreements.**

- (1) Subject to subsection (2), the governing body of any voluntary school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
  - (a) they may do so even though the trust deed for the school would, apart from this subsection, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
  - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would apply if control were being exercised by the governing body.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during

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school hours unless they have first obtained the local education authority's consent to the agreement in so far as it makes such provision.

- (3) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of—
    - (i) any directions given to the governing body under section 150(2) (in the case of a controlled school) or section 152(3) (in the case of an aided or special agreement school); and
    - (ii) any determination made by the foundation governors under section 152(2) (in the case of a controlled school);
  - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
    - (i) shall do so in accordance with any directions or determinations from time to time notified to that body in pursuance of paragraph (a); and
    - (ii) shall have regard to the desirability of the premises being made available for community use; and
  - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
    - (i) the use of the specified premises at those times shall be under the control of the governing body, and
    - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,  
 even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (4) Subsection (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.
- (5) In such a case paragraph (c) of subsection (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (6) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of subsection (3)(a).
- (7) In this section—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
- “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

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“school hours” means any time during a school session or during a break between sessions on the same day;

“school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with sections 147 and 148; and

“transfer of control agreement” means an agreement which (subject to subsection (3) above) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

(8) Section 150(3) applies for the purposes of this section.

## **152 Voluntary schools: use of premises outside school hours.**

(1) The governing body may determine the use to which the premises of a controlled school (or any part of them) are put on Saturdays when not required—

- (a) for the purposes of the school, or
- (b) for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises (or on the part in question).

(2) The foundation governors may determine the use to which the premises of a controlled school (or any part of them) are put on Sundays.

(3) If the local education authority—

- (a) desire to provide accommodation for any purpose connected with education or with the welfare of the young, and
- (b) are satisfied that there is no suitable alternative accommodation in their area for that purpose,

they may direct the governing body of an aided or special agreement school to provide accommodation free of charge for that purpose on the school premises (or any part of them) on any weekday when not needed for the purposes of the school.

(4) The local education authority shall not exercise their power under subsection (3) so as to direct the governing body to provide accommodation on more than three days in any week.

(5) Section 150(3) applies for the purposes of this section.

### *Instruction or training outside school premises*

## **153 Instruction or training outside school premises.**

The articles of government for a county, voluntary or maintained special school shall enable the governing body to require pupils in attendance at the school to attend at any place outside the school premises for the purpose of receiving any instruction or training included in the secular curriculum for the school.



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### *Discipline: general*

#### **[<sup>F21</sup>154 Responsibility of governing body and head teacher for discipline.**

- (1) The governing body of a county, voluntary or maintained special school shall ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
- (2) In particular, the governing body—
  - (a) shall make, and from time to time review, a written statement of general principles to which the head teacher is to have regard in determining any measures under subsection (4); and
  - (b) where they consider it desirable that any particular measures should be so determined by the head teacher or that he should have regard to any particular matters—
    - (i) shall notify him of those measures or matters, and
    - (ii) may give him such guidance as they consider appropriate;
 and in exercising their functions under this subsection the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (3) Before making or revising the statement required by subsection (2)(a) the governing body shall consult (in such manner as appears to them to be appropriate)—
  - (a) the head teacher; and
  - (b) parents of registered pupils at the school.
- (4) The head teacher shall determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
  - (a) promoting, among pupils, self-discipline and proper regard for authority;
  - (b) encouraging good behaviour and respect for others on the part of pupils;
  - (c) securing that the standard of behaviour of pupils is acceptable; and
  - (d) otherwise regulating the conduct of pupils.
- (5) The head teacher shall, in determining such measures—
  - (a) act in accordance with the current statement made by the governing body under subsection (2)(a); and
  - (b) have regard to any notification or guidance given to him under subsection (2)(b).
- (6) The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the head teacher, so far as it is not determined by the governing body.
- (7) The measures determined by the head teacher under subsection (4) shall be publicised by him in the form of a written document as follows—
  - (a) he shall make the measures generally known within the school and to parents of registered pupils at the school; and
  - (b) he shall in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons employed at the school.

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- (8) The governing body and the head teacher shall, before any measures are determined under subsection (4), consult the local education authority on any matter arising from the proposed measures which can reasonably be expected—
- (a) to lead to increased expenditure by the authority, or
  - (b) to affect the responsibilities of the authority as an employer.]

#### Textual Amendments

**F21** S. 154 substituted (1.4.1998) by 1997 c. 44, s.2 (with s. 57(3)); S.I. 1998/386, art. 2, Sch. 1 Pt. II

### 155 LEA’s reserve power to prevent a breakdown of discipline.

- (1) The local education authority may, in the circumstances mentioned in subsection (3), take such steps in relation to a county, controlled or maintained special school as they consider are required to prevent the breakdown, or continuing breakdown, of discipline at the school.
- (2) The governing body and the head teacher of an aided or a special agreement school shall, in the circumstances mentioned in subsection (3), consider any representations made to them by the local education authority.
- (3) The circumstances are that—
  - (a) in the opinion of the authority—
    - (i) the behaviour of registered pupils at the school, or
    - (ii) any action taken by such pupils or their parents,
 is such that the education of any registered pupils at the school is (or is likely in the immediate future to become) severely prejudiced; and
  - (b) the governing body have been informed in writing of the authority’s opinion.
- (4) Steps taken by a local education authority under subsection (1) may include the giving of any direction to the governing body or head teacher.

### 156 Power of head teacher to exclude pupils.

- (1) The articles of government for a county, voluntary or maintained special school shall provide for the power to exclude a pupil from the school (whether by suspension, expulsion or otherwise) to be exercisable only by the head teacher.
- (2) The head teacher of any such school may not—
  - (a) so exercise the power to exclude a pupil from the school for one or more fixed periods that the pupil is so excluded for more than [<sup>F22</sup>45 school days in any one school year], or
  - (b) exclude a pupil from the school for an indefinite period;
 but this subsection is without prejudice to the power to exclude a pupil from the school permanently.

[<sup>F23</sup>(3) Subsection (2) has effect despite anything in the articles of government for the school.]

#### Textual Amendments

**F22** Words in s. 156(2) substituted (1.9.1998) by 1997 c. 44, s. 6(1); S.I. 1998/386, art. 2, Sch. 1 Pt. IV

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**F23** S. 156(3) substituted (1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 16**; S.I. 1998/386, art. 2, **Sch. 1 Pt. IV**

### 157 Exclusion of pupils: duty to inform parents etc.

- (1) The head teacher of a county, voluntary or maintained special school shall have the following duties in relation to the exclusion of pupils from the school.
- (2) Where the head teacher excludes any pupil, the head teacher shall (without delay) take reasonable steps to inform the relevant person—
  - (a) of the period of the exclusion (or, if the pupil is being permanently excluded, that he is being so excluded); and
  - (b) of the reasons for the exclusion; and
  - (c) that the relevant person may make representations about the exclusion to the governing body and the local education authority.
- (3) Where the head teacher excludes any pupil in circumstances in which the pupil would, as a result of the exclusion—
  - (a) be excluded from the school for a total of more than five school days in any one term, or
  - (b) lose an opportunity to take any public examination,
 the head teacher shall (without delay) inform the local education authority and the governing body of the period of the exclusion (or, if the pupil is being permanently excluded, that he is being so excluded) and of the reasons for it.
- (4) Where the head teacher decides that any exclusion of a pupil for a fixed period should be made permanent, he shall (without delay)—
  - (a) inform the local education authority and the governing body of his decision and of the reasons for it, and
  - (b) take reasonable steps to inform the relevant person—
    - (i) of his decision and of the reasons for it, and
    - (ii) that that person may make representations about the decision to the governing body and the local education authority.
- (5) In this section “the relevant person” means—
  - (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.

### 158 Reinstatement of excluded pupils.

Schedule 15 has effect in relation to the reinstatement of pupils excluded from county, voluntary or maintained special schools.

### 159 Appeals against exclusion or reinstatement of pupils.

- (1) A local education authority shall make arrangements—
  - (a) for enabling the relevant person to appeal against any decision not to reinstate a registered pupil who has been permanently excluded from a county, controlled or special school maintained by the authority, and

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- (b) for enabling the governing body of the school to appeal against any direction for the reinstatement of any such pupil which has been given to the head teacher of the school by the authority.
- (2) The governing body of an aided or a special agreement school shall make arrangements for enabling the relevant person to appeal against any decision not to reinstate a registered pupil who has been permanently excluded from the school.
- (3) Joint arrangements may be made under subsection (2) by the governing bodies of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Schedule 16 has effect in relation to the making and hearing of appeals pursuant to arrangements made under subsection (1) or (2); and in subsections (5) and (6) “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33 (school admission appeals), as it applies in accordance with paragraph 4 of Schedule 16.
- (5) The decision of an appeal committee on an appeal pursuant to arrangements made under subsection (1) or (2) shall be binding on the persons concerned.
- (6) Where on such an appeal the appeal committee determines that the pupil in question should be reinstated, the committee shall either direct that he is to be reinstated immediately or direct that he is to be reinstated by a date specified in the direction.
- (7) In this section “the relevant person” means—
  - (a) in relation to a pupil who is under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.

#### **160 Additional provision for appeals against exclusion of pupils.**

- (1) Where the articles of government for a county, voluntary or maintained special school provide—
  - (a) for the parents of an excluded pupil to have the right to appeal against his exclusion to a person specified by the articles, and
  - (b) for the procedure to be followed on such an appeal,
 any decision on such an appeal that the pupil should be reinstated, or that he should be reinstated earlier than would otherwise be the case, shall be binding on the head teacher.
- (2) In subsection (1) “excluded pupil” means a pupil who is excluded from the school in circumstances in which no right of appeal is given by virtue of section 159.

#### *Reports, meetings and information*

#### **161 Governors’ annual reports.**

- (1) The articles of government for a county, voluntary or maintained special school shall require the governing body to prepare once in every school year a report (referred to in this Chapter as “the governors’ report”) containing—
  - (a) a summary of the steps taken by the governing body in the discharge of their functions during the period since their last governors’ report, and
  - (b) such other information as the articles may require.

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- (2) Schedule 17 has effect in relation to governors' reports.
- (3) The articles of government shall—
  - (a) enable the governing body to produce the governors' report in such language or languages (in addition to English) as they consider appropriate, and
  - (b) require them to produce it in such language or languages (in addition to English and any other language in which they propose to produce it) as the local education authority may direct.
- (4) The articles of government shall require the governing body to take such steps as are reasonably practicable to secure—
  - (a) that the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the governors' report;
  - (b) that copies of the report are available for inspection (at all reasonable times and free of charge) at the school; and
  - (c) that, where (by virtue of section 162) there is an obligation on the governing body to hold an annual parents' meeting, copies of the report to be considered at that meeting are given to parents not less than two weeks before that meeting.

## **162 Annual parents' meetings.**

- (1) Subject to section 163 (special schools in hospitals and boarding schools), the articles of government for a county, voluntary or maintained special school shall require the governing body to hold a meeting once in every school year (referred to in this Chapter as an "annual parents' meeting") which is open to—
  - (a) all parents of registered pupils at the school;
  - (b) the head teacher; and
  - (c) such other persons as the governing body may invite.
- (2) The purpose of the meeting shall be to provide an opportunity for discussion of—
  - (a) the governors' report; and
  - (b) the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school.
- (3) Schedule 18 has effect in relation to annual parents' meetings.

## **163 No annual parents' meeting required in case of certain special and boarding schools.**

- (1) The articles of government for a maintained special school which is established in a hospital shall provide that, where the governing body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year, they may refrain from holding such a meeting in that year.
- (2) Where, in the case of a county, voluntary school or maintained special school (other than a special school established in a hospital), the proportion of registered pupils at the school who are boarders is, or is likely to be, at least 50 per cent., the articles of government for the school shall provide that, where—
  - (a) the governing body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year, and

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- (b) at least 50 per cent. of the registered pupils at the school are boarders at the time when they form that opinion,  
they may refrain from holding such a meeting in that year.

#### **164 Governors' reports and annual parents' meetings for grouped schools.**

- (1) This section applies where two or more schools are grouped under section 89.
- (2) In discharging their duty (by virtue of section 161) to prepare governors' reports, the governing body for the group shall prepare separate reports in relation to each of the schools within the group, except that if they decide to hold a joint annual parents' meeting under subsection (4) they may prepare a single report covering all the schools within the group.
- (3) If the governing body prepare a single report covering all the schools within the group, they shall secure that any matters which they propose to report on and which are likely to be mainly of interest to the parents of registered pupils at a particular school within the group are treated separately in the report.
- (4) In discharging their duty (by virtue of section 162) to hold an annual parents' meeting for any grouped school, the governing body may, if they think fit, hold a joint annual parents' meeting for all of the schools within the group.
- (5) Where—
  - (a) a joint annual parents' meeting is held, and
  - (b) the governing body have prepared a separate governors' report in relation to each of the schools within the group,
the governing body shall, when discharging the duty imposed on them by virtue of section 161(4), attach to the report prepared in relation to a particular school within the group copies of the reports prepared for each of the other schools within it.
- (6) Where at a joint annual parents' meeting the question is put on any proposed resolution which concerns one or more, but not all, of the schools within the group—
  - (a) only parents of registered pupils at the school or schools which the proposed resolution concerns may vote on the question; and
  - (b) the registered pupils at the other schools shall be disregarded for the purposes of any provision made by virtue of paragraph 2 of Schedule 18 (resolution may be passed by simple majority where required number of parents of registered pupils present) as it applies in relation to the proposed resolution.
- (7) Where at a joint annual parents' meeting there is any disagreement as to which schools within the group a proposed resolution concerns, the matter shall be decided by the chairman of the governing body.

#### **165 Provision of information by governing body and head teacher.**

- (1) The articles of government for a county, voluntary or maintained special school shall provide—
  - (a) for the governing body to provide the local education authority with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time); and

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- (b) for the head teacher to provide the governing body or (as the case may be) the local education authority with such reports in connection with the discharge of his functions as the governing body or the authority may so require.
- (2) The articles of government for an aided school shall provide—
- (a) for the local education authority to notify the governing body of any requirement of a kind mentioned in subsection (1)(b) which is imposed by them on the head teacher; and
  - (b) for the head teacher to provide the governing body with a copy of any report which he makes in complying with such a requirement.

### *New schools*

## **166 Conduct and staffing of new schools.**

Schedule 19 has effect in relation to the conduct and staffing of new schools.

## **CHAPTER VII**

### **DISCONTINUANCE OF LOCAL EDUCATION AUTHORITY SCHOOLS**

#### *Procedure for discontinuance of county, voluntary or maintained nursery school by local education authority*

## **167 Proposals for discontinuance of a county, voluntary or nursery school.**

- (1) Where a local education authority intend to cease to maintain—
- (a) a county school,
  - (b) a voluntary school (except in accordance with section 173(7)), or
  - (c) a nursery school,
- then (subject to subsection (6)) they shall publish proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (2) Proposals published under this section—
- (a) shall include particulars of the time or times at which it is intended to implement the proposals; and
  - (b) shall be accompanied by a statement of the effect of section 168.
- (3) Before formulating any such proposals in respect of a county or voluntary school, a local education authority shall consult the school's governing body.
- (4) Before publishing any proposals under this section the local education authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority shall have regard to any guidance given from time to time by the Secretary of State.
- (5) Before publishing any proposals under subsection (1)(a) or (b) which (if implemented) would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the local education authority shall consult the appropriate further education funding council.

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- (6) No proposals shall be published under this section in respect of a school in respect of which proposals for acquisition of grant-maintained status have been approved under section 194.

## **168 Objections to proposals.**

- (1) Objections to any proposals published by a local education authority under section 167 may be submitted to the authority by any of the following—
- (a) any ten or more local government electors for the authority's area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M22</sup>Further and Higher Education Act 1992 applies), and
  - (d) any other local education authority concerned.
- (2) Objections may be so submitted within the period of two months after the first publication of the proposals.
- (3) Where—
- (a) an order under section 27 applies to the area of a local education authority, and
  - (b) the authority publish proposals under section 167 which affect the provision of relevant education in that area,
- the funding authority shall be included among the persons who may submit objections under subsection (1) to the proposals.
- (4) Within one month after the end of the period mentioned in subsection (2), the local education authority by whom the proposals were published shall transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) in that period, together with the authority's observations on them.
- (5) For the purposes of this section proposals under section 167 shall be taken to have been first published—
- (a) on the day on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
  - (b) where different such requirements are satisfied on different days, on the last of those days.
- (6) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (5) be taken to be satisfied on the first day in respect of which it is satisfied.

### **Marginal Citations**

M22 1992 c. 13.

## **169 Approval or rejection by Secretary of State of proposals under section 167.**

- (1) Proposals published by a local education authority under section 167 require the approval of the Secretary of State if subsection (2), (3) or (4) applies.
- (2) This subsection applies if the proposals are for ceasing to maintain a voluntary school.



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- (3) This subsection applies if either—
- (a) the Secretary of State, within the period of two months after the submission to him of the published proposals, gives notice to the authority that the proposals require his approval, or
  - (b) objections have been made under section 168 and any of them have not been withdrawn in writing within the period specified in section 168(2).
- (4) This subsection applies if either—
- (a) the proposals are first published after proposals for acquisition of grant-maintained status for the school have been published under section 193 but before those proposals are withdrawn or determined, or
  - (b) after the proposals have first been published but before they are withdrawn or determined, proposals for acquisition of grant-maintained status for the school are published under section 193;
- and references in this subsection to proposals being first published shall be construed in accordance with section 168(5) and (6).
- (5) Where any proposals require the approval of the Secretary of State under this section, he may (subject to subsection (6))—
- (a) reject them,
  - (b) approve them without modification, or
  - (c) after consulting the local education authority, approve them with such modifications as he thinks desirable.
- (6) In a case where subsection (4) applies, the Secretary of State—
- (a) shall consider both sets of proposals together, but
  - (b) shall not determine the proposals published under section 167 until he has made his determination with respect to the proposals published under section 193,
- and, if he approves the proposals published under section 193, he shall reject the proposals published under section 167.

#### **170 Determination by local education authority whether to implement proposals.**

- (1) Where any proposals published by a local education authority under section 167 do not require the approval of the Secretary of State under section 169, the authority shall determine whether they should be implemented.
- (2) The determination must be made not later than four months after the submission of the proposals to the Secretary of State under section 167.
- (3) A local education authority shall notify the Secretary of State of any determination made by them under this section.

#### **171 Duty to implement proposals.**

- (1) Subject to subsection (2), a local education authority shall implement any proposals of theirs—
  - (a) which have been approved by the Secretary of State under section 169, or
  - (b) which they have determined under section 170 to implement.

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- (2) The Secretary of State may, at the request of a local education authority, modify any proposals which the authority are required to implement by virtue of this section.

**172 Restriction on taking steps before sections 167 and 169 have been complied with.**

- (1) Subject to subsection (2), a local education authority shall not—
- (a) cease to maintain a county school, a voluntary school (except in accordance with section 173(7)) or a nursery school, or
  - (b) undertake to do anything towards that end,
- until the requirements of section 167 have been complied with and any approval necessary under section 169 has been given.
- (2) The Secretary of State may in any case allow such steps to be taken pending compliance with any such requirements and the giving of any such approval as he considers reasonable in the circumstances.

*Discontinuance of voluntary school by governing body*

**173 Discontinuance of a voluntary school by its governing body.**

- (1) The governing body of a voluntary school shall not discontinue the school unless they have served on the Secretary of State and the local education authority at least two years' notice of their intention to do so.
- (2) If expenditure has been incurred on the school premises (otherwise than in connection with repairs)—
- (a) by the Secretary of State,
  - (b) by any local education authority, or
  - (c) by an authority which was a local education authority within the meaning of any enactment repealed by the <sup>M23</sup>Education Act 1944 or an earlier Act,
- no notice may be served without leave of the Secretary of State.
- (3) If the Secretary of State gives such leave, he may impose any requirements that he thinks just—
- (a) in respect of the repayment of all or part of any expenditure so incurred by him;
  - (b) in respect of the conveyance to the local education authority of any premises used for the purposes of the school which he is satisfied the authority will need for any purpose connected with education;
  - (c) (where any premises are to be so conveyed) in respect of the payment by the authority of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at the expense of the authority or of an authority within subsection (2)(c);
  - (d) (where any premises used for the purposes of the school are not to be so conveyed) in respect of the payment by the governing body to the authority of so much of the value of those premises as is just having regard to the extent to which they were provided at the expense of the authority or of an authority within subsection (2)(c).
- (4) If discontinuing the school would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the

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age of 19, the governing body shall, before serving notice under this section, consult the appropriate further education funding council.

- (5) No notice may be served under this section in respect of any school in respect of which the procedure for acquisition of grant-maintained status is pending (within the meaning of Chapter III of Part III).
- (6) A notice served under this section may not be withdrawn without the consent of the local education authority.
- (7) Where a school is discontinued in accordance with this section, the duty of the local education authority to maintain it as a voluntary school shall cease.
- (8) This section and section 174 have effect subject to section 175(2).

**Marginal Citations**

M23 1944 c. 31.

**174 Conduct by local education authority of a voluntary school which is subject to notice of discontinuance.**

- (1) If, while a notice under section 173 is in force in respect of a voluntary school, the governing body inform the local education authority that they are unable or unwilling to carry on the school until the notice expires, the authority—
  - (a) may conduct the school for all or part of the unexpired period of the notice as if it were a county school, and
  - (b) shall be entitled to use the school premises free of charge for that purpose.
- (2) While the school is being so conducted—
  - (a) the authority shall keep the school premises in good repair, and
  - (b) any interest in the premises which is held for the purposes of the school shall be deemed, for all purposes relating to the condition, occupation or use of the premises, or the making of alterations to them, to be vested in the authority.
- (3) Despite the provisions of subsection (2), the governing body may use the premises, or any part of them, when not required for the purposes of the school to the same extent as if they had continued to carry on the school during the unexpired period of the notice.

**175 Discontinuance of voluntary school in consequence of proposal to establish a further education corporation.**

- (1) This section applies where—
  - (a) the governing body of a voluntary school intend to discontinue the school; and
  - (b) the intention arises in connection with a proposal by—
    - (i) a further education funding council, or
    - (ii) the Secretary of State,for the establishment under section 16 of the <sup>M24</sup>Further and Higher Education Act 1992 of a further education corporation to conduct an educational institution in the same area.
- (2) Where this section applies—

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- (a) sections 173 and 174 shall not apply;
- (b) sections 41, 42, 43 and 45(1) and (4) to (6) shall apply as they would if the intention of the governing body were to make a significant change in the character of the school; and
- (c) if the school is discontinued the duty of the local education authority to maintain the school as a voluntary school shall cease.

**Marginal Citations**

M24 1992 c. 13.

## CHAPTER VIII

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### *Further education*

#### **176 Provision of further education.**

- (1) The governing body of any county, voluntary or maintained special school shall be responsible for determining whether or not to provide—
  - (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19;
 but the governing body of a maintained special school shall not determine to provide, or to cease to provide, such education without the consent of the local education authority.
- (2) It shall be the duty of the governing body of any such school which provides such education to secure that, except in such circumstances as may be prescribed, such education is not provided at any time in a room where pupils are at that time being taught.

#### *Teacher training*

#### **177 Provision of courses of initial teacher training.**

- (1) Section 12 of the <sup>M25</sup>Education Act 1994 confers power on the governing body of a county, voluntary or maintained special school—
  - (a) to provide courses of initial training for school teachers, or
  - (b) to join in a partnership or association with other eligible institutions, or (whether alone or jointly with other eligible institutions) to establish a body, for the purpose of providing such courses.
- (2) In subsection (1) “eligible institution” has the meaning given by section 4(2) of that Act.

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**Marginal Citations**

M25 1994 c. 30.

*Modification of employment law*

**178 Application of employment law during financial delegation.**

- (1) The Secretary of State may by order make such modifications in any enactment relating to employment, and in particular in any enactment—
  - (a) conferring powers or imposing duties on employers,
  - (b) conferring rights on employees, or
  - (c) otherwise regulating the relations between employers and employees,as he considers necessary or expedient in consequence of the operation of any of the following provisions, namely, sections 136(2) and (3), 137(6) and 139(2) to (4), Schedule 14 and paragraphs 19 to 24 of Schedule 19.
- (2) Before making any order under this section the Secretary of State shall consult—
  - (a) such associations of local authorities,
  - (b) such bodies representing the interests of governors of voluntary schools, and
  - (c) such organisations representing staff in schools required to be covered by schemes under section 103 (local education authority schemes for financing schools),as appear to him to be concerned.

*Modification of trust deeds and other instruments*

**179 Variation of trust deeds etc. by order.**

- (1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to a school as, after consultation with the governing body or other proprietor of the school, appear to him to be requisite in consequence of—
  - (a) any proposals falling to be implemented under section 40 or section 45 (establishment or alteration of a county or voluntary school);
  - (b) a transfer of the school to a new site in circumstances falling with section 35(2) or section 41(3);
  - (c) any order made by him under section 46 (establishment of a new voluntary school in substitution for an old one);
  - (d) any order made by him under section 47 (transfer of voluntary school to a new site); or
  - (e) any proposals falling to be implemented under section 171 (discontinuance of a county or voluntary school or maintained nursery school).
- (2) Any modification made by an order under this section may be made so as to have permanent effect or to have effect for such period as may be specified in the order.

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**180 Modification of provisions whereby governors of voluntary schools are ex officio trustees.**

- (1) Where a trust deed or other instrument made before 1st July 1981 contains a provision whereby the persons who are for the time being governors of a voluntary school are by virtue of their office trustees of any property held for the purposes of or in connection with the school, that provision shall have effect as if the only governors of the school were the foundation governors and the governors appointed by the local education authority and any minor authority.
- (2) Subsection (1) is without prejudice to any power to amend any such provision as is mentioned in that subsection.

*Interpretation of Part II*

**181 Meaning of expressions relating to new schools.**

- (1) In this Part “new school” (without more) means a school or proposed school—
  - (a) which by virtue of section 96(1) or 97(1) is required to have a temporary governing body, or
  - (b) in respect of which the local education authority have power under section 96(3) or 97(2) to make an arrangement for the constitution of a temporary governing body.
- (2) In this Part “relevant proposals”—
  - (a) in relation to a new school that will be a county or voluntary school, means the proposals falling within section 96(2) or 97(1) by reference to which it is a new school, and
  - (b) in relation to a new school that will be a maintained special school, means the proposals falling within section 96(2) by reference to which it is a new school.
- (3) In this Part—
  - (a) “temporary governing body” means a temporary governing body constituted for a new school under an arrangement made under section 96 or 97, and
  - (b) “temporary governor” means a member of a temporary governing body (and references to a temporary governor of a particular category are to a member of a temporary governing body appointed to it as a member of that category).

**182 Meaning of “governing body” and “governor” in Chapters IV to VI.**

In Chapters IV to VI, except where otherwise provided—

- “governing body” does not include a temporary governing body, and  
 “governor” does not include a temporary governor.

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## PART III

### GRANT-MAINTAINED SCHOOLS

#### CHAPTER I

##### PRELIMINARY

#### 183 “Grant-maintained schools”.

- (1) A school conducted by a governing body incorporated under this Part, Part II of the <sup>M26</sup>Education Act 1993 or Chapter IV of Part I of the <sup>M27</sup>Education Reform Act 1988 for the purpose of conducting the school shall be known as a grant-maintained school.
- (2) A governing body may be incorporated under this Part—
  - (a) in pursuance of proposals for the purpose published under section 193 in relation to an existing school (referred to in this Part as “proposals for acquisition of grant-maintained status”),
  - (b) in pursuance of proposals for the purpose published under section 211 or 212 in connection with the establishment of a school (referred to in this Part as “proposals for the establishment of a new grant-maintained school”), or
  - (c) in pursuance of proposals for the purpose published under Chapter IX for two or more existing schools to be conducted as a group by a single governing body.
- (3) A grant-maintained school must be either a secondary school or a primary school.
- (4) Subject to the provisions of this Part, the funding authority shall pay to the governing body of each grant-maintained school such annual grants as may be required to be paid under Chapter VI.

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#### Marginal Citations

- M26** 1993 c. 35.  
**M27** 1988 c. 40.

#### CHAPTER II

##### PROCEDURE FOR ACQUISITION OF GRANT-MAINTAINED STATUS

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

- C33** Pt. III Chapter II (ss. 184-200) modified (1.11.1996) by 1996 c. 57, ss. 37(3), 48(2)

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### *Eligibility*

#### **184 Schools eligible for grant-maintained status.**

- (1) Subject to subsections (2) and (3) below, any county or voluntary school is for the purposes of this Part eligible for grant-maintained status.
- (2) A county or voluntary school is not eligible for grant-maintained status if proposals by the local education authority to cease to maintain the school have been published under section 167 and either—
  - (a) the proposals have been approved by the Secretary of State under section 169, or
  - (b) where the proposals do not require the approval of the Secretary of State, the local education authority have determined to implement the proposals and notified the Secretary of State of their determination in accordance with section 170(3).
- (3) A voluntary school is not eligible for grant-maintained status if—
  - (a) notice of the governing body’s intention to discontinue the school has been served under section 173 and has not been withdrawn, or
  - (b) proposals by the governing body to discontinue the school have been published under section 41 (as applied by section 175(2)(b)) and approved by the Secretary of State under section 43 (as so applied).

#### **185 Duty of governing body to consider ballot on grant-maintained status.**

- (1) The Secretary of State may by order provide for this section to apply to the governing bodies of all schools, or all schools in England or Wales, which are eligible for grant-maintained status.
- (2) Where this section applies to a governing body of a school, they shall, at least once in every school year, consider whether to hold a ballot of parents on the question whether grant-maintained status should be sought for the school.
- (3) Subsection (2) does not apply in respect of any school year if a ballot has been held in accordance with section 189 in the school year which precedes it.
- (4) The annual report of any governing body to which this section applies shall include—
  - (a) a statement indicating that in the period since their last report the governing body have considered whether to hold a ballot of parents in pursuance of subsection (2) and giving—
    - (i) particulars of any decisions made by the governing body following such consideration and the date or dates on which they were made, and
    - (ii) if the governing body decided not to hold a ballot, an explanation of the reasons for that decision, or
  - (b) a statement indicating that in that period the governing body have not, for the reasons given in the statement, considered whether to hold a ballot of parents on the question of whether grant-maintained status should be sought for the school.
- (5) In this section “annual report” means the report prepared under the articles of government for the school in accordance with section 161.



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### *Initiation of procedure*

#### **186 Initiation of procedure by governing body.**

- (1) Where the governing body of a school which is eligible for grant-maintained status decide by a resolution passed at a meeting of that body to hold a ballot of parents on the question whether grant-maintained status should be sought for the school, they shall—
  - (a) secure that the ballot is held in accordance with section 189 within the period of 10 weeks beginning with the date of the resolution, and
  - (b) give notice in writing that the ballot is to be held—
    - (i) to the local education authority, and
    - (ii) if the school is a voluntary school, to any person holding property on trust for the purposes of the school.
- (2) Notice under subsection (1)(b) must be given within the period of five days beginning with the date of the resolution; but in determining that period no account shall be taken of—
  - (a) Saturday, Sunday, Good Friday and Christmas Day, or
  - (b) any day which is a bank holiday in England and Wales.
- (3) This section does not apply if in the case of the school in question a ballot has been held in accordance with section 189 within the period of 12 months ending with the date immediately preceding the date of the resolution, unless the Secretary of State gives consent in writing for a new ballot to be held.

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

**C34** S. 186 excluded (1.11.1996) by 1996 c. 57, ss. 26, 30(1), 48(2) (which ss. 26 and 30 were repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 200(a), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**

#### **187 Initiation of procedure by parents.**

- (1) This section applies where the governing body of a school which is eligible for grant-maintained status receive a written request to hold a ballot of parents on the question whether grant-maintained status should be sought for the school.
- (2) A request under subsection (1) must be signed (or otherwise endorsed in such manner as the governing body may require) by a number of registered parents of registered pupils at the school equal to at least 20 per cent. of the number of registered pupils at the school; and in this subsection “registered” means shown in the register kept under section 434 as that register has effect on the date on which the request is received.
- (3) The governing body shall—
  - (a) secure that the ballot is held in accordance with section 189 within the period of 10 weeks beginning with the date on which the request was received, and
  - (b) give notice in writing that the ballot is to be held—
    - (i) to the local education authority, and
    - (ii) if the school is a voluntary school, to any person holding property on trust for the purposes of the school.

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- (4) Notice under subsection (3)(b) must be given within the period of five days beginning with the date on which the request was received; but in determining that period no account shall be taken of—
  - (a) Saturday, Sunday, Good Friday and Christmas Day, or
  - (b) any day which is a bank holiday in England and Wales.
- (5) Subsection (3) does not apply if in the case of the school in question a ballot has been held in accordance with section 189 within the period of 12 months ending with the date immediately preceding the date on which the request is received, unless the Secretary of State gives consent in writing for a new ballot to be held.
- (6) A request under subsection (1) shall be taken to have been received by a governing body if given or sent to the chairman of the governing body or to the clerk to the governing body.

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

**C35** S. 187 excluded (1.11.1996) by 1996 c. 57, ss. 26,30, 48(2) (which ss. 26 and 30 were repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 200(a), Sch.31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch. 1 Pt. I

*Information*

**188 Information as to parents of registered pupils.**

- (1) Where any registered parent of a registered pupil at a school which is eligible for grant-maintained status so requests and subsection (2) applies, the governing body shall—
  - (a) make available to the parent for inspection at the school (at all reasonable times and free of charge) a list containing the name and address of every registered parent of a registered pupil at the school, and
  - (b) supply the parent with a copy of the list.
- (2) This subsection applies if the request is made—
  - (a) in connection with any proposal that a ballot should be held in accordance with section 189, or
  - (b) where the governing body are under a duty by virtue of section 186, 187 or 191 to secure that a ballot is held, in connection with the holding of the ballot.
- (3) A governing body shall not disclose to a parent under subsection (1) the name and address of any person who has requested the governing body in writing not to disclose that information under that subsection; and accordingly the name and address of that person shall be excluded from the list there mentioned.
- (4) A governing body who in pursuance of subsection (1) supply copies of the list there mentioned may charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.

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### *Ballot of parents*

#### **189 Ballot of parents.**

- (1) Where the governing body of a school are under a duty by virtue of section 186 or 187 to secure that a ballot is held, they shall secure that all necessary arrangements for the ballot are made by such body as may be prescribed.
- (2) The arrangements shall provide for a secret postal ballot.
- (3) The governing body shall secure that the prescribed body take such steps as are reasonably practicable to secure that every person who is eligible to vote in the ballot is—
  - (a) given the prescribed information,
  - (b) informed that he is entitled to vote in the ballot, and
  - (c) given an opportunity to do so.
- (4) The governing body shall make available to every person employed to work at the school for inspection at the school (at all reasonable times and free of charge) a document containing the information required by subsection (3)(a) to be given to persons eligible to vote in the ballot.
- (5) In determining the arrangements they require to be made by the prescribed body, the governing body shall take into account any guidance given by the Secretary of State from time to time as to the arrangements he considers appropriate for ballots held in accordance with this section.
- (6) The governing body may promote (otherwise than as part of the arrangements made for the ballot) the case for seeking grant-maintained status for the school and, in doing so, they shall take into account any guidance given by the Secretary of State as to the action he considers appropriate for the purpose.

#### **190 Persons eligible to vote in ballot.**

- (1) For the purposes of this Chapter, a person is eligible to vote in a ballot held in respect of a school in accordance with section 189 if he is a registered parent of a registered pupil at the school.
- (2) In subsection (1) “registered” means shown in the register kept under section 434 as that register has effect on the date immediately following the end of the period of 14 days beginning with—
  - (a) the date on which the relevant resolution or request was passed or received by the governing body, or
  - (b) where the Secretary of State gives his consent for the purposes of section 186(3) or 187(5), the date on which he gives that consent.
- (3) In subsection (2) “the relevant resolution or request” means the resolution under section 186, or request under section 187, by reference to which the ballot is required to be held (or, where the ballot is a second ballot held by virtue of section 191, by reference to which the first ballot was required to be held).

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## **191 Second ballot to be held if insufficient votes cast.**

- (1) Where in any ballot held in accordance with section 189 (other than one held by virtue of this section)—
  - (a) the total number of votes cast by persons eligible to vote is less than 50 per cent. of the number of persons eligible to vote, or
  - (b) the number of votes cast in favour is the same as the number of votes cast against,

the governing body shall secure that a second ballot is held within the period of 14 days beginning with the day after that on which the result of the first ballot is determined.
- (2) In such a case—
  - (a) the result of the first ballot shall be disregarded for the purposes of section 193(1), and
  - (b) subject to the modifications mentioned in subsection (3), section 189 shall apply as it applies in a case where the governing body of a school are under a duty by virtue of section 186 or 187 to secure that a ballot is held.
- (3) The modifications are—
  - (a) that section 189(3)(a) shall be omitted, and
  - (b) that section 189(4) shall be read as if the information there referred to were the information given for the purposes of the first ballot.

## **192 Power to declare ballot void for irregularity.**

- (1) Subsection (2) applies where it appears to the Secretary of State—
  - (a) that any requirements of section 189 or 191 have been contravened in the case of a ballot held in purported compliance with section 189,
  - (b) that the arrangements for a ballot so held did not accord with any guidance given by him for the purposes of section 189,
  - (c) that a governing body have acted unreasonably in the discharge of their duties under section 189 or 191,
  - (d) that persons other than those eligible to do so have purported to vote in a ballot so held,
  - (e) that ballot papers returned for the purposes of a ballot so held have been marked by persons other than those to whom they were issued or those duly authorised to act on their behalf,
  - (f) that persons who were eligible to vote in a ballot so held have been prevented or hindered from doing so, or from doing so freely in accordance with their own opinions, by any other person, or
  - (g) that voting in a ballot so held is likely to have been influenced to a significant extent by the dissemination of information appearing to the Secretary of State to be to a material extent false or misleading.
- (2) The Secretary of State may by notice in writing given to the governing body—
  - (a) declare the ballot void, and
  - (b) require that a fresh ballot be held in accordance with section 189 before such date as he may specify in the notice.
- (3) Where—

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- (a) by a notice under subsection (2) the Secretary of State requires the fresh ballot to be held in the school year following that in which fell the date which was the effective date for the register used for the ballot he declares void, and
  - (b) the notice specifies a date for the purposes of this subsection,
- section 190(1) shall have effect in relation to the fresh ballot as if “registered” meant shown in the register kept under section 434 as that register has effect on the date specified for the purposes of this subsection.

### **193 Publication of proposals.**

- (1) Subsection (2) applies where the result of a ballot held in accordance with section 189 shows a simple majority of votes cast (by persons eligible to vote in the ballot) in favour of seeking grant-maintained status for the school.
- (2) Before the end of the period of four months beginning with the date on which the result of the ballot is determined, the governing body shall—
  - (a) publish proposals for acquisition of grant-maintained status for the school in accordance with any provisions made by or under paragraph 1 of Schedule 20,
  - (b) publish any notice in respect of the proposals for the time being required by any such provisions, and
  - (c) submit to the Secretary of State a copy of the published proposals.
- (3) References in this Part to proposals published under this section are, in any case where the Secretary of State has modified such proposals in pursuance of this Part, references to the proposals as so modified.
- (4) For the purposes of this Part, proposals published under this section shall be regarded as pending in respect of a school until either the proposals are withdrawn or the Secretary of State makes his determination in respect of them.
- (5) Part I of Schedule 20 has effect for the purpose of supplementing this section.

#### *Approval and implementation of proposals*

### **194 Withdrawal, approval or rejection of proposals.**

- (1) Proposals published under section 193 may not be withdrawn except with the consent of the Secretary of State and subject to such conditions as he may impose (which may, in particular, require further proposals to be published under that section within such period as the Secretary of State may specify).
- (2) The Secretary of State—
  - (a) may reject any proposals published under section 193, or
  - (b) where a school in respect of which such proposals are made is eligible for grant-maintained status on the date of publication of the proposals, may—
    - (i) approve them without modification, or
    - (ii) after consultation with the existing governing body, approve them with such modifications as he thinks desirable.
- (3) Where the Secretary of State rejects any proposals published under section 193 in respect of a school which is eligible for grant-maintained status on the date of his

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determination, he may require the governing body to publish further proposals under section 193 within such period as he may specify.

- (4) Where the Secretary of State imposes a requirement under subsection (1) or (3) for the publication of further proposals, section 193(2) and Schedule 20 shall apply as they apply in the case mentioned in section 193(1), but with the following modifications—
- (a) the reference in section 193(2) to the period of four months beginning with the date on which the result of the ballot is determined shall be taken as a reference to the period specified by the Secretary of State for submission of the further proposals required, and
  - (b) the reference in paragraph 2(1)(a) of Schedule 20 to the ballot shall be read as referring to the last ballot held in accordance with section 189 in relation to the school before the requirement in question was imposed.

### **195 Incorporation of governing body.**

- (1) Where any proposals are approved under section 194, then—
- (a) the persons who, immediately before the proposals are approved, are named in them as initial governors, and
  - (b) the existing head teacher (as a governor ex officio),
- shall on that date be incorporated as the governing body of the school under the name given in pursuance of paragraph 4(1)(g) of Schedule 20.
- (2) Where any proposals are approved under section 194, then, in relation to the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals—
- (a) the governing body incorporated under this section are referred to in this Part as the “new governing body”, and
  - (b) any reference in any enactment or instrument or document to the governing body of the school, other than—
    - (i) an express reference to the new governing body or the governing body incorporated under this section, or
    - (ii) a reference in Chapter V,
 shall be read as a reference to the existing governing body, not the new governing body.
- (3) On the date of implementation of the proposals—
- (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.

### **196 Exercise of powers before proposed date of implementation.**

Schedule 21 (which makes provision in relation to the period after approval and before the date of implementation) has effect in relation to a school once proposals are approved under section 194.

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### *Expenses in connection with proposals*

#### **197 Expenses in connection with proposals for acquisition of grant-maintained status.**

- (1) The Secretary of State may make payments in respect of any expenses incurred by the governing body of a school in exercising, or in connection with the exercise of, their functions under the preceding provisions of this Chapter.
- (2) Payments under subsection (1) may be made on such terms as the Secretary of State may determine.
- (3) A local education authority shall not incur any expenditure attributable to any period for the purpose of influencing the outcome of ballots held under section 189 if the aggregate of the amounts of expenditure for that purpose attributable to the period exceeds (or, if that expenditure were incurred, would exceed) the limit for that period.
- (4) Regulations may make provision for determining for the purposes of this section—
  - (a) whether expenditure is incurred for the purpose referred to in subsection (3),
  - (b) the amount of any expenditure,
  - (c) the period to which expenditure is to be attributed, and
  - (d) the limit for any period.
- (5) Regulations may require each local education authority—
  - (a) to keep in accordance with regulations, and any directions contained in an order made by the Secretary of State, a separate account of the expenditure incurred for the purpose referred to in subsection (3), and
  - (b) to prepare in respect of such periods as may be prescribed a statement of account and, if the Secretary of State so requests, send each statement to him before the end of such period as may be prescribed.

### *Alteration of county school proposed for grant-maintained status*

#### **198 Proposals by governing body for alteration of county school proposed for grant-maintained status.**

- (1) This section applies where—
  - (a) the governing body of a county school (“the school proposed for grant-maintained status”) have published proposals for acquisition of grant-maintained status which have not been withdrawn or determined,
  - (b) the local education authority have published proposals for any of the purposes mentioned in section 35(1)(c) or (d) (alteration, etc. of county school) in respect of one or more schools in the area, and
  - (c) the governing body of the school proposed for grant-maintained status intend to make a significant change in the character, or a significant enlargement of the premises, of the school, being a change or enlargement to be made for the purpose of ensuring consistency in the provision of education in the area of the local education authority if the proposals made by the authority are implemented.
- (2) The governing body of the school proposed for grant-maintained status may publish in such manner as may be required by regulations proposals for a significant change in

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the character, or significant enlargement of the premises, of the school for the purpose mentioned in subsection (1)(c).

- (3) Chapter VII (alteration etc. of grant-maintained school) shall apply in relation to proposals published under this section as it applies in relation to proposals published under section 259 (proposals for change of character etc. by governing body) but—
  - (a) as if the governing body of the school proposed for grant-maintained status were the governing body of a grant-maintained school, and
  - (b) with the modifications in subsections (4) and (5) below.
- (4) The particulars of the proposals shall not give as the time or any of the times of implementation of the proposals a time earlier than the date of implementation of the proposals for acquisition of grant-maintained status.
- (5) The statement accompanying the proposals shall (in addition to complying with section 259(5))—
  - (a) state that the proposals are published in connection with the proposed acquisition of grant-maintained status,
  - (b) state the circumstances in which the governing body are authorised under this section to publish such proposals, and
  - (c) describe the proposals published by the local education authority in connection with which the proposals under this section are published.
- (6) Proposals published under this section may, if the governing body think fit—
  - (a) specify an age below 10 years and six months and an age above 12 years, and
  - (b) provide that the school is to be a school for providing full-time education suitable to the requirements of pupils whose ages are between the ages so specified.

## **199 Approval or rejection by Secretary of State of proposals under section 198.**

- (1) This section applies where, after proposals for acquisition of grant-maintained status have been published in respect of any school which is eligible for grant-maintained status but before those proposals are withdrawn or determined, proposals in respect of the school are published under section 198.
- (2) The Secretary of State shall consider both sets of proposals together but shall not determine the proposals under section 198 until he has made his determination with respect to the proposals for acquisition of grant-maintained status.
- (3) If the Secretary of State approves the proposals for acquisition of grant-maintained status, he may approve the proposals under section 198.
- (4) If the Secretary of State rejects the proposals for acquisition of grant-maintained status, he shall reject the proposals under section 198.

### *Supplementary*

## **200 Chapter II: interpretation, etc.**

- (1) This section applies in relation to proposals for acquisition of grant-maintained status and to the school to which they relate.



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- (2) References to the date of implementation of the proposals—
- (a) in relation to a school in respect of which proposals for acquisition of grant-maintained status are required to be published under section 193, are to the date specified (in accordance with regulations under section 189(3)(a)) as the proposed date of implementation in the information given to persons eligible to vote in the originating ballot, and
  - (b) in any other case, are to the date specified in the proposals as the proposed date of implementation.
- (3) In subsection (2)(a) “the originating ballot”—
- (a) where section 193(2) applies, means the ballot by reference to which it applies, and
  - (b) where the proposals are required to be published by virtue of a requirement imposed by the Secretary of State under section 194(1) or (3), means the last ballot held in accordance with section 189 in relation to the school before that requirement was imposed.
- (4) “The relevant particulars”, in relation to a proposed initial governor, means—
- (a) his name and address,
  - (b) whether he is to be a parent, teacher, first, foundation or sponsor governor,
  - (c) if he is to be a parent or teacher governor, the term of office that applies in his case under paragraph 10 of Schedule 22, and
  - (d) if he is to be a first, foundation or sponsor governor, the term of office proposed for him in accordance with that paragraph or, in the case of a foundation governor who is to hold office ex officio, the fact that he is to do so.
- (5) “The incorporation date” means the date on which the governing body are incorporated.

### CHAPTER III

#### PROPERTY, STAFF AND CONTRACTS

##### *Transfer of property and staff, etc.*

#### **201 Transfer of property etc.**

- (1) Subject to subsection (3), where in relation to any school proposals for acquisition of grant-maintained status are approved—
- (a) the property, rights and liabilities mentioned in subsection (2) of any local authority, and
  - (b) any property, rights and liabilities of the existing governing body,
- shall on the date of implementation of the proposals be transferred to, and by virtue of this Act vest in, the governing body incorporated under Chapter II.
- (2) The property, rights and liabilities referred to in subsection (1)(a) are—
- (a) all land or other property which, immediately before the date of implementation of the proposals, was property used or held by the authority for the purposes of the school, and

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- (b) all rights and liabilities subsisting immediately before the date of implementation of the proposals which were acquired or incurred by the authority for those purposes.
- (3) Subsection (1) shall not apply to rights and liabilities under any contract of employment; and subsection (1)(a) shall not apply to—
  - (a) any land or other property vested in a local authority as trustees,
  - (b) any property, rights or liabilities excluded under subsection (5) or (6),
  - (c) any liability of a local authority in respect of the principal of, or any interest on, any loan, or
  - (d) any liability of a local authority in respect of compensation for premature retirement of any person formerly employed by them or by any governing body of the school.
- (4) Any land or other property of a local authority excluded by virtue of subsection (3)
  - (a) from transfer to the governing body shall, on the date of implementation of the proposals, be transferred to, and by virtue of this Act vest in, the first governors of the school on the trusts applicable immediately before that date under any trust deed regulating the use of that land or other property for the purposes of the school.
- (5) If before the date of implementation of the proposals—
  - (a) the new governing body and the local authority have agreed in writing to exclude any property, and
  - (b) the Secretary of State has given his written approval of the agreement,
 the property, and any rights or liabilities relating to it, shall be excluded.
- (6) If in default of agreement under subsection (5)—
  - (a) the new governing body or the local authority have applied to the Secretary of State to exclude any property, and
  - (b) the Secretary of State has by order directed its exclusion,
 the property, and any rights or liabilities relating to it, shall be excluded.
- (7) An agreement under subsection (5) may provide for the property to be used for the purposes of the school acquiring grant-maintained status on such terms as may be specified in or determined in accordance with the agreement; and directions under subsection (6)—
  - (a) may confer any rights or impose any liabilities that could have been conferred or imposed by such an agreement, and
  - (b) shall have effect as if contained in such an agreement.
- (8) For the purposes of this section, any interest in a dwelling-house which, immediately before the date of implementation of the proposals, is used or held by a local authority for occupation by a person employed to work at the school shall be treated as an interest used or held for the purposes of the school.
- (9) References in this section to liabilities incurred by a local authority shall not be read as including liabilities of such an authority to make payments to or in respect of any person in pursuance of any duty imposed on the authority under any statutory provision.
- (10) This section is subject to section 198 of the <sup>M28</sup>Education Reform Act 1988 (which with Schedule 10 to that Act makes further provision in relation to transfers of property,

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rights and liabilities), and references in that Schedule as applied by virtue of this subsection to the transfer date are to the date of implementation of the proposals.

**Marginal Citations**

M28 1988 c. 40.

**202 Transfer of staff.**

- (1) This section applies to any school where proposals for acquisition of grant-maintained status have been approved in relation to the school; and, subject to subsection (3), applies to any person who—
  - (a) if the school is an aided school, is immediately before the date of implementation of the proposals employed by the governing body, or
  - (b) immediately before the date of implementation of the proposals—
    - (i) is employed by the local education authority to work solely at the school, or
    - (ii) is employed by the local education authority to work at the school and is designated for the purposes of this section by an order made by the Secretary of State.
- (2) A person employed by a local education authority in connection with the provision of meals shall not be regarded for the purposes of subsection (1)(b) as employed to work solely at a school unless the meals are provided solely for consumption by persons at the school.
- (3) This section does not apply to—
  - (a) any person employed as mentioned in subsection (1) whose contract of employment terminates on the day immediately preceding the date of implementation of the proposals, or
  - (b) any person employed as mentioned in subsection (1)(b) who before that date—
    - (i) has been appointed or assigned by the local education authority to work solely at another school as from that date, or
    - (ii) has been withdrawn from work at the school with effect as from that date.
- (4) A person who before the date of implementation of the proposals has been appointed or assigned by the local education authority to work at the school as from that date shall be treated for the purposes of this section as if he had been employed by the authority immediately before that date to do such work at the school as he would have been required to do on or after that date under his contract of employment with the authority.
- (5) In subsections (6) and (7) “former employer”—
  - (a) in relation to a person to whom this section applies by virtue of subsection (1) (a), means the governing body of the school immediately before the date of implementation of the proposals, and
  - (b) in relation to a person to whom this section applies by virtue of subsection (1) (b), means the local education authority.

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- (6) The contract of employment between a person to whom this section applies and his former employer shall have effect from the date of implementation of the proposals as if originally made between him and the governing body of the grant-maintained school.
- (7) Without prejudice to subsection (6)—
  - (a) all the former employer’s rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this section be transferred to the governing body of the grant-maintained school on the date of implementation of the proposals, and
  - (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to that governing body.
- (8) Subsections (6) and (7) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.
- (9) An order under this section may designate a person either individually or as a member of a class or description of employees.

*Effect of pending procedure for acquisition of grant-maintained status on property disposals, etc.*

### **203 “Pending” procedure for acquisition of grant-maintained status.**

- (1) For the purposes of this Chapter the procedure for acquisition of grant-maintained status is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).
- (2) For those purposes, that procedure is to be regarded as initiated in relation to a school on any occasion—
  - (a) on receipt by the local education authority of notice of a meeting of the governing body at which a motion for a resolution to hold a ballot of parents on the question whether grant-maintained status should be sought for the school is to be considered (not being a case falling within section 186(3)), or
  - (b) where the governing body have received a request under subsection (1) of section 187, on receipt by the local education authority of notice under subsection (3)(b) of that section.
- (3) For those purposes, that procedure, as initiated on any occasion, is to be regarded as terminated—
  - (a) (when initiated as mentioned in subsection (2)(a)) if—
    - (i) the meeting is not held,
    - (ii) the meeting is held but the motion is not moved or, though the motion is moved, the resolution is not passed, or
    - (iii) the resolution is passed but the result of the ballot to which the notice under section 186(1)(b) relates does not show a majority in favour of seeking grant-maintained status for the school;

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- (b) (when initiated as mentioned in subsection (2)(b)) if the result of the ballot to which the notice under section 187(3)(b) relates does not show a majority in favour of seeking grant-maintained status for the school;
  - (c) if—
    - (i) proposals which by reference to the result of a ballot to which a notice under section 186(1)(b) or 187(3)(b) relates are required to be published under section 193, or
    - (ii) any proposals required in substitution for those proposals, are rejected by the Secretary of State or withdrawn; or
  - (d) on the date of implementation of such proposals.
- (4) Where section 191 applies in the case of such a ballot, the references in subsection (3) above to the result of that ballot shall be read as references to the result of the second ballot required by that section.
- (5) The reference in subsection (3) above to proposals required in substitution for any proposals (“the original proposals”) required to be published by reference to the result of a ballot is to any proposals required to be published by virtue of section 194(1) or (3) on withdrawal or (as the case may be) rejection of—
- (a) the original proposals, or
  - (b) any further proposals required to be published by virtue of section 194(1) or (3) in respect of the school without a further ballot.
- (6) Proposals published under section 193 shall not be treated for the purposes of subsection (3)(c) as rejected in any case where the Secretary of State imposes a requirement under section 194(3) or as withdrawn in any case where he imposes a requirement under section 194(1) for the publication of further proposals.

## **204 Control of disposals of land.**

- (1) During any period when the procedure for acquisition of grant-maintained status is pending in relation to a school, a local authority shall not—
- (a) dispose of any land used wholly or partly for the purposes of the school, or
  - (b) enter into a contract to dispose of any such land,
- except with the required consent.
- (2) Subsection (1) does not apply in relation to a disposal which is made in pursuance of a contract entered into, or an option granted, before the procedure for acquisition of grant-maintained status was initiated in relation to the school.
- (3) Where proposals for acquisition of grant-maintained status are approved, the procedure for acquisition of grant-maintained status is not to be treated as terminated for the purposes of this section and section 205 in relation to any land, where agreement is required to be reached under paragraph 2(1) of Schedule 10 to the <sup>M29</sup>Education Reform Act 1988 (identification of property, etc.) on any matter relating to that land, until the date on which that matter is finally determined.
- (4) In the case of a disposal made or contract entered into after proposals for acquisition of grant-maintained status have been approved, “the required consent”—
- (a) (if it is agreed between the local authority and the new governing body that the value of the land in question does not exceed £6,000) is the consent of the new governing body, and

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- (b) (if paragraph (a) does not apply) is the consent of both the new governing body and the Secretary of State.
- (5) In any other case “the required consent” for any proposed disposal (and for any contract to make it) is the consent of both the existing governing body and the Secretary of State.
- (6) A disposal or contract shall not be invalid or void by reason only that it has been made or entered into in contravention of this section; and (subject to section 205) a person acquiring land, or entering into a contract to acquire land, from a local authority shall not be concerned to enquire whether any consent required by this section has been given.
- (7) This section has effect notwithstanding anything in section 123 of the <sup>M30</sup>Local Government Act 1972 (general power to dispose of land) or in any other enactment; and the consent required by this section shall be in addition to any consent required by subsection (2) of that section or by any other enactment.
- (8) In this section and section 205—
  - (a) references to disposing of land include granting or disposing of any interest in land, and
  - (b) references to entering into a contract to dispose of land include granting an option to acquire land or such an interest.
- (9) Where a proposed disposal forms part of a proposed series of transactions, all disposals forming part of that series shall be treated as one disposal for the purposes of this section.
- (10) The Secretary of State may by order substitute for the sum specified in subsection (4) (whether as originally enacted or as previously amended by an order under this subsection) such sum as may be specified in the order.

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**Marginal Citations**

**M29** 1988 c. 40.

**M30** 1972 c. 70.

**205 Wrongful disposals of land.**

- (1) This section applies where—
  - (a) proposals for acquisition of grant-maintained status in respect of a school have been approved, and
  - (b) a local authority have made a disposal, or have entered into a contract, in contravention of section 204(1).
- (2) In the case of a contract which consists of granting an option to acquire any land or interest in land, the Education Assets Board may by notice in writing served on the option holder repudiate the option at any time before it is exercised.
- (3) In the case of a contract to dispose of any land or to grant or dispose of any interest in land, the Education Assets Board may by notice in writing served on the other party to the contract, at any time before the conveyance or grant of the land or any interest in land to which it relates is completed or executed, repudiate the contract.

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- (4) A repudiation under subsection (2) or (3) shall have effect—
  - (a) where it is made after the date of implementation of the proposals, as if the local authority (and not the governing body) were party to the contract, and
  - (b) as if the repudiation were made by the local authority.
- (5) In the case of a disposal which consists in granting or disposing of any interest in land (whether or not in pursuance of any earlier contract falling within subsection (2) or (3)) the Education Assets Board may be authorised by the Secretary of State to purchase compulsorily the interest in land which was the subject of the disposal.
- (6) The <sup>M31</sup>Acquisition of Land Act 1981 shall apply in relation to the compulsory purchase of land under subsection (5) as if references in sections 12 and 13 of that Act to every owner of the land included references to the local authority concerned.
- (7) On completion of a compulsory purchase under that subsection of any interest in land, the Education Assets Board shall convey that interest to the governing body incorporated under Chapter II.
- (8) Where the Education Assets Board acquire any interest in land by a compulsory purchase under subsection (5) the Board shall be entitled to recover from the local authority concerned an amount equal to the aggregate of—
  - (a) the amount of compensation agreed or awarded in respect of that purchase, together with any interest payable by the Board in respect of that compensation in accordance with section 11 of the <sup>M32</sup>Compulsory Purchase Act 1965 or section 52A of the <sup>M33</sup>Land Compensation Act 1973, and
  - (b) the amount of the costs and expenses incurred by the Board in connection with the making of the compulsory purchase order.
- (9) Section 204(8) applies for the purposes of this section.

**Marginal Citations**

**M31** 1981 c. 67.

**M32** 1965 c. 56.

**M33** 1973 c. 26.

**206 Control of contracts.**

- (1) Where the procedure for acquisition of grant-maintained status is pending in relation to any school, this section applies to any contract which, if the proposals for acquisition of grant-maintained status were implemented, would or might bind the governing body incorporated under Chapter II.
- (2) Except with the appropriate consent, a local authority shall not enter into a contract to which this section applies.
- (3) In the case of a contract entered into after the proposals have been approved by the Secretary of State, “the appropriate consent” is that of the new governing body.
- (4) In relation to any other contract, “the appropriate consent” is—
  - (a) the consent of the existing governing body, and

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- (b) if (on the assumption set out in subsection (1)) the contract will require the governing body incorporated under Chapter II to make payments amounting in aggregate to £15,000 or more, the consent of the Secretary of State.
- (5) Any consent for the purposes of this section may be given either in respect of a particular contract or in respect of contracts of any class or description and either unconditionally or subject to conditions.
- (6) A contract shall not be void by reason only that it has been entered into in contravention of this section and (subject to section 207) a person entering into a contract with a local authority or governing body shall not be concerned to enquire whether any consent required by this section has been given or any conditions of such a consent have been complied with.
- (7) Where there is an obligation under a contract to which this section applies to provide any benefit other than money, subsection (4)(b) shall apply as if the obligation were to pay a sum of money corresponding to the value of the benefit to the recipient.
- (8) This section does not apply to—
  - (a) a works contract (within the meaning of Part III of the <sup>M34</sup>Local Government, Planning and Land Act 1980) which is entered into in accordance with section 7 of that Act,
  - (b) a works contract (within the meaning of Part I of the <sup>M35</sup>Local Government Act 1988) which is entered into in accordance with section 4 of that Act,
  - (c) a contract to dispose of land (within the meaning of section 204) or to grant an option to acquire land or an interest in land, or
  - (d) a contract of employment.
- (9) The Secretary of State may by order substitute for the sum specified in subsection (4) (whether as originally enacted or as previously amended by an order under this subsection) such sum as may be specified in the order.

**Marginal Citations**

**M34** 1980 c. 65.

**M35** 1988 c. 9.

**207 Wrongful contracts.**

- (1) This section applies where—
  - (a) proposals for acquisition of grant-maintained status in respect of a school have been approved, and
  - (b) a local authority have entered into a contract to which section 206 applies in contravention of that section.
- (2) The Education Assets Board may by notice in writing served on the other party to the contract repudiate the contract at any time before it is performed.
- (3) A repudiation under subsection (2) shall have effect—
  - (a) where it is made after the date of implementation of the proposals, as if the local authority (and not the governing body) were party to the contract, and
  - (b) as if the repudiation were made by the local authority.



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## **208 Restriction on change of purpose for which property used or held.**

- (1) During any period when the procedure for acquisition of grant-maintained status is pending in relation to a school, a local authority shall not, in relation to any land or other property of the authority used or held for the purposes of the school, take without the required consent any action by which the land or other property ceases to any extent to be so used or held.
- (2) In the case of anything done after proposals for acquisition of grant-maintained status have been approved, “the required consent” is that of the new governing body.
- (3) In any other case “the required consent” is that of both the existing governing body and the Secretary of State.
- (4) If in the case of any school—
  - (a) proposals for acquisition of grant-maintained status are approved, and
  - (b) a local authority have, in relation to any property, taken any action in contravention of subsection (1),the provisions relating to the transfer of property shall have effect as if, immediately before the date of implementation of the proposals in relation to the school, the property were used or held by the authority for the purposes for which it was used or held when the procedure for acquisition of grant-maintained status was initiated.
- (5) In this section—
  - (a) “the provisions relating to the transfer of property” means section 201 above and section 198 of, and Schedule 10 to, the <sup>M36</sup>Education Reform Act 1988, and
  - (b) the references to taking action include appropriating property for any purpose.

### **Marginal Citations**

M36 1988 c. 40.

## **209 Restriction on staff changes.**

- (1) During any period when the procedure for acquisition of grant-maintained status is pending in relation to a school, the local education authority shall not do any of the things mentioned in subsection (2) without the required consent.
- (2) Those things are—
  - (a) the appointment of a person to fill a vacancy in a post which is part of the complement of the school or to work solely at the school in any other post,
  - (b) the dismissal (otherwise than under section 143(6) or 144(3) (special provisions as to religious education in voluntary schools)) of a person to whom subsection (3) applies, and
  - (c) the withdrawal of such a person from work at the school (otherwise than by dismissing him).
- (3) This subsection applies to any person who is employed—
  - (a) in a post which is part of the complement of the school, or
  - (b) to work solely at the school in any other post.

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- (4) The references in this section to the complement of the school are to the complement of teaching and non-teaching posts determined by the local education authority for the school under section 133(1) to (3) (determination of staff complement for schools).
- (5) In the case of anything done after proposals for acquisition of grant-maintained status have been approved, “the required consent” is that of the new governing body.
- (6) In any other case “the required consent” is that of both the existing governing body and the Secretary of State.

### *Supplementary*

## **210 Supplementary provisions about transfers.**

- (1) No duty of a local education authority under section 60(2) or (as the case may be) 61(2) to convey their interest in any site or buildings to the trustees of a voluntary school shall be affected by the school subsequently becoming a grant-maintained school.
- (2) Where such a duty is continued by virtue of subsection (1), then, in connection with the site in question, sections 60(2) to (7), 61(2) and (3) and 62 shall continue to apply after the school becomes a grant-maintained school as if it were a controlled school or, as the case may be, an aided or special agreement school.
- (3) Where any such duty as is referred to in subsection (1), or imposed by section 70(1), applies in relation to a school, then—
  - (a) if it applies immediately before the date of implementation of proposals for acquisition of grant-maintained status, section 201(1)(a) shall not apply to, or to any interest in, the site or buildings or, as the case may be, the premises to be conveyed, and
  - (b) if it applies at a time when the procedure for acquisition of grant-maintained status is pending, section 204 shall not apply to disposing, or entering into a contract to dispose, of the site or buildings or, as the case may be, the premises to be conveyed.
- (4) Where immediately before the date of implementation of proposals for acquisition of grant-maintained status there is an agreement relating to any site or buildings made under section 61(4) or (5), section 201(1)(a) shall not apply to any rights or liabilities of any local authority under the agreement; and any directions given before that date under section 61(6), so far as they relate to the governing body of the school, shall have effect on or after that date as if they related to the governing body incorporated under section 195.

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## CHAPTER IV

### ESTABLISHING NEW GRANT-MAINTAINED SCHOOLS

#### *Proposals for establishment of new grant-maintained school*

#### **211 Proposals by funding authority.**

- (1) This section has effect in respect of the area of a local education authority if an order under section 27(1) applies to the area.
- (2) The funding authority may establish grant-maintained schools for the purpose of providing relevant education.
- (3) Where the funding authority intend to establish a grant-maintained school, they shall—
  - (a) publish proposals for that purpose in such manner as may be prescribed, and
  - (b) submit a copy of the published proposals to the Secretary of State.
- (4) Before publishing any proposals under this section the funding authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the funding authority shall have regard to any guidance given to them from time to time by the Secretary of State.

#### **212 Proposals by promoters.**

- (1) Where any persons (referred to in this Part as “promoters”) propose to establish a grant-maintained school, they shall—
  - (a) publish proposals for that purpose in such manner as may be prescribed, and
  - (b) submit a copy of the published proposals to the Secretary of State.
- (2) Before publishing any proposals under this section the promoters shall consult—
  - (a) the funding authority, and
  - (b) such other persons as appear to them to be appropriate;and in discharging their duty under this subsection the promoters shall have regard to any guidance given from time to time by the Secretary of State.
- (3) A local education authority may not establish any grant-maintained school.

#### **213 Provisions supplementary to sections 211 and 212.**

- (1) Part II of Schedule 20 has effect for the purpose of supplementing sections 211 and 212.
- (2) Subsection (3) applies where promoters propose to establish a grant-maintained school in place of an existing independent school which it is proposed to discontinue on or before the date of implementation of the proposals.
- (3) Where this subsection applies, the proposals published by the promoters under section 212 shall, in addition to the matters required to be specified by virtue of paragraph 7 of Schedule 20—
  - (a) specify any arrangements proposed to be made by the promoters for land and other property held for the purposes of the existing independent school to be held for the purposes of the grant-maintained school, and

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- (b) state whether there is a trust deed or other instrument relating to the existing independent school.
- (4) References in this Part to proposals published under section 211 or 212 are, in any case where the Secretary of State has modified such proposals in pursuance of this Part, references to the proposals as so modified.
- (5) No proposals may be published under section 211 or 212 for a school which may provide any education which is neither primary nor secondary education unless it is—
  - (a) 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 19, or
  - (b) part-time education suitable to the requirements of junior pupils.

#### *Approval and implementation of proposals*

### **214 Approval, adoption or rejection of proposals.**

- (1) Proposals published under section 211 require the approval of the Secretary of State if—
  - (a) he gives notice to that effect to the funding authority within two months after the submission to him of the published proposals,
  - (b) objections have been made under paragraph 10 of Schedule 20 within the period allowed under that paragraph (unless all objections so made have been withdrawn in writing within that period), or
  - (c) the proposals name a sponsor of the school.
- (2) Proposals published under section 212 require the approval of the Secretary of State.
- (3) Where under subsection (1) or (2) any proposals require the approval of the Secretary of State, he may—
  - (a) reject them,
  - (b) approve them without modification, or
  - (c) after consulting the funding authority (and, in the case of proposals under section 212, the promoters) approve them with such modifications as he thinks desirable.
- (4) In relation to Wales, subsection (3) shall have effect before the Schools Funding Council for Wales begin to exercise their functions with the omission of the reference to consulting the funding authority.
- (5) In the case of proposals published under section 211, particulars in respect of the proposed premises of the school prepared under paragraph 12 of Schedule 20 must be adopted by the funding authority.
- (6) In the case of proposals published under section 212, particulars in respect of the proposed premises of the school submitted under paragraph 12 of Schedule 20 require the approval of the funding authority.
- (7) Where proposals published under section 211 do not require the approval of the Secretary of State, the funding authority shall determine whether to adopt the proposals.
- (8) The funding authority shall—

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- (a) make any determination under subsection (7) not later than four months after the publication of the proposals, and
- (b) give notice in writing to the Secretary of State of their determination.

## **215 Implementation of proposals.**

- (1) Where any proposals are approved or adopted under section 214, the persons who are appointed in accordance with regulations to be the initial first or (as the case may be) foundation governors shall on the incorporation date be incorporated as the governing body of the school under the name given in pursuance of paragraph 7(1)(f) of Schedule 20.
- (2) Where any proposals published under section 211 are so approved or adopted, the funding authority shall implement the proposals or, in a case where, under this subsection, the Secretary of State modifies the proposals at their request, shall implement the proposals as so modified.
- (3) Where any proposals published under section 212 are so approved, the promoters shall implement the proposals or, in a case where, under this subsection, the Secretary of State modifies the proposals at their request, shall implement the proposals as modified.
- (4) Proposals required to be implemented under this section shall be implemented in accordance with any particulars adopted or approved under section 214(5) or (6).

## **216 Exercise of powers before proposed date of implementation, and payment of grant.**

- (1) Where proposals have been approved or adopted under section 214, the powers conferred on the governing body by or under this Part shall, until the date of implementation of the proposals, be exercised only for the purpose of or in connection with the conduct of the school on or after that date.
- (2) In the case of proposals under section 212, the funding authority may at any time after the incorporation date make grants to the governing body in respect of the provision of premises for the school.
- (3) So far as the amount of any grant under subsection (2) relates to the provision of a site for the school or of school buildings, it shall not exceed 85 per cent. of the sums expended by the governing body in respect of the provision of the site and buildings in question.
- (4) Where proposals have been approved or adopted under section 214, then, in respect of the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals—
  - (a) Chapter VI (funding of grant-maintained schools) shall not apply, but
  - (b) the funding authority may make grants to the governing body (other than grants in respect of the provision of premises for the school) in respect of expenditure incurred or to be incurred by that body.
- (5) The funding authority may impose on a governing body to whom a grant is made under subsection (2) or (4) such requirements as they may from time to time determine (whether before, at or after the time when the grant is made).

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- (6) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the funding authority of the whole or any part of the following amount.
- (7) That amount is—
- (a) the amount of the payments made in respect of the grant, or
  - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.
- (8) No such requirement as is referred to in subsection (6) may be imposed where any grant is made under subsection (2) in respect of the provision of premises for the school if any freehold interest in the premises in respect of which the grant is paid is, or is to be, held on trust for the purposes of the school.
- (9) In this section “site” does not include playing fields.

### *Supplementary*

#### **217 Chapter IV: interpretation.**

In relation to proposals for the establishment of a new grant-maintained school or to a school established in pursuance of such proposals—

- (a) the date specified in the proposals as the proposed incorporation date is referred to in this Part as the “incorporation date”, and
- (b) the date specified in the proposals as the proposed date of implementation is referred to in this Part as the “date of implementation of the proposals”.

## **CHAPTER V**

### GOVERNMENT, CONDUCT ETC. OF GRANT-MAINTAINED SCHOOLS

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

**C36** Pt. III Chapter V (ss. 218-243) modified (1.11.1996) by 1996 c. 57, ss. 37(3), 48(2)

### *The governing instruments*

#### **218 Constitution of governing body and conduct of school.**

- (1) For every governing body of a grant-maintained school there shall be—
- (a) an instrument (known as the instrument of government) providing for the constitution of the governing body, and
  - (b) an instrument (known as the articles of government) in accordance with which the school is to be conducted.
- (2) The instrument and articles of government—
- (a) shall comply with any requirements imposed by or under this Chapter, and

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- (b) may make any provision authorised by or under this Chapter to be made and such other provision as may be necessary or desirable.
- (3) Subject to any express provision of the instrument or articles of government, the school shall be conducted in accordance with any trust deed relating to it.
- (4) Schedule 22 (membership and proceedings etc. of governing bodies) shall have effect.
- (5) Schedule 23 (content of articles of government) shall also have effect.

## **219 Initial instruments and articles of government.**

- (1) The initial instrument of government for the governing body of a grant-maintained school, and the initial articles of government for such a school, shall be such as are prescribed.
- (2) The initial instrument of government shall have effect as from the incorporation date.
- (3) The initial articles of government shall have effect as from the date of implementation of the proposals but, in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, such of the articles as may be prescribed shall have effect as from the incorporation date.
- (4) Before making any regulations under this section the Secretary of State shall consult—
  - (a) a body appearing to him to be representative of the Church of England,
  - (b) a body appearing to him to be representative of the Church in Wales, and
  - (c) a body appearing to him to be representative of the Roman Catholic Church,in matters relating to the provision of education in grant-maintained schools having foundation governors.

## **220 Subsequent instruments of government.**

- (1) The Secretary of State may—
  - (a) if the governing body of a grant-maintained school submit a draft of an instrument of government to have effect in place of their existing instrument, by order make a new instrument of government in terms of the draft or in such terms as he thinks fit, and
  - (b) if such a governing body submit draft modifications—
    - (i) of an instrument made under paragraph (a), or
    - (ii) of an instrument of government made under section 57(1)(a) of the <sup>M37</sup>Education Act 1993 or Chapter IV of Part I of the <sup>M38</sup>Education Reform Act 1988 which has effect (by virtue of Schedule 39 to this Act) as if made under paragraph (a),by order modify the instrument concerned in terms of the draft or in such terms as he thinks fit;but he shall not make a new instrument otherwise than in terms of the draft, or modify the instrument otherwise than in terms of the draft, unless he has consulted the governing body.
- (2) No order may be made under subsection (1) in respect of a school having foundation governors unless the governing body have consulted—
  - (a) the person who appoints the foundation governors, and

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- (b) in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority (if different).
- (3) The Secretary of State may by order modify the instrument of government for the governing body of any grant-maintained school.
- (4) An order under subsection (3)—
  - (a) may relate to all grant-maintained schools, to any category of such schools specified in the order or to any such school so specified, but
  - (b) shall not be made unless the Secretary of State has consulted—
    - (i) the governing body of each grant-maintained school to which the order relates,
    - (ii) (if the order relates only to a school having foundation governors) the person who appoints them and, if it is a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority (if different), and
    - (iii) (if the order relates to two or more schools and any of the schools are Church of England, Church in Wales or Roman Catholic Church schools having foundation governors) a body appearing to the Secretary of State to be representative of the church in question in matters relating to the provision of education in grant-maintained schools having foundation governors.
- (5) Where, by reason of the making of a new instrument, or the modification of an instrument, under this section the number of governors of any category will (unless the required number of governors of that category resign) exceed the number provided for in the instrument, the new instrument or, as the case may be, the instrument as modified shall provide—
  - (a) for such number of governors of that category as is required to eliminate the excess to cease to hold office, and
  - (b) for the selection of those who are to cease to hold office.

#### Marginal Citations

**M37** 1993 c. 35.

**M38** 1988 c. 40.

## 221 Subsequent articles of government.

- (1) The governing body of a grant-maintained school 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 any articles made under paragraph (a) or, where articles made under section 58(1)(a) of the <sup>M39</sup>Education Act 1993 or Chapter IV of Part I of the <sup>M40</sup>Education Reform Act 1988 have effect (by virtue of Schedule 39 to this Act) as if made in accordance with this Part, those articles.
- (2) Before exercising that power, the governing body of a school having foundation governors shall consult—
  - (a) the person who appoints the foundation governors, and



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- (b) in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority (if different).
- (3) The Secretary of State may by a direction under this section require the governing bodies of grant-maintained schools or any class of such schools specified in the direction or the governing body of any particular grant-maintained school so specified to modify their articles of government in any manner so specified.
- (4) Before giving a direction under this section, the Secretary of State shall consult—
  - (a) the governing body or (as the case may be) each governing body to which the direction applies,
  - (b) (if the direction relates only to a school having foundation governors) the person who appoints them and, if it is a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority (if different), and
  - (c) (if the direction relates to two or more schools and any of the schools are Church of England, Church in Wales or Roman Catholic Church schools having foundation governors) a body appearing to the Secretary of State to be representative of the church in question in matters relating to the provision of education in grant-maintained schools having foundation governors.

#### Marginal Citations

**M39** 1993 c. 35.

**M40** 1988 c. 40.

### Governors

#### 222 Categories of governors.

Schedule 24 (expressions used in connection with categories of governors) shall have effect.

#### 223 Parent governors.

- (1) Subject to subsection (6), the instrument of government for the governing body of a grant-maintained school shall provide for the governing body to include parent governors.
- (2) Subject to subsection (7), the instrument shall provide for the number of parent governors to be—
  - (a) in the case of a primary school, not less than three nor more than five, and
  - (b) in the case of a secondary school, five.
- (3) The instrument shall provide that if—
  - (a) one or more vacancies for parent governors are required to be filled by election, and
  - (b) the number of parents standing for election as parent governors is less than the number of vacancies,the required number of parent governors shall be made up by persons appointed by the other members of the governing body.

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- (4) The instrument shall require governors, in appointing a person under a provision made by virtue of subsection (3)—
  - (a) to appoint a person who is the registered parent of a registered pupil at the school, where it is reasonably practicable to do so, and
  - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age.
- (5) In the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, in relation to the election of a person as a parent governor to the new governing body—
  - (a) paragraph 7 of Schedule 8 (qualifications and arrangements for election of parent or teacher governors) shall apply as it applies in relation to the election of a parent governor to the existing governing body, and
  - (b) the new governing body shall inform the authority responsible for election arrangements of any vacancy arising for a parent governor, and the instrument shall have effect accordingly.
- (6) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the instrument shall have effect as if—
  - (a) before the date of implementation of the proposals, the governing body had power to appoint as parent governors persons who satisfy the prescribed requirements, and
  - (b) the first appointments were to be made before that date.
- (7) In the case of a primary school, the initial instrument shall provide for the number of parent governors to be such number (being not less than three nor more than five) as is specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (8) Subsection (3) does not apply, in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, to vacancies arising before the date of implementation of the proposals.

## **224 Teacher governors.**

- (1) Subject to subsection (4), the instrument of government for the governing body of a grant-maintained school shall provide for the governing body to include teacher governors.
- (2) Subject to subsection (5), the instrument shall provide for the number of teacher governors to be either one or two.
- (3) In the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, in relation to the election of a person as a teacher governor to the new governing body—
  - (a) paragraph 7 of Schedule 8 shall apply as it applies in relation to the election of a teacher governor to the existing governing body, and
  - (b) the new governing body shall inform the authority responsible for election arrangements of any vacancy arising for a teacher governor, and the instrument shall have effect accordingly.

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- (4) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the instrument shall have effect as if—
  - (a) before the date of implementation of the proposals, the governing body had power to appoint as teacher governors persons who satisfy the prescribed requirements, and
  - (b) the first appointments were to be made before that date.
- (5) The initial instrument shall provide for the number of teacher governors to be such number (being either one or two) as is specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.

## **225 Head teacher.**

- (1) Subject to subsection (3), the instrument of government for the governing body of a grant-maintained school shall provide for the governing body to include (as a governor ex officio) the person who is for the time being the head teacher.
- (2) In the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, the reference in subsection (1) to the head teacher is, in relation to any time before the date of implementation of the proposals, a reference to the existing head teacher.
- (3) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the initial instrument of government for the school shall provide, in relation to any time before the date of implementation of the proposals when a person has been appointed to be the head teacher, for the governing body to include (as a governor ex officio) that person.

## **226 First governors.**

- (1) The instrument of government for the governing body of a grant-maintained school which—
  - (a) is a county school immediately before it becomes grant-maintained, or
  - (b) is established in pursuance of proposals published under section 211,shall provide for the governing body to include first governors.
- (2) The instrument shall provide for such number of first governors as will secure that they outnumber the other governors.
- (3) Subject to subsections (5) and (6), the instrument—
  - (a) shall require—
    - (i) at least two of the first governors to be (on the date or dates on which they respectively take office) parents of registered pupils at the school, and
    - (ii) at least two of the first governors to be (on the date or dates on which they respectively take office) members of the local community,but one person may satisfy both requirements, and
  - (b) shall require the governing body, in appointing first governors, to secure that those governors include persons appearing to them to be members of the local

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business community (and such persons may also satisfy one or both of the requirements of paragraph (a)(i) and (ii)).

- (4) The initial instrument shall provide for the number of first governors to be such number (being a number which will secure that they will outnumber the other governors) as is specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (5) In the case of a grant-maintained school which is a county school immediately before it becomes grant-maintained, the instrument shall, despite subsection (3), have effect in relation to the determination of initial first governors—
  - (a) as if—
    - (i) it required the first governors to include at least two persons who on the date of their selection or nomination are parents of registered pupils at the school, and
    - (ii) it required the first governors to include at least two persons who appear to those selecting or nominating them to be members of the local community,
 but provided that one person might satisfy both requirements, and
  - (b) as if it required the first governors to include persons who appear to those selecting or nominating them to be members of the local business community (and provided that such persons might also satisfy one or both of the requirements of paragraph (a)(i) and (ii) above).
- (6) In the case of a grant-maintained school established in pursuance of proposals published under section 211—
  - (a) any provision of the instrument made by virtue of subsection (3)(a)(i) shall not apply in relation to the appointment before the date of implementation of the proposals of any first governor, and
  - (b) any provision of the instrument made by virtue of subsection (3)(b) shall apply as if references to the governing body were references to the funding authority.
- (7) References in this section to governors other than first governors do not include sponsor governors.

## **227 Power of the Secretary of State to replace first governors.**

- (1) The instrument of government for the governing body of a grant-maintained school which—
  - (a) is a county school immediately before it becomes grant-maintained, or
  - (b) is established in pursuance of proposals published under section 211,
 shall provide for the Secretary of State to have power, where any of subsections (2) to (4) apply, to replace all or any of the first governors.
- (2) This subsection applies where the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any requirement imposed by or under any enactment.
- (3) This subsection applies where—
  - (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,

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- (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 Part I of the <sup>M41</sup>School Inspections Act 1996, 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 received a statement prepared under section 17 of that Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired;
- and expressions used in this subsection and in that Act have the same meaning as in that Act.
- (4) This subsection applies where in the opinion of the Secretary of State any action taken or proposed by the governing body of the school, or any failure of the governing body to act, is prejudicial to the provision of education by the school.
  - (5) The instrument of government for a grant-maintained school which—
    - (a) is a county school immediately before it becomes grant-maintained, or
    - (b) is established in pursuance of proposals published under section 211,shall enable the Secretary of State to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.
  - (6) Any provision made by the instrument of government in pursuance of section 226(3) shall not apply for the purposes of the appointment by virtue of this section of any first governor.

**Marginal Citations**

M41 1996 c. 57.

**228 Foundation governors.**

- (1) The instrument of government for the governing body of a grant-maintained school which—
  - (a) is a voluntary school immediately before it becomes grant-maintained, or
  - (b) is established in pursuance of proposals published under section 212,shall provide for the governing body to include foundation governors.
- (2) The instrument shall provide for such number of foundation governors as will secure that they outnumber the other governors.
- (3) Subject to subsection (5), the instrument may provide for any foundation governorship to be held ex officio.
- (4) Subject to subsection (7), the instrument—
  - (a) where it provides for a foundation governorship to be held ex officio, shall specify the office the holder of which is to be a foundation governor, and
  - (b) shall name the person or persons (if any) who are entitled to appoint any foundation governor.

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- (5) An additional foundation governor appointed by virtue of provision made in the instrument of government in pursuance of section 230(2) may not be appointed to hold office *ex officio*.
- (6) Subject to subsections (8) and (9), the instrument shall provide for at least two of the foundation governors to be (on the date or dates on which they respectively take office) parents of registered pupils at the school.
- (7) The initial instrument shall—
- (a) provide for the number of foundation governors to be such number (being a number which will secure that they will outnumber the other governors) as is specified;
  - (b) (in the case of a grant-maintained school which is a voluntary school immediately before it becomes grant-maintained) provide for the person or persons who, immediately before the incorporation date, were named in the school's instrument of government as being entitled to appoint foundation governors (as defined by section 78(2)) to the existing governing body to be entitled to appoint the foundation governors for the governing body of the grant-maintained school;
  - (c) (in the case of a grant-maintained school established in pursuance of proposals under section 212) provide for the promoters to be entitled to appoint the foundation governors;
  - (d) (where the instrument provides for a foundation governorship to be held *ex officio*) provide for it to be held by the holder of a specified office;
- and in this subsection “specified” means specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (8) In the case of a grant-maintained school which is a voluntary school immediately before it becomes grant-maintained, the instrument shall (despite anything in subsection (6)) have effect in relation to the determination of initial foundation governors as if it provided for the foundation governors to include at least two persons who on the date of their selection or appointment are parents of registered pupils at the school.
- (9) In the case of a grant-maintained school established in pursuance of proposals published under section 212, subsection (6) above shall not apply in relation to the appointment of any foundation governor before the date of implementation of the proposals.

## **229 Sponsor governors.**

- (1) The instrument of government for the governing body of a grant-maintained secondary school may—
- (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the instrument.
- (2) Where a governing body of a school are to be incorporated in pursuance of proposals for acquisition of grant-maintained status, or proposals for the establishment of a new grant-maintained school, which name a person as a sponsor of the school, and the school is to be a secondary school, the initial instrument of government shall provide—

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- (a) for the person so named to be a sponsor of the school, and
  - (b) for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the proposals.
- (3) Where the instrument of government provides for two or more persons named as sponsors of the school in such proposals, or (as the case may be) in the instrument, to appoint governors—
  - (a) it shall provide for each sponsor to appoint such number of governors as is specified in relation to him in the proposals or (as the case may be) instrument, and
  - (b) it may not provide for any of those governors to be appointed by two or more sponsors acting jointly.
- (4) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which name a person as a sponsor of the school, the instrument of government shall have effect as if it required the first appointments of sponsor governors to be made before the date of implementation of the proposals.

### **230 Additional governors.**

- (1) The instrument of government for the governing body of a grant-maintained school shall enable the Secretary of State to appoint not more than two additional governors if it appears to him that the governing body are not adequately carrying out their responsibilities in respect of the conduct or management of the school.
- (2) The instrument shall enable the appointing authority, during any period when any additional governors appointed by the Secretary of State by virtue of subsection (1) are in office, to appoint a number of additional first or, as the case may be, foundation governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.
- (3) In subsection (2) “the appointing authority” means the person entitled to appoint the first or, as the case may be, foundation governors on the governing body or, if more than one person is so entitled, the persons so entitled acting jointly.

### *Powers*

### **231 Powers of governing body.**

- (1) The governing body of a grant-maintained school incorporated in pursuance of proposals for acquisition of grant-maintained status may conduct a school of the same description as the school immediately before the date of implementation of the proposals.
- (2) The governing body of a grant-maintained school incorporated in pursuance of proposals for the establishment of a new grant-maintained school may conduct a school of the description in the proposals.
- (3) The school conducted by the governing body of a grant-maintained school shall not, where changes have been made in the character or premises of the school since the date of implementation of the proposals, be regarded as of a different description to

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that immediately before that date or, as the case may be, to that in the proposals if the changes—

- (a) did not require authorisation under Chapter VII (alteration etc. of grant-maintained schools), or
  - (b) were authorised under that Chapter.
- (4) Subject to subsections (6) and (7) and to any provision made by the instrument or articles of government, the governing body of a grant-maintained school may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the conduct of the school as for the time being constituted.
- (5) The power conferred by subsection (4) includes in particular power—
- (a) in the case of a grant-maintained school established in pursuance of proposals for acquisition of grant-maintained status, to assume the conduct, as from the date of implementation of the proposals, of the school as constituted immediately before that date;
  - (b) in the case of a grant-maintained school established in pursuance of proposals for the establishment of a new grant-maintained school, to conduct, as from the date of implementation of the proposals, a school of the description in the proposals;
  - (c) power 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;
  - (d) to acquire and dispose of land and other property;
  - (e) to enter into contracts, including, in particular, contracts for the employment of teachers and other staff;
  - (f) to invest any sums not immediately required for the purposes of meeting the expenses of conducting the school or any liability transferred to the governing body under section 201; and
  - (g) to accept gifts of money, land or other property and apply it, or hold and administer it on trust, for such purposes.
- (6) The power to borrow sums and grant security mentioned in subsection (5)(c) 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 particular class); but this subsection does not apply in relation to loans under section 255.
- (7) The power to dispose of land mentioned in subsection (5)(d) may only be exercised with the written consent of the Secretary of State.
- (8) Without prejudice to subsection (4), but subject to any provision made by the instrument or articles of government, the governing body of a grant-maintained school may provide education at the school 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 19,
  - (b) it is part-time education suitable to the requirements of junior pupils who have not attained [<sup>F24</sup>compulsory school age] 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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### Textual Amendments

**F24** Words in S. 231(8)(b) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.17** (which Sch. 7 para. 17 was repealed (*prosp.*) by 1998 c. 31, ss. 140(1)(3), 145(3), Sch. 30 para. 223, **Sch. 31** (with ss. 138(9), 144(6))); S.I. 1998/386, art. 2, **Sch. 1 Pt.III**

## 232 Joint schemes.

- (1) Two or more grant-maintained schools may enter into a scheme under this section (referred to in this section and section 233 as a “joint scheme”).
- (2) A joint scheme may—
  - (a) authorise or require the governing bodies of the schools to which the scheme applies to establish joint committees constituted in accordance with the scheme,
  - (b) provide for the meetings and proceedings of any joint committee so constituted, and
  - (c) authorise or require the governing bodies of the schools to which the scheme applies to delegate, in such circumstances as may be determined in accordance with the scheme, such of their functions as may be so determined to any joint committee so constituted.
- (3) A scheme providing for any joint committee must provide for the committee—
  - (a) to consist only of persons who are governors of the schools to which the scheme applies, and
  - (b) to include a head teacher of one of those schools, a parent governor of one of those schools and a first or foundation governor of one of those schools.
- (4) A joint scheme may authorise or require the governing bodies of the schools to which the scheme applies to exercise jointly, in such circumstances as may be determined in accordance with the scheme, such of their functions as may be so determined; but such a scheme may not provide for the joint exercise of any function relating to the employment of teachers unless it also provides for the establishment of a joint committee to exercise that function.
- (5) In relation to any teacher employed in pursuance of a joint scheme, the <sup>M42</sup>School Teachers’ Pay and Conditions Act 1991 shall have effect as if he were employed by the joint committee required to be established under subsection (4) and that joint committee were the governing body of a grant-maintained school.
- (6) A joint scheme shall provide for any expenses of exercising any functions in pursuance of the scheme.
- (7) A joint scheme shall have effect despite anything contained (whether in pursuance of a requirement under this Act or otherwise) in the instrument or articles of government for any of the schools to which the scheme applies.
- (8) A joint scheme shall not have effect in relation to any matter dealt with in any co-ordinated arrangements for admissions (within the meaning of section 430) contained in an agreement approved by the Secretary of State under that section or made in pursuance of a scheme under that section.

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### Marginal Citations

M42 1991 c. 49.

## 233 Making and varying joint schemes.

- (1) A joint scheme shall not come into force until it has been approved by the Secretary of State.
- (2) A joint scheme shall provide for the scheme to cease to have effect where the governing bodies of all the schools to which the scheme applies agree.
- (3) A joint scheme—
  - (a) may be varied by the governing bodies of all the schools to which the scheme applies if the variations are minor variations or the Secretary of State has approved the variations,
  - (b) if the Secretary of State so directs, shall be varied by the governing bodies in accordance with the direction, and
  - (c) if the Secretary of State so directs, shall cease to have effect.
- (4) The Secretary of State may—
  - (a) approve a scheme, or variations, with such modifications as he thinks fit, or
  - (b) give a direction under subsection (3)(b) or (c),
 only after proper consultations.
- (5) In subsection (4) “proper consultations” means consultations with the governing bodies of every school—
  - (a) (in the case of a proposed scheme) to which the scheme will apply,
  - (b) (in the case of a variation) to which the scheme applies, or will apply after the variation, or
  - (c) (in the case of a direction for a scheme to cease to have effect) to which the scheme applies.
- (6) The Secretary of State may by order specify what descriptions of variation are to be regarded as minor for the purposes of this section.

*Schools acquiring grant-maintained status: determination etc. of initial governors*

## 234 Determination of initial parent and teacher governors.

- (1) Where proposals are required to be published under section 193 in respect of a school, this section applies for the purpose of determining the persons who are to be named in the proposals as proposed initial governors of any elected category.
- (2) The authority responsible for election arrangements shall secure that—
  - (a) any election or appointment required for filling any vacancy on the existing governing body occurring before the date of publication of the proposals (including any vacancy arising by virtue of section 235(1)), and
  - (b) any election or appointment required by subsection (7),
 is held or made if possible before that date, and otherwise as soon as possible afterwards.

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- (3) Subject to subsection (4), any person who on the date of publication of the proposals is an eligible governor of an elected category on the existing governing body shall be named in the proposals as published as a proposed initial governor of that category.
- (4) If the number of governors of any elected category to be specified in the proposals is less than the number which, on the date of publication of the proposals, will be the number of eligible governors of that category on the existing governing body, such of the eligible governors of that category as may before the date of publication of the proposals be determined—
  - (a) by agreement between them, or
  - (b) in default of agreement, by drawing lots,shall be named in the proposals as published as the proposed initial governors of that category.
- (5) The existing governing body shall secure that any persons required to be named in the proposals in accordance with subsection (4) are determined before the date of publication of the proposals.
- (6) Subsection (7) applies if the number which is, or is to be, specified in the proposals of governors of any elected category is greater than the complement of eligible governors of that category on the existing governing body on the date of publication of the proposals; and for those purposes that complement is—
  - (a) the number (if any) of eligible governors of that category on the existing governing body, plus
  - (b) the number (if any) of outstanding vacancies for governors of that category on the existing governing body.
- (7) The authority responsible for election arrangements shall secure that such number of persons are elected or appointed, by the procedure applicable under Chapter IV of Part II (government of LEA-maintained schools), to hold office on the proposed governing body as governors of that category as is required to make up the difference between the number specified or to be specified in the proposals and the complement of eligible governors of that category on the existing governing body.
- (8) In a case to which subsection (7) applies, the persons to be named in the proposals as published as the proposed initial governors of the category concerned shall be—
  - (a) any eligible governor of that category, and
  - (b) any person elected or appointed under subsection (7) as an initial governor of that category before the date of publication of the proposals.

### **235 Section 234: supplementary provisions.**

- (1) Subject to subsection (2), where the members of the existing governing body of a school to which section 234 applies include a person—
  - (a) who holds office as a governor of an elected category, and
  - (b) whose term of office is due to come to an end before the date of implementation of the proposals or at any time within the period of six months beginning with that date,the governing body may by notice in writing to that person terminate his term of office on a date specified in the notice.

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- (2) The governing body may only terminate a person's term of office under subsection (1) if—
  - (a) his term of office is due to come to an end after the proposed date of publication of the proposals, or
  - (b) it would not in their view be reasonably practicable, in the time available between the date on which his term of office is due to come to an end and the proposed date of publication of the proposals, to fill the vacancy by the procedure applicable under Chapter IV of Part II.
- (3) Without prejudice to paragraph 11(1) of Schedule 8 (instrument of government for county, controlled or maintained special school to provide for four-year term of office for governors other than ex officio governors), the term of office of a person elected or appointed in accordance with the requirements of Chapter IV of Part II, and any requirements of the instrument of government of the school to fill a vacancy arising by virtue of subsection (1), shall be four years.
- (4) Where any such election or appointment as is referred to in section 234(2) is held or made on or after the date of publication of the proposals, the existing governing body shall publish, at such time and in such manner as may be prescribed, notice of the election or appointment.

### **236 Determination of initial first or foundation governors.**

- (1) Where proposals are required to be published under section 193 in respect of a county school, the existing governing body shall select the persons who are to be the initial first governors.
- (2) Where proposals are required to be published under section 193 in respect of a voluntary school, the person or persons named in the school's instrument of government as being entitled to appoint foundation governors (as defined by section 78(2)) to the existing governing body shall select the persons who are to be the initial foundation governors.
- (3) The duties under subsections (1) and (2) are to be complied with, if possible, before the date of publication of the proposals and otherwise as soon as possible after that date.
- (4) Any person selected under subsection (1) or (2) shall, if possible, be named in the proposals as published as a proposed initial first or, as the case may be, foundation governor.
- (5) In the case of any person so selected who is not named in the proposals as published, the existing governing body shall—
  - (a) give the Secretary of State notice in writing of the relevant particulars in respect of the person selected before such date as may be specified in directions given by the Secretary of State, and
  - (b) publish at such time and in such manner as may be prescribed notice of his selection.
- (6) Where the Secretary of State is notified of any particulars under subsection (5), he shall modify the proposals by including in them the particulars notified to him.
- (7) The existing governing body shall secure that any selection required by subsection (2) is carried out in accordance with that subsection.

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- (8) Where any selection falls in accordance with subsection (2) to be made by two or more persons, it shall be made by those persons acting jointly; and if they fail to agree on the selection it shall be made by the Secretary of State or in accordance with directions given by him.
- (9) Before selecting, or giving any direction as to the selection of, an initial foundation governor in a case where religious education in accordance with the tenets of a particular religion or religious denomination is given to pupils at the school in pursuance of section 377 or 378 (religious education at voluntary schools), the Secretary of State shall consult the persons appearing to him to be the appropriate authority of the religion or denomination concerned.

### **237 Replacement of proposed initial parent and teacher governors before incorporation.**

- (1) This section applies where proposals published under section 193 are pending in respect of a school.
- (2) If a person named in the proposals as a proposed governor of an elected category who has been elected under section 234 or this section—
  - (a) dies,
  - (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body, or
  - (c) notifies the existing governing body that he is no longer willing to serve on the proposed governing body,then, subject to subsection (3), the authority responsible for election arrangements in relation to the school shall secure that a person is elected or appointed by the procedure applicable under Chapter IV of Part II to hold office on the proposed governing body in his place.
- (3) Where in a case to which subsection (2) applies the Secretary of State is satisfied that it would not be reasonably practicable to hold an election or make an appointment in accordance with that subsection in the time available, he shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the existing governing body.
- (4) If at any time a person named in the proposals as a proposed governor of an elected category who was so named by virtue of being an eligible governor of that category—
  - (a) ceases to hold office on the existing governing body,
  - (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body, or
  - (c) notifies the existing governing body that he is no longer willing to serve on the proposed governing body,the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the existing governing body who is at that time an eligible governor of that category and who is neither named in the proposals nor prospectively disqualified as mentioned in paragraph (b).
- (5) Where in a case to which subsection (4)(a) applies—
  - (a) there is no such eligible governor at the time in question, and

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- (b) the Secretary of State is satisfied that it would not be reasonably practicable in the time available before he determines the proposals to fill the vacancy on the existing governing body by the procedure applicable under Chapter IV of Part II,

the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the existing governing body.

- (6) Where in a case to which subsection (4)(b) or (c) applies there is no such eligible governor at the time in question, subsection (2) shall apply as if the former proposed governor had been elected under section 234.
- (7) If a person named in the proposals as a proposed governor of an elected category who has been nominated by the existing governing body under this section—
- (a) dies,
  - (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body, or
  - (c) notifies the existing governing body that he is no longer willing to serve on the proposed governing body,

the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the existing governing body.

- (8) References in this section to a person named in the proposals include any person required to be so named.
- (9) The existing governing body shall—
- (a) give the Secretary of State notice in writing of the occurrence of any event within subsection (2), (4) or (7),
  - (b) make any nomination required for the purposes of this section, and
  - (c) give the Secretary of State notice in writing of the relevant particulars in respect of any person nominated by them under this section.

### **238 Replacement of proposed initial first or foundation governors before incorporation.**

- (1) Where proposals published under section 193 are pending in respect of a county school and a person selected under section 236(1) to be a first governor—
- (a) dies,
  - (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body, or
  - (c) notifies the existing governing body that he is no longer willing to serve on the proposed governing body,

the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the existing governing body.

- (2) Where proposals published under section 193 are pending in respect of a voluntary school and a person selected under section 236(2) to be a foundation governor—
- (a) dies,
  - (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body, or

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- (c) notifies the existing governing body that he is no longer willing to serve on the proposed governing body,
- the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the person or persons named in the school's instrument of government as being entitled to appoint the foundation governors (as defined by section 78(2)) to the existing governing body.
- (3) Subsections (8) and (9) of section 236 apply for the purposes of subsection (2) above as they apply for the purposes of that section, but as if references to selection were to nomination.
- (4) The existing governing body shall—
- (a) give the Secretary of State notice in writing of the occurrence of any event within subsection (1) or (2),
  - (b) make or secure the making of any nomination required for the purposes of this section, and
  - (c) give the Secretary of State written notification of the relevant particulars in respect of any person nominated under this section.

**239 Elections and appointments required for determining initial governors of an elected category: supplementary provisions.**

- (1) Paragraph 7 of Schedule 8 shall apply in relation to the election of a person under section 234 or 237 to hold office as an initial parent governor or an initial teacher governor as it applies in relation to the election of a parent governor or teacher governor to the existing governing body.
- (2) Where the authority responsible for election arrangements in relation to a school to which section 234 applies is the local education authority, the existing governing body shall give notice in writing to the authority of the proposed date of publication of the proposals for acquisition of grant-maintained status for the school.
- (3) Where the authority responsible for election arrangements in relation to a school to which section 234 or 237 applies is the local education authority, the existing governing body shall notify the authority in writing—
- (a) of any election or appointment which appears to them to be required under section 234 or 237 in relation to the proposed governing body, and
  - (b) (if the number of eligible governors of any category on the existing governing body is for the time being less than the proposed number of initial governors of that category) of any vacancy on the existing governing body for a governor of that category.
- (4) Where an election or appointment required for determining a proposed initial governor of any category is held or made at a time when proposals published under section 193 are pending in respect of the school, the existing governing body shall give the Secretary of State notice in writing of the relevant particulars in respect of the person elected or appointed.
- (5) Where the Secretary of State is notified of any particulars under subsection (4), he shall modify the proposals by including in them the particulars notified to him (in substitution, where appropriate, for any particulars they supersede).

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- (6) For the purposes of subsection (4) an election or appointment is required for determining a proposed initial governor of any category if—
- (a) it is required under section 234 or 237, or
  - (b) it is required for filling a vacancy on the existing governing body for a governor of that category and the number of eligible governors of that category on the existing governing body is for the time being less than the proposed number of initial governors of that category.

#### **240 Initial sponsor governors.**

- (1) In relation to any governing body to be incorporated under Chapter II in pursuance of proposals for acquisition of grant-maintained status which give the name of a sponsor of the school, regulations shall make provision—
  - (a) for the determination of the persons who are to be the initial sponsor governors, and
  - (b) for the persons so determined to be named in the proposals, whether as published or as modified in pursuance of the regulations.
- (2) The regulations may in particular make provision corresponding to any of the provisions of sections 234 to 239.

*New grant-maintained schools: determination etc. of initial governors*

#### **241 Initial governors for new grant-maintained schools.**

- (1) This section applies in relation to any governing body to be incorporated under Chapter IV.
- (2) Regulations shall make provision for the appointment of the persons who are to be the initial governors and, in particular, shall require each appointing authority—
  - (a) to obtain the Secretary of State’s consent before making any appointment, and
  - (b) to notify the Secretary of State before the incorporation date of the appointments to all the initial governorships for which the authority is the appointing authority.
- (3) In subsection (2) the “appointing authority”, in relation to any appointment, means the person entitled to make the appointment.

*General and supplementary*

#### **242 Saving for defects in selection or nomination.**

- (1) The proceedings of the governing body of a grant-maintained school shall not be invalidated by any defect in any procedure required under this Chapter in relation to the determination of any person to hold office as an initial governor.
- (2) This section is without prejudice to the generality of paragraph 11 of Schedule 22.

#### **243 Chapter V: interpretation.**

- (1) This section applies for the purposes of this Chapter.



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- (2) References to the authority responsible for election arrangements in relation to a school are references to the authority or body by whom all necessary arrangements for any election of parent governors or teacher governors to the governing body of the school fall to be made under paragraph 7(3) of Schedule 8 (such arrangements to be made by the local education authority or the school's governing body depending on the type of school).
- (3) References, in relation to a vacancy for a governor of an elected category on the existing governing body of a school in respect of which proposals are required to be or have been published under section 193 and in sections 234(7) and 237(2), to the procedure applicable under Chapter IV of Part II are references—
  - (a) except where any provision made by virtue of section 81 (appointment of parent governors by governing body) applies, to the holding of an election under that Chapter, and
  - (b) where any such provision applies, to the making of an appointment in accordance with that provision.
- (4) A person named in proposals for acquisition of grant-maintained status in respect of a school as a proposed initial governor of any category shall be treated as becoming prospectively disqualified for holding office as such a governor on the proposed governing body if an event occurs in relation to him which, if—
  - (a) it had occurred on or after the incorporation date, and
  - (b) the instrument prescribed under section 219 for the governing bodies of schools of the kind in question had then been in force,would have caused him to become disqualified for holding such office.

## CHAPTER VI

### FUNDING OF GRANT-MAINTAINED SCHOOLS

#### *Grants: general*

#### **244 Maintenance grants.**

- (1) Subject to the provisions of this Part, the funding authority shall make annual grants (known as maintenance grants) to the governing body of each grant-maintained school, each such grant being made in respect of expenditure for the purposes of the school incurred or to be incurred by the governing body in the financial year to which the grant relates.
- (2) The amount of the maintenance grant payable in respect of a school for a financial year shall be such as may be determined (and from time to time revised) in accordance with regulations (referred to in this Chapter as “grant regulations”); and grant regulations may provide for determinations (and revisions) to be made by reference to amounts determined or redetermined for the purposes of this section by the Secretary of State.
- (3) Subject to—
  - (a) any provision made by virtue of section 232(6),
  - (b) any requirements imposed by the funding authority under section 247(1), and

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- (c) any requirements as to the application of maintenance grant contained in the articles of government of the school,
- the governing body of a grant-maintained school shall apply any payments made to them in respect of maintenance grant solely for the purposes of the school.
- (4) In this Chapter “the purposes of the school” do not include purposes wholly referable to the provision of—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19.

#### 245 Special purpose grants.

- (1) Grant regulations may provide for the payment by the funding authority to the governing bodies of grant-maintained schools of grants (known as special purpose grants) in respect of expenditure, of any class or description specified in the regulations, incurred or to be incurred by the governing bodies—
  - (a) for or in connection with educational purposes of any class or description so specified,
  - (b) in making any provision (whether of educational services or facilities or otherwise) of any class or description so specified which appears to the funding authority to be required for meeting any special needs of the population of the area served by the schools in question, or
  - (c) in respect of expenses of any class or description so specified, being expenses which it appears to the funding authority the governing bodies of such schools cannot reasonably be expected to meet from maintenance grant.
- (2) Grant regulations may provide for special purpose grants to be payable—
  - (a) on a regular basis in respect of expenditure of a recurrent kind, or
  - (b) by reference to expenditure incurred or to be incurred on particular occasions or during any particular period.

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

C37 S. 245 applied (with modifications) (1.3.1999) by S.I. 1999/274, reg. 2

#### 246 Capital grants.

- (1) Grant regulations may provide for the payment by the funding authority to the governing bodies of grant-maintained schools of grants (known as capital grants) in respect of expenditure of a capital nature, of any class or description specified in the regulations, incurred or to be incurred by the governing bodies.
- (2) The descriptions of expenditure which are to be regarded for the purposes of capital grant as expenditure of a capital nature shall be such as may be determined by or in accordance with the regulations.
- (3) Where the governing body of a grant-maintained school include sponsor governors, the funding authority shall, if directed to do so by the Secretary of State, pay capital grant of such amount as may be specified in the directions in respect of such

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expenditure falling within subsection (1) as is incurred, or to be incurred, by the governing body for such purposes as may be specified in the directions.

- (4) Before giving a direction under subsection (3), the Secretary of State shall consult the funding authority.
- (5) A direction under subsection (3) may not be given after the end of the period of twelve months beginning—
  - (a) (in the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status which include sponsor governors on the incorporation date) with that date,
  - (b) (in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which include sponsor governors on the date of implementation of the proposals) with that date, and
  - (c) (in any other case) with the date when the instrument of government naming a person as the sponsor of the school came into effect.

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

C38 S. 246 modified (20.11.1998) by S.I. 1998/2670, reg. 7(1)

**247 Imposition of requirements on governing body in receipt of grant.**

- (1) A governing body to whom any payments in respect of maintenance grant, capital grant or special purpose grant are made shall comply with such requirements of a kind mentioned in subsection (2) as the funding authority may from time to time impose.
- (2) The kinds of requirements which may be imposed under subsection (1) are—
  - (a) requirements specified in grant regulations as requirements which may be imposed by the funding authority on governing bodies to whom such payments are made, and
  - (b) requirements determined in accordance with grant regulations by the funding authority.
- (3) Requirements imposed under subsection (1)—
  - (a) may be imposed on or at any time after the making of any payment by reference to which they are imposed, and
  - (b) subject to subsection (4), may at any time be varied by the funding authority.
- (4) The power of the funding authority to vary such a requirement—
  - (a) does not apply to a requirement of the kind mentioned in subsection (2)(a), or a requirement required to be imposed by the regulations (by virtue of subsection (9)) or by directions under section 24, unless the Secretary of State has consented to the variation, and
  - (b) is subject, in the case of a requirement of the kind mentioned in subsection (2)(b), to the provisions of the regulations relating to the determination of the requirements that may be imposed in the case of payments in respect of the grant in question.
- (5) Requirements imposed under subsection (1) may at any time be waived or removed by the funding authority with the consent of the Secretary of State.

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- (6) The requirements which may be specified in or authorised by grant regulations as requirements which may be imposed on governing bodies to whom payments are made in respect of special purpose grant or capital grant may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the funding authority of the whole or any part of the following amount.
- (7) That amount is—
- (a) the amount of the payments made in respect of the grant, or
  - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.
- (8) No such requirement as is referred to in subsection (6) may be imposed where any payment is made in respect of capital grant if—
- (a) the grant is made in respect of the provision, alteration or repair of premises for a school, and
  - (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.
- (9) Grant regulations may require the funding authority to impose any such requirements as may be imposed under the preceding provisions of this section.

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

**C39** S. 247 modified (20.11.1998) by S.I. 1998/2670, reg. 7(2)

S. 247 applied (with modifications) (1.3.1999) by S.I. 1999/274, regs. 3, 4

**248 Grants: further provisions.**

- (1) The times at which, and the manner in which, payments are made in respect of—
- (a) maintenance grant for a grant-maintained school in respect of any financial year,
  - (b) special purpose grant, and
  - (c) capital grant,
- shall be such as may be determined from time to time by the funding authority.
- (2) Payments in respect of maintenance grant for a school in respect of any financial year may be made, before any amount has been determined in accordance with grant regulations as the amount of such grant payable for that year in respect of the school, by reference to an estimate of the amount which will be so payable made by the funding authority.
- (3) Where in respect of any financial year an over-payment of maintenance grant is made to the governing body of a school, a sum equal to the amount of that over-payment shall be recoverable from the governing body by the funding authority.
- (4) Where a sum is payable by the governing body of a school to the funding authority—
- (a) in respect of an over-payment of maintenance grant in respect of a financial year, or

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- (b) by way of repayment of special purpose grant or capital grant (whether by virtue of a requirement such as is mentioned in section 247(6) or otherwise), the funding authority may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by them to the governing body.
- (5) In this section references to an over-payment of maintenance grant in respect of a financial year are to any amount by which the aggregate amount of any payments in respect of maintenance grant made to the governing body of the school in question in respect of the year exceeds the amount finally determined in accordance with grant regulations as the amount of maintenance grant payable for that year in respect of the school.
- (6) The funding authority shall exercise any power conferred on them by this section, by any of sections 216 and 244 to 247, or by paragraph 6 of Schedule 21 in such manner (if any) as may be specified in or determined in accordance with grant regulations.

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

- C40** S. 248(1)-(4) modified (20.11.1998) by S.I. 1998/2670, reg. 7(3)  
**C41** S. 248(1)(4) applied (with modifications) (1.3.1999) by S.I. 1999/274, reg. 5

*Grants: Wales (until establishment of the SFCW)*

**249 Application of sections 250 to 254.**

Before the Schools Funding Council for Wales begin to exercise their functions, sections 250 to 254 shall have effect in relation to grant-maintained schools in Wales in place of sections 244(1) and (3), 245(1), 246(1), 247 and 248.

**250 Maintenance grants.**

- (1) Subject to the provisions of this Part, the Secretary of State shall make annual grants (known as maintenance grants) to the governing body of each grant-maintained school, each such grant being made in respect of expenditure for the purposes of the school incurred or to be incurred by the governing body in the financial year to which the grant relates.
- (2) Subject to—
- (a) any provision made by virtue of section 232(6),
  - (b) any requirements imposed by the Secretary of State under section 253(1) or (3), and
  - (c) any requirements as to the application of maintenance grant contained in the articles of government of the school,
- the governing body of a grant-maintained school shall apply any payments made to them in respect of maintenance grant solely for the purposes of the school.

**251 Special purpose grants.**

Grant regulations may provide for the payment by the Secretary of State to the governing bodies of grant-maintained schools of grants (known as special purpose

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grants) in respect of expenditure incurred or to be incurred by them of any class or description specified in the regulations—

- (a) for or in connection with educational purposes of any class or description so specified,
- (b) in making any provision (whether of educational services or facilities or otherwise) of any class or description so specified which appears to the Secretary of State to be required for meeting any special needs of the population of the area served by the school, or
- (c) in respect of expenses of any class or description so specified, being expenses which it appears to the Secretary of State the governing bodies of such schools cannot reasonably be expected to meet from maintenance grant.

## **252 Capital grants.**

Grant regulations may provide for the payment by the Secretary of State to the governing bodies of grant-maintained schools of grants (known as capital grants) in respect of expenditure of a capital nature, of any class or description specified in the regulations, incurred or to be incurred by the governing bodies.

## **253 Imposition of requirements on governing body in receipt of grant.**

- (1) A governing body to whom any payments in respect of maintenance grant or special purpose grants are made shall comply with such requirements of a kind mentioned in subsection (2) as the Secretary of State may from time to time impose.
- (2) The kinds of requirements which may be imposed under subsection (1) are—
  - (a) requirements specified in grant regulations as requirements which may be imposed by the Secretary of State on governing bodies to whom such payments are made, and
  - (b) requirements determined in accordance with grant regulations by the Secretary of State.
- (3) A governing body to whom any payments in respect of capital grant are made shall comply with such requirements determined by the Secretary of State as he may from time to time impose.
- (4) Requirements imposed under subsection (1) or (3)—
  - (a) may be imposed on or at any time after the making of any payment by reference to which they are imposed, and
  - (b) may at any time be waived or removed or, subject to subsection (5), varied by the Secretary of State.
- (5) The power of the Secretary of State to vary such a requirement—
  - (a) does not apply to a requirement of the kind mentioned in subsection (2)(a), and
  - (b) is subject, in the case of a requirement of the kind mentioned in subsection (2)(b), to the provisions of the regulations relating to the determination of the requirements that may be imposed in the case of payments in respect of the grants in question.
- (6) The requirements—

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- (a) which may be specified in or authorised by grant regulations as requirements which may be imposed on governing bodies to whom payments are made in respect of special purpose grant, or
  - (b) which may be imposed by the Secretary of State on a governing body to whom payments in respect of capital grant are made,
- may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the Secretary of State of the whole or any part of the following amount.
- (7) That amount is—
- (a) the amount of the payments made in respect of the grant, or
  - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.
- (8) No such requirement as is referred to in subsection (6) may be imposed where any payment is made in respect of capital grant if—
- (a) the grant is made in respect of the provision, alteration or repair of premises for a school, and
  - (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.

#### **254 Grants: further provisions.**

- (1) The times at which, and the manner in which, payments are made in respect of—
- (a) maintenance grant for a grant-maintained school in respect of any financial year,
  - (b) special purpose grants, and
  - (c) capital grants,
- shall be such as may be determined from time to time by the Secretary of State.
- (2) Payments in respect of maintenance grant for a school in respect of any financial year may be made, before any amount has been determined in accordance with grant regulations as the amount of such grant payable for that year in respect of the school, by reference to an estimate of the amount which will be so payable made by the Secretary of State.
- (3) Where in respect of any financial year an over-payment of maintenance grant is made to the governing body of a school, a sum equal to the amount of that over-payment shall be recoverable from the governing body by the Secretary of State.
- (4) Where a sum is payable by the governing body of a school to the Secretary of State—
- (a) in respect of an over-payment of maintenance grant in respect of a financial year, or
  - (b) by way of repayment of special purpose grant or capital grant (whether by virtue of a requirement such as is mentioned in section 253(6) or otherwise),
- the Secretary of State may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by him to the governing body.
- (5) In this section references to an over-payment of maintenance grant in respect of a financial year are to any amount by which the aggregate amount of any payments in

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respect of maintenance grant made to the governing body of the school in question in respect of the year exceeds the amount finally determined in accordance with grant regulations as the amount of maintenance grant payable for that year in respect of the school.

### *Loans*

#### **255 Loans to governing bodies.**

- (1) The appropriate authority may make loans to the governing bodies of grant-maintained schools in respect of expenditure of any class or description specified in regulations (“loan regulations”) incurred or to be incurred by the governing bodies for or in connection with such purposes as may be so specified.
- (2) Any loan under this section shall be made on such terms as loan regulations may require, being terms specified in or determined in accordance with the regulations.
- (3) Where any sum is payable by the governing body of a grant-maintained school to the appropriate authority in respect of the principal of, or interest on, any loan under this section, the appropriate authority may (without prejudice to any other mode of recovery) recover the whole or any part of that sum by deducting it from any grant payable by them to the governing body.
- (4) In this section “the appropriate authority”—
  - (a) in relation to Wales before the Schools Funding Council for Wales begin to exercise their functions, means the Secretary of State, and
  - (b) in any other case, means the funding authority.
- (5) The funding authority shall exercise any power conferred on them by this section in such manner (if any) as may be specified in or determined in accordance with loan regulations.

### *Recovery from local funds*

#### **256 Recovery from local funds of sums in respect of maintenance grant.**

- (1) Where the Secretary of State so determines, this section applies to a local education authority in respect of any financial year for which the determination is made; and the determination may apply this section in respect of all grant-maintained schools in the area of the authority or in respect of such grant-maintained schools in that area as may be ascertained by or in accordance with the determination.
- (2) The Secretary of State shall, in respect of each financial year for which he makes a determination under subsection (1) in respect of a local education authority, give notice in writing to the authority of the terms of the determination.
- (3) The Secretary of State may, in the case of a local education authority to which this section applies in respect of any financial year, recover from the authority sums in respect of the maintenance grant payable for that year to the governing bodies of any grant-maintained schools in respect of which the determination applies.
- (4) Subject to subsection (5), sums recoverable by virtue of this section in respect of a school for any financial year—



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- (a) shall be of such amounts, and
  - (b) shall fall due on such date or dates,
- as may be determined by the Secretary of State.
- (5) The amount of any sum so recoverable shall be determined by reference to any amount—
- (a) which has previously been determined under section 257 as the total amount recoverable in respect of the school and financial year in question, or
  - (b) (where no amount has previously been determined as mentioned in paragraph (a)) which is estimated by the Secretary of State as the amount which will initially be determined under section 257 as the total amount recoverable in respect of the school and financial year in question,
- and which the Secretary of State considers it appropriate to adopt for the time being as a basis for determining the amounts of sums so recoverable.
- (6) The Secretary of State may recover sums due to him under this section in either or both of the following ways—
- (a) by requiring the local education authority to pay the whole or any part of any such sum at such time or times as he thinks fit, and
  - (b) by deducting, at such time or times as he thinks fit, the whole or any part of any such sum from any grant payable by him to the authority under any enactment (whenever passed) or from any amount payable by him to the authority under Part III of Schedule 8 to the <sup>M43</sup>Local Government Finance Act 1988 (redistributed non-domestic rates).

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

C42 S. 256 restricted (1.4.1997) by S.I. 1997/599, reg. 24(1)

**Marginal Citations**

M43 1988 c. 41.

**257 Determination of total amount recoverable under section 256.**

- (1) The total amount recoverable by virtue of section 256 in respect of a school for any financial year shall be such as may be determined (and from time to time revised) in accordance with regulations made by the Secretary of State (“recoupment regulations”).
- (2) Subject to any provision made by such regulations by virtue of subsection (3), recoupment regulations shall provide for the total amount so recoverable to be determined by reference to any amount determined under grant regulations as the amount of the maintenance grant payable in respect of the school and the financial year in question (as from time to time revised).
- (3) Recoupment regulations may provide for reducing any amount which would otherwise fall to be determined under the regulations as the total amount recoverable from any local education authority by virtue of section 256 for a financial year by reference to any excess amounts recovered under that section in respect of any previous financial year.

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- (4) For the purposes of subsection (3) an excess amount is recovered under section 256 in respect of a financial year if the aggregate amount of the sums recovered under that section for that year from the local education authority—
- (a) in respect of any school in respect of which sums are recoverable from the authority under that section, or
  - (b) (where there is more than one such school) in respect of both or all of those schools,
- exceeds the total amount recoverable in accordance with recoupment regulations in respect of that school or (as the case may be) in respect of both or all of those schools for that year.

## **258 Provisions consequential on section 256.**

- (1) For the purposes of sections 492 and 493 (recoupment for provision for education of pupils belonging to, or having connection with, area of another authority), the provision for education made in any financial year in respect of a registered pupil at a grant-maintained school which is not made by the local education authority shall, if sums are recoverable under section 256 in respect of the school and that year from the authority, be taken to have been made by them.
- (2) The reference in subsection (1) to provision for education includes a reference to provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education.
- (3) The governing body of a grant-maintained school shall, if sums are recoverable under section 256 in respect of the school from a local education authority, provide the authority with such information relating to the registered pupils at the school as the authority may require for the purpose of claiming any amount in respect of such a pupil from another authority by virtue of regulations under section 492 or 493.

## **CHAPTER VII**

### **ALTERATION ETC. OF GRANT-MAINTAINED SCHOOLS**

## **259 Proposals for change of character etc. by governing body.**

- (1) Subject to subsection (2), where the governing body of a grant-maintained school intend to make a significant change in the character, or a significant enlargement of the premises, of the school or to transfer the school to a new site they shall—
  - (a) publish proposals for that purpose in such manner as may be prescribed, and
  - (b) submit to the Secretary of State a copy of the published proposals.
- (2) No proposals shall be published under this section for the purpose of making a significant change in the religious character of a school unless the trustees under any trust deed relating to the school have given their consent in writing to the change in question; and the requirement to publish proposals under subsection (1) does not apply in relation to a transfer of a school to a new site if it is intended to return to the existing site within three years of the time of the transfer.
- (3) Before publishing any proposals under this section, the governing body shall consult such persons as appear to them to be appropriate; and in discharging their duty under

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this subsection, the governing body shall have regard to any guidance given to them from time to time by the Secretary of State.

- (4) Proposals published under this section shall include particulars—
- (a) of the proposed time or times of implementation of the proposals, and
  - (b) of the number of pupils proposed to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and, if pupils are proposed to be admitted for nursery education, shall give the prescribed information.
- (5) Proposals published under this section shall be accompanied by a statement which—
- (a) describes any effect the implementation of the proposals would have on provision at the school for pupils who have special educational needs, and
  - (b) explains the effect of subsection (6).
- (6) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M44</sup>Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.
- (7) Where the proposals are to transfer a school to a site in a different area, objections under subsection (6) to the proposals may also be submitted by any ten or more local government electors for that area.
- (8) No decision taken at a meeting of the governing body of a grant-maintained school that would result in the publication of proposals under this section shall have effect unless it is confirmed at a second meeting of the governing body held not less than 28 days after the first.

**Marginal Citations**

M44 1992 c. 13.

**260 Proposals for change of character etc. by funding authority.**

- (1) This section has effect in respect of the area of a local education authority if an order under section 27(1) applies to the area.
- (2) Where the funding authority are of the opinion that—
- (a) a significant change should be made in the character of a grant-maintained school,
  - (b) a significant enlargement of the premises of such a school should be made, or
  - (c) such a school should be transferred to a new site in the area or in another area to which an order under section 27(1) applies,

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they may publish proposals for that purpose in such manner as may be prescribed and submit a copy of the published proposals to the Secretary of State.

- (3) No proposals shall be published under this section for the purpose of making a significant change in the religious character of a school; and subsection (2) does not apply in relation to a transfer of a school to a new site if it is intended to return to the existing site within three years of the time of the transfer.
- (4) Before publishing any proposals under this section the funding authority shall consult—
- (a) such persons as appear to them to be appropriate, and
  - (b) (in the case of a Church of England, Church in Wales or Roman Catholic Church school having any foundation governor who is appointed by the appropriate diocesan authority) that authority;
- and in discharging their duty under paragraph (a) the funding authority shall have regard to any guidance given to them from time to time by the Secretary of State.
- (5) Proposals published under this section shall include particulars—
- (a) of the proposed time or times of implementation of the proposals, and
  - (b) of the number of pupils proposed to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and, if pupils are proposed to be admitted for nursery education, shall give the prescribed information.
- (6) Proposals published under this section shall be accompanied by a statement which—
- (a) describes any effect the implementation of the proposals would have on provision at the school for pupils who have special educational needs, and
  - (b) explains the effect of subsection (7).
- (7) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the funding authority by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of the school to which the proposals relate,
  - (c) the governing body of any other school affected by the proposals,
  - (d) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M45</sup>Further and Higher Education Act 1992 applies), and
  - (e) any local education authority concerned.
- (8) Where the proposals are to transfer a school to a site in a different area, objections under subsection (7) to the proposals may also be submitted by any ten or more local government electors for that area.
- (9) Not later than one month after the end of that period, the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them.

#### Marginal Citations

M45 1992 c. 13.

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## **261 Approval, adoption or rejection of proposals.**

- (1) Proposals published under section 259 require the approval of the Secretary of State.
- (2) Proposals published under section 260 require the approval of the Secretary of State if—
  - (a) he gives notice to that effect to the funding authority within two months after the submission to him of the published proposals, or
  - (b) objections have been made under subsection (7) of that section within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (3) Where under subsection (1) or (2) any proposals require the approval of the Secretary of State, he may—
  - (a) reject them,
  - (b) approve them without modification, or
  - (c) after consulting the governing body (and, in the case of proposals published under section 260, the funding authority) approve them with such modifications as he thinks desirable.
- (4) Where proposals published under section 260 do not require the approval of the Secretary of State, the funding authority shall determine whether to adopt the proposals.
- (5) The funding authority shall—
  - (a) make any determination under subsection (4) not later than four months after the publication of the proposals, and
  - (b) give notice in writing to the Secretary of State and the governing body of their determination.

## **262 Approval of school premises.**

- (1) Where the governing body of a grant-maintained school publish proposals under section 259, they shall, if the funding authority so direct, submit to the authority, at such time and in such form and manner as the authority may direct, the particulars mentioned in subsection (3); and particulars so submitted require the approval of the funding authority under this section.
- (2) Where the funding authority publish proposals under section 260, they shall, if in their opinion the circumstances so require, prepare the particulars mentioned in subsection (3); and particulars so prepared require adoption by the funding authority under this section.
- (3) The particulars are—
  - (a) particulars of the provision made or to be made in respect of the means of access to and within the premises or proposed premises of the school, and
  - (b) such other particulars in respect of the premises or proposed premises of the school as the funding authority may require or, in the case of proposals published under section 260, as may be required.
- (4) The particulars prepared or submitted under subsection (3)(a) shall indicate the extent to which the provision referred to conforms with the minimum requirements, so far as they are relevant to school premises, of—

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- (a) Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or
- (b) (if that Note has been replaced by a document prescribed by regulations made or having effect as if made under the <sup>M46</sup>Town and Country Planning Act 1990) that document.

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

**C43** S. 262 modified (1.4.1999) by S.I. 1999/704, reg. 5

**Marginal Citations**

**M46** 1990 c. 8.

**263 Implementation of proposals, etc.**

- (1) Where any proposals are approved or adopted under section 261, it shall be the duty of the governing body of the school to which the proposals relate to implement them.
- (2) Proposals required to be implemented under this section shall be implemented in accordance with any particulars approved or adopted under section 262.
- (3) The Secretary of State may, at the request of a governing body, modify any proposals published under section 259 which the governing body are required to implement under this section.
- (4) The Secretary of State may—
  - (a) at the request of a governing body, or
  - (b) at the request of the funding authority and after consulting the governing body, modify any proposals published under section 260 which the governing body are required to implement under this section.
- (5) Neither the governing body of a grant-maintained school nor any other person shall make any significant change in the character, or significant enlargement of the premises, of the school or transfer the school to a new site, or undertake to do any of those things, unless proposals have been published under section 259 or 260 and any requirements of section 261 have been complied with.
- (6) Subsection (5) does not—
  - (a) prevent the Secretary of State allowing such steps to be taken by the governing body of a grant-maintained school, pending compliance with those requirements and the giving or making of the approval or adoption, as the Secretary of State considers reasonable in the circumstances, or
  - (b) apply to any transfer of a school to a new site falling within section 259(2) or 260(3).

**264 Power to transfer functions under preceding provisions etc.**

- (1) The Secretary of State may by order provide for this Part to have effect with the modifications in subsections (2) to (7) in relation to any proposals published by the governing body of a grant-maintained school under section 259 after the coming into force of the order.

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- (2) The governing body shall submit a copy of the proposals to the funding authority as well as to the Secretary of State.
- (3) Any objections under subsection (6) of that section to the proposals shall be submitted to the funding authority instead of to the Secretary of State.
- (4) If any objection is made under subsection (6) of that section within the period allowed under that subsection and not withdrawn in writing within that period, then, not later than one month after the end of that period—
  - (a) the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them, and
  - (b) may themselves submit to the Secretary of State an objection to the proposals.
- (5) Sections 261(1) and 263(3) shall not apply to the proposals unless—
  - (a) the Secretary of State gives notice to the funding authority within two months after the submission to him of the published proposals that the proposals require his approval, or
  - (b) objections have been made under subsection (6) of section 259 within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (6) Where sections 261(1) and 263(3) do not apply to the proposals—
  - (a) the proposals shall require the approval of the funding authority,
  - (b) the funding authority may reject them, approve them without modification or, after consulting the governing body, approve them with such modifications as they think desirable, and
  - (c) where the governing body are required to implement the proposals under section 263, the funding authority may at their request modify the proposals.
- (7) Paragraph 20 of Schedule 4 shall not apply in relation to the proposals.
- (8) In this Part—
  - (a) references to approval under, or the requirements of, section 261 include approval under, or the requirements of, this section, and
  - (b) references to the modification of proposals under section 263(3) include the modification of proposals under subsection (6)(c).
- (9) This section does not apply to proposals published under section 198 (to which this Chapter is applied by subsection (3) of that section); and section 263(3) is not disappplied by this section in the case of proposals treated for the purposes of this Part (by virtue of section 37(9) or 43(6)) as if they had been approved under section 261.

**265 Proposals for change of character approved before school becomes grant-maintained.**

- (1) This section applies where—
  - (a) proposals for a change in the character or an enlargement of the premises of a county or voluntary school, or for the transfer of a county or voluntary school to a new site, have been approved under section [F<sup>25</sup>37 or 43], and
  - (b) the school becomes a grant-maintained school before the proposals are implemented.

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- (2) The proposals—
- (a) shall be treated for the purposes of this Part as if they had been published under section 260 and approved under section 261, and
  - (b) shall be implemented in accordance with any particulars approved under section 39 or (as the case may be) 44.
- (3) Subsection (2) is subject to section 210.

#### Textual Amendments

**F25** Words in s. 265(1)(a) substituted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.18**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.I**

## 266 Chapter VII: interpretation.

- (1) References in this Part to a change in the character of a school do not include any change resulting only from persons beginning or ceasing to be provided with—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age,
  - (b) part-time education suitable to the requirements of junior pupils who have not attained [<sup>F26</sup>compulsory school age] where the school provides full-time education for junior pupils of the same age, or
  - (c) full-time education suitable to the requirements of persons who have attained the age of 19.
- (2) Where proposals for a significant change in the character, or significant enlargement of the premises, of a school or for the transfer of a school to a new site have been approved or adopted under section 261, references in this Chapter to the proposals are references to the proposals as approved or adopted, subject to any modifications of the proposals under section 263(3) or (4).

#### Textual Amendments

**F26** Words in s. 266(1)(b) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.19**; s.I. 1998/386, art. 2, Sch. 1 Pt.III

## CHAPTER VIII

### DISCONTINUANCE OF GRANT-MAINTAINED SCHOOLS

#### *Proposals for discontinuance*

## 267 Proposals by governing body for discontinuance.

- (1) The governing body of a grant-maintained school may publish proposals under this section for the discontinuance of the school if they—
- (a) decide by a resolution passed at a meeting of that body to publish such proposals, and



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- (b) confirm that decision by a resolution passed at a subsequent meeting of the governing body held not less than 28 days after that at which the first resolution was passed.
- (2) Before passing such a resolution as is mentioned in subsection (1)(a), the governing body shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the governing body shall have regard to any guidance given to them from time to time by the Secretary of State.
- (3) The governing body shall, as soon as practicable after the passing of the second resolution, give notice in writing of the second resolution to the local education authority.
- (4) The governing body may, within the period of six months beginning with the date of the second resolution, publish proposals for the discontinuance of the school in such manner as may be prescribed and, where they do so, shall submit to the Secretary of State a copy of the published proposals.
- (5) The published proposals shall specify the proposed date of discontinuance of the school.
- (6) The published proposals shall be accompanied by a statement—
  - (a) indicating whether or not there are any proposals for the premises of the school to be used by any new or existing school, and
  - (b) explaining the effect of subsection (7).
- (7) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the Secretary of State by any of the following—
  - (a) any ten or more local government electors,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M47</sup>Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.

**Marginal Citations**

M47 1992 c. 13.

**268 Proposals by funding authority for discontinuance.**

- (1) This section has effect in respect of the area of a local education authority if an order under section 27(1) applies to the area.
- (2) The funding authority may publish, in such manner as may be prescribed, proposals for the discontinuance of any grant-maintained school and, where they do so, shall submit to the Secretary of State a copy of the published proposals.
- (3) The published proposals shall specify the proposed date of discontinuance of the school.
- (4) Before publishing any proposals under this section the funding authority shall consult—

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- (a) such persons as appear to them to be appropriate, and
  - (b) (in the case of a Church of England, Church in Wales or Roman Catholic Church school having any foundation governor who is appointed by the appropriate diocesan authority) that authority;
- and in discharging their duty under paragraph (a) the funding authority shall have regard to any guidance given to them from time to time by the Secretary of State.
- (5) The published proposals shall be accompanied by a statement—
- (a) indicating whether or not there are any proposals for the premises of the school to be used by any new or existing school, and
  - (b) explaining the effect of subsection (6).
- (6) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the funding authority by any of the following—
- (a) any ten or more local government electors,
  - (b) the governing body of the school to which the proposals relate,
  - (c) the governing body of any school affected by the proposals,
  - (d) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies), and
  - (e) any local education authority concerned.
- (7) Not later than one month after the end of that period, the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them.

## **269 Approval, adoption or rejection of proposals.**

- (1) Proposals published under section 267 require the approval of the Secretary of State.
- (2) Proposals published under section 268 require the approval of the Secretary of State if—
- (a) he gives notice to that effect to the funding authority within two months after the submission to him of the published proposals, or
  - (b) objections have been made under subsection (6) of that section within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (3) Where under subsection (1) or (2) any proposals require the approval of the Secretary of State, he may—
- (a) reject them,
  - (b) approve them without modification, or
  - (c) after consulting the governing body (and, in the case of proposals published under section 268, the funding authority) approve them with the substitution of a different date for the date of discontinuance proposed.
- (4) Where the Secretary of State approves any such proposals he shall give notice in writing of that fact and of the discontinuance date to the governing body and (except where the school is in Wales and the Schools Funding Council for Wales have not begun to exercise their functions) the funding authority.

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- (5) Where proposals published under section 268 do not require the approval of the Secretary of State, the funding authority shall determine whether to adopt the proposals.
- (6) The funding authority shall—
  - (a) make any determination under subsection (5) not later than four months after the publication of the proposals, and
  - (b) give notice in writing to the Secretary of State and the governing body of their determination and, if they adopt the proposals, of the discontinuance date.

## **270 Implementation of proposals.**

- (1) Where any proposals are approved under section 269, the governing body shall cease to conduct the school on the discontinuance date.
- (2) In this section “the discontinuance date” means—
  - (a) the date of discontinuance specified in the proposals as approved, or
  - (b) if—
    - (i) at the request of the governing body, or
    - (ii) in the case of proposals published under section 268, at the request of the funding authority and after consulting the governing body, the Secretary of State subsequently fixes another date (whether in substitution for the date specified in the proposals as approved or in substitution for a date previously fixed under this subsection), that date.
- (3) The governing body of a grant-maintained school shall not discontinue the school except in pursuance of proposals published under section 267 or 268 and approved or adopted under section 269.

## **271 Power to transfer functions under preceding provisions.**

- (1) The Secretary of State may by order provide for this Part to have effect with the modifications in subsections (2) to (7) in relation to any proposals published by the governing body of a grant-maintained school under section 267 after the coming into force of the order.
- (2) The governing body shall submit a copy of the proposals to the funding authority as well as to the Secretary of State.
- (3) Any objections under subsection (7) of that section to the proposals shall be submitted to the funding authority instead of to the Secretary of State.
- (4) If any objection is made under subsection (7) of that section within the period allowed under that subsection and not withdrawn in writing within that period, then, not later than one month after the end of that period—
  - (a) the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them, and
  - (b) may themselves submit to the Secretary of State an objection to the proposals.
- (5) Section 269(1) shall not apply to the proposals unless—

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- (a) the Secretary of State gives notice to the funding authority within two months after the submission to him of the published proposals that the proposals require his approval, or
  - (b) objections have been made under subsection (7) of section 267 within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (6) Where section 269(1) does not apply to the proposals—
- (a) the proposals shall require the approval of the funding authority,
  - (b) the funding authority may reject them, approve them without modification or, after consulting the governing body, approve them with the substitution of a different date for the date of discontinuance proposed,
  - (c) where the funding authority approve them, they shall give notice in writing of that fact and of the discontinuance date to the governing body, and
  - (d) the reference in section 270(2)(b) to the Secretary of State shall be read as a reference to the funding authority.
- (7) Paragraph 21(b) of Schedule 4 shall not apply in relation to the proposals.
- (8) References in this Part to approval under section 269 include approval under this section.

#### *Withdrawal of grant*

### **272 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) does not apply, the notice shall—
- (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

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- (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) 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 the time so specified (or allowed), either—
- (a) give notice in writing to the governing body extending the period 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 <sup>M48</sup>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) 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 273 shall have effect as if subsection (6)(a) above and section 273(4) and (5) were omitted.

**Marginal Citations**

**M48** 1992 c. 13.

**273 Withdrawal or variation of notice under section 272.**

- (1) The Secretary of State may by giving notice in writing to the governing body—
- (a) withdraw a notice under section 272(2) or (5)(b),
  - (b) vary a notice under section 272(2) in relation to which section 272(3) applies or a notice under section 272(5)(b) 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 272(2), so far as relating to any measures specified in it by virtue of section 272(4)(b).
- (2) If by virtue of subsection (1)(c) 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 272(4)(c) a time which is not earlier than that time or, where the time so specified has been extended under section 272(5)(a), than that time as so extended.
- (3) Any variation under subsection (2) of the time specified in a notice is without prejudice to any further extension of that time under section 272(5)(a).

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- (4) Where the Secretary of State withdraws a notice by virtue of subsection (1)(a), 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), he shall give a copy of the notice as varied to the funding authority.

### *Winding up and disposal of property*

## **274 Power to provide by order for winding-up and disposal of property.**

- (1) Where—
  - (a) proposals for the discontinuance of a grant-maintained school have been approved or adopted under section 269, or
  - (b) the Secretary of State has given notice to the governing body of a grant-maintained school under section 272 specifying a date on which the funding authority’s duty to maintain the school will cease,
 the Secretary of State may by order make provision for the winding up of the governing body and the disposal of the school property.
- (2) Subsections (3) to (7) apply for the purposes of this section and sections 275 to 279.
- (3) “Governing body in liquidation” means a governing body in respect of which any order has been made under this section.
- (4) “School property”, in relation to a grant-maintained school conducted or formerly conducted by a governing body in liquidation, means—
  - (a) the premises used or formerly used for the purposes of the school,
  - (b) any interest belonging to the governing body, or held by any trustees on trust for the purposes of the school, in a dwelling-house used or held or formerly used or held for occupation by a person employed to work at the school, and
  - (c) all other equipment and property used or held or formerly used or held for the purposes of the school (including any right to such property), except money and any investments to which section 279 applies.
- (5) References to a grant-maintained school formerly conducted by a governing body in liquidation apply in circumstances where the school has been discontinued before the dissolution date and refer to the school as conducted immediately before discontinuance (and “formerly” in subsection (4)(a) to (c) applies in the same circumstances and refers to the time immediately before the discontinuance of the school concerned).
- (6) “Dissolution date”, in relation to a governing body in liquidation or the grant-maintained school conducted or formerly conducted by such a body, means the date appointed in relation to that body by virtue of section 275(5).
- (7) “Section 67 loan liabilities”, in relation to a governing body in liquidation, means any liabilities in respect of any loans made under section 67 (or section 105 of the <sup>M49</sup>Education Act 1944) which were transferred to the governing body under section 201.

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#### Marginal Citations

M49 1944 c. 31.

### 275 Winding up.

- (1) An order under section 274 may set out a proposed timetable for the winding up of the governing body and, in particular, for—
  - (a) securing that all property belonging to the governing body or held by any trustees on trust for the purposes of the school is brought into the custody or control of that body or those trustees (as the case may require),
  - (b) discharging any liabilities of the governing body,
  - (c) making any provision mentioned in subsection (2), and
  - (d) the preparation and audit of the governing body’s final accounts.
- (2) The provision referred to in subsection (1)(c) is provision authorised to be made—
  - (a) by section 277 (for or in connection with the transfer of the school property), or
  - (b) by section 278 (in respect of the discharge of the liabilities of the governing body).
- (3) An order under section 274 may make provision as to the exercise of the governing body’s functions in relation to the school including, in particular—
  - (a) provision requiring the governing body in the exercise of those functions to comply with any directions given by the Secretary of State,
  - (b) provision authorising any of those functions to be exercised by a member of the governing body specified in the order, and
  - (c) provision for the application of the seal of the governing body to be authenticated by the signature of a person specified in the order.
- (4) An order under section 274—
  - (a) may make provision for conferring or imposing functions on the governing body in relation to the winding up and the management and disposal of the school property, and
  - (b) may require the governing body to give to persons employed by them notice terminating their contracts of employment as from a date specified in the order.
- (5) Subject to subsection (6), an order under section 274 may appoint a date on which the governing body are to be dissolved.
- (6) The Secretary of State shall not appoint a dissolution date unless he is satisfied that—
  - (a) all liabilities of the governing body (other than any section 67 loan liabilities which fall to be transferred or terminated under section 278) have been discharged,
  - (b) all costs of the winding up have been met,
  - (c) any provision authorised by any of sections 277 to 279 which is possible and expedient in the circumstances of the case has been made, and
  - (d) anything required to be done by the governing body for the purposes of or in connection with any such provision has been done.

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## 276 Grants to governing body in liquidation.

- (1) The funding authority may make grants to a governing body in liquidation for the purpose of—
  - (a) discharging any liabilities of that governing body (other than section 67 loan liabilities), and
  - (b) meeting any costs incurred by that governing body for the purposes of the winding up in pursuance of an order under section 274.
- (2) The funding authority may impose on a governing body to whom such a payment is made such requirements as they may from time to time determine (whether before, at or after the time when the payment in question is made).

### Modifications etc. (not altering text)

C44 S. 276 amended (1.4.1999) by S.I. 1999/600, reg. 2

## 277 Disposal of school property.

- (1) Subject to the provisions of any order under section 274, any school property held by the governing body in liquidation immediately before the dissolution date, other than property held by them on trust for the purposes of the school, shall—
  - (a) in the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, vest on that date in the local education authority, and
  - (b) in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, vest on that date in the funding authority.
- (2) Such an order may, on such date as may be specified in the order as the transfer date, vest the school property or any part of it in any person specified in the order and, where the order does so, it may provide for any property so vested to be held beneficially or on such trusts as may be specified in the order.
- (3) Where any school property is—
  - (a) vested under subsection (1) in any person other than the funding authority, or
  - (b) vested in pursuance of an order under section 274,
 such an order may require the person in whom any property is so vested to pay in respect of the property to the Secretary of State or to such other person as may be so specified such consideration (not exceeding the maximum consideration) as may be so specified.
- (4) Subsection (3) does not apply to property held on trust for the purposes of the school otherwise than by the governing body; but, where an order under section 274 vests in any person property so held otherwise than by the governing body, the order shall require that person to pay to the trustees the maximum consideration in respect of the property.
- (5) The maximum consideration that may be specified in such an order in respect of any school property is—
  - (a) so far as the property consists of premises (including any interest in a dwelling-house such as is mentioned in section 274(4)(b)), such an amount



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- as the Secretary of State determines to be the market value of the premises as at, or as at a date no earlier than six months before, the dissolution date or, as the case may be, the transfer date, and
- (b) so far as it consists of other property, such an amount as the Secretary of State determines to be a fair consideration for the transfer of that property.
- (6) Where such an order requires any person in whom any premises are vested to pay any consideration in respect of the premises, the order shall specify the amount determined by the Secretary of State under subsection (5)(a); and any dispute as to that amount may be referred to the Lands Tribunal by—
- (a) the person in whom the premises are vested,  
(b) the person from whom they are transferred, or  
(c) the person to whom the consideration is to be paid,  
and shall then be determined by the Tribunal.
- (7) Where—
- (a) by virtue of subsection (3) or (4) such an order requires any person in whom any premises are vested to pay any consideration in respect of the premises, and  
(b) on a reference under subsection (6) the Lands Tribunal determine a different amount from that determined by the Secretary of State,  
the Secretary of State shall consider whether the amount of the consideration specified in the order requires alteration in the light of the determination of the Tribunal and, if it does, he shall vary the order accordingly.
- (8) Where—
- (a) any school property has been vested in the funding authority, or a local education authority, under subsection (1) and, in the case of property vested in the local education authority, no order under section 274 required them to pay any consideration in respect of the property, and  
(b) the funding authority or local education authority subsequently dispose of the property so vested, or any part of it,  
the Secretary of State may require the authority concerned to pay to him or to such person as he may specify the whole or any part of the proceeds of the disposal.
- (9) Nothing in subsection (1) or in any provision included in an order under section 274 by virtue of this section shall affect any interest or right of a person in, to or over any school property, being an interest or right which is held by that person otherwise than for the purposes of the school.

## **278 Disposal of school property: supplementary.**

- (1) Where by virtue of an order under section 274 the premises used or formerly used for the purposes of the school, or any part of those premises, are vested in persons proposing to establish a new independent school on the premises—
- (a) such an order may require those persons to discharge any liabilities of the governing body in liquidation in respect of redundancy payments, and  
(b) where the order does so, those liabilities shall be taken into account in determining the amount of consideration (if any) which those persons are required to pay by virtue of section 277(3).

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- (2) Subsection (1) does not apply to any property held on trust for the purposes of the school otherwise than by the governing body.
- (3) Where the premises used or formerly used for the purposes of the school, or any part of those premises, are to be used for the purposes of a new or existing grant-maintained school, an order under section 274 may provide for the transfer to the governing body of the new or existing school of such rights or liabilities of the governing body in liquidation as were acquired or incurred in connection with the premises which are to be so used.
- (4) If—
- (a) the school was an aided or special agreement school immediately before it became grant-maintained,
  - (b) proposals have been approved under section 43 (approval of proposals for establishment or alteration of voluntary schools) for the maintenance as a voluntary school of a school which is proposed to be established on the school premises, and
  - (c) the Secretary of State has directed that the proposed school shall be an aided school,

any section 67 loan liabilities of the governing body in liquidation shall on the dissolution date be transferred to and become liabilities of the temporary governing body of the new school (subject to any variation of the terms applicable in relation to the loans in question immediately before that date that may be agreed between the Secretary of State and that governing body).

- (5) If—
- (a) subsection (4)(a) and (b) apply, but
  - (b) no direction that the proposed school shall be an aided school has been given before the dissolution date,

any section 67 loan liabilities of the governing body shall be terminated on that date.

- (6) If—
- (a) any liabilities of the governing body have been terminated by virtue of subsection (5), and
  - (b) a new voluntary school is established on the school premises in pursuance of any proposals approved under section 43,

the amount of those liabilities shall be treated for the purposes of section 173 (restrictions on discontinuance of voluntary schools by governors) as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the premises of the new school.

## **279 Surplus money and investments.**

- (1) Subject to the following provisions of this section—
- (a) any money held by or for a governing body in liquidation (whether held in cash or to their account at or on deposit with any bank or other institution), and
  - (b) any investments to which this section applies held by or for such a governing body,

shall, after discharge of the liabilities and costs mentioned in subsection (2), be paid or (as the case may be) transferred by the governing body to the Secretary of State.

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- (2) The liabilities and costs referred to in subsection (1) are—
- (a) all the liabilities of the governing body in liquidation (other than any not required to be discharged before the dissolution date is appointed), and
  - (b) all costs of the winding up.
- (3) Where the Secretary of State is satisfied as to the whole or any part of any such money or as to any such investments—
- (a) that the money or that part of it was derived, or (as the case may be) those investments were acquired, otherwise than from grants paid by him or the funding authority under this Part, and
  - (b) that it ought to be paid, or the investments ought to be transferred, to a local education authority or to some other person,
- he may require the governing body to pay the money or (as the case may be) an amount equal to the part in question, or to transfer those investments, to such local education authority or other person as he may specify, either beneficially or to be held on trust for such purposes as he may specify.
- (4) Where the premises of the school are to be used for the purposes of a new or existing grant-maintained school, the Secretary of State may require the governing body in liquidation, after discharge of the liabilities mentioned in subsection (2)—
- (a) to pay any money held by or for them, and
  - (b) to transfer any investments to which this section applies held by or for them,
- to the governing body of the new or existing grant-maintained school, either beneficially or to be held on trust for such purposes as he may specify.
- (5) Without prejudice to the powers of the Secretary of State under subsections (3) and (4), any payment of money or transfer of investments under this section shall be free of any trusts on which the money or investments are held by the governing body before the payment or transfer is made.
- (6) This section applies to any investment within the meaning of the <sup>M50</sup>Financial Services Act 1986 which falls within—
- (a) any of paragraphs 1 to 6 of Schedule 1 to that Act (investments and investment business), or
  - (b) paragraph 11 of that Schedule, so far as referring to investments falling within any of paragraphs 1 to 6.
- (7) References in subsection (6) to any paragraphs of Schedule 1 to the Financial Services Act 1986 include references to those paragraphs as amended by any order under section 2 of that Act (power to extend or restrict scope of Act) which amends those paragraphs for the purposes of all the provisions of that Act.

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**Marginal Citations**

M50 1986 c. 60.

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## CHAPTER IX

### GROUPS OF GRANT-MAINTAINED SCHOOLS

#### **280 Nature of group.**

- (1) Subject to the provisions of this Chapter, two or more grant-maintained schools may be conducted as a group by a single governing body.
- (2) In the case of such a group—
  - (a) there shall be an instrument (known as the instrument of government) providing for the constitution of the governing body, and
  - (b) for each school in the group there shall be an instrument (known as the articles of government) in accordance with which the school is to be conducted.
- (3) The instrument and articles of government—
  - (a) shall comply with any requirements imposed by or under this Chapter, and
  - (b) may make any provision authorised by or under this Chapter to be made and such other provision as may be necessary or desirable.
- (4) Subject to any express provision of the instrument or articles of government, each school in such a group shall be conducted in accordance with any trust deed relating to it.
- (5) The provisions of Schedules 22 and 23 (other than paragraph 14 of Schedule 22) shall have effect in relation to groups of grant-maintained schools with such modifications as may be prescribed.
- (6) Subject to any provision made by or under this Chapter, where there is a group of grant-maintained schools any provision of an enactment which applies to such schools shall apply separately in relation to each of the schools.
- (7) References in this Chapter to a group are to a group of grant-maintained schools conducted, or to be conducted, by a single governing body.

#### **281 Instruments and articles of government for group.**

- (1) The initial instrument of government for the governing body of a group and the initial articles of government for each school in the group shall be such as are prescribed.
- (2) The initial instrument of government shall have effect as from the date on which the governing body are incorporated.
- (3) The initial articles of government shall have effect as from the date of implementation of the proposals in pursuance of which the school became a member of the group.
- (4) Section 220 shall apply in relation to the governing body of a group as it applies in relation to the governing body of a grant-maintained school.
- (5) Section 221 shall apply in relation to a school in a group as it applies in relation to other grant-maintained schools.

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## **282 Parent governors.**

- (1) The instrument of government for the governing body of a group shall provide for the governing body to include parent governors.
- (2) The number of parent governors shall not be—
  - (a) less than three, or
  - (b) (subject to paragraph (a)) more than the number of schools in the group.
- (3) Subject to subsection (6), the parent governors shall be elected by persons who are registered parents of registered pupils at schools in the group; but, if any of the schools in the group is established in a hospital, the instrument may provide for any of the parent governors to be appointed by the other members of the governing body.
- (4) To qualify for such election a person must when he is elected be a registered parent of a registered pupil at one of the schools in the group and, to qualify for such appointment, a person must when he is appointed be such a parent or, if that is not reasonably practicable, a parent of one or more children of compulsory school age.
- (5) The instrument shall provide for each parent governor to hold office for a term of four years.
- (6) The instrument shall provide that if—
  - (a) one or more vacancies for parent governors are required to be filled by election, and
  - (b) the number of parents standing for election as parent governors is less than the number of vacancies,the required number of parent governors shall be made up by persons appointed by the other members of the governing body.
- (7) The instrument shall require governors, in appointing a person under a provision made by virtue of subsection (6)—
  - (a) to appoint a person who is the registered parent of a registered pupil at one of the schools in the group, where it is reasonably practicable to do so, and
  - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age.

## **283 Teacher governors.**

- (1) The instrument of government for the governing body of a group shall provide for the governing body to include either one or two teacher governors.
- (2) Each teacher governor shall be elected by persons who are teachers at schools in the group.
- (3) To qualify for such election, a person must when he is elected be a teacher at one of the schools in the group.
- (4) The instrument shall provide for each teacher governor to hold office for a term of four years.

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**284 Head teacher governors.**

The instrument of government for the governing body of a group shall provide for the head teacher of each school in the group to be an ex officio governor, unless he chooses not to be.

**285 Core governors.**

- (1) The instrument of government for the governing body of a group shall provide for the governing body to include core governors.
- (2) Schedule 25 (which makes provision in relation to core governors for groups) shall have effect.
- (3) The instrument shall provide for core governors to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.

**286 Power of the Secretary of State to replace core governors.**

- (1) The instrument of government for the governing body of a group shall provide for the Secretary of State to have power, where any of subsections (2) to (4) apply, to replace all or any of the core governors, other than any externally appointed core governor appointed in respect of a particular school.
- (2) This subsection applies where the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any requirement imposed by or under any enactment.
- (3) This subsection applies where—
  - (a) there is a report of an inspection of any of the schools 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 Part I of the <sup>MS1</sup>School Inspections Act 1996, 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 received a statement prepared under section 17 of that Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired;

and expressions used in this subsection and in that Act have the same meaning as in that Act.
- (4) This subsection applies where in the opinion of the Secretary of State any action taken or proposed by the governing body, or any failure of the governing body to act, is prejudicial to the provision of education by any of the schools.
- (5) The instrument of government shall enable the Secretary of State to make such provision as he thinks fit for filling vacancies for core governors other than externally appointed governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.

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- (6) Any provision made by the instrument of government in pursuance of Schedule 25 shall not apply for the purposes of the appointment by virtue of this section of any core governor.

**Marginal Citations**

M51 1996 c. 57.

**287 Additional governors.**

- (1) The instrument of government for the governing body of a group shall enable the Secretary of State to appoint not more than two additional governors if it appears to him that the governing body are not adequately carrying out their responsibilities in respect of the conduct or management of any of the schools in the group.
- (2) The instrument shall enable the governing body, during any period when any additional governors appointed by the Secretary of State by virtue of subsection (1) are in office, to appoint a number of additional core governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.
- (3) Section 285(3) and Schedule 25 do not apply to additional core governors.

**288 Powers.**

In the case of a group of grant-maintained schools conducted by a single governing body, that body shall have in relation to each of the schools the powers conferred by section 231 on the governing body of a grant-maintained school.

**289 Application of maintenance grants in the case of groups.**

- (1) For each financial year the governing body of a group shall apply for the purposes of each school in the group the share of maintenance grant which is attributable to that school.
- (2) For the purposes of subsection (1), in each financial year the share of maintenance grant which is attributable to each school in a group is the amount which in the case of that school is the prescribed percentage of the maintenance grant payable in respect of the school.
- (3) The governing body of a group shall not apply otherwise than for the purposes of schools in the group any payments made to them in respect of maintenance grant.
- (4) This section is subject to—
- (a) any requirements imposed under section 247(1) or, as the case may be, 253(1), and
  - (b) any requirements as to the application of maintenance grant contained in the articles of government for any of the schools.
- (5) In relation to groups of grant-maintained schools, this section has effect in place of section 244(3) or, as the case may be, 250(2).

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## **290 School acquiring grant-maintained status as a member of a group, etc.**

- (1) Regulations may make provision—
  - (a) for two or more schools, each of which is eligible for grant-maintained status and satisfies the prescribed requirements, to become grant-maintained schools conducted by a single governing body,
  - (b) for two or more grant-maintained schools, each of which is not a member of a group and satisfies the prescribed requirements, to become a new group conducted by a single governing body,
  - (c) for a school which is eligible for grant-maintained status, or is a grant-maintained school, and satisfies the prescribed requirements to become a member of an existing group,
  - (d) for the schools in two or more existing groups, where each of the schools satisfies the prescribed requirements, to become one group, and
  - (e) for a school in a group, where the school satisfies the prescribed requirements, to leave the group but continue to be a grant-maintained school (whether as a member of a group or not).
- (2) Regulations shall require in the case of each school which is not a grant-maintained school but is to acquire grant-maintained status as a member of a group—
  - (a) a resolution of the existing governing body to hold a ballot of parents on the question of whether grant-maintained status as a member of a group should be sought for the school,
  - (b) a ballot of parents at the school,
  - (c) the publication by the existing governing body (together with the existing governing bodies of any other schools which are to acquire grant-maintained status as members of the same group) of proposals for the schools to acquire grant-maintained status and be conducted by a single governing body, and
  - (d) the approval of such proposals, as originally published or as modified by the Secretary of State (whether before or after they are approved).
- (3) Regulations shall require in the case of each grant-maintained school which is not a member of a group but is to become a member of a new group—
  - (a) a resolution for the purpose of the existing governing body,
  - (b) the publication by the existing governing body (together with the governing bodies of any other schools which are to become members of the group) of proposals for the schools to become a new group conducted by a single governing body, and
  - (c) the approval of such proposals, as originally published or as modified by the Secretary of State (whether before or after they are approved).
- (4) Regulations made by virtue of subsection (2) or (3) shall not enable the Secretary of State to modify any proposals after approving them so as to exclude any school to which they relate; and where under such regulations the Secretary of State modifies any proposals so as to exclude any school to which they relate—
  - (a) he may not approve them without the consent of the existing governing bodies of the schools to which the proposals as modified relate, and
  - (b) if he approves them, the regulations shall have effect as if the proposals as published had related only to those schools.
- (5) Where proposals for the purposes of subsection (1)(a) or (b) are approved, regulations shall provide—



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- (a) for the determination of the persons who are to be the initial members of the governing body,
  - (b) for their incorporation, and
  - (c) for sections 282 to 286, Schedule 25 and the instrument of government to have effect in relation to any person who becomes a member of the governing body—
    - (i) before the date of implementation of the proposals, or
    - (ii) before the date on which the first instrument under section 220(1) for the governing body comes into effect,with such modifications as may be prescribed.
- (6) Where proposals for the purposes of subsection (1)(a) in relation to any schools, or proposals for the purposes of subsection (1)(c) in relation to a school which is eligible for grant-maintained status, are approved, regulations shall provide in relation to each of the schools—
- (a) for the local education authority to cease to be under a duty to maintain the school,
  - (b) for any special agreement relating to the school to cease to have effect, and
  - (c) for the functions, during the period beginning with the approval of the proposals and ending with their implementation, of the governing body incorporated under the regulations.
- (7) Where proposals for the purposes of subsection (1)(b) are approved, regulations shall provide for the functions, during the period beginning with the approval of the proposals and ending with their implementation, of the governing body incorporated under the regulations.
- (8) In relation to—
- (a) any schools seeking to acquire grant-maintained status as a group or grant-maintained schools seeking to become a new group,
  - (b) any school seeking to become a member of an existing group, and
  - (c) schools in a group,
- regulations may provide for any relevant provision of this Act to apply with such modifications as may be prescribed.
- (9) For the purposes of subsection (8) “relevant provision of this Act” means—
- (a) any provision of this Part other than—
    - [<sup>F27</sup>(i)] section 198, 199, 291, 292, 294, [<sup>F28</sup>306A, 307, 307A] or 308, or
    - (ii) a provision of this Chapter, or
  - (b) any provision of this Act not contained in this Part which reproduces a provision of Part II of the <sup>M52</sup>Education Act 1993 (other than Chapter IX of that Part of that Act).
- (10) Regulations may make provision for the governing body of a group to be reconstituted where any change occurs in the membership of the group.
- (11) The Secretary of State may instead of, or in addition to, prescribing requirements for the purposes of subsection (1) issue guidance as to the requirements he would expect to be satisfied for any application—
- (a) for any maintained schools, or grant-maintained schools, to become a new group,

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- (b) to join or leave a group, or
  - (c) for the merger of groups,
- to be approved.

(12) In subsection (11) “maintained school” means any county school or voluntary school and any maintained special school not established in a hospital.

(13) This section does not apply to nursery schools.

#### **Textual Amendments**

**F27** Word in s. 290(9) substituted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 20(a)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. I**

**F28** Words in s. 290(9) substituted (1.4.1998 except so far as relating to the substitution of “307A” for “307” and in force at 1.9.1998 in so far as not already in force) by 1997 c. 44, s. 57(1), **Sch. 1 para. 20(b)**; S.I. 1998/386, art. 2, **Sch. 1 Pts. II,IV**

#### **Marginal Citations**

**M52** 1993 c. 35.

## **CHAPTER X**

### GENERAL AND MISCELLANEOUS

#### *Middle schools*

#### **291 Grant-maintained middle schools.**

Proposals published under section 211, 212, 259 or 260 may, if the authority, persons or body making them think fit—

- (a) specify an age below 10 years and six months and an age above 12 years, and
- (b) provide that the school to which the proposals relate is to be a school for providing full-time education suitable to the requirements of pupils whose ages are between the ages so specified.

#### *Nursery education*

#### **292 Nursery education in grant-maintained schools.**

(1) No proposals may be published—

- (a) under section 211 or 212 for the establishment of any nursery school, or
  - (b) under section 259 or 260 for a school to become a nursery school;
- and nothing in Chapter II applies to a nursery school.

(2) Subject to subsection (1) above, proposals under section 211, 212, 259 or 260 may, in particular, be made for the purpose of securing the provision of education for junior pupils who have not attained [<sup>F29</sup>compulsory school age].

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#### Textual Amendments

- F29** Words in s. 292(2) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.21**; S.I. 1998/386, art. 2, **Sch. 1 Pt.III**

### *Further education*

#### **293 Provision of further education in grant-maintained schools.**

It shall be the duty of the governing body of any grant-maintained school which provides—

- (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
- (b) full-time education suitable to the requirements of persons who have attained the age of 19,

to secure that, except in such circumstances as may be prescribed, it is not provided at any time in a room where pupils are at that time being taught.

### *Teacher training*

#### **294 Provision of courses of initial teacher training.**

- (1) Section 12 of the <sup>M53</sup>Education Act 1994 confers power on the governing body of a grant-maintained school—

- (a) to provide courses of initial training for school teachers, or
- (b) to join in a partnership or association with other eligible institutions, or (whether alone or jointly with other eligible institutions) to establish a body, for the purpose of providing such courses.

- (2) In subsection (1) “eligible institution” has the meaning given by section 4(2) of that Act.

#### Marginal Citations

- M53** 1994 c. 30.

### *Provision of benefits and services by local education authority*

#### **295 Provision of benefits and services for pupils etc. by local education authority.**

- (1) Where—

- (a) a local education authority are under a duty, or have power, to provide any benefits or services for pupils, and
- (b) the duty is to be performed, or the power may be exercised, both in relation to pupils at schools maintained by a local education authority and in relation to pupils at grant-maintained schools,

the authority shall in performing the duty, or exercising the power, treat pupils at grant-maintained schools no less favourably (whether as to the benefits or services provided

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or as to the terms on which they are provided) than pupils at schools maintained by a local education authority.

(2) Where—

- (a) a local education authority are under a duty, or have power, to provide any benefits or services for persons, other than pupils, receiving education at a school, and
- (b) the duty is to be performed, or the power may be exercised, both in relation to such persons at schools maintained by a local education authority and in relation to such persons at grant-maintained schools,

the authority shall in performing the duty, or in exercising the power, treat such persons at grant-maintained schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than such persons at schools maintained by a local education authority.

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

C45 S. 295 restricted (24.1.1999) by S.I. 1999/101, reg. 24

*Transfer and disposal of premises*

**296 Transfer of premises to trustees.**

(1) Where grant under section 216(2) or capital grant is paid to the governing body of a grant-maintained school established in pursuance of proposals published under section 212 in respect of the provision of a site for the school or of school buildings, a requirement shall be imposed under section 216 or, as the case may be, Chapter VI for the purpose of securing that the site or buildings in question are held on trust by trustees of the school.

(2) Where buildings are to be provided for any grant-maintained school which are—

- (a) to form part of the school premises, and
- (b) to be constructed partly on land held by the governing body and partly on land held on trust for the purposes of the school by persons other than the governing body,

the governing body shall transfer to those persons the land held by the governing body on which the buildings are to be constructed; and section 231(7) does not apply to a transfer required by this subsection.

(3) In this section “site” does not include playing fields.

**297 Disposal of premises on transfer of school to new site.**

(1) Where—

- (a) the funding authority pay capital grant in respect of a transfer of a grant-maintained school to a new site authorised under Chapter VII, and
- (b) the governing body or any trustees of the school possess, or are or may become entitled to, a sum representing the proceeds of disposal of other premises which have been used for the purposes of the school,

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the governing body or (as the case may be) the trustees or their successors shall pay to the Secretary of State the whole of that sum, if it is equal to or less than the amount of the capital grant, and otherwise so much of it as is required to repay that amount.

- (2) Any sum paid under subsection (1) shall, in a case where any interest in the new site has vested in any trustees of the school, be treated for the purposes of section 14 of the <sup>M54</sup>Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (3) Where trustees of a grant-maintained school are required to pay any sum to the Secretary of State under subsection (1) in a case where any interest in the new site is or is to be held by the governing body, then—
  - (a) if the interest or, as the case may be, all the interests held by any persons for the purposes of the school in the previous site were freehold interests held by the trustees, the governing body shall transfer their interest in the new site to the trustees, and
  - (b) if in any other case the trustees held any interest in the previous site, the governing body shall, if directed to do so by the Secretary of State, transfer to the trustees their interest in the whole of the new site or such part of it as may be specified in the direction.
- (4) Where trustees of a grant-maintained school are required to pay any sum to the Secretary of State under subsection (1) in a case in which they may also be required to pay any sum to a local education authority under section 62(2) in respect of the disposal of the same premises, section 62(2) shall have effect as if—
  - (a) in relation to that disposal, the reference to the purchase money paid in respect of the acquisition of the premises were a reference to so much of the amount of that purchase money as remains after deducting the amount of the payment under subsection (1) above, and
  - (b) any premises transferred to the trustees in pursuance of subsection (3) above were premises conveyed by the authority as mentioned in section 62(2).
- (5) In subsection (3)(a) “site” does not include playing fields.

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**Marginal Citations**

**M54** 1841 c. 38.

**298 Disposal of premises transferred under section 201.**

- (1) This section applies where the governing body of a grant-maintained school apply to the Secretary of State for his consent to the disposal of—
  - (a) any premises transferred to the governing body under section 201(1)(a), or
  - (b) any premises acquired wholly or partly with the proceeds of the disposal of any premises so transferred or of any premises so acquired.
- (2) Subject to subsection (3), the Secretary of State may—
  - (a) require the premises or any part of the premises to be transferred to such local authority as the Secretary of State may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate, or

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- (b) where he does not impose a requirement under paragraph (a), require the governing body, when the premises are disposed of, to pay to such local authority as the Secretary of State may specify the whole or any part of the proceeds of disposal.
- (3) Where the occasion of the disposal is a transfer of the school to a new site in respect of which the funding authority have paid capital grant—
- (a) no requirement shall be imposed under subsection (2)(a), and
  - (b) the reference in subsection (2)(b) to the proceeds of disposal shall be read as a reference to such part (if any) of those proceeds as remains after repayment of the amount of that capital grant in accordance with section 297.

### **299 Disposal of premises held by trustees.**

- (1) This section applies where any premises—
- (a) transferred to the governing body of a grant-maintained school under section 201(1)(a), or
  - (b) acquired by such a governing body wholly or partly with the proceeds of the disposal of any premises so transferred or of any premises so acquired,
- have been transferred by them to be held on trust by the trustees of the school.
- (2) If at any time the trustees dispose of the premises the Secretary of State may require them to pay to such local authority as he may specify the whole or any part of the proceeds of the disposal.

### **300 Disposal of premises provided, etc. by the funding authority.**

- (1) Where the governing body of a grant-maintained school apply to the Secretary of State for his consent to the disposal of—
- (a) any premises provided by the funding authority, or
  - (b) any premises acquired wholly or partly with the proceeds of the disposal of any premises so provided or of any premises so acquired,
- the Secretary of State may require the governing body, when the premises are disposed of, to pay to him or to the funding authority the whole or any part of the proceeds of disposal.
- (2) Where—
- (a) any premises falling within subsection (1)(a) or (b) are transferred by the governing body to be held on trust by the trustees of the school, or
  - (b) any premises in respect of which capital grant was paid are transferred by the governing body (otherwise than in pursuance of a requirement imposed in accordance with section 296 or in pursuance of section 297(3)) to be held on trust by the trustees of the school,
- then, if at any time the trustees dispose of the premises, the Secretary of State may require them to pay to him or to the funding authority the whole or any part of the proceeds of the disposal.

### **301 Interpretation of sections 296 to 300.**

- (1) For the purposes of sections 297 and 298, the funding authority are to be regarded as paying capital grant in respect of the transfer of a school to a new site if they pay

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capital grant in respect of the acquisition of the new site or the provision on that site of the school buildings or of any other buildings forming part of the new school premises.

- (2) In sections 296 to 300 “trustees of the school” means any person (other than the governing body) holding property on trust for the purposes of the school.
- (3) For the purposes of sections 297 to 300—
  - (a) a governing body or trustees are to be regarded as disposing of any premises if those premises are acquired from them, whether compulsorily or otherwise, and
  - (b) “proceeds of disposal”, in relation to a disposal of premises by a governing body or trustees, means the compensation or purchase money paid in respect of the acquisition from them of those premises.
- (4) In subsection (3)—
  - (a) references to the acquisition of premises from a governing body or trustees include, in the case of any premises held under a tenancy to which Part II of the <sup>M55</sup>Landlord and Tenant Act 1954 (“the 1954 Act”) applies, the termination of that tenancy under that Part of that Act, and
  - (b) the reference to the purchase money paid in respect of such an acquisition includes any compensation paid by the landlord on the quitting of any such premises by the governing body or trustees (whether or not the compensation is required to be paid by section 37 of that Act (compensation where order for new tenancy precluded on certain grounds)).
- (5) In subsection (4) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.

**Marginal Citations**

M55 1954 c. 56.

*Modification of instruments*

**302 Variation of trust deeds etc. by order.**

- (1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to a school as, after consultation with the governing body of the school and the trustees (if any), appear to him to be requisite—
  - (a) in consequence of the approval of proposals for acquisition of grant-maintained status for the school,
  - (b) for removing any inconsistency between the provisions of that trust deed or other instrument and any provisions included or proposed to be included in any instrument or articles of government made for the school under Chapter V, or in any scheme under section 232, which it appears to him to be expedient to remove in the interests of the school, or
  - (c) in consequence of any proposals as to a change in the character or an enlargement of the premises of the school or a transfer of the school to a new site which fall to be implemented under section 263.
- (2) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to an independent school where proposals have been approved for

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the establishment of a grant-maintained school in its place as, after consultation with the promoters and the trustees (if any), appear to him to be requisite—

- (a) in consequence of the approval of the proposals, or
  - (b) for removing any inconsistency between the provisions of that trust deed or other instrument and any provisions included or proposed to be included in any instrument or articles of government made for the grant-maintained school under Chapter V which it appears to him to be expedient to remove in the interests of the school.
- (3) Any modification made by an order under this section may be made to have permanent effect or to have effect for such period as may be specified in the order.

**303 Modification of instruments relating to land held for purposes of voluntary schools.**

Any provision of an instrument relating to any land held for the purposes of a voluntary school which—

- (a) confers on any person an option to acquire an interest in that land, or
- (b) provides (in whatever terms) for the determination or forfeiture of any such interest,

in the event of the school's ceasing to be a voluntary school or (as the case may be) ceasing to be maintained by a specified local education authority shall, if the school becomes a grant-maintained school, have effect as if the event referred to were the school's ceasing to be a school which is either a grant-maintained school or a voluntary school.

*Religious opinions etc. of staff*

**304 Former county schools and certain schools established as grant-maintained schools.**

- (1) Subject to section 306, subsections (2) to (4) apply in relation to a grant-maintained school if—
- (a) it was a county school immediately before it became grant-maintained,
  - (b) it was established in pursuance of proposals published under section 211, or
  - (c) it was established in pursuance of proposals published under section 212 and neither any trust deed relating to the school nor the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship—
- (a) for being a teacher at the school, or
  - (b) for being employed (otherwise than as a teacher) for the purposes of the school.
- (3) No teacher at the school shall be required to give religious education.
- (4) No teacher at the school shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
- (a) by reason of the fact that he does or does not give religious education, or



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- (b) by reason of his religious opinions or of his attending or omitting to attend religious worship.

### **305 Former voluntary schools and certain schools established as grant-maintained schools.**

- (1) Subject to section 306, subsections (2) and (3) apply in relation to a grant-maintained school if—
  - (a) it was a voluntary school immediately before it became grant-maintained, or
  - (b) it was established in pursuance of proposals published under section 212 and either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, for being employed (otherwise than as a teacher) for the purposes of the school.
- (3) No teacher at the school shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
  - (a) by reason of the fact that he gives religious education, or
  - (b) by reason of his religious opinions or of his attending religious worship.
- (4) Without prejudice to subsections (2) and (3), in the case of a school which was a voluntary school immediately before it became grant-maintained, any of the provisions of section 146 (saving as to position of teachers) which, immediately before the school became grant-maintained, applied in relation to a teacher in the school shall continue to apply in relation to him until he ceases to be employed as a teacher in the school.

### **306 Changes in religious character of schools.**

- (1) Where, in the case of a school in relation to which section 304(2) to (4) for the time being applies, proposals that the required provision for religious education should be provision for religious education in accordance with the tenets of a particular religion or religious denomination are approved under section 261—
  - (a) section 305(2) and (3) shall apply in relation to the school from the time at which the proposals fall to be implemented, and
  - (b) subject to subsection (2), section 304(2) to (4) shall cease to apply in relation to the school from that time.
- (2) Without prejudice to section 305(2) and (3), section 304(2) to (4) shall continue to apply in relation to any teacher who was employed at the school immediately before the proposals referred to in subsection (1) above fell to be implemented until he ceases to be employed as a teacher at the school.
- (3) Where, in the case of any grant-maintained school, proposals that the required provision for religious education should be provision for religious education otherwise than in accordance with the tenets of a particular religion or religious denomination are approved under section 261—
  - (a) section 304(2) to (4) shall apply in relation to the school from the time at which the proposals fall to be implemented, and

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- (b) section 305(2) and (3) shall cease to apply in relation to the school from that time.
- (4) In this section “the required provision for religious education”, in relation to a school, means the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school’s basic curriculum.

### [<sup>F30</sup>Discipline]

#### Textual Amendments

**F30** S. 306A (and the heading immediately preceding it) inserted (1.4.1998) by 1997 c. 44, s. 3(1) (with s. 57(3)); S.I. 1998/386, art. 2, Sch. 1 Pt.II

#### [306A <sup>F31</sup>Responsibility of governing body and head teacher for discipline.

- (1) The governing body of a grant-maintained school shall ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
- (2) In particular, the governing body—
- (a) shall make, and from time to time review, a written statement of general principles to which the head teacher is to have regard in determining any measures under subsection (4); and
  - (b) where they consider it desirable that any particular measures should be so determined by the head teacher or that he should have regard to any particular matters—
    - (i) shall notify him of those measures or matters, and
    - (ii) may give him such guidance as they consider appropriate;
 and in exercising their functions under this subsection the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (3) Before making or revising the statement required by subsection (2)(a) the governing body shall consult (in such manner as appears to them to be appropriate)—
- (a) the head teacher; and
  - (b) parents of registered pupils at the school.
- (4) The head teacher shall determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
- (a) promoting, among pupils, self-discipline and proper regard for authority;
  - (b) encouraging good behaviour and respect for others on the part of pupils;
  - (c) securing that the standard of behaviour of pupils is acceptable; and
  - (d) otherwise regulating the conduct of pupils.
- (5) The head teacher shall, in determining such measures—
- (a) act in accordance with the current statement made by the governing body under subsection (2)(a); and
  - (b) have regard to any notification or guidance given to him under subsection (2) (b).

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- (6) The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the head teacher, so far as it is not determined by the governing body.
- (7) The measures determined by the head teacher under subsection (4) shall be publicised by him in the form of a written document as follows—
- (a) he shall make the measures generally known within the school and to parents of registered pupils at the school; and
  - (b) he shall in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons employed at the school.]

#### Textual Amendments

**F31** S. 306A (and the heading immediately preceding it) inserted (1.4.1998) by 1997 c. 44, s. 3(1) (with s. 57(3)); S.I. 1998/386, art. 2, Sch. 1 Pt.II

### *Exclusion of pupils*

#### **307 Restrictions on power to exclude pupils.**

- (1) The head teacher of any grant-maintained school may not—
- (a) so exercise the power to exclude a pupil from the school for one or more fixed periods that the pupil is so excluded for more than [<sup>F32</sup>45 school days in any one school year], or
  - (b) exclude a pupil from the school for an indefinite period;
- but this subsection is without prejudice to the power to exclude a pupil from the school permanently.

[<sup>F33</sup>(2) Subsection (1) has effect despite anything in the articles of government for the school.]

#### Textual Amendments

**F32** Words in s. 307(1)(a) substituted (1.9.1998) by 1997 c. 44, s. 6(2) (with s. 57(3)); S.I. 1998/386, art. 2, Sch. 1 Pt.IV

**F33** S. 307(2) substituted (1.9.1998) by 1997 c. 44, s. 57(1), Sch. 7 para.22; S.I. 1998/386, art. 2, Sch. 1 Pt.IV

#### **[307A <sup>F34</sup>Exclusion appeals.**

Schedule 25A to this Act has effect in relation to the procedure on any appeal which—

- (a) is made in pursuance of arrangements made by the governing body of a grant-maintained school by virtue of paragraph 6(1) and (2) of Schedule 23 (content of articles of government), and
- (b) relates to a decision not to reinstate a pupil who has been permanently excluded from the school.]

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### Textual Amendments

**F34** S. 307A inserted (1.9.1998) by 1997 c. 44, s. 8(1) (with s. 57(3)); S.I. 1998/386, art. 2, Sch. 1 Pt.IV

## *Appeal committees*

### **308 Duties of governing body in relation to appeal committees.**

- (1) This section applies to any governing body of a grant-maintained school who are required by the articles of government for the school to make arrangements for appeals to such an appeal committee as is mentioned in paragraph 6(1) of Schedule 23 (appeals against decisions on admissions or exclusions).
- (2) The Secretary of State may by regulations require any governing body to which this section applies—
  - (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal committee required to be constituted for the purposes of arrangements made by that body to apply to the body for appointment as such members; and
  - (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the body in response to an advertisement placed in pursuance of paragraph (a).
- (3) A governing body to which this section applies shall indemnify the members of any appeal committee required to be constituted for the purposes of arrangements made by that body against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that committee.

## *Supplementary*

### **309 Manner of giving notification to governing body.**

Any notification to the governing body of a school for the purposes of any provision of this Part may be given, and withdrawn, in such manner as the governing body may require.

### **310 Inspection of accounts and reports to Parliament.**

- (1) The accounts of the governing body of any grant-maintained school shall be open to the inspection of the Comptroller and Auditor General.
- (2) The Comptroller and Auditor General shall, in each session of Parliament, report to the House of Commons—
  - (a) whether he has carried out under section 6 of the <sup>M56</sup>National Audit Act 1983 any examinations in respect of grant-maintained schools, and
  - (b) if he has, the results of such examinations.
- (3) Each report under subsection (2) shall cover a period beginning at the end of the period covered by the preceding report under that subsection.

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- (4) In determining whether to carry out any examination under that section in respect of grant-maintained schools and, if he determines to do so, the nature of the examination, the Comptroller and Auditor General shall have regard to any relevant published report of any study promoted or undertaken by the Audit Commission for Local Authorities and the National Health Service in England and Wales under [<sup>F35</sup>section 36 of the Audit Commission Act 1998].

#### Textual Amendments

**F35** Words in s. 310(4) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 32(3)**

#### Marginal Citations

**M56** 1983 c. 44.

### Interpretation

#### 311 Interpretation of Part III.

- (1) In this Part—

“Church in Wales school” means a school in the Province of Wales in which the religious education provided is provided in accordance with the faith and practice of the Church in Wales and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Finance for the diocese of the Church in Wales in which the school is situated or such other person as the Secretary of State may by order designate in respect of that diocese;

“Church of England school” means a school in the Province of Canterbury or York in which the religious education provided is provided in accordance with the faith and practice of the Church of England and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Education for the diocese of the Church of England in which the school is situated;

“premises” includes any interest in or easement, right or charge in, to or over premises;

“Roman Catholic Church school” means a school in which the religious education provided is provided in accordance with the faith and practice of the Roman Catholic Church and “appropriate diocesan authority”, in relation to such a school, means the bishop of the Roman Catholic diocese in which the school is situated.

- (2) Before making an order in respect of any diocese in Wales in exercise of the power conferred by the definition of “appropriate diocesan authority” the Secretary of State shall consult the bishop for the diocese.
- (3) The following provisions apply for the purposes of this Part.
- (4) References to the character of a school are to the kind of school it is, determined by any matter relating to—
- the provision of education at the school, or
  - the arrangements for admission of pupils to the school,
- the alteration of which would amount to a change in the character of the school.

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- (5) The transfer to a reception class of pupils who have been admitted to a school for nursery education shall be treated as admission to the school.
- (6) References, in relation to proposals under this Part, to the date of publication of the proposals are—
  - (a) to the date on which the requirements of this Part, or of regulations made by virtue of this Part, with respect to the publication of the proposals (or of any notice relating to the proposals) are satisfied, or
  - (b) where different requirements are satisfied on different dates, to the last of those dates,
 and references to the time at which such proposals are published shall be construed accordingly.
- (7) In this Part references to “local government electors for the area” are references to such electors for the local education authority area in which the school in question is, or is to be, situated.
- (8) Nothing in this Part, or in any order made under it, relating to the trusts subject to which any land or other property or rights transferred under this Part are to be held by the transferee shall be taken as prejudicing any modification of those trusts after that transfer under any provision of this Part or otherwise.

## PART IV

### SPECIAL EDUCATIONAL NEEDS

#### CHAPTER I

##### CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

###### *Introductory*

### **312 Meaning of “special educational needs” and “special educational provision” etc.**

- (1) A child has “special educational needs” for the purposes of this Act if he has a learning difficulty which calls for special educational provision to be made for him.
- (2) Subject to subsection (3) (and except for the purposes of section 15(5)) a child has a “learning difficulty” for the purposes of this Act if—
  - (a) he has a significantly greater difficulty in learning than the majority of children of his age,
  - (b) he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in schools within the area of the local education authority, or
  - (c) he is under [<sup>F36</sup>compulsory school age] and is, or would be if special educational provision were not made for him, likely to fall within paragraph (a) or (b) when of <sup>F37</sup>. . . that age.

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- (3) A child is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (4) In this Act “special educational provision” means—
- (a) in relation to a child who has attained the age of two, educational provision which is additional to, or otherwise different from, the educational provision made generally for children of his age in schools maintained by the local education authority (other than special schools) or grant-maintained schools in their area, and
  - (b) in relation to a child under that age, educational provision of any kind.
- (5) In this Part—
- “child” includes any person who has not attained the age of 19 and is a registered pupil at a school;
  - “maintained school” means any county or voluntary school or any maintained special school not established in a hospital.

#### Textual Amendments

- F36** Words in s. 312(2)(c) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 23(a)**; S.I. 1998/386, art. 2, **Sch. 1 Pt.III**
- F37** Words in s. 312(2)(c) repealed (1.8.1998) by 1997 c. 44, s. 57(1)(4), **Sch. 7 para. 23(b)**, **Sch.8**; S.I. 1998/386, art. 2, **Sch. 1 Pt.III**

### Code of Practice

#### 313 Code of Practice.

- (1) The Secretary of State shall issue, and may from time to time revise, a code of practice giving practical guidance in respect of the discharge by local education authorities and the governing bodies of maintained or grant-maintained schools, or grant-maintained special schools, of their functions under this Part.
- (2) It shall be the duty of—
- (a) local education authorities, and such governing bodies, exercising functions under this Part, and
  - (b) any other person exercising any function for the purpose of the discharge by local education authorities, and such governing bodies, of functions under this Part,
- to have regard to the provisions of the code.
- (3) On any appeal under this Part to the Tribunal, the Tribunal shall have regard to any provision of the code which appears to the Tribunal to be relevant to any question arising on the appeal.
- (4) The Secretary of State shall publish the code as for the time being in force.
- (5) In this Part “the Tribunal” means the Special Educational Needs Tribunal.

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### **314 Making and approval of code.**

- (1) Where the Secretary of State proposes to issue or revise a code of practice, he shall prepare a draft of the code (or revised code).
- (2) The Secretary of State shall consult such persons about the draft as he thinks fit and shall consider any representations made by them.
- (3) If he determines to proceed with the draft (either in its original form or with such modifications as he thinks fit) he shall lay it before both Houses of Parliament.
- (4) If the draft is approved by resolution of each House, the Secretary of State shall issue the code in the form of the draft, and the code shall come into effect on such day as the Secretary of State may by order appoint.

*Special educational provision: general*

### **315 Review of arrangements.**

- (1) A local education authority shall keep under review the arrangements made by them for special educational provision.
- (2) In doing so the authority shall, to the extent that it appears necessary or desirable for the purpose of co-ordinating provision for children with special educational needs, consult the funding authority and the governing bodies of county, voluntary, maintained special and grant-maintained schools in their area.

### **316 Children with special educational needs normally to be educated in mainstream schools.**

- (1) Any person exercising any functions under this Part in respect of a child with special educational needs who should be educated in a school shall secure that, if the conditions mentioned in subsection (2) are satisfied, the child is educated in a school which is not a special school unless that is incompatible with the wishes of his parent.
- (2) The conditions are that educating the child in a school which is not a special school is compatible with—
  - (a) his receiving the special educational provision which his learning difficulty calls for,
  - (b) the provision of efficient education for the children with whom he will be educated, and
  - (c) the efficient use of resources.

VALID FROM 15/06/2001

#### **[<sup>F38</sup>316A] Education otherwise than in mainstream schools**

- (1) Section 316 does not prevent a child from being educated in—
  - (a) an independent school which is not a mainstream school, or
  - (b) a school approved under section 342,
 if the cost is met otherwise than by a local education authority.



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- (2) Section 316(2) does not require a child to be educated in a mainstream school during any period in which—
- (a) he is admitted to a special school for the purposes of an assessment under section 323 of his educational needs and his admission to that school is with the agreement of—
    - (i) the local education authority,
    - (ii) the head teacher of the school or, if the school is in Wales, its governing body,
    - (iii) his parent, and
    - (iv) any person whose advice is to be sought in accordance with regulations made under paragraph 2 of Schedule 26;
  - (b) he remains admitted to a special school, in prescribed circumstances, following an assessment under section 323 at that school;
  - (c) he is admitted to a special school, following a change in his circumstances, with the agreement of—
    - (i) the local education authority,
    - (ii) the head teacher of the school or, if the school is in Wales, its governing body, and
    - (iii) his parent;
  - (d) he is admitted to a community or foundation special school which is established in a hospital.
- (3) Section 316 does not affect the operation of—
- (a) section 348, or
  - (b) paragraph 3 of Schedule 27.
- (4) If a local education authority decide—
- (a) to make a statement for a child under section 324, but
  - (b) not to name in the statement the school for which a parent has expressed a preference under paragraph 3 of Schedule 27,
- they shall, in making the statement, comply with section 316(3).
- (5) A local education authority may, in relation to their mainstream schools taken as a whole, rely on the exception in section 316(3)(b) only if they show that there are no reasonable steps that they could take to prevent the incompatibility.
- (6) An authority in relation to a particular mainstream school may rely on the exception in section 316(3)(b) only if it shows that there are no reasonable steps that it or another authority in relation to the school could take to prevent the incompatibility.
- (7) The exception in section 316(3)(b) does not permit a governing body to fail to comply with the duty imposed by section 324(5)(b).
- (8) An authority must have regard to guidance about section 316 and this section issued—
- (a) for England, by the Secretary of State,
  - (b) for Wales, by the National Assembly for Wales.
- (9) That guidance shall, in particular, relate to steps which may, or may not, be regarded as reasonable for the purposes of subsections (5) and (6).

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(10) “Prescribed”, in relation to Wales, means prescribed in regulations made by the National Assembly for Wales.

(11) “Authority”—

- (a) in relation to a maintained school, means each of the following—
- (i) the local education authority,
  - (ii) the school’s governing body, and

#### Textual Amendments

**F38** Ss. 316, 316A substituted (15.6.2001 for certain purposes and otherwise 1.1.2002 for E., 21.1.2002 for certain purposes and otherwise 1.4.2002 for W.) for s. 316 by 2001 c. 10, s. 1 (with s. 43(13)); S.I. 2001/2217, arts. 4, 5, Sch. Pts. I, II (as amended by S.I. 2001/2614, art. 4); S.I. 2002/74, arts. 4, 5, Sch. Pts. I, II

### 317 Duties of governing body or LEA in relation to pupils with special educational needs.

- (1) The governing body, in the case of a county, voluntary or grant-maintained school, and the local education authority, in the case of a maintained nursery school, shall—
- (a) use their best endeavours, in exercising their functions in relation to the school, to secure that, if any registered pupil has special educational needs, the special educational provision which his learning difficulty calls for is made,
  - (b) secure that, where the responsible person has been informed by the local education authority that a registered pupil has special educational needs, those needs are made known to all who are likely to teach him, and
  - (c) secure that the teachers in the school are aware of the importance of identifying, and providing for, those registered pupils who have special educational needs.
- (2) In subsection (1)(b) “the responsible person” means—
- (a) in the case of a county, voluntary or grant-maintained school, the head teacher or the appropriate governor (that is, the chairman of the governing body or, where the governing body have designated another governor for the purposes of this paragraph, that other governor), and
  - (b) in the case of a nursery school, the head teacher.
- (3) To the extent that it appears necessary or desirable for the purpose of co-ordinating provision for children with special educational needs—
- (a) the governing bodies of county, voluntary and grant-maintained schools shall, in exercising functions relating to the provision for such children, consult the local education authority, the funding authority and the governing bodies of other such schools, and
  - (b) in relation to maintained nursery schools, the local education authority shall, in exercising those functions, consult the funding authority and the governing bodies of county, voluntary and grant-maintained schools.
- (4) Where a child who has special educational needs is being educated in a county, voluntary or grant-maintained school or a maintained nursery school, those concerned

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with making special educational provision for the child shall secure, so far as is reasonably practicable and is compatible with—

- (a) the child receiving the special educational provision which his learning difficulty calls for,
- (b) the provision of efficient education for the children with whom he will be educated, and
- (c) the efficient use of resources,

that the child engages in the activities of the school together with children who do not have special educational needs.

- (5) The annual report for each county, voluntary, maintained special or grant-maintained school shall include a report containing such information as may be prescribed about the implementation of the governing body’s policy for pupils with special educational needs.
- (6) The annual report for each county, voluntary or grant-maintained school shall also include a report containing information as to—
  - (a) the arrangements for the admission of disabled pupils;
  - (b) the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and
  - (c) the facilities provided to assist access to the school by disabled pupils;and for this purpose “disabled pupils” means pupils who are disabled persons for the purposes of the <sup>M57</sup>Disability Discrimination Act 1995.
- (7) In this section “annual report” means the report prepared under the articles of government for the school in accordance with section 161 or, as the case may be, paragraph 7 of Schedule 23.

**Commencement Information**

**II** S. 317 wholly in force; s. 317(1)-(5)(7) in force at 1.11.1996 see s. 583(3)(5); s. 317(6) in force at 1.1.1997 by S.I. 1996/2904, art. 2

**Marginal Citations**

**M57** 1995 c. 50.

VALID FROM 01/01/2002

**[<sup>F39</sup>317A] Duty to inform parent where special educational provision made**

- (1) This section applies if—
  - (a) a child for whom no statement is maintained under section 324 is a registered pupil at—
    - (i) a community, foundation or voluntary school, or
    - (ii) a pupil referral unit,
  - (b) special educational provision is made for him at the school because it is considered that he has special educational needs, and
  - (c) his parent has not previously been informed under this section of special educational provision made for him at the school.

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- (2) If the school is a pupil referral unit, the local education authority must secure that the head teacher informs the child's parent that special educational provision is being made for him at the school because it is considered that he has special educational needs.
- (3) In any other case, the governing body must inform the child's parent that special educational provision is being made for him there because it is considered that he has special educational needs.]

#### Textual Amendments

**F39** S. 317A inserted (1.1.2002 (E.) and 1.4.2002 (W.)) by 2001 c. 10, s. 7(1) (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); S.I. 2002/74, art. 5, Sch. Pt. II

### 318 Provision of goods and services in connection with special educational needs.

- (1) A local education authority may, for the purpose only of assisting—
  - (a) the governing bodies of county, voluntary or grant-maintained schools (in their or any other area) in the performance of the governing bodies' duties under section 317(1)(a), or
  - (b) the governing bodies of maintained or grant-maintained special schools (in their or any other area) in the performance of the governing bodies' duties, supply goods or services to those bodies.
- (2) The terms on which goods or services are supplied by local education authorities under this section—
  - (a) to the governing bodies of grant-maintained schools or grant-maintained special schools, or
  - (b) to the governing bodies of county, voluntary or maintained special schools, in any other area may, in such circumstances as may be prescribed, include such terms as to payment as may be prescribed.
- (3) A local education authority may supply goods or services to any authority or other person (other than a governing body within subsection (1)) for the purpose only of assisting them in making for any child in respect of whose education grants are (or are to be) made under arrangements under section 1 of the <sup>M58</sup>Nursery Education and Grant-Maintained Schools Act 1996 any special educational provision which any learning difficulty of the child calls for.
- (4) This section is without prejudice to the generality of any other power of local education authorities to supply goods or services.

#### Marginal Citations

**M58** 1996 c. 50.

### 319 Special educational provision otherwise than in schools.

- (1) Where a local education authority are satisfied that it would be inappropriate for—

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- (a) the special educational provision which a learning difficulty of a child in their area calls for, or
  - (b) any part of any such provision,to be made in a school, they may arrange for the provision (or, as the case may be, for that part of it) to be made otherwise than in a school.
- (2) Before making an arrangement under this section, a local education authority shall consult the child's parent.

### **320 Provision outside England and Wales for certain children.**

- (1) A local education authority may make such arrangements as they think fit to enable a child for whom they maintain a statement under section 324 to attend an institution outside England and Wales which specialises in providing for children with special needs.
- (2) In subsection (1) “children with special needs” means children who have particular needs which would be special educational needs if those children were in England and Wales.
- (3) Where a local education authority make arrangements under this section in respect of a child, those arrangements may in particular include contributing to or paying—
  - (a) fees charged by the institution,
  - (b) expenses reasonably incurred in maintaining him while he is at the institution or travelling to or from it,
  - (c) his travelling expenses, and
  - (d) expenses reasonably incurred by any person accompanying him while he is travelling or staying at the institution.
- (4) This section is without prejudice to any other powers of a local education authority.

#### *Identification and assessment of children with special educational needs*

### **321 General duty of local education authority towards children for whom they are responsible.**

- (1) A local education authority shall exercise their powers with a view to securing that, of the children for whom they are responsible, they identify those to whom subsection (2) below applies.
- (2) This subsection applies to a child if—
  - (a) he has special educational needs, and
  - (b) it is necessary for the authority to determine the special educational provision which any learning difficulty he may have calls for.
- (3) For the purposes of this Part a local education authority are responsible for a child if he is in their area and—
  - (a) he is a registered pupil at a maintained, grant-maintained or grant-maintained special school,
  - (b) education is provided for him at a school which is not a maintained, grant-maintained or grant-maintained special school but is so provided at the expense of the authority or the funding authority,

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- (c) he does not come within paragraph (a) or (b) above but is a registered pupil at a school and has been brought to the authority's attention as having (or probably having) special educational needs, or
- (d) he is not a registered pupil at a school but is not under the age of two or over compulsory school age and has been brought to their attention as having (or probably having) special educational needs.

### **322 Duty of Health Authority or local authority to help local education authority.**

- (1) Where it appears to a local education authority that any Health Authority or local authority could, by taking any specified action, help in the exercise of any of their functions under this Part, they may request the help of the authority, specifying the action in question.
- (2) An authority whose help is so requested shall comply with the request unless—
  - (a) they consider that the help requested is not necessary for the purpose of the exercise by the local education authority of those functions, or
  - (b) subsection (3) applies.
- (3) This subsection applies—
  - (a) in the case of a Health Authority, if that authority consider that, having regard to the resources available to them for the purpose of the exercise of their functions under the <sup>M59</sup>National Health Service Act 1977, it is not reasonable for them to comply with the request, or
  - (b) in the case of a local authority, if that authority consider that the request is not compatible with their own statutory or other duties and obligations or unduly prejudices the discharge of any of their functions.
- (4) Regulations may provide that, where an authority are under a duty by virtue of subsection (2) to comply with a request to help a local education authority in the making of an assessment under section 323 or a statement under section 324 of this Act, they must, subject to prescribed exceptions, comply with the request within the prescribed period.
- (5) In this section “local authority” means a county council, a county borough council, a district council (other than one for an area for which there is a county council), a London borough council or the Common Council of the City of London.

#### **Marginal Citations**

**M59** 1977 c. 49.

### **323 Assessment of educational needs.**

- (1) Where a local education authority are of the opinion that a child for whom they are responsible falls, or probably falls, within subsection (2), they shall serve a notice on the child's parent informing him—
  - (a) that they propose to make an assessment of the child's educational needs,
  - (b) of the procedure to be followed in making the assessment,
  - (c) of the name of the officer of the authority from whom further information may be obtained, and

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- (d) of the parent's right to make representations, and submit written evidence, to the authority within such period (which must not be less than 29 days beginning with the date on which the notice is served) as may be specified in the notice.
- (2) A child falls within this subsection if—
  - (a) he has special educational needs, and
  - (b) it is necessary for the authority to determine the special educational provision which any learning difficulty he may have calls for.
- (3) Where—
  - (a) a local education authority have served a notice under subsection (1) and the period specified in the notice in accordance with subsection (1)(d) has expired, and
  - (b) the authority remain of the opinion, after taking into account any representations made and any evidence submitted to them in response to the notice, that the child falls, or probably falls, within subsection (2),they shall make an assessment of his educational needs.
- (4) Where a local education authority decide to make an assessment under this section, they shall give notice in writing to the child's parent of that decision and of their reasons for making it.
- (5) Schedule 26 has effect in relation to the making of assessments under this section.
- (6) Where, at any time after serving a notice under subsection (1), a local education authority decide not to assess the educational needs of the child concerned they shall give notice in writing to the child's parent of their decision.

### **324 Statement of special educational needs.**

- (1) If, in the light of an assessment under section 323 of any child's educational needs and of any representations made by the child's parent in pursuance of Schedule 27, it is necessary for the local education authority to determine the special educational provision which any learning difficulty he may have calls for, the authority shall make and maintain a statement of his special educational needs.
- (2) The statement shall be in such form and contain such information as may be prescribed.
- (3) In particular, the statement shall—
  - (a) give details of the authority's assessment of the child's special educational needs, and
  - (b) specify the special educational provision to be made for the purpose of meeting those needs, including the particulars required by subsection (4).
- (4) The statement shall—
  - (a) specify the type of school or other institution which the local education authority consider would be appropriate for the child,
  - (b) if they are not required under Schedule 27 to specify the name of any school in the statement, specify the name of any school or institution (whether in the United Kingdom or elsewhere) which they consider would be appropriate for the child and should be specified in the statement, and

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- (c) specify any provision for the child for which they make arrangements under section 319 and which they consider should be specified in the statement.
- (5) Where a local education authority maintain a statement under this section, then—
- (a) unless the child’s parent has made suitable arrangements, the authority—
    - (i) shall arrange that the special educational provision specified in the statement is made for the child, and
    - (ii) may arrange that any non-educational provision specified in the statement is made for him in such manner as they consider appropriate, and
  - (b) if the name of a maintained, grant-maintained or grant-maintained special school is specified in the statement, the governing body of the school shall admit the child to the school.
- (6) Subsection (5)(b) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (7) Schedule 27 has effect in relation to the making and maintenance of statements under this section.

### **325 Appeal against decision not to make statement.**

- (1) If, after making an assessment under section 323 of the educational needs of any child for whom no statement is maintained under section 324, the local education authority do not propose to make such a statement, they shall give notice in writing of their decision, and of the effect of subsection (2) below, to the child’s parent.
- (2) In such a case, the child’s parent may appeal to the Tribunal against the decision.
- (3) On an appeal under this section, the Tribunal may—
  - (a) dismiss the appeal,
  - (b) order the local education authority to make and maintain such a statement, or
  - (c) remit the case to the authority for them to reconsider whether, having regard to any observations made by the Tribunal, it is necessary for the authority to determine the special educational provision which any learning difficulty the child may have calls for.

### **326 Appeal against contents of statement.**

- (1) The parent of a child for whom a local education authority maintain a statement under section 324 may—
  - (a) when the statement is first made,
  - (b) where the description in the statement of the authority’s assessment of the child’s special educational needs, or the special educational provision specified in the statement, is amended, or
  - (c) where, after conducting an assessment of the educational needs of the child under section 323, the local education authority determine not to amend the statement,
 appeal to the Tribunal against the description in the statement of the authority’s assessment of the child’s special educational needs, the special educational provision specified in the statement or, if no school is named in the statement, that fact.



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- (2) Subsection (1)(b) does not apply where the amendment is made in pursuance of—
- (a) paragraph 8 (change of named school) or 11(3)(b) (amendment ordered by Tribunal) of Schedule 27, or
  - (b) directions under section 442 (revocation of school attendance order);
- and subsection (1)(c) does not apply to a determination made following the service of notice under paragraph 10 (amendment by LEA) of Schedule 27 of a proposal to amend the statement.
- (3) On an appeal under this section, the Tribunal may—
- (a) dismiss the appeal,
  - (b) order the authority to amend the statement, so far as it describes the authority's assessment of the child's special educational needs or specifies the special educational provision, and make such other consequential amendments to the statement as the Tribunal think fit, or
  - (c) order the authority to cease to maintain the statement.
- (4) On an appeal under this section the Tribunal shall not order the local education authority to specify the name of any school in the statement (either in substitution for an existing name or in a case where no school is named) unless—
- (a) the parent has expressed a preference for the school in pursuance of arrangements under paragraph 3 (choice of school) of Schedule 27, or
  - (b) in the proceedings the parent, the local education authority, or both have proposed the school.
- (5) Before determining any appeal under this section the Tribunal may, with the agreement of the parties, correct any deficiency in the statement.

VALID FROM 11/05/2001

### **[<sup>F40</sup>326A] Unopposed appeals**

- (1) This section applies if—
- (a) the parent of a child has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a local education authority, and
  - (b) the authority notifies the Tribunal that they have determined that they will not, or will no longer, oppose the appeal.
- (2) The appeal is to be treated as having been determined in favour of the appellant.
- (3) If an appeal is treated as determined in favour of the appellant as a result of subsection (2), the Tribunal is not required to make any order.
- (4) Before the end of the prescribed period, the authority must—
- (a) in the case of an appeal under section 325, make a statement under section 324 of the child's educational needs,
  - (b) in the case of an appeal under section 328, 329 or 329A, make an assessment of the child's educational needs,
  - (c) in the case of an appeal under paragraph 8(3) of Schedule 27 against a determination of the authority not to comply with the parent's request, comply with the request.

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- (5) An authority required by subsection (4)(a) to make a statement under section 324 must maintain the statement under that section.
- (6) Regulations under this section, so far as they relate to Wales, require the agreement of the National Assembly for Wales.]

#### Textual Amendments

**F40** S. 326A inserted (11.5.2001 for certain purposes, 1.1.2002 otherwise for E. and 1.4.2002 otherwise for W.) by 2001 c. 10, ss. 5, 43(4)(b) (with s. 43(13)); S.I. 2001/2217, art. 5, **Sch. Pt. II** (as amended by S.I. 2001/2614, art. 4); S.I. 2001/3992, art. 5, **Sch. Pt. II**

### 327 Access for local education authority to certain schools.

- (1) This section applies where—
  - (a) a local education authority maintain a statement for a child under section 324, and
  - (b) in pursuance of the statement education is provided for the child at—
    - (i) a school maintained by another local education authority,
    - (ii) a grant-maintained school, or
    - (iii) a grant-maintained special school.
- (2) Any person authorised by the local education authority shall be entitled to have access at any reasonable time to the premises of any such school for the purpose of monitoring the special educational provision made in pursuance of the statement for the child at the school.

### 328 Reviews of educational needs.

- (1) Regulations may prescribe the frequency with which assessments under section 323 are to be repeated in respect of children for whom statements are maintained under section 324.
- (2) Where—
  - (a) the parent of a child for whom a statement is maintained under section 324 asks the local education authority to arrange for an assessment to be made in respect of the child under section 323,
  - (b) no such assessment has been made within the period of six months ending with the date on which the request is made, and
  - (c) it is necessary for the authority to make a further assessment under section 323, the authority shall comply with the request.
- (3) If in any case where subsection (2)(a) and (b) applies the authority determine not to comply with the request—
  - (a) they shall give notice of that fact and of the effect of paragraph (b) below to the child's parent, and
  - (b) the parent may appeal to the Tribunal against the determination.
- (4) On an appeal under subsection (3) the Tribunal may—
  - (a) dismiss the appeal, or

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- (b) order the authority to arrange for an assessment to be made in respect of the child under section 323.
- (5) A statement under section 324 shall be reviewed by the local education authority—
  - (a) on the making of an assessment in respect of the child concerned under section 323, and
  - (b) in any event, within the period of 12 months beginning with the making of the statement or, as the case may be, with the previous review.
- (6) Regulations may make provision—
  - (a) as to the manner in which reviews of such statements are to be conducted,
  - (b) as to the participation in such reviews of such persons as may be prescribed, and
  - (c) in connection with such other matters relating to such reviews as the Secretary of State considers appropriate.

### **329 Assessment of educational needs at request of child's parent.**

- (1) Where—
  - (a) the parent of a child for whom a local education authority are responsible but for whom no statement is maintained under section 324 asks the authority to arrange for an assessment to be made in respect of the child under section 323,
  - (b) no such assessment has been made within the period of six months ending with the date on which the request is made, and
  - (c) it is necessary for the authority to make an assessment under that section, the authority shall comply with the request.
- (2) If in any case where subsection (1)(a) and (b) applies the authority determine not to comply with the request—
  - (a) they shall give notice of that fact and of the effect of paragraph (b) below to the child's parent, and
  - (b) the parent may appeal to the Tribunal against the determination.
- (3) On an appeal under subsection (2) the Tribunal may—
  - (a) dismiss the appeal, or
  - (b) order the authority to arrange for an assessment to be made in respect of the child under section 323.

VALID FROM 15/06/2001

#### **[<sup>F41</sup>329A] Review or assessment of educational needs at request of responsible body**

- (1) This section applies if—
  - (a) a child is a registered pupil at a relevant school (whether or not he is a child in respect of whom a statement is maintained under section 324),
  - (b) the responsible body asks the local education authority to arrange for an assessment to be made in respect of him under section 323, and
  - (c) no such assessment has been made within the period of six months ending with the date on which the request is made.

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- (2) If it is necessary for the authority to make an assessment or further assessment under section 323, they must comply with the request.
- (3) Before deciding whether to comply with the request, the authority must serve on the child's parent a notice informing him—
  - (a) that they are considering whether to make an assessment of the child's educational needs,
  - (b) of the procedure to be followed in making the assessment,
  - (c) of the name of their officer from whom further information may be obtained, and
  - (d) of the parent's right to make representations, and submit written evidence, to them before the end of the period specified in the notice ("the specified period").
- (4) The specified period must not be less than 29 days beginning with the date on which the notice is served.
- (5) The authority may not decide whether to comply with the request until the specified period has expired.
- (6) The authority must take into account any representations made, and any evidence submitted, to them in response to the notice.
- (7) If, as a result of this section, a local education authority decide to make an assessment under section 323, they must give written notice to the child's parent and to the responsible body which made the request, of the decision and of their reasons for making it.
- (8) If, after serving a notice under subsection (3), the authority decide not to assess the educational needs of the child—
  - (a) they must give written notice of the decision and of their reasons for making it to his parent and to the responsible body which made the request, and
  - (b) the parent may appeal to the Tribunal against the decision.
- (9) A notice given under subsection (8)(a) to the child's parent must—
  - (a) inform the parent of his right to appeal, and
  - (b) contain such other information (if any) as may be prescribed.
- (10) On an appeal under subsection (8) the Tribunal may—
  - (a) dismiss it, or
  - (b) order the authority to arrange for an assessment to be made in respect of the child under section 323.
- (11) This section applies to a child for whom relevant nursery education is provided as it applies to a child who is a registered pupil at a relevant school.
- (12) "Relevant school" means—
  - (a) a maintained school,
  - (b) a maintained nursery school,
  - (c) a pupil referral unit,
  - (d) an independent school,
  - (e) a school approved under section 342.

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- (13) “The responsible body” means—
- (a) in relation to a maintained nursery school or a pupil referral unit, the head teacher,
  - (b) in relation to any other relevant school, the proprietor or head teacher, and
  - (c) in relation to a provider of relevant nursery education, the person or body of persons responsible for the management of the provision of that nursery education.
- (14) “Relevant nursery education” has the same meaning as in section 123 of the School Standards and Framework Act 1998, except that it does not include nursery education provided by a local education authority at a maintained nursery school.
- (15) “Prescribed”, in relation to Wales, means prescribed in regulations made by the National Assembly for Wales.]

#### Textual Amendments

- F41** S. 329A inserted (15.6.2001 for certain purposes and 1.1.2002 otherwise for E., 21.1.2002 for certain purposes and 1.4.2002 otherwise for W.) by 2001 c. 10, s. 8 (with s. 43(13)); S.I. 2001/2217, arts. 4, 5, Sch. Pts. I, II (as amended by S.I. 2001/2614, art. 4); S.I. 2002/74, arts. 4, 5, Sch. Pts. I, II

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

- C46** S. 329A modified (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 36(9)(b), 162 (with s. 159)

### 330 Assessment of educational needs at request of governing body of grant-maintained school.

- (1) Where in the case of a child for whom a local education authority are responsible but for whom no statement is maintained under section 324—
- (a) a grant-maintained school is specified in a direction in respect of the child under section 431 (direction to admit child to specified school),
  - (b) the governing body of the school ask the authority to arrange for an assessment to be made in respect of the child under section 323, and
  - (c) no such assessment has been made within the period of six months ending with the date on which the request is made,
- the local education authority shall serve a notice under subsection (2) on the child’s parent.
- (2) The notice shall inform the child’s parent—
- (a) that the local education authority propose to make an assessment of the child’s educational needs,
  - (b) of the procedure to be followed in making the assessment,
  - (c) of the name of the officer of the authority from whom further information may be obtained, and
  - (d) of the parent’s right to make representations, and submit written evidence, to the authority within such period (which must not be less than 29 days beginning with the date on which the notice is served) as may be specified in the notice.

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- (3) Where—
- (a) a local education authority have served a notice under subsection (2) and the period specified in the notice in accordance with subsection (2)(d) has expired, and
  - (b) the authority are of the opinion, after taking into account any representations made and any evidence submitted to them in response to the notice, that the child falls, or probably falls, within subsection (4),
- they shall make an assessment of his educational needs under section 323.
- (4) A child falls within this subsection if—
- (a) he has special educational needs, and
  - (b) it is necessary to determine the special educational provision which any learning difficulty he may have calls for.
- (5) Where a local education authority decide in pursuance of this section to make an assessment under section 323, they shall give notice in writing to the child's parent, and to the governing body of the grant-maintained school, of that decision and of their reasons for making it.
- (6) Where, at any time after serving a notice under subsection (2), a local education authority decide not to assess the educational needs of the child concerned, they shall give notice in writing to the child's parent and to the governing body of the grant-maintained school of their decision.

### **331 Assessment of educational needs of children under two.**

- (1) Where a local education authority are of the opinion that a child in their area who is under the age of two falls, or probably falls, within subsection (2)—
- (a) they may, with the consent of his parent, make an assessment of the child's educational needs, and
  - (b) they shall make such an assessment if requested to do so by his parent.
- (2) A child falls within this subsection if—
- (a) he has special educational needs, and
  - (b) it is necessary for the authority to determine the special educational provision which any learning difficulty he may have calls for.
- (3) An assessment under this section shall be made in such manner as the authority consider appropriate.
- (4) After making an assessment under this section, the authority—
- (a) may make a statement of the child's special educational needs, and
  - (b) may maintain that statement,
- in such manner as they consider appropriate.

### **332 Duty of Health Authority or National Health Service trust to notify parent etc.**

- (1) This section applies where a Health Authority or a National Health Service trust, in the course of exercising any of their functions in relation to a child who is under [F42 compulsory school age], form the opinion that he has (or probably has) special educational needs.

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- (2) The Authority or trust—
- (a) shall inform the child’s parent of their opinion and of their duty under paragraph (b), and
  - (b) after giving the parent an opportunity to discuss that opinion with an officer of the Authority or trust, shall bring it to the attention of the appropriate local education authority.
- (3) If the Authority or trust are of the opinion that a particular voluntary organisation is likely to be able to give the parent advice or assistance in connection with any special educational needs that the child may have, they shall inform the parent accordingly.

#### Textual Amendments

**F42** Words in s. 332(1) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.24**; S.I. 1998/386, art. 2, **Sch. 1 Pt.III**

VALID FROM 01/01/2002

#### *[F43] General duties of local education authorities*

#### Textual Amendments

**F43** S. 332A and preceding cross-heading inserted (1.1.2002 (E.) and 1.4.2002 (W.)) by 2001 c. 10, s. 2 (with s. 43(13)); S.I. 2001/2217, art. 5, **Sch. Pt. II** (as amended by S.I. 2001/2614, art. 4); S.I. 2002/74, **art. 5, Sch. Pt. II**

#### **332A Advice and information for parents**

- (1) A local education authority must arrange for the parent of any child in their area with special educational needs to be provided with advice and information about matters relating to those needs.
- (2) In making the arrangements, the authority must have regard to any guidance given—
  - (a) for England, by the Secretary of State,
  - (b) for Wales, by the National Assembly for Wales.
- (3) The authority must take such steps as they consider appropriate for making the services provided under subsection (1) known to—
  - (a) the parents of children in their area,
  - (b) the head teachers and proprietors of schools in their area, and
  - (c) such other persons as they consider appropriate.

#### **Resolution of disputes**

**[F44] 332B**

- (1) A local education authority must make arrangements with a view to avoiding or resolving disagreements between authorities (on the one hand) and parents of children in their area (on the other) about the exercise by authorities of functions under this Part.

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- (2) A local education authority must also make arrangements with a view to avoiding or resolving, in each relevant school, disagreements between the parents of a relevant child and the proprietor of the school about the special educational provision made for that child.
- (3) The arrangements must provide for the appointment of independent persons with the function of facilitating the avoidance or resolution of such disagreements.
- (4) In making the arrangements, the authority must have regard to any guidance given—
  - (a) for England, by the Secretary of State,
  - (b) for Wales, by the National Assembly for Wales.
- (5) The authority must take such steps as they consider appropriate for making the arrangements made under subsections (1) and (2) known to—
  - (a) the parents of children in their area,
  - (b) the head teachers and proprietors of schools in their area, and
  - (c) such other persons as they consider appropriate.
- (6) The arrangements cannot affect the entitlement of a parent to appeal to the Tribunal.
- (7) In this section—
 

“authorities” means the governing bodies of maintained schools and the local education authority,

“relevant child” means a child who has special educational needs and is a registered pupil at a relevant school.
- (8) For the purposes of this section a school is a relevant school in relation to a child if it is—
  - (a) a maintained school or a maintained nursery school,
  - (b) a pupil referral unit,
  - (c) a city technology college, a city college for the technology of the arts or a city academy,
  - (d) an independent school named in the statement maintained for the child under section 324, or
  - (e) a school approved under section 342.]]

#### **Textual Amendments**

**F44** S. 332B inserted (1.1.2002 (E.) and 1.4.2002 (W.)) by 2001 c. 10, s. 3 (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); S.I. 2002/74, art. 5, Sch. Pt. II

### *Special Educational Needs Tribunal*

#### **333 Constitution of Tribunal.**

- (1) There shall continue to be a tribunal known as the Special Educational Needs Tribunal which shall exercise the jurisdiction conferred on it by this Part.
- (2) There shall be appointed—
  - (a) a President of the Tribunal (referred to in this Part as “the President”),



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- (b) a panel of persons (referred to in this Part as “the chairmen’s panel”) who may serve as chairman of the Tribunal, and
  - (c) a panel of persons (referred to in this Part as “the lay panel”) who may serve as the other two members of the Tribunal apart from the chairman.
- (3) The President and the members of the chairmen’s panel shall each be appointed by the Lord Chancellor.
- (4) The members of the lay panel shall each be appointed by the Secretary of State.
- (5) Regulations may—
- (a) provide for the jurisdiction of the Tribunal to be exercised by such number of tribunals as may be determined from time to time by the President, and
  - (b) make such other provision in connection with the establishment and continuation of the Tribunal as the Secretary of State considers necessary or desirable.
- (6) The Secretary of State may, with the consent of the Treasury, provide such staff and accommodation as the Tribunal may require.

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

C47 S. 333(5) and (6) applied (with modifications) (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

### 334 The President and members of the panels.

- (1) No person may be appointed President or member of the chairmen’s panel unless he has a seven year general qualification (within the meaning of section 71 of the <sup>M60</sup>Courts and Legal Services Act 1990).
- (2) No person may be appointed member of the lay panel unless he satisfies such requirements as may be prescribed.
- (3) If, in the opinion of the Lord Chancellor, the President is unfit to continue in office or is incapable of performing his duties, the Lord Chancellor may revoke his appointment.
- (4) Each member of the chairmen’s panel or lay panel shall hold and vacate office under the terms of the instrument under which he is appointed.
- (5) The President or a member of the chairmen’s panel or lay panel—
- (a) may resign office by notice in writing to the Lord Chancellor or (as the case may be) the Secretary of State, and
  - (b) is eligible for re-appointment if he ceases to hold office.

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

C48 S. 334(2) applied (with modifications) (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

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**Marginal Citations**

M60 1990 c. 41.

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### 335 Remuneration and expenses.

- (1) The Secretary of State may pay to the President, and to any other person in respect of his service as a member of the Tribunal, such remuneration and allowances as the Secretary of State may, with the consent of the Treasury, determine.
- (2) The Secretary of State may defray the expenses of the Tribunal to such amount as he may, with the consent of the Treasury, determine.

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

C49 S. 335 applied (with modifications) (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

### 336 Tribunal procedure.

- (1) Regulations may make provision about the proceedings of the Tribunal on an appeal under this Part and the initiation of such an appeal.
- (2) The regulations may, in particular, include provision—
  - (a) as to the period within which, and the manner in which, appeals are to be instituted,
  - (b) where the jurisdiction of the Tribunal is being exercised by more than one tribunal—
    - (i) for determining by which tribunal any appeal is to be heard, and
    - (ii) for the transfer of proceedings from one tribunal to another,
  - (c) for enabling any functions which relate to matters preliminary or incidental to an appeal to be performed by the President, or by the chairman,
  - (d) for the holding of hearings in private in prescribed circumstances,
  - (e) for hearings to be conducted in the absence of any member other than the chairman,
  - (f) as to the persons who may appear on behalf of the parties,
  - (g) for granting any person such discovery or inspection of documents or right to further particulars as might be granted by a county court,
  - (h) requiring persons to attend to give evidence and produce documents,
  - (i) for authorising the administration of oaths to witnesses,
  - (j) for the determination of appeals without a hearing in prescribed circumstances,
  - (k) as to the withdrawal of appeals,
  - (l) for the award of costs or expenses,
  - (m) for taxing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be taxed in the county court),
  - (n) for the registration and proof of decisions and orders, and
  - (o) for enabling the Tribunal to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with the regulations.
- (3) The Secretary of State may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal as he may, with the consent of the Treasury, determine.

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- (4) Part I of the <sup>M61</sup>Arbitration Act 1996 shall not apply to any proceedings before the Tribunal but regulations may make provision corresponding to any provision of that Act.
- (5) Any person who without reasonable excuse fails to comply with—
- (a) any requirement in respect of the discovery or inspection of documents imposed by the regulations by virtue of subsection (2)(g), or
  - (b) any requirement imposed by the regulations by virtue of subsection (2)(h),
- is guilty of an offence.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

**C50** S. 336 applied (with modifications) (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

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**Marginal Citations**

**M61** 1996 c. 23.

VALID FROM 31/03/2003

[<sup>F45</sup>**336ZA** **Special Educational Needs Tribunal for Wales**

- (1) There shall be a tribunal to be known as Tribiwnlys Anghenion Addysgol Arbennig Cymru or the Special Educational Needs Tribunal for Wales.
- (2) Sections 333 to 336 shall apply in relation to that tribunal as they apply in relation to the Special Educational Needs and Disability Tribunal, but as if—
- (a) functions of the Secretary of State were functions of the National Assembly for Wales,
  - (b) references to the Secretary of State were references to the National Assembly for Wales,
  - (c) requirements for the Treasury's consent were omitted.
- (3) The powers of the National Assembly for Wales under sections 333(4) and (5) and 334(2) are exercisable only with the agreement of the Secretary of State.]

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**Textual Amendments**

**F45** S. 336ZA inserted (31.3.2003) by Education Act 2002 (c. 32), ss. 195, 216(3), Sch. 18 para. 5 (with ss. 210(8), 214(4), Sch. 18 para. 17); S.I. 2002/3185, art. 5, Sch. Pt. II

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VALID FROM 11/05/2001

### **[<sup>F46</sup>336A Compliance with orders**

- (1) If the Tribunal makes an order, the local education authority concerned must comply with the order before the end of the prescribed period beginning with the date on which it is made.
- (2) Regulations under this section, so far as they relate to Wales, require the agreement of the National Assembly for Wales.]

#### **Textual Amendments**

**F46** S. 336A inserted (11.5.2001 for certain purposes, 1.1.2002 otherwise for E. and 1.4.2002 otherwise for W.) by 2001 c. 10, ss. 4, 43(4)(a) (with s. 43(13)); S.I. 2001/2217, art. 5, **Sch. Pt. II** (as amended by S.I. 2001/2614, art. 4); S.I. 2001/3992, art. 5, **Sch. Pt. II**

## **CHAPTER II**

### SCHOOLS PROVIDING FOR SPECIAL EDUCATIONAL NEEDS

#### *Special schools*

### **337 Special schools.**

- (1) A school which is specially organised to make special educational provision for pupils with special educational needs and is for the time being approved by the Secretary of State under section 342 shall be known as a special school.
- (2) There are three categories of special school—
  - (a) maintained special schools;
  - (b) grant-maintained special schools; and
  - (c) special schools which are neither maintained nor grant-maintained schools.
- (3) A special school is a maintained special school if it is maintained by a local education authority.
- (4) A special school is a grant-maintained special school if it is conducted by a governing body incorporated in pursuance of proposals for the purpose—
  - (a) made by the funding authority under section 339 of this Act (or section 183 of the <sup>M62</sup>Education Act 1993), or
  - (b) made under section 345 of this Act (or section 186 of that Act).

#### **Marginal Citations**

**M62** 1993 c. 35.

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### *Establishment etc. of special schools*

#### **338 Power of funding authority to establish grant-maintained special school.**

- (1) The funding authority may establish in the area of any local education authority a school which is specially organised to make special educational provision for pupils with special educational needs if—
  - (a) an order under section 27(1) (allocation of responsibility for providing sufficient school places) applies to the area, and
  - (b) the school is intended to provide relevant education for pupils in the area, whether or not it also provides other education or education for pupils from outside the area.
- (2) Subsection (1) has effect subject to section 339(4).

#### **339 Establishment, etc. of maintained or grant-maintained special schools.**

- (1) Where a local education authority intend—
  - (a) to establish a school which is specially organised to make special educational provision for pupils with special educational needs, or
  - (b) to make any prescribed alteration to a maintained special school, or
  - (c) to discontinue such a school,they shall serve under subsection (5) notice of their proposals.
- (2) Where the funding authority—
  - (a) intend to establish a school which is specially organised to make special educational provision for pupils with special educational needs, or
  - (b) are of the opinion that any prescribed alteration should be made to a grant-maintained special school, or
  - (c) are of the opinion that such a school should be discontinued,and an order under section 27(1) applies to the area concerned, they shall serve under subsection (5) notice of their proposals.
- (3) Where the governing body of a grant-maintained special school intend—
  - (a) to make any prescribed alteration to the school, or
  - (b) to discontinue the school,they shall serve under subsection (5) notice of their proposals.
- (4) Except in pursuance of proposals under this section approved under section 340—
  - (a) a local education authority or the funding authority may not establish a school which is specially organised to make special educational provision for pupils with special educational needs,
  - (b) no prescribed alteration may be made to a maintained or grant-maintained special school, and
  - (c) a maintained or grant-maintained special school may not be discontinued.
- (5) Notice for the purposes of subsections (1) to (3) above shall be served on—
  - (a) the Secretary of State, and
  - (b) such other persons as may be prescribed,and shall give such information as may be prescribed.

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- (6) If the proposals are approved under section 340—
  - (a) the body which served the notice, or
  - (b) in the case of proposals under subsection (2)(b) or (c) above, the governing body of the school,
 shall implement them.
- (7) If proposals under subsection (2)(a) above are so approved, a governing body of the school shall be incorporated on such date as may be specified in the proposals (referred to in this Part as the “incorporation date”).
- (8) In relation to the establishment of a school in pursuance of proposals under subsection (2)(a) above, regulations may apply any provision of Chapter IV or V of Part III of this Act with or without modification.
- (9) In this Part—
  - (a) references to the discontinuance of a maintained special school are to the local education authority ceasing to maintain it, and
  - (b) references to an alteration to a school include the transfer of the school to a new site.

#### **340 Procedure for dealing with proposals.**

- (1) Before a body serve notice of any proposals under section 339 they shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the body shall have regard to any guidance given from time to time by the Secretary of State.
- (2) Within such period as may be specified in the notice under that section (which must not be less than two months beginning with the date on which the notice is served), any person may submit objections to the proposals to the body which served the notice.
- (3) Within one month after the end of the period for making objections specified in the last notice to be served under that section, the body which served the notice shall transmit to the Secretary of State copies of all objections which have been duly made (and not withdrawn in writing), together with their observations on them.
- (4) The Secretary of State may, after considering the proposals, any objections to the proposals and any observations on the objections—
  - (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) after consulting the body which served notice of them (and, in the case of proposals under section 339(2)(b) or (c), the governing body) approve them with such modifications as he thinks desirable.
- (5) The Secretary of State may modify any proposals required under section 339 to be implemented—
  - (a) in the case of proposals under section 339(2)(b) or (c)—
    - (i) at the request of the governing body, or
    - (ii) at the request of the funding authority and after consulting the governing body, or
  - (b) in any other case, at the request of the body which served notice of the proposals.

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- (6) References in this Part to proposals under section 339, in any case where the Secretary of State has modified such proposals in pursuance of this section, are to the proposals as so modified.
- (7) Service of a notice under that section which is sent by post in accordance with section 572 (service of notices) shall be taken to have been effected on the second day after the day on which the notice is posted.

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

C51 S. 340 modified (1.4.1999) by S.I. 1999/704, reg. 7(2)

**341 Approval of premises of maintained or grant-maintained special schools.**

- (1) Where a body serve under section 339(5) notice of proposals for the establishment of a school which is specially organised to make special educational provision for pupils with special educational needs, they shall submit to the Secretary of State the particulars in respect of the proposed premises of the school mentioned in subsection (3).
- (2) Where a body serve under section 339(5) notice of proposals for making a prescribed alteration to a special school, they shall, if the Secretary of State so directs, submit to him the particulars in respect of the premises or proposed premises of the school mentioned in subsection (3).
- (3) The particulars are—
  - (a) particulars of the provision made or to be made in respect of the means of access to and within the premises or proposed premises of the school, and
  - (b) such other particulars in respect of the premises or proposed premises of the school as the Secretary of State may require,and they shall be submitted at such time and in such form and manner as the Secretary of State may direct.
- (4) The particulars submitted under subsection (3)(a) shall indicate the extent to which the provision referred to conforms with the minimum requirements, so far as they are relevant to school premises, of—
  - (a) Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or
  - (b) (if that Note has been replaced by a document prescribed by regulations made or having effect as if made under the <sup>M63T</sup>Town and Country Planning Act 1990) that document.
- (5) Particulars submitted under this section in respect of the premises or proposed premises of the school require the approval of the Secretary of State.
- (6) Where any proposals falling within subsection (1) or (2) are required to be implemented, they shall be implemented in accordance with any particulars approved under this section.

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

C52 S. 341 applied (with modifications) and continued by S.I. 1999/704, regs. 8(2)(c), 14(g),

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### Marginal Citations

M63 1990 c. 8.

## <sup>x1</sup>342 Approval of special schools.

- (1) The Secretary of State may approve under this section any school which is specially organised to make special educational provision for pupils with special educational needs (and which is not a maintained or grant-maintained school), and may give his approval before or after the school is established.
- (2) Regulations may make provision as to the requirements which are to be complied with as a condition of approval under subsection (1) above.
- (3) Any school which—
  - (a) is established in pursuance of proposals approved under section 340 (or section 184 of the <sup>M64</sup>Education Act 1993), or
  - (b) was a special school immediately before 1st April 1994 (the date when section 184 of that Act came into force),
 shall be treated, subject to subsection (4) below, as approved under this section.
- (4) Regulations may make provision as to—
  - (a) the requirements which are to be complied with by a school while approved under this section, and
  - (b) the withdrawal of approval from a school (including approval treated as given under subsection (3)) at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (5) Without prejudice to the generality of subsections (2) and (4), the requirements which may be imposed by the regulations include requirements—
  - (a) which call for arrangements to be approved by the Secretary of State, or
  - (b) as to the organisation of any special school as a primary school or as a secondary school.
- (6) Regulations shall make provision for securing that, so far as practicable, every pupil attending a special school—
  - (a) receives religious education and attends religious worship, or
  - (b) is withdrawn from receiving such education or from attendance at such worship in accordance with the wishes of his parent.
- (7) Where approval is withdrawn from a maintained special school or grant-maintained special school, the local education authority or, as the case may be, the governing body shall serve under section 339 notice of their proposals to discontinue the school.
- (8) For the purposes of proposals made under subsection (7)—
  - (a) section 339 shall have effect as if the school had not ceased to be a special school on the withdrawal of the approval, and
  - (b) section 340 shall have effect as if subsections (1) to (3), and the reference in subsection (4) to the rejection of proposals, were omitted.



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#### Editorial Information

- X1** [S. 342](#): With effect from 1.9.1999 s. 342 became subsumed by new cross-heading "Approval of non-maintained special schools". Versions of this provision as it stood at any time on or after that date cannot be accessed directly by navigation from this version. To view those versions, it is recommended that users either conduct a search on the current date or navigate via the Chapter II heading.

#### Marginal Citations

- M64** [1993 c. 35](#).

### <sup>X2</sup>**343 Nursery education in grant-maintained special schools.**

- (1) No notice of proposals for a school to become a nursery school may be given under section 339(2) or (3).
- (2) Subject to subsection (1) above, proposals under section 339(2) or (3) may, in particular, be made for the purpose of securing the provision of education for junior pupils who have not attained [<sup>F47</sup>compulsory school age].

#### Editorial Information

- X2** [S. 343](#): With effect from 1.9.1999 s. 343 became subsumed by new cross-heading "Approval of non-maintained special schools". Versions of this provision as it stood at any time on or after that date cannot be accessed directly by navigation from this version. To view those versions, it is recommended that users either conduct a search on the current date or navigate via the Chapter II heading.

#### Textual Amendments

- F47** Words in [s. 343\(2\)](#) substituted (1.8.1998) by [1997 c. 44, s. 57\(1\)](#), [Sch. 7 para.25](#); [S.I. 1998/386, art. 2](#), [Sch. 1 Pt.III](#)

#### *Government etc. of special schools*

### **344 Government etc. of special schools.**

- (1) Chapters IV and VI of Part II have effect in relation to the government and conduct of maintained special schools and other matters relating to such schools; and section 120 provides for schemes under Chapter V of that Part (financial delegation) to apply to such schools.
- (2) Schedule 28 has effect in relation to the government and conduct of grant-maintained special schools and other matters relating to such schools.

#### *Maintained special school becoming grant-maintained*

### **345 Maintained special school becoming grant-maintained special school.**

- (1) Regulations may make provision for maintained special schools, or any class or description of such schools, to cease to be maintained by the local education authority and become grant-maintained special schools.

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- (2) Regulations shall require, before a maintained special school becomes a grant-maintained special school in pursuance of the regulations—
- (a) the submission to the Secretary of State of proposals for the purpose by the governing body of the school, and
  - (b) the approval of such proposals, as originally submitted or as modified by the Secretary of State (whether before or after they are approved).
- (3) If the proposals are so approved, a governing body of the school shall be incorporated in accordance with Schedule 28 on the date of approval (referred to in this Part as the “incorporation date”).
- (4) Regulations made for the purposes of this section may apply any provision of—
- (a) Chapter II (apart from section 198) or Chapter III or V of Part III,
  - (b) section 340, or
  - (c) section 35(7) or (8), section 37(1), (4), (7), (8) or (9), section 167(3) or (6) or section 169(1), (4) or (6),
- with or without modification.

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

**C53** S. 345 restricted (1.11.1996) by 1996 c. 57, ss. 30(2), 48(2)

**C54** S. 345 applied (with modifications) (1.11.1996) by 1996 c. 57, ss. 41(5)(a), 48(2)

*Grouping of grant-maintained special schools*

**346 Groups including grant-maintained special schools.**

- (1) Regulations may modify the provisions of Chapter IX of Part III (groups of grant-maintained schools) for the purpose of securing that—
- (a) two or more grant-maintained special schools, or one or more grant-maintained special schools together with one or more grant-maintained schools, may be conducted as a group by a single governing body,
  - (b) a special school maintained by a local education authority may cease to be so maintained and may be conducted by a governing body incorporated under that Chapter, and
  - (c) a grant-maintained special school may become a member of a group of schools conducted by such a governing body,
- and that, where a group of schools including one or more special schools is conducted by such a governing body, the governing body are appropriately constituted.
- (2) Regulations made for the purpose mentioned in subsection (1) may modify sections 338 to 342 and Schedule 28.
- (3) Where that Chapter applies to special schools by virtue of regulations—
- (a) section 183(1) shall not be read as applying to such schools,
  - (b) a special school conducted by a governing body incorporated under that Chapter shall be known as a grant-maintained special school, and
  - (c) in Chapter II of Part I of the <sup>M65</sup>School Inspections Act 1996 (procedure for school inspections) references to a group of grant-maintained schools include

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a group of one or more grant-maintained special schools together with one or more grant-maintained schools.

**Marginal Citations**

M65 1996 c. 57.

*Independent schools providing special education*

**347 Approval of independent schools.**

- (1) The Secretary of State may approve an independent school as suitable for the admission of children for whom statements are maintained under section 324.
- (2) Regulations may make provision as to—
  - (a) the requirements which are to be complied with by a school as a condition of its approval under this section,
  - (b) the requirements which are to be complied with by a school while an approval under this section is in force in respect of it, and
  - (c) the withdrawal of approval from a school at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (3) An approval under this section may be given subject to such conditions (in addition to those prescribed) as the Secretary of State sees fit to impose.
- (4) In any case where there is a failure to comply with such a condition imposed under subsection (3), the Secretary of State may withdraw his approval.
- (5) No person shall so exercise his functions under this Part that a child with special educational needs is educated in an independent school unless—
  - (a) the school is for the time being approved by the Secretary of State as suitable for the admission of children for whom statements are maintained under section 324, or
  - (b) the Secretary of State consents to the child being educated there.

**348 Provision of special education at non-maintained schools.**

- (1) This section applies where—
  - (a) special educational provision in respect of a child with special educational needs is made at a school which is not a maintained school, and
  - (b) either the name of the school is specified in a statement in respect of the child under section 324 or the local education authority are satisfied—
    - (i) that his interests require the necessary special educational provision to be made for him at a school which is not a maintained school, and
    - (ii) that it is appropriate for the child to be provided with education at the particular school.
- (2) Where this section applies, the local education authority shall pay the whole of the fees payable in respect of the education provided for the child at the school, and if—
  - (a) board and lodging are provided for him at the school, and

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- (b) the authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless the board and lodging are also provided,
- the authority shall pay the whole of the fees payable in respect of the board and lodging.
- (3) In this section “maintained school” means—
- (a) a school maintained by a local education authority,
  - (b) a grant-maintained school, and
  - (c) a grant-maintained special school.

### *Variation of deeds*

#### **349 Variation of trust deeds etc. by order.**

- (1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to a school as, after consultation with the governing body or other proprietor of the school, appear to him to be necessary to enable the governing body or proprietor to meet any requirement imposed by regulations under section 342 or 347.
- (2) Any modification made by an order under this section may be made to have permanent effect or to have effect for such period as may be specified in the order.

## PART V

### THE CURRICULUM

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

**C55** Pt. V (ss. 350-410) modified (1.9.1999) by [S.I. 1999/2262](#), [reg. 57](#)

## CHAPTER I

### PRELIMINARY

#### **350 Meaning of “maintained school” etc. in Part V.**

- (1) In this Part “maintained school” means—
  - (a) any county or voluntary school,
  - (b) except where otherwise stated, any maintained special school which is not established in a hospital, and
  - (c) except so far as that expression has effect in relation to a local education authority, any grant-maintained school.
- (2) In this Part “assess” includes examine and test, and related expressions shall be construed accordingly.

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### **351 General duties in respect of the curriculum.**

- (1) The curriculum for a school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
  - (a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and
  - (b) prepares pupils at the school for the opportunities, responsibilities and experiences of adult life.
- (2) The Secretary of State shall exercise his functions with a view to securing that the curriculum for every maintained school satisfies the requirements of this section.
- (3) Every local education authority shall exercise their functions with a view to securing that the curriculum for every maintained school which they maintain satisfies the requirements of this section.
- (4) The governing body and head teacher of every maintained school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of this section.
- (5) The functions referred to in subsections (2) to (4) include in particular functions conferred by this Part in relation to religious education, religious worship and the National Curriculum.

### **352 Basic curriculum for every maintained school.**

- (1) The curriculum for every maintained school shall comprise a basic curriculum which includes—
  - (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of sections 376 to 381 as apply in relation to the school),
  - (b) a curriculum for all registered pupils at the school of compulsory school age (known as “the National Curriculum”) which meets the requirements of section 353,
  - (c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and
  - (d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education.
- (2) Subsection (1)(a) does not apply in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 342(6)).
- (3) In this Act “sex education” includes education about—
  - (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
  - (b) any other sexually transmitted disease.

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

**C56** S. 352(1)(a) explained (1.10.1998) by 1998 c. 31, s. 69(2) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch. 1 Pt.I

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- C57** S. 352(1)(a) modified (*prosp.*) by 1998 c. 31, ss. 69, 145(3), Sch. 19 paras. 2(2)(4), 3(2)(4), **4(2)** (with ss. 138(9), 144(6))  
 S. 352(1)(a) modified (1.10.1998 for certain purposes and otherwise *prosp.*) by 1998 c. 31, ss. 69, 145(3), Sch. 19 paras. 2(4), **3(4)** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

## CHAPTER II

### SECULAR EDUCATION

#### *The National Curriculum: general*

#### **353 The National Curriculum.**

The National Curriculum shall comprise the core and other foundation subjects and specify in relation to each of them—

- (a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of each key stage (referred to in this Part as “attainment targets”),
- (b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during each key stage (referred to in this Part as “programmes of study”), and
- (c) the arrangements for assessing pupils in respect of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage (referred to in this Part as “assessment arrangements”).

#### **354 The core subjects and other foundation subjects.**

- (1) The core subjects are—
  - (a) mathematics, English and science, and
  - (b) in relation to schools in Wales which are Welsh-speaking schools, Welsh.
- (2) The other foundation subjects are—
  - (a) technology and physical education,
  - (b) in relation to the first, second and third key stages, history, geography, art and music,
  - (c) in relation to the third and fourth key stages, a modern foreign language specified in an order of the Secretary of State, and
  - (d) in relation to schools in Wales which are not Welsh-speaking schools, Welsh.
- (3) In relation to schools in England—
  - (a) a modern foreign language is not a foundation subject in relation to the fourth key stage until the relevant date; and
  - (b) technology is a foundation subject in relation to pupils who entered the first year of the fourth key stage in 1993 but otherwise is not a foundation subject in relation to that key stage until the relevant date.
- (4) In subsection (3) “the relevant date” means—
  - (a) 1st August 1996, in the case of pupils entering the first year of the fourth key stage in 1996; and

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- (b) 1st August 1997, in the case of all other pupils.
- (5) In relation to schools in Wales—
- (a) a modern foreign language is not a foundation subject in relation to the fourth key stage; and
  - (b) technology is a foundation subject in relation to pupils who entered the first year of the fourth key stage in 1993 but otherwise is not a foundation subject in relation to that key stage.
- (6) The Secretary of State may by order amend subsections (1) to (5).
- (7) In this section “school” includes part of a school.
- (8) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh—
- (a) religious education, and
  - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.

### 355 The key stages.

- (1) The key stages in relation to a pupil are—
- (a) the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven (“the first key stage”),
  - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of 11 (“the second key stage”),
  - (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of 12 and ending at the same time as the school year in which the majority of pupils in his class attain the age of 14 (“the third key stage”), and
  - (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of 15 and ending with the expiry of the school year in which the majority of pupils in his class cease to be of compulsory school age (“the fourth key stage”).
- (2) The Secretary of State may by order—
- (a) amend subsection (1), or
  - (b) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there mentioned there were substituted such other ages (less than 11 and 12 respectively) as may be specified in the order.
- (3) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age.
- (4) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—

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- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil's class attain a particular age were a reference to the school year in which that pupil attains that age, and
  - (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of 15 and ending when he ceases to be of compulsory school age.
- (5) In this section—
- “class”, in relation to a particular pupil and a particular subject, means—
    - (a) the teaching group in which he is regularly taught that subject, or
    - (b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school; <sup>F48</sup> . . .
- F48 . . .

#### Textual Amendments

**F48** S. 355(5); definition of "school year" and the word immediately preceding it repealed (14.6.1997) by 1997 c. 44, s. 57(4), **Sch.8**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.I**

### 356 Establishment of the National Curriculum by order.

- (1) The Secretary of State shall so exercise the powers conferred by subsection (2) as to—
  - (a) establish a complete National Curriculum as soon as is reasonably practicable (taking first the core subjects and then the other foundation subjects), and
  - (b) revise the National Curriculum whenever he considers it necessary or expedient to do so.
- (2) The Secretary of State may by order specify in relation to each of the foundation subjects—
  - (a) such attainment targets,
  - (b) such programmes of study, and
  - (c) such assessment arrangements,
 as he considers appropriate for that subject.
- (3) An order made under subsection (2) may not require—
  - (a) the allocation of any particular period or periods of time during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it, or
  - (b) the making in school timetables of provision of any particular kind for the periods to be allocated to such teaching during any such stage.
- (4) An order under subsection (2) may, instead of containing the provisions to be made, refer to provisions in a document published by Her Majesty's Stationery Office and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.
- (5) An order under subsection (2)(c)—
  - (a) may confer or impose such functions on—
    - (i) the governing body and the head teacher, and
    - (ii) (except in the case of grant-maintained schools) on the local education authority,



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- as appear to the Secretary of State to be required, and
  - (b) may specify any such assessment arrangements as may for the time being be made by a person specified in the order.
- (6) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (7) The duties that may be imposed by virtue of subsection (5)(a) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (6), the duty to permit them—
- (a) to enter the premises of the school,
  - (b) to observe the implementation of the arrangements, and
  - (c) to inspect, and take copies of, documents and other articles.
- (8) An order under subsection (2)(c) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (5)(a)) as appear to the Secretary of State to be expedient; and any provisions made under such an order shall, on being published by Her Majesty's Stationery Office, have effect for the purposes of this Part as if made by the order.
- (9) The Secretary of State shall, in exercising his power under subsection (2), ensure that the subject of science does not include—
- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus,
  - (b) any other sexually transmitted disease, or
  - (c) aspects of human sexual behaviour, other than biological aspects.

**357 Implementation of the National Curriculum in schools.**

- (1) In relation to any maintained school and any school year—
- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,
- that the National Curriculum as subsisting at the beginning of that year is implemented.
- (2) In relation to any time before the beginning of the school year following the establishment of the National Curriculum so far as relating to a particular subject and a particular key stage, subsection (1) shall have effect as if the Curriculum required that subject to be taught for a reasonable time during that stage.

*The School Curriculum and Assessment Authority*

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**Textual Amendments**  
**F49** S. 358 repealed (1.3.1998) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 26, **Sch. 8**; S.I. 1998/386, art. 2(1), **Sch. 1 Pt. I**

<sup>F50</sup>**359** .....

**Textual Amendments**  
**F50** S. 359 repealed (1.3.1998) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 26, **Sch. 8**; S.I. 1998/386, art. 2(1), **Sch. 1 Pt. I**

*The Curriculum and Assessment Authority for Wales*

<sup>F51</sup>**360** .....

**Textual Amendments**  
**F51** S. 360 repealed (1.10.1997) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 26, **Sch. 8**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. I**

<sup>F52</sup>**361** .....

**Textual Amendments**  
**F52** S. 361 repealed (1.10.1997) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 26, **Sch. 8**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. I**

*The National Curriculum: special cases*

**362 Development work and experiments.**

- (1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct in respect of a particular maintained school that, for such period as may be specified in the direction, the National Curriculum—
  - (a) shall not apply, or
  - (b) shall apply with such modifications as may be specified in the direction.
- (2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.
- (3) In the case of a county, controlled or maintained special school, a direction shall not be given under subsection (1) except on an application—
  - (a) by the governing body with the agreement of the local education authority,

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- (b) by the local education authority with the agreement of the governing body, or
  - (c) by the appropriate curriculum authority with the agreement of both the local education authority and the governing body.
- (4) In the case of a grant-maintained, aided or special agreement school, a direction shall not be given under subsection (1) except on an application by the governing body or by the appropriate curriculum authority with the agreement of the governing body.
- (5) The Secretary of State may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Secretary of State on any matters specified by him.
- (6) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1).
- (7) In this section “the appropriate curriculum authority” means—
- (a) in relation to England, [<sup>F53</sup>the Qualifications and Curriculum Authority], and
  - (b) in relation to Wales, [<sup>F53</sup>the Qualifications, Curriculum and Assessment Authority for Wales].

#### Textual Amendments

**F53** Words in s. 362(7)(a)(b) substituted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 27(a)(b)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.III** (subject to savings in art. 4, Sch. 2 Pt. I para. 6)

### 363 Exceptions by regulations.

Regulations may provide that the National Curriculum, or such of the provisions of the National Curriculum as may be specified in the regulations—

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the regulations, in such cases or circumstances as may be specified in the regulations.

### 364 Pupils with statements of special educational needs.

The special educational provision for any pupil specified in a statement under section 324 of his special educational needs may include provision—

- (a) excluding the application of the National Curriculum, or
- (b) applying the National Curriculum with such modifications as may be specified in the statement.

### 365 Temporary exceptions for individual pupils.

- (1) Regulations may enable the head teacher of a maintained school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the National Curriculum—

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the direction.

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- (2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.
- (3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either—
  - (a) a fixed period not exceeding six months, or
  - (b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning.
- (4) Any maximum period so specified may, without prejudice to the generality of section 569(4) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning—
  - (a) immediately after the end of the operative period of a previous direction, or
  - (b) within such period after the end of the operative period of a previous direction as may be specified in the regulations.
- (5) The regulations may enable the head teacher of a maintained school, in such cases or circumstances and subject to such conditions as may be prescribed—
  - (a) to revoke any direction given by him under the regulations, and
  - (b) to vary such a direction, except so as to extend its operative period.
- (6) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

### **366 Information concerning directions under section 365.**

- (1) Where a head teacher gives or varies a direction under regulations made under section 365, he shall, in such manner as may be prescribed, give the information mentioned in subsection (2)—
  - (a) to the governing body, and
  - (b) where the school is a county, voluntary or maintained special school, to the local education authority by whom the school is maintained,
 and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.
- (2) That information is—
  - (a) the fact that he has taken the action in question, its effect and his reasons for taking it;
  - (b) the provision that is being or is to be made for the pupil's education during the operative period of the direction; and
  - (c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3).
- (3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any

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statement of his special educational needs which the authority are for the time being required under section 324 to maintain).

- (4) Where—
- (a) the head teacher of a county, voluntary or maintained special school includes an indication of any such opinion in information given under subsection (1), and
  - (b) the local education authority by whom the school is maintained are not the responsible authority in relation to pupil in question,
- the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (5) Where the head teacher of a grant-maintained school includes an indication of any such opinion in information given to the governing body under subsection (1), he shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (6) Where the responsible authority receive information given to them under subsection (1), (4) or (5) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on their part is required in the case of the pupil concerned under section 323 (assessment of special educational needs).
- (7) In this section “the responsible authority”, in relation to a pupil, means the local education authority responsible for him for the purposes of Part IV.

### **367 Appeals against directions under section 365 etc.**

- (1) Where a head teacher—
- (a) gives, revokes or varies a direction under regulations made under section 365,
  - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or
  - (c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,
- the parent of the pupil concerned may appeal to the governing body.
- (2) On such an appeal, the governing body may—
- (a) confirm the head teacher’s action, or
  - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances.
- (3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).
- (4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal.

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*The National Curriculum: supplementary provisions*

**368 Procedure for making certain orders and regulations.**

- (1) Subject to subsection (9), this section applies where the Secretary of State proposes to make—
  - (a) an order under section 354(6), 355(2) or 356(2)(a) or (b), or
  - (b) regulations under section 363.
- (2) The Secretary of State shall refer the proposal to the appropriate curriculum authority and shall give them directions as to the time within which they are to report to him.
- (3) The authority shall give notice of the proposal—
  - (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to the authority to be concerned, and
  - (b) to any other persons with whom consultation appears to the authority to be desirable,
 and shall give them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (4) The report of the authority to the Secretary of State shall contain—
  - (a) a summary of the views expressed during the consultations,
  - (b) the authority's recommendations as to the proposal, and
  - (c) such other advice relating to the proposal as the authority think fit.
- (5) The authority shall, after submitting their report to the Secretary of State, arrange for the report to be published.
- (6) Where the authority have reported to the Secretary of State, he shall publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
  - (a) a draft of the proposed order or regulations and any associated document, and
  - (b) a statement explaining his reasons for any failure to give effect to the recommendations of the authority,
 and shall send copies of the documents mentioned in paragraphs (a) and (b) to the authority and to each of the persons consulted by the authority.
- (7) The Secretary of State shall allow a period of not less than one month for the submission of evidence and representations as to the issues arising.
- (8) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.
- (9) This section does not apply where—
  - (a) the Secretary of State proposes to make such an order as is, or such regulations as are, referred to in subsection (1), and
  - (b) arrangements for consultation about the proposed order or regulations were made before 1st September 1996 under section 242 of the <sup>M66</sup>Education Act 1993,
 (and accordingly, the arrangements for consultation applicable in the case of the proposed order or regulations shall be those mentioned in paragraph (b) above).

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- (10) In subsection (2) “the appropriate curriculum authority” means—
- (a) in relation to an order or regulations relating to maintained schools in England or pupils at such schools, [<sup>F54</sup>the Qualifications and Curriculum Authority], and
  - (b) in relation to an order or regulations relating to maintained schools in Wales or pupils at such schools, [the Qualifications, Curriculum and Assessment Authority for Wales].

#### Textual Amendments

**F54** Words in s. 368(10)(a)(b) substituted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 28(a)(b)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.III** (subject to savings in art. 4, Sch. 2 Pt. 1 para. 6)

#### Marginal Citations

**M66** 1993 c. 35.

### 369 Programmes of research etc. in relation to Wales.

The Secretary of State may incur expenses in connection with the commissioning by him of such work, including programmes of research, development and dissemination, as he may require to be carried out for the purpose of facilitating the discharge, in relation to Wales, of any of his functions under sections 354 to 356.

*General functions of LEA, governing body and head teacher in relation to curriculum*

### 370 Duty of local education authority to state policy.

- (1) A local education authority shall—
- (a) determine, and keep under review, their policy in relation to the secular curriculum for the county, voluntary and special schools maintained by them, and
  - (b) make, and keep up to date, a written statement of that policy.
- (2) In discharging their duty under subsection (1), the authority shall consider, in particular—
- (a) the range of the secular curriculum, and
  - (b) the balance between its different components.
- (3) In carrying out their functions under this Act or any other enactment, the authority shall have regard to their policy as expressed in their statement.

### 371 Functions of governing body: county, controlled and maintained special schools.

- (1) This section applies to the articles of government for a county, controlled or maintained special school.
- (2) The articles shall require the governing body to consider—
- (a) the policy of the local education authority as expressed in the statement made by the authority under section 370,

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- (b) what, in the governing body’s opinion, should be the aims of the secular curriculum for the school, and
  - (c) how (if at all) the authority’s policy with regard to matters other than sex education should in their opinion be modified in relation to the school,
- and to make, and keep up to date, a written statement of their conclusions.
- (3) The articles shall require the governing body—
- (a) to consider separately (while having regard to the local education authority’s statement under section 370) the question whether sex education should form part of the secular curriculum for the school, and
  - (b) to make, and keep up to date, a separate written statement—
    - (i) of their policy with regard to the content and organisation of the relevant part of the curriculum, or
    - (ii) where they conclude that sex education should not form part of the secular curriculum, of that conclusion.
- (4) The articles shall require the governing body—
- (a) when considering the matters mentioned in subsections (2) and (3), to do so in consultation with the head teacher and to have regard to any representations—
    - (i) which are made to them by any persons connected with the community served by the school, or
    - (ii) which are made to them by the chief officer of police and are connected with his responsibilities; and
  - (b) to consult the local education authority before making or varying any statement under subsection (2).
- (5) The articles shall provide that the governing body may review their conclusions about the matters mentioned in subsection (2) or (3) whenever they think fit, and that they shall do so immediately following—
- (a) the implementation of any proposals of a kind mentioned in subsection (7) which materially affect the school, or
  - (b) the implementation of any proposal under section 339 (establishment, alteration and discontinuance of maintained special school).
- (6) The articles shall require the governing body, where they have completed such a review and consider it appropriate to make a fresh statement, to do so.
- (7) The kinds of proposals referred to in subsection (5) are—
- (a) proposals under section 35 (establishment, alteration etc. of a county school) or section 41 (establishment, alteration etc. of a voluntary school); and
  - (b) proposals for a voluntary school to be transferred to a new site in pursuance of an order under section 47;
- and the reference above to proposals under section 35 includes a reference to proposals which would fall to be published by virtue of that section but for subsection (2)(b) of that section.
- (8) In relation to sex education, this section has effect subject to section 404(3).

### **372 Functions of head teacher: county, controlled and maintained special schools.**

- (1) The articles of government for a county, controlled or maintained special school shall—



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- (a) provide for the determination and organisation of the secular curriculum for the school to be the responsibility of the head teacher, and
  - (b) require the head teacher to secure that that curriculum is followed within the school.
- (2) The articles shall provide that, in discharging his duties in relation to the secular curriculum for the school, the head teacher shall consider the statement made by the local education authority under section 370 and those made by the governing body by virtue of section 371.
- (3) The articles shall also provide that, in discharging those duties, the head teacher shall have regard to any representations with regard to the determination or organisation of the secular curriculum—
  - (a) which are made to him by any persons connected with the community served by the school, or
  - (b) which are made to him by the chief officer of police and are connected with that officer’s responsibilities.
- (4) The articles shall also provide that, in discharging those duties, the head teacher shall ensure that the secular curriculum—
  - (a) so far as it relates to sex education, is compatible with the governing body’s policy (as expressed in the statement made by them by virtue of section 371(3)) except where that policy is incompatible with any part of the syllabus for a course which forms part of that curriculum and leads to a public examination;
  - (b) so far as it relates to other matters, is compatible with the policy of the local education authority (as expressed in the statement made by them under section 370) as modified by the statement made by the governing body by virtue of section 371(2), and
  - (c) is compatible with the provisions of this Act and any other enactments relating to education (including, in particular, provisions relating to children with special educational needs).
- (5) In relation to sex education subsection (4) has effect subject to section 404(3).

**373 Functions of governing body and head teacher: aided and special agreement schools.**

- (1) The articles of government for an aided or special agreement school shall provide—
  - (a) for the content of the secular curriculum for the school to be under the control of the governing body,
  - (b) for the governing body to have regard to the policy of the local education authority as expressed in the statement made by the authority under section 370, and
  - (c) for the head teacher to be allocated by the governing body such functions as will, subject to the resources available, enable him to determine and organise the curriculum and secure that it is followed within the school.
- (2) The articles shall require the governing body, when considering the content of the secular curriculum for the school, to have regard to any representations with regard to that curriculum—

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- (a) which are made to them by any persons connected with the community served by the school, or
- (b) which are made to them by the chief officer of police and are connected with his responsibilities.

### **374 Functions of governing body and head teacher: grant-maintained schools.**

Paragraph 4 of Schedule 23 has effect for securing the discharge by the governing body and the head teacher of a grant-maintained school of duties imposed on them under the provisions of this Part mentioned in paragraph 4(1).

## **CHAPTER III**

### RELIGIOUS EDUCATION AND WORSHIP

#### *Agreed syllabuses*

### **375 Agreed syllabuses of religious education.**

- (1) Subject to the provisions of Schedule 31, any agreed syllabus in force immediately before the commencement of this Act shall continue to have effect.
- (2) In this Act “agreed syllabus” means a syllabus of religious education—
  - (a) prepared before the commencement of this Act in accordance with Schedule 5 to the <sup>M67</sup>Education Act 1944 or after commencement in accordance with Schedule 31, and
  - (b) adopted by a local education authority under that Schedule, whether it is for use in all the schools maintained by them or for use in particular such schools or in relation to any particular class or description of pupils in such schools.
- (3) Every agreed syllabus shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.
- (4) Any reference in this Act to an agreed syllabus adopted by a local education authority includes a reference to an agreed syllabus deemed to be adopted by such an authority by virtue of paragraph 11 of Schedule 5 to the <sup>M68</sup>Education Act 1944 or paragraph 14 of Schedule 31; and accordingly, in relation to an agreed syllabus deemed to be so adopted, any reference to the date on which an agreed syllabus was adopted is a reference to the date of deemed adoption specified by the Secretary of State in a direction under that paragraph.
- (5) Subsection (3) does not apply to any agreed syllabus adopted before 29th September 1988.

#### **Marginal Citations**

**M67** 1944 c. 31.

**M68** 1944 c. 31.

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### *Required provision for religious education*

#### **376 Religious education: county schools.**

- (1) In the case of a county school, the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.
- (2) No agreed syllabus shall provide for religious education to be given to pupils at a county school by means of any catechism or formulary which is distinctive of a particular religious denomination (but this is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies).
- (3) If, in the case of a county secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 389 to receive religious education elsewhere, the local education authority are satisfied—
  - (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
  - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the authority,

the authority shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.

#### **377 Religious education: controlled schools.**

- (1) In the case of a controlled school, the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum shall be provision for religious education—
  - (a) in accordance with any arrangements made under subsection (2), or
  - (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.
- (2) Where the parents of any pupils at a controlled school request that they may receive religious education—
  - (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a controlled school,the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.

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### **378 Religious education: aided and special agreement schools.**

- (1) In the case of an aided or special agreement school, the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education—
  - (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a voluntary school, or
  - (c) in accordance with any arrangements made under subsection (2).
- (2) Where the parents of any pupils at an aided or special agreement school—
  - (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority, and
  - (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,
 arrangements shall be made (unless the authority are satisfied that because of any special circumstances it would be unreasonable to do so) for religious education in accordance with that syllabus to be given to those pupils in the school.
- (3) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum by virtue of section 352(1)(a).
- (4) Any arrangements under subsection (2) shall be made by the governing body, unless the local education authority are satisfied that the governing body are unwilling to make them, in which case they shall be made by the authority.
- (5) Subject to subsection (4), the religious education given to pupils at an aided or special agreement school shall be under the control of the governing body.

### **379 Religious education: grant-maintained schools (former county schools and certain new schools).**

- (1) Subject to section 383, this section applies in relation to a grant-maintained school if—
  - (a) it was a county school immediately before it became grant-maintained,
  - (b) it was established in pursuance of proposals published under section 211, or
  - (c) it was established in pursuance of proposals published under section 212 and neither any trust deed relating to the school nor the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) The provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education in accordance with the appropriate agreed syllabus.
- (3) That syllabus shall not provide for religious education to be given to pupils at the school by means of any catechism or formulary which is distinctive of a particular religious denomination (but this is not to be taken as prohibiting provision in the syllabus for the study of such catechisms or formularies).

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(4) If, in the case of a secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 389 to receive religious education elsewhere, the governing body are satisfied—

- (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
- (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the governing body,

the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.

### **380 Religious education: grant-maintained schools (former controlled schools).**

(1) Subject to section 383, this section applies in relation to a grant-maintained school which was a controlled school immediately before it became grant-maintained.

(2) The provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education—

- (a) in accordance with any arrangements made under subsection (3), or
- (b) subject to any such arrangements, in accordance with the appropriate agreed syllabus.

(3) Where the parents of any pupils at the school have requested (whether before or after the school became grant-maintained) that the pupils may receive religious education—

- (a) in accordance with any provisions of the trust deed relating to the school, or
- (b) where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a grant-maintained school,

the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.

### **381 Religious education: grant-maintained schools (former aided or special agreement schools and certain new schools).**

(1) Subject to section 383, this section applies in relation to a grant-maintained school if—

- (a) it was an aided or special agreement school immediately before it became grant-maintained, or
- (b) it was established in pursuance of proposals published under section 212 and either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.

(2) The provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education—

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- (a) in accordance with any provisions of any trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with—
    - (i) the practice observed in the school before it became a grant-maintained school, if it is a former aided or special agreement school, or
    - (ii) the statement required by paragraph 8 of Schedule 20, if it is a school established in pursuance of proposals published under section 212, or
  - (c) in accordance with any arrangements made under subsection (3).
- (3) Where the parents of any pupils at the school—
- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority for the area in which the school is situated for use in schools maintained by the authority, and
  - (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,
- the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for religious education in accordance with that syllabus to be given to those pupils in the school.
- (4) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school’s basic curriculum by virtue of section 352(1)(a).
- (5) The head teacher of a school to which this section applies shall give notice in writing of any agreed syllabus which is in use at the school in accordance with subsection (3) to the standing advisory council on religious education constituted by the local education authority in whose area the school is situated.

### **382 Meaning of “the appropriate agreed syllabus” in sections 379 and 380.**

- (1) For the purposes of sections 379(2) and 380(2) “the appropriate agreed syllabus”, in relation to a grant-maintained school or to any pupils at it, is—
- (a) the agreed syllabus adopted for the time being by the local education authority for the area in which the school is situated for use in the schools maintained by the authority;
  - (b) if there is more than one such syllabus, such one of them as the governing body shall determine; or
  - (c) if the governing body select for the school or those pupils an agreed syllabus which—
    - (i) was adopted on or after 29th September 1988 by a local education authority other than the authority in whose area the school is situated, and
    - (ii) has not been replaced by a new agreed syllabus, that syllabus.
- (2) In relation to a school in Wales, in subsection (1)(c) “local education authority” means a local education authority in Wales.

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### **383 Changes in religious education and worship.**

- (1) Subsection (2) applies where, in the case of a grant-maintained school in relation to which section 379 or 380 for the time being applies, proposals that the required provision for religious education should be provision for religious education in accordance with the tenets of a particular religion or religious denomination are approved under section 261.
- (2) From the time at which the proposals fall to be implemented—
  - (a) the required provision for religious education shall (subject to subsection (3)) be provision for religious education either in accordance with the tenets of that religion or religious denomination or in accordance with any arrangements made under section 381(3) (as applied by paragraph (b)),
  - (b) section 381(3) to (5) shall apply in relation to the school, and
  - (c) any provisions of section 379, 380, 385(4), 386 or 387 which apply in relation to the school shall cease to apply in relation to it.
- (3) Where, in the case of any grant-maintained school, proposals that the required provision for religious education should be provision for religious education otherwise than in accordance with the tenets of a particular religion or religious denomination are approved under section 261—
  - (a) sections 379 and 386 shall apply in relation to the school from the time at which the proposals fall to be implemented, and
  - (b) any provisions of section 380 or 381 which apply in relation to the school shall cease to apply in relation to it from that time.
- (4) In this section “the required provision for religious education”, in relation to a school, means the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school’s basic curriculum.

### **384 Duty to secure religious education is given in accordance with required provision in curriculum.**

Subject to section 389, in relation to any maintained school (other than a maintained special school)—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

that religious education is given in accordance with the provision for such education included in the school’s basic curriculum by virtue of section 352(1)(a).

#### *Religious worship*

### **385 Collective worship.**

- (1) Subject to section 389, all pupils in attendance at a maintained school other than a maintained special school shall on each school day take part in an act of collective worship.
- (2) The arrangements for the collective worship in a school required by this section may, in respect of each school day, provide for a single act of worship for all pupils or for separate acts of worship for pupils in different age groups or in different school groups.

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- (3) For the purposes of subsection (2) a “school group” is any group in which pupils are taught or take part in other school activities.
- (4) Subject to subsection (6), the arrangements for the collective worship required by this section shall be made—
  - (a) in the case of a county school or a grant-maintained school in relation to which section 379 applies, by the head teacher after consultation with the governing body; and
  - (b) in the case of a voluntary school or a grant-maintained school other than one in relation to which section 379 applies, by the governing body after consultation with the head teacher.
- (5) Subject to subsection (6), the collective worship in a school required by this section shall take place on the school premises.
- (6) If the governing body of an aided, special agreement or grant-maintained school are of the opinion that it is desirable that any act of collective worship in the school required by this section should, on a special occasion, take place elsewhere than on the school premises, they may, after consultation with the head teacher, make such arrangements for that purpose as they think appropriate.
- (7) The powers of a governing body under subsection (6) shall not be exercised so as to derogate from the rule that the collective worship in the school required by this section must normally take place on the school premises.

**386 Collective worship in county schools and certain grant-maintained schools to be broadly Christian.**

- (1) Subsections (2) to (6) apply—
  - (a) (subject to section 387) in relation to a county school, and
  - (b) (subject to sections 383 and 387) in relation to a grant-maintained school in relation to which section 379 applies,
- (2) The collective worship required in the school by section 385 shall be wholly or mainly of a broadly Christian character.
- (3) For the purposes of subsection (2), collective worship is of a broadly Christian character if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.
- (4) Not every act of collective worship in the school required by section 385 need comply with subsection (2) provided that, taking any school term as a whole, most such acts which take place in the school do comply with that subsection.
- (5) Subject to subsections (2) and (4)—
  - (a) the extent to which (if at all) any acts of collective worship required by section 385 which do not comply with subsection (2) take place in the school,
  - (b) the extent to which any act of collective worship in the school which complies with subsection (2) reflects the broad traditions of Christian belief, and
  - (c) the ways in which those traditions are reflected in any such act of collective worship,



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shall be such as may be appropriate having regard to any relevant considerations relating to the pupils concerned which fall to be taken into account in accordance with subsection (6).

- (6) Those considerations are—
- (a) any circumstances relating to the family backgrounds of the pupils which are relevant for determining the character of the collective worship which is appropriate in their case, and
  - (b) their ages and aptitudes.
- (7) In subsections (2) to (6) as they apply in relation to a grant-maintained school, references to acts of collective worship in the school include such acts which by virtue of section 385(6) take place otherwise than on the school premises.

### **387 Disapplication of requirement for Christian collective worship.**

- (1) Subsection (2) applies where—
- (a) a standing advisory council on religious education determine (under section 394) that it is not appropriate for the requirement imposed by section 386(2) to apply in the case of a school or in the case of any class or description of pupils at a school, or
  - (b) such a council had so determined in the case of a grant-maintained school, or pupils at such a school, before the school became grant-maintained.
- (2) While the determination has effect—
- (a) section 386 shall not apply in relation to the school or (as the case may be) pupils in question, and
  - (b) the collective worship required by section 385 in the case of the school or pupils shall not be distinctive of any particular Christian or other religious denomination;
- but paragraph (b) shall not be taken as preventing that worship from being distinctive of any particular faith.
- (3) In this section references to a school are references to a county school or to a grant-maintained school in relation to which section 379 applies.

### **388 Duty to secure participation in collective worship.**

Subject to section 389, in relation to any maintained school (other than a maintained special school)—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

that all pupils in attendance at the school take part in the daily collective worship required by section 385.

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### *Exceptions and special arrangements*

#### **389 Exceptions and special arrangements.**

- (1) If the parent of a pupil at a maintained school requests that he may be wholly or partly excused—
  - (a) from receiving religious education given in the school in accordance with the school’s basic curriculum,
  - (b) from attendance at religious worship in the school, or
  - (c) both from receiving such education and from such attendance,
 the pupil shall be so excused until the request is withdrawn.
- (2) In subsection (1)—
  - (a) the reference to religious education given in accordance with the school’s basic curriculum is to such education given in accordance with the provision included in the school’s basic curriculum by virtue of section 352(1)(a), and
  - (b) the reference to religious worship in the school includes religious worship which by virtue of section 385(6) takes place otherwise than on the school premises.
- (3) Where in accordance with subsection (1) a pupil has been wholly or partly excused from receiving religious education or from attendance at religious worship and the responsible authority are satisfied—
  - (a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused,
  - (b) that the pupil cannot with reasonable convenience be sent to another maintained school where religious education of the kind desired by the parent is provided, and
  - (c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere,
 the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.
- (4) A pupil may not be withdrawn from school under subsection (3) unless the responsible authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of a school session (or, if there is only one, the school session) on that day.
- (5) Where the parent of a pupil who is a boarder at a maintained school requests that the pupil be permitted—
  - (a) to receive religious education in accordance with the tenets of a particular religion or religious denomination outside school hours, or
  - (b) to attend worship in accordance with such tenets on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs,
 the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so.

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- (6) Arrangements under subsection (5) may provide for making facilities for such education or worship available on the school premises, but the arrangements shall not entail expenditure by the responsible authority.
- (7) In this section—
- “maintained school” does not include a maintained special school, and
  - “the responsible authority”, in relation to a county or voluntary school, means the local education authority, and, in relation to a grant-maintained school, means the governing body.

#### *Constitution of standing advisory councils on religious education*

### **390 Constitution of advisory councils.**

- (1) A local education authority shall constitute a standing advisory council on religious education for the purposes mentioned in section 391(1).
- (2) The council shall consist of—
- (a) such groups of persons appointed by the authority as representative members (“representative groups”) as are required by subsection (4), and
  - (b) a person appointed as a member by the governing bodies of the grant-maintained schools within the area of the authority in relation to which section 379 or 380 applies.
- (3) The council may also include co-opted members (that is, persons co-opted as members of the council by members of the council who have not themselves been so co-opted).
- (4) The representative groups required by this subsection are—
- (a) a group of persons to represent such Christian denominations and other religions and denominations of such religions as, in the opinion of the authority, will appropriately reflect the principal religious traditions in the area;
  - (b) except in the case of an area in Wales, a group of persons to represent the Church of England;
  - (c) a group of persons to represent such associations representing teachers as, in the opinion of the authority, ought to be represented, having regard to the circumstances of the area; and
  - (d) a group of persons to represent the authority.
- (5) Where a representative group is required by subsection (4)(b), the representative group required by subsection (4)(a) shall not include persons appointed to represent the Church of England.
- (6) The number of representative members appointed to any representative group under subsection (4)(a) to represent each denomination or religion required to be represented shall, so far as consistent with the efficient discharge of the group’s functions, reflect broadly the proportionate strength of that denomination or religion in the area.
- (7) On any question to be decided by the council only the representative groups on the council shall be entitled to vote, and each representative group shall have a single vote.

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### **391 Functions of advisory councils.**

- (1) The purposes referred to in section 390(1) are—
  - (a) to advise the local education authority upon such matters connected with religious worship in county schools and the religious education to be given in accordance with an agreed syllabus as the authority may refer to the council or as the council may see fit, and
  - (b) to carry out the functions conferred on them by section 394.
- (2) The matters referred to in subsection (1)(a) include, in particular, methods of teaching, the choice of materials and the provision of training for teachers.
- (3) The representative groups on the council required by section 390(4), other than the group consisting of persons appointed to represent the authority, may at any time require a review of any agreed syllabus for the time being adopted by the authority.
- (4) Each representative group concerned shall have a single vote on the question of whether to require such a review.
- (5) Paragraph 3 of Schedule 31 has effect to require the authority, on receiving written notification of any such requirement, to cause a conference constituted in accordance with that Schedule to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.
- (6) The council shall in each year publish a report as to the exercise of their functions and any action taken by representative groups on the council under subsection (3) during the last preceding year.
- (7) The council's report shall in particular—
  - (a) specify any matters in respect of which the council have given advice to the authority,
  - (b) broadly describe the nature of the advice given, and
  - (c) where any such matter was not referred to the council by the authority, give the council's reasons for offering advice on that matter.
- (8) The council shall send to the head teacher of any grant-maintained school to which section 379 applies and which is in the area of the authority a copy of advice which they give to the authority upon matters connected with religious worship.
- (9) The council shall send a copy of advice which they give to the authority on the religious education to be given in accordance with an agreed syllabus to the head teacher of any grant-maintained school which is in the area of the authority and which—
  - (a) is required, by virtue of section 379 or 381, to provide religious education in accordance with an agreed syllabus, or
  - (b) was a controlled school immediately before it became grant-maintained.
- (10) The council shall send a copy of each report published by them under subsection (6)—
  - (a) in the case of a council for an area in England, to [<sup>F55</sup>the Qualifications and Curriculum Authority], and
  - (b) in the case of a council for an area in Wales, to [<sup>F56</sup>the Qualifications, Curriculum and Assessment Authority for Wales].

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#### Textual Amendments

- F55** Words in s. 391(10) substituted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 29(a)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.III**
- F56** Words in s. 391(10) substituted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 29(b)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.III**

### 392 Advisory councils: supplementary provisions.

- (1) In this section “the council” means the standing advisory council on religious education constituted by a local education authority under section 390.
- (2) Before appointing a person to represent any religion, denomination or associations as a member of the council, the authority shall take all reasonable steps to assure themselves that he is representative of the religion, denomination or associations in question.
- (3) A member of the council who was appointed by the authority may be removed from membership by the authority if, in their opinion, he ceases to be representative of the religion, denomination or associations which he was appointed to represent or (as the case may be) he ceases to be representative of the authority.
- (4) A member of the council required by section 390(2)(b) may at any time be removed from membership by the governing body or (as the case may be) by the governing bodies of the grant-maintained school or schools concerned.
- (5) A person co-opted as a member of the council shall hold office on such terms as may be determined by the members co-opting him.
- (6) A member of the council may at any time resign his office.
- (7) Subject to section 390(7), the council and, in relation to any question falling to be decided by members of the council of any particular category, the members of that category, may regulate their own proceedings.
- (8) The validity of proceedings of the council or of the members of the council of any particular category shall not be affected—
  - (a) by a vacancy in the office of any member of the council required by section 390(2), or
  - (b) on the ground that a member of the council appointed to represent any religion, denomination or associations does not at the time of the proceedings represent the religion, denomination or associations in question.

### 393 Duty to constitute new standing advisory council.

- (1) This section has effect in respect of the area of a local education authority if an order under section 27(1)(b) (allocation to funding authority of responsibility for providing school places) applies to the area.
- (2) Within six months of the date of the first such order the local education authority shall constitute a new standing advisory council on religious education under section 390.
- (3) For the purposes of the constitution required by subsection (2) (and of any subsequent constitution)—

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- (a) section 390 shall have effect as if—
    - (i) subsection (2)(b) were omitted, and
    - (ii) subsection (4) required the appointment of a representative group, in addition to those listed in paragraphs (a) to (d) of that subsection, comprising persons representing relevant grant-maintained schools, and
  - (b) section 391 shall have effect as if, in subsection (3), for “the group consisting of persons appointed to represent the authority” there were substituted “the groups consisting of persons appointed to represent the authority or relevant grant-maintained schools”.
- (4) For this purpose “relevant grant-maintained schools” means the grant-maintained schools within the area of the local education authority in relation to which section 379 or 380 applies.
- (5) Before appointing a person to represent relevant grant-maintained schools in accordance with subsection (3) the local education authority shall take all reasonable steps to assure themselves that he is acceptable as such to the governing bodies of the majority of such schools; but the validity of the council’s proceedings shall not be affected because the person was not so acceptable unless it is shown that the local education authority failed to take such steps.
- (6) A person appointed to represent relevant grant-maintained schools in accordance with subsection (3) may be removed from membership of the council if in the opinion of the local education authority he ceases to be acceptable as such to the governing bodies of the majority of such schools.

*Determinations by standing advisory councils*

**394 Determination of cases in which requirement for Christian collective worship is not to apply.**

- (1) The council constituted by a local education authority under section 390 shall, on an application made by the head teacher of—
- (a) any county school maintained by the authority, or
  - (b) any grant-maintained school which is in the authority’s area and in relation to which section 379 applies,
- consider whether it is appropriate for the requirement imposed by section 386(2) to apply in the case of the school or in the case of any class or description of pupils at the school.
- (2) In determining whether it is appropriate for that requirement to apply as mentioned in subsection (1), the council shall have regard to any circumstances relating to the family backgrounds of the pupils at the school, or of the pupils of the particular class or description in question, which are relevant for determining the character of the collective worship appropriate in their case.
- (3) The council shall give the head teacher written notification of their decision on the application.
- (4) Where the council determine that it is not appropriate for the requirement to apply as mentioned in subsection (1), the determination shall take effect for the purposes

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of section 387 on such date as may be specified in the notification of the council's decision under subsection (3).

- (5) Before making an application under subsection (1), the head teacher of a school shall consult the governing body.
- (6) On being consulted by the head teacher, the governing body may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (7) An application under subsection (1) shall be made in such manner and form as the council may require.
- (8) Where an application is made under subsection (1)(a) in respect of a school which becomes a grant-maintained school before the application is determined, it shall, unless withdrawn by the head teacher, continue as if made under subsection (1)(b).

### **395 Review of determinations under section 394.**

- (1) Any determination by a council under section 394 by virtue of which the requirement imposed by section 386(2) does not for the time being apply in the case of a school or a class or description of pupils at a school shall be reviewed by the council—
  - (a) at any time on an application made by the head teacher, and
  - (b) in any event not later than the end of the period of five years beginning with the date on which the determination first took effect or (where it has since been reviewed under this section) with the effective date of the decision on the last review.
- (2) On any review under subsection (1)(b) the council shall give the head teacher an opportunity of making representations as to the determination under review.
- (3) On a review under this section, the council may—
  - (a) confirm the determination, with or without variation, or
  - (b) revoke it (without prejudice to any further determination under section 394).
- (4) The council shall give the head teacher written notification of their decision, specifying the effective date of that decision for the purposes of subsection (1)(b).
- (5) Any determination which is required to be reviewed under subsection (1)(b) shall cease to have effect, if not confirmed on such a review, at the end of the period there mentioned.
- (6) The head teacher of a school shall consult the governing body before making an application under subsection (1)(a) or any representations under subsection (2).
- (7) On being consulted by the head teacher, the governing body may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (8) An application under subsection (1)(a) shall be made in such manner and form as the council may require.

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**396 Power of Secretary of State to direct advisory council to revoke determination or discharge duty.**

- (1) Where the Secretary of State is satisfied, either on complaint by any person or otherwise, that any standing advisory council on religious education constituted by a local education authority under section 390—
- (a) have acted, or are proposing to act, unreasonably in determining for the purposes of section 394 or 395 whether it is appropriate for the requirement imposed by section 386(2) to apply in the case of any school or any class or description of pupils at a school, or
  - (b) have failed to discharge any duty imposed under section 394 or 395,
- he may give the council such directions as to the revocation of the determination, or the withdrawal of the proposed determination or (as the case may be) the discharge of the duty as appear to him to be expedient; and the council shall comply with the directions.
- (2) Directions under subsection (1) may provide for the making by the council of a new determination to take effect in place of the determination or proposed determination to be revoked or withdrawn by them.

*Access to meetings and documents*

**397 Religious education: access to meetings and documents.**

- (1) This section applies to—
- (a) any conference convened under any of paragraphs 1 to 3 of Schedule 31, and
  - (b) any standing advisory council on religious education constituted under section 390.
- (2) Regulations may make provision—
- (a) for meetings of conferences or councils to be, subject to prescribed exceptions, open to members of the public,
  - (b) requiring conferences or councils to give notice, in such manner as may be prescribed, of the time and place of such meetings, and
  - (c) requiring conferences or councils, at such time or times as may be prescribed—
    - (i) to make available for inspection, or
    - (ii) to provide on payment of such fee as they think fit (not exceeding the cost of supply),
 copies of the agendas and reports for such meetings to members of the public.
- (3) Regulations made under subsection (2) may apply to—
- (a) committees appointed by local education authorities under paragraph 4 of Schedule 31,
  - (b) sub-committees appointed by conferences under that Schedule, and
  - (c) representative groups on councils appointed under section 390(4),
- as they apply to conferences and councils.



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### Miscellaneous

#### **398 No requirement of attendance at Sunday school etc.**

It shall not be required, as a condition of—

- (a) a pupil attending a maintained school, or
- (b) a person attending such a school to receive further education or teacher training,

that he must attend or abstain from attending a Sunday school or a place of religious worship.

#### **399 Determination of question whether religious education in accordance with trust deed.**

Where any trust deed relating to a voluntary or grant-maintained school makes provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide whether the religious education given in the school which purports to be in accordance with the provisions of the trust deed does or does not accord with those provisions, that question shall be determined in accordance with the provisions of the trust deed.

## CHAPTER IV

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### *Courses leading to external qualifications*

#### **400 Courses leading to external qualifications.**

- (1) No course of study leading to a qualification authenticated by an outside person shall be provided for pupils of compulsory school age by or on behalf of a maintained school unless—
  - (a) the qualification is for the time being approved by the Secretary of State or by a designated body, and
  - (b) subsection (2) is satisfied.
- (2) This subsection is satisfied if either—
  - (a) a syllabus provided by the outside person for the purposes of the course is for the time being approved by a designated body, or
  - (b) criteria provided by the outside person for determining a syllabus for the purposes of the course are for the time being so approved.
- (3) An approval under this section may be given either generally or in relation to particular cases.
- (4) In relation to any maintained school—
  - (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,that subsection (1) is not contravened.

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(5) In this section—

- “designated” means designated by the Secretary of State, and
- “outside person”, in relation to a school, means a person other than a member of staff of the school.

#### **401 Power to extend section 400 to senior pupils and FE students.**

- (1) The Secretary of State may by order direct that the provisions of section 400 shall have effect as if—
  - (a) any reference to pupils of compulsory school age included a reference to—
    - (i) senior pupils who are of or over that age, and
    - (ii) persons in full-time further education who are of or over that age but have not attained the age of 19 (referred to in this section as “FE students”);
  - (b) any reference to a maintained school (except in relation to a local education authority) included a reference to—
    - (i) any institution (other than a university or an institution within the higher education sector) which provides further education and is a grant-aided institution, and
    - (ii) any institution within the further education sector; and
  - (c) any reference to the head teacher of such a school included a reference to the principal or other head of such an institution.
- (2) An order under this section may make such consequential modifications of section 359(1) as appear to the Secretary of State to be necessary or expedient.
- (3) In relation to FE students in relation to whom section 400 has effect by virtue of an order under this section, section 408 shall have effect—
  - (a) with the modifications mentioned in subsection (1)(b) and (c) above;
  - (b) as if the information referred to in subsection (1)(a) of that section were information with respect to the following matters—
    - (i) the qualifications authenticated by outside persons (within the meaning of section 400) for which courses of study are to be provided by or on behalf of the institution concerned for such students;
    - (ii) the courses of study leading to such qualifications which are to be so provided;
    - (iii) the syllabuses which have been provided or determined for the purposes of those courses, and
    - (iv) the results of the assessments of such students for the purposes of those qualifications;
  - (c) as if in subsection (6)—
    - (i) the reference to the results of an individual pupil’s assessment (whether under this Part or otherwise) included a reference to the results of an individual student’s assessment for the purposes of any such qualification, and
    - (ii) any reference to the pupil concerned included a reference to the student concerned; and
  - (d) with the omission of subsections (1)(b), (2) and (3).

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- (4) Before making an order under this section the Secretary of State shall consult any persons with whom consultation appears to him to be desirable.
- (5) For the purposes of this section an institution is at any time a grant-aided institution if it is maintained by persons who have received any grants under regulations made under section 485 in respect of expenditure incurred or to be incurred for the academic year of the institution current at that time.

#### *Obligation to enter pupils for public examinations*

### **402 Obligation to enter pupils for public examinations.**

- (1) Subject to subsections (2) and (3), the governing body of a maintained school shall secure that each registered pupil at the school is entered, at such time as they consider appropriate, for each prescribed public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.
- (2) The governing body are not required to secure that a pupil is entered for any examination, or for an examination in any syllabus for that examination, if either—
  - (a) they consider that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus, or
  - (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus;but this subsection does not apply to an examination which is part of the assessment arrangements for the fourth key stage and applies in the case of that pupil.
- (3) The governing body are not required to secure that a pupil is entered for any examination in any syllabus for that examination if they have secured his entry for another prescribed public examination in a corresponding syllabus.
- (4) For the purposes of subsection (3) a syllabus for a prescribed public examination shall be regarded as corresponding to a syllabus for another prescribed public examination if the same course of study is provided at the school in preparation for both syllabuses.
- (5) As soon as practicable after determining whether or not to secure the entry of any pupil for a prescribed public examination in any syllabus for which he is being prepared at the school, the governing body shall notify the pupil's parent in writing of their determination in relation to each such syllabus.
- (6) In this section—
  - (a) “maintained school” includes a maintained special school established in a hospital; and
  - (b) references to a prescribed public examination shall be construed in accordance with section 462.

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### *Sex education*

#### **403 Sex education: manner of provision.**

- (1) The local education authority, governing body and head teacher shall take such steps as are reasonably practicable to secure that where sex education is given to any registered pupils at a maintained school, it is given in such a manner as to encourage those pupils to have due regard to moral considerations and the value of family life.
- (2) In subsection (1) “maintained school” includes a maintained special school established in a hospital.

#### **404 Sex education: statements of policy.**

- (1) The governing body of a maintained school shall—
  - (a) make, and keep up to date, a separate written statement of their policy with regard to the provision of sex education, and
  - (b) make copies of the statement available for inspection (at all reasonable times) by parents of registered pupils at the school and provide a copy of the statement free of charge to any such parent who asks for one.
- (2) In subsection (1) “maintained school” includes, in relation to pupils who are provided with secondary education, a maintained special school established in a hospital.
- (3) In relation to—
  - (a) a county, or controlled, secondary school, and
  - (b) pupils who are provided with secondary education in a maintained special school,
 section 371 shall have effect with the omission of subsection (3) of that section and of the references to the matters mentioned in that subsection, and section 372 shall have effect with the omission of subsection (4)(a) of that section.

#### **405 Exemption from sex education.**

If the parent of any pupil in attendance at a maintained school requests that he may be wholly or partly excused from receiving sex education at the school, the pupil shall, except so far as such education is comprised in the National Curriculum, be so excused accordingly until the request is withdrawn.

### *Politics*

#### **406 Political indoctrination.**

- (1) The local education authority, governing body and head teacher shall forbid—
  - (a) the pursuit of partisan political activities by any of those registered pupils at a maintained school who are junior pupils, and
  - (b) the promotion of partisan political views in the teaching of any subject in the school.
- (2) In the case of activities which take place otherwise than on the school premises, subsection (1)(a) applies only where arrangements for junior pupils to take part in the activities are made by—

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- (a) any member of the school’s staff (in his capacity as such), or
  - (b) anyone acting on behalf of the school or of a member of the school’s staff (in his capacity as such).
- (3) In this section “maintained school” includes a maintained special school established in a hospital.

#### **407 Duty to secure balanced treatment of political issues.**

- (1) The local education authority, governing body and head teacher shall take such steps as are reasonably practicable to secure that where political issues are brought to the attention of pupils while they are—
- (a) in attendance at a maintained school, or
  - (b) taking part in extra-curricular activities which are provided or organised for registered pupils at the school by or on behalf of the school,
- they are offered a balanced presentation of opposing views.
- (2) In this section “maintained school” includes a maintained special school established in a hospital.

#### *Information*

#### **408 Provision of information.**

- (1) Regulations may require, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—
- (a) such information (including information as to the matters mentioned in subsection (2)) relevant for the purposes of any of the relevant provisions of this Part [F57 or Part V of the Education Act 1997], and
  - (b) such copies of the documents mentioned in subsection (3),
- as may be prescribed.
- (2) The matters referred to in subsection (1)(a) are—
- (a) the curriculum for maintained schools,
  - (b) the educational provision made by the school for pupils at the school and any syllabuses to be followed by those pupils,
  - (c) the educational achievements of pupils at the school (including the results of any assessments of those pupils, whether under this Part or otherwise, for the purpose of ascertaining those achievements), and
  - (d) the educational achievements of pupils at such categories of school as may be prescribed (including results of the kind mentioned in paragraph (c)).
- (3) The documents referred to in subsection (1)(b) are—
- (a) any written statement made by the local education authority under section 370,
  - (b) any written statement made by the governing body in pursuance of provision made under section 371,
  - (c) any written statement made by the governing body of their policy as to the curriculum for the school, and

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- (d) any report prepared by the governing body under section 161 or paragraph 7 of Schedule 23 (governors' annual reports).
- (4) For the purposes of subsection (1) the relevant provisions of this Part are—
- (a) sections 350 to 368;
  - (b) sections 375(3) and 384;
  - (c) sections 385 and 388 and, so far as relating to county schools, sections 386 and 387;
  - (d) sections 389 to 392;
  - (e) sections 394 to 396;
  - (f) sections 398, 400, 401 and 405; and
  - (g) section 409.
- (5) Before making any regulations under this section, the Secretary of State shall consult any persons with whom consultation appears to him to be desirable.
- (6) Regulations under this section shall not require information as to the results of an individual pupil's assessment (whether under this Part or otherwise) to be made available to any persons other than—
- (a) the parents of the pupil concerned,
  - (b) the pupil concerned,
  - (c) in the case of a pupil who has transferred to a different school, the head teacher of that school,
  - (d) the governing body of the school, or
  - (e) the local education authority;
- and shall not require such information to be made available to the governing body, the head teacher or the local education authority except where relevant for the purposes of the performance of any of their functions.
- (7) Regulations under this section may authorise local education authorities, governing bodies and head teachers to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.
- (8) In relation to any maintained school, the local education authority and the governing body shall exercise their functions with a view to securing that the head teacher complies with any regulations made under this section.

#### **Textual Amendments**

**F57** Words in s. 408(1)(a) inserted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 30(a)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.III**

### *Complaints and enforcement*

#### **409 Complaints and enforcement: county, voluntary and maintained special schools.**

- (1) A local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies of aided schools and of special agreement schools, make arrangements for the consideration and disposal of any complaint to which subsection (2) applies.

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- (2) This subsection applies to any complaint which is to the effect that the authority, or the governing body of any county or voluntary school maintained by the authority or of any special school so maintained which is not established in a hospital—
- (a) have acted or are proposing to act unreasonably in relation to the exercise of a power conferred on them by or under a relevant enactment, or
  - (b) have acted or are proposing to act unreasonably in relation to the performance of, or have failed to discharge, a duty imposed on them by or under a relevant enactment.
- (3) In subsection (2) “relevant enactment” means—
- (a) any provision which by virtue of section 408(4) is a relevant provision of this Part for the purposes of section 408(1), and
  - (b) any other enactment (whether contained in this Part or otherwise) so far as relating to the curriculum for, or religious worship in, maintained schools other than grant-maintained schools.
- (4) The Secretary of State shall not entertain under section 496 (power to prevent unreasonable exercise of functions) or 497 (powers where a local education authority or governing body fail to discharge their duties) any complaint to which subsection (2) applies, unless a complaint concerning the same matter has been made and disposed of in accordance with arrangements made under subsection (1).

### *Nursery education*

#### **410 Application of Part V in relation to nursery education.**

Nothing in this Part applies in relation to a nursery school or in relation to a nursery class in a primary school.

## **PART VI**

### **SCHOOL ADMISSIONS, ATTENDANCE AND CHARGES**

#### **CHAPTER I**

##### **SCHOOL ADMISSIONS**

### *Parental preferences*

#### **411 Parental preferences.**

- (1) A local education authority shall make arrangements for enabling the parent of a child in the area of the authority—
- (a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority’s functions, and
  - (b) to give reasons for his preference.
- (2) Subject to subsection (3) [<sup>F58</sup>, section 411A (pupils excluded from two or more schools),][section 413B(3) (home-school partnership documents)]and section 430(2)

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(co-ordinated admission arrangements), a local education authority and the governing body of a county or voluntary school shall comply with any preference expressed in accordance with arrangements made under subsection (1).

- (3) The duty imposed by subsection (2) does not apply—
- (a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources;
  - (b) if the preferred school is an aided or a special agreement school and compliance with the preference would be incompatible with any arrangements between the governing body and the local education authority made under section 413; or

[<sup>F59</sup>(c) if the arrangements for admission to the preferred school—

- (i) are wholly based on selection by reference to ability or aptitude, and
- (ii) are so based with a view to admitting only pupils with high ability or with aptitude,

and compliance with the preference would be incompatible with selection under those arrangements.]

[<sup>F60</sup>(3A) For the purposes of subsection (3)(a) prejudice of the kind referred to in that provision may arise by reason of any qualifying measures.]

- (4) Where the arrangements for the admission of pupils to a school maintained by a local education authority provide for applications for admission to be made to (or to a person acting on behalf of) the governing body of the school, a parent who makes such an application shall be regarded for the purposes of subsection (2) as having expressed a preference for that school in accordance with arrangements made under subsection (1).

- (5) The duty imposed by subsection (2) in relation to a preference expressed in accordance with arrangements made under subsection (1) shall apply also in relation to—

- (a) any application for the admission to a school maintained by a local education authority of a child who is not in the area of the authority, and
- (b) any application made by a parent as mentioned in section 438(4) or 440(2) (application for a particular school to be specified in a school attendance order);

and references in subsection (3) to a preference and a preferred school shall be construed accordingly.

- (6) No prejudice shall be taken to arise for the purposes of subsection (3)(a) from the admission to a county or voluntary school in a school year of a number of pupils in a relevant age group which does not exceed—

- (a) the relevant standard number, or
- (b) the admission number fixed in accordance with section 416,

whichever is the greater.

- (7) In this Chapter “the relevant standard number”, in relation to a county or voluntary school, a relevant age group and a school year, means the standard number applying under sections 417 to 420 to the school in relation to that age group and year.

- (8) In [<sup>F61</sup>this Chapter (apart from sections 431 to 433)] “child” includes a person who has not attained the age of 19.

[<sup>F62</sup>(9) Where the arrangements for the admission of pupils to a school provide for all pupils admitted to the school to be selected by reference to ability or aptitude, those



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arrangements shall be taken for the purposes of this Chapter to be wholly based on selection by reference to ability or aptitude, whether or not they also provide for the use of additional criteria in circumstances where the number of children in a relevant age group who are assessed to be of the requisite ability or aptitude is greater than the number of pupils which it is intended to admit to the school in that age group.]

[<sup>F63</sup>(10) In this Chapter “qualifying measures”, in relation to the admission of a child to a school, means measures required to be taken (whether in the school year in which the admission would take place or in any subsequent school year) in order to ensure compliance with the duty imposed by section 1(6) of the School Standards and Framework Act 1998 (duty of local education authority and governing body to comply with limit on class sizes).]

#### Textual Amendments

- F58** Words in s. 411(2) inserted (1.9.1997 in respect of the words ",section 411A" to schools)," otherwise prosp.) by 1997 c. 44, s. 57(1), **Sch. 7 para. 31(2)**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**
- F59** S. 411(3)(c) substituted (1.9.1997) by 1997 c. 44, s. 10; S.I. 1997/1468, art. 292), Sch. 1 Pt. II
- F60** S. 411(3A) inserted (1.9.1998) by S.I. 1998/1948, reg. 3, **Sch. para. 1(2)(4)**
- F61** Words in s. 411(8) substituted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 31(3)**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**
- F62** S. 411(9) inserted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 31(4)**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**
- F63** S. 411(10) inserted (1.9.1998) by S.I. 1998/1948, reg. 3, **Sch. para. 1(3)(4)**

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

- C58** S. 411 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, **Sch. para. 1**
- C59** Power to restrict s. 411(6) conferred (24.7.1998) by 1998 c. 31, s. 144, **Sch. 32 Pt. II para. 6(1)(a)** (with ss. 138(9), 144(6))

[411A <sup>F64</sup>**No requirement to admit children permanently excluded from two or more schools.**

- (1) The duty imposed by section 411(2) does not apply in the case of a child to whom subsection (2) applies.
- (2) Where a child has been permanently excluded from two or more schools, this subsection applies to him during the period of two years beginning with the date on which the latest of those exclusions took effect.
- (3) Subsection (2) applies to a child whatever the length of the period or periods elapsing between those exclusions and regardless of whether it has applied to him on a previous occasion.
- (4) However, a child shall not be regarded as permanently excluded from a school for the purposes of this section if—
  - (a) although so excluded he was reinstated as a pupil at the school following the giving of a direction to that effect to the head teacher of the school; or
  - (b) he was so excluded at a time when he had not attained compulsory school age.
- (5) In this section “school” means—
  - (a) a school maintained by a local education authority; or
  - (b) a grant-maintained or grant-maintained special school.

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- (6) This section does not apply in relation to a child unless at least one of the two or more exclusions mentioned in subsection (2) took effect on or after the date of the coming into force of section 11 of the Education Act 1997.
- (7) For the purposes of this section the permanent exclusion of a child from a school shall be regarded as having taken effect on the school day as from which the head teacher decided that he should be permanently excluded.]

#### **Textual Amendments**

**F64** S. 411A inserted (1.9.1997) by 1997 c. 44, s.11 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

### *Admission arrangements for county and voluntary schools*

#### **412 Consultation as to admission arrangements.**

- (1) Where the governing body of a county or voluntary school are responsible for determining the arrangements for the admission of pupils to the school, they shall—
- (a) consult the local education authority before determining, or varying, any of those arrangements, and
  - (b) at least once in every school year, consult the local education authority as to whether those arrangements are satisfactory.
- (2) Where the local education authority are responsible for determining the arrangements for the admission of pupils to a county or voluntary school, they shall—
- (a) consult the governing body before determining, or varying, any of those arrangements, and
  - (b) at least once in every school year, consult the governing body as to whether those arrangements are satisfactory.

#### **413 Admission arrangements to preserve character of aided or special agreement school.**

- (1) If the governing body of an aided or special agreement school so request, the local education authority shall make with the governing body arrangements in respect of the admission of pupils to the school for preserving the character of the school; and, in default of agreement between the authority and the governing body, the terms of any such arrangements shall be determined by the Secretary of State.
- (2) If one of the parties to arrangements under subsection (1) proposes that the arrangements should be modified or replaced by substitute arrangements but the other party does not agree, the party making the proposal may refer the matter to the Secretary of State.
- (3) On a reference under subsection (2), the Secretary of State may direct—
- (a) that the arrangements shall remain as they are;
  - (b) that they shall be modified or replaced as proposed; or
  - (c) that they shall be modified in such other manner, or replaced by such other substitute arrangements, as may be specified in the direction.

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- (4) Where the Secretary of State directs as mentioned in subsection (3)(b) or (c), the modification or, as the case may be, the substitute arrangements shall have effect, from such date as may be specified in the direction, as if agreed between the parties.

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

**C60** S. 413 continued to have effect (31.8.1999) by S.I. 1999/1016, art. 6, Sch. 4 para. 12 (as added by S.I. 1999/2484, art. 2(4))

**[<sup>F65</sup>413A Admission arrangements may provide for home-school partnership documents.**

- (1) The admission arrangements for a county or voluntary school may include provisions—
- (a) setting out the terms of a partnership document for the school and the parental declaration to be used in connection with the document;
  - (b) making it a condition of the admission of every child to the school that his parent gives the admission authority a signed parental declaration either—
    - (i) at the time of applying for a place at the school for the child, or
    - (ii) if the child is allocated a conditional place, within such period as is specified in the arrangements; and
  - (c) authorising the admission authority to dispense with that condition to any extent in the case of a particular child where they are satisfied that there are special reasons for doing so.
- (2) For the purposes of this section and section 413B a “partnership document” is a statement specifying—
- (a) the school’s aims and values;
  - (b) the responsibilities which the school intends to discharge in connection with the education of children admitted to the school; and
  - (c) the parental responsibilities, that is the responsibilities which the parents of such children are expected to discharge in connection with the education of their children while they are registered pupils at the school;
- and “parental declaration” means a declaration to be signed by a parent seeking the admission of his child to the school by which he acknowledges and accepts the parental responsibilities specified in the partnership document.
- (3) In determining the provisions to be included in the admission arrangements for a school in pursuance of subsection (1), the admission authority shall have regard to any guidance given from time to time by the Secretary of State.
- (4) The Secretary of State may by order provide that any form of words specified in the order, or having such effect as is so specified, is not to be used in a partnership document or (as the case may be) in a parental declaration.
- (5) An order under subsection (4) may apply to any school or description of school specified in the order.
- (6) Where a local education authority consult the governing body of a county or voluntary school under section 412(2)(a) or (b), the authority shall have particular regard to any representations by the governing body—

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- (a) that the admission arrangements for the school should include the provisions authorised by subsection (1), or
  - (b) as to the terms of the partnership document or parental declaration to be included in the arrangements, or
  - (c) as to any variation of those terms as for the time being so included, as the case may be.
- (7) In this section and section 413B—
- “admission arrangements”, in relation to a school, means the arrangements for the admission of pupils to the school; and
  - “conditional place”, in relation to a child, means a place which is conditional on the child’s parent giving the admission authority a signed parental declaration.]

#### Textual Amendments

**F65** S. 413A inserted (*prosp.*) by 1997 c. 44, ss.13, 58(3) (with s. 57(3)).

#### [<sup>F66</sup>413B Effect of home-school partnership document.

- (1) This section applies where the admission arrangements for a county or voluntary school include the provisions authorised by section 413A(1).
- (2) The admission authority for the school shall, in the case of each child on behalf of whom an application for admission is made, notify his parent of the following matters, namely—
  - (a) the terms of the partnership document and the parental declaration, and
  - (b) the effect of the provisions of the admission arrangements authorised by section 413A(1)(b) and (c).
- (3) Where subsection (2) has been complied with in relation to a child’s parent but—
  - (a) the parent has failed to comply with the condition referred to in section 413A(1)(b), and
  - (b) the admission authority are not satisfied that there are special reasons for dispensing with that condition to the required extent in the case of that child, section 411(2) shall not require the admission of the child to the school; and, if he has been allocated a conditional place, the allocation of that place may be cancelled.
- (4) In subsection (3) the reference to dispensing with the condition mentioned in that subsection “to the required extent”—
  - (a) is, where the parent gives the admission authority a signed parental declaration in relation to some but not the remainder of the parental responsibilities, a reference to dispensing with that condition so far as the remainder of those responsibilities are concerned; but
  - (b) is otherwise a reference to wholly dispensing with that condition.
- (5) In performing any function under this section the admission authority shall have regard to any guidance given from time to time by the Secretary of State.
- (6) A partnership document shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.]

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#### Textual Amendments

**F66** S. 413B inserted (*prosp.*) by 1997 c. 44, ss.13, 58(3)(4) (with s. 57(3))

### 414 Information as to schools and admission arrangements.

- (1) A local education authority shall, for each school year, publish particulars of—
  - (a) the arrangements for the admission of pupils to schools maintained by the authority other than aided or special agreement schools,
  - (b) the authority's arrangements for the provision of education at schools maintained by another local education authority or not maintained by a local education authority, and
  - (c) the arrangements made by the authority under sections 411(1) and 423(1) (admission appeals).
- (2) The governing body of an aided or a special agreement school shall, for each school year, publish particulars of—
  - (a) the arrangements for the admission of pupils to the school, and
  - (b) the arrangements made by them under section 423(2) (admission appeals).
- (3) The particulars to be published under subsections (1)(a) and (2)(a) shall include particulars of—
  - (a) in the case of each school to which the arrangements relate, the admission number applicable in each school year in relation to the age group in which pupils are normally admitted (or, if there is more than one such group, the admission number so applicable in relation to each such group),
  - (b) the respective admission functions of the local education authority and the governing body,
  - (c) the policy followed in deciding admissions, and
  - (d) the arrangements made in respect of pupils not belonging to the area of the local education authority.
- (4) In subsection (3)(a) references to the admission number applicable in a school year in relation to an age group are to—
  - (a) the standard number applying under sections 417 to 420 to the school in question in relation to that age group and year, or
  - (b) the admission number fixed in relation to the school in accordance with section 416 for that age group and year,whichever is the greater.
- (5) The particulars to be published under subsection (1)(b) shall include particulars of—
  - (a) the criteria for offering places at schools not maintained by a local education authority, and
  - (b) the names of, and number of places at, any such schools in respect of which the authority have standing arrangements.
- (6) The governing body of a school maintained by a local education authority—
  - (a) shall publish such information as respects that school as may be required by regulations; and
  - (b) may publish such other information with respect to the school as they think fit.

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- (7) For the purposes of this section information about the continuing education of pupils leaving a school, or the employment or training taken up by such pupils on leaving, is to be treated as information about the school.
- (8) A local education authority may, with the agreement of the governing body of any school maintained by the authority, publish on behalf of the governing body the particulars or information referred to in subsection (2) or (6) above.
- (9) References in this section to publication are references to publication at such time or times and in such manner as may be required by regulations.

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

**C61** S. 414 continued to have effect (31.8.1999) by S.I. 1999/1016, art. 6, Sch. 4, para. 12 (as inserted 31.8.1999) by S.I. 1999/2484, art. 2(4))

*Admission numbers for county and voluntary schools*

**415 Meaning of “the admission authority”.**

In this Chapter “the admission authority”, in relation to a county or voluntary school, means—

- (a) the local education authority, where they are responsible for determining the arrangements for the admission of pupils to the school, or
- (b) the governing body, where they are responsible for determining those arrangements.

**416 Fixing admission numbers.**

- (1) The admission authority for a county or voluntary school shall not fix as the admission number for any relevant age group and any school year a number which is less than the relevant standard number.
- (2) Despite any provision of the articles of government of the school (but subject to section 412), the admission authority may fix as the admission number for any relevant age group and any school year a number which exceeds the relevant standard number.
- (3) A proposal may be made to the admission authority in accordance with subsections (4) and (5) for fixing as the admission number for any relevant age group and any school year a number which exceeds both—
  - (a) the relevant standard number, and
  - (b) any admission number fixed, or proposed to be fixed, for that age group and year by the admission authority.
- (4) The proposal may be made—
  - (a) where the local education authority are the admission authority, by the governing body, or
  - (b) where the governing body are the admission authority, by the local education authority.
- (5) Any such proposal—

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- (a) shall be made in writing,
  - (b) may relate to one or more relevant age groups, and
  - (c) may relate to a particular school year or to each school year falling within any period specified in the proposal.
- (6) If the admission authority do not give the authority making the proposal notice in writing rejecting the proposal within the period of two months beginning with the day after that on which the proposal was received by the admission authority, the admission authority shall give effect to the proposal.
- (7) Where the admission authority give such notice within that period, the authority making the proposal may, within 28 days of receiving the notice, make an application to the Secretary of State for an order under section 420(2) increasing the relevant standard number.
- (8) In this section references, in relation to a school, to the “admission number” for any relevant age group and any school year are references to the number of pupils in that age group it is intended to admit to the school in that school year.

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

**C62** Power to restrict s. 416(1) conferred (24.7.1998) by 1998 c. 31, s. 144, **Sch. 32 Pt. II para. 6(1)(a)** (with ss. 138(9), 144(6)).

**417 Standard numbers for admissions to secondary schools.**

- (1) Subject to subsection (2), if pupils in any age group were admitted to a county or voluntary secondary school in the school year beginning in 1989, the standard number applying to the school for that age group in any subsequent school year shall be—
- (a) the standard number applying to the school under section 15 of the <sup>M69</sup>Education Act 1980 (“the 1980 Act”) for that age group in the school year beginning in 1989, or
  - (b) the number of pupils in that age group admitted in the school year beginning in 1989,
- whichever is the greater.
- (2) If proposals under section 35 or 41 above or section 12 or 13 of the 1980 Act (proposals for the establishment or alteration of a school) have fallen to be implemented in relation to a county or voluntary secondary school, the number stated in the proposals for any school year and age group shall constitute the standard number applying to the school for that age group—
- (a) in any school year beginning after 1989 in relation to which the proposals have been wholly implemented, and
  - (b) subject to any variation made by the Secretary of State, in any school year beginning after 1989 in relation to which they have been partly implemented.
- (3) In subsection (2) “the number stated in the proposals” means the number so stated in accordance with section 35(3)(b) or 41(5)(b) above (or, as the case may be, section 12(2) of the 1980 Act or section 12(2) as applied by section 13(2) of that Act).

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- (4) Any standard number applying under subsection (2) is without prejudice to the application under that subsection of a new standard number if further proposals under section 35 or 41 above fall to be implemented.
- (5) References in this section to proposals under section 35 or 41 above or section 12 or 13 of the 1980 Act are to the proposals with any modifications made by the Secretary of State under section 37, 40, 43 or 45 above or, as the case may be, under section 12 or 13 of the 1980 Act.

**Marginal Citations**

**M69** 1980 c. 20.

**418 Standard numbers for admissions to primary schools.**

- (1) Subject to subsection (2), if pupils in any age group were admitted to a county or voluntary primary school in the school year beginning in 1991, the standard number applying to the school for that age group in any subsequent year shall be—
  - (a) the number applicable in relation to the school and in relation to that age group in accordance with section 419, or
  - (b) the number of pupils in that age group admitted in the school year beginning in 1991,
 whichever is the greater.
- (2) If proposals published under section 35 or 41 above or section 12 or 13 of the <sup>M70</sup>Education Act 1980 (proposals for the establishment or alteration of a school) have fallen to be implemented in relation to a county or voluntary primary school, the number stated in the proposals for any school year and age group shall constitute the standard number applying to the school for that age group—
  - (a) in any school year beginning after 1991 in relation to which the proposals have been wholly implemented, and
  - (b) subject to any variation made by the Secretary of State, in any school year beginning after 1991 in relation to which they have been partly implemented.
- (3) Section 417(3) to (5) shall apply for the purposes of subsection (2) of this section as they apply for the purposes of section 417(2).

**Marginal Citations**

**M70** 1980 c. 20.

**419 Special provisions supplementary to section 418.**

- (1) In this section “the 1980 standard number”, in relation to any school and age group, means the standard number applying to the school under section 15 of the Education Act 1980 (“the 1980 Act”) in relation to that age group in the school year beginning in 1991.
- (2) In the case of a primary school to which section 418(1) applies, the number applicable in relation to the school and in relation to any age group there mentioned is—



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- (a) if the 1980 standard number for that age group is a number determined under section 15(5) of the 1980 Act by reference to the number of pupils in that age group admitted to the school in the school year beginning in 1979, the recalculated 1979 admission number;
  - (b) if the 1980 standard number for that age group is a number determined under section 15(6) of that Act by reference to the number of pupils in that age group admitted to the school in any school year beginning after 1979 (and not varied by the Secretary of State under that provision), the recalculated post-1979 admission number; and
  - (c) if the 1980 standard number for that age group is a number applicable by virtue of section 15(7) of that Act which has not been varied by the Secretary of State, the aggregate of the number so applicable and the additional admission number.
- (3) In subsection (2)(a) “the recalculated 1979 admission number”, in relation to any school and age group, means the number of pupils admitted to the school in that age group in the school year beginning in 1979 (as determined in accordance with section 436, which relates to children admitted for nursery education).
- (4) In subsection (2)(b) “the recalculated post-1979 admission number”, in relation to any school and age group, means the number of pupils admitted to the school in that age group in the school year by reference to which the 1980 standard number for that school and age group was determined (as determined in accordance with section 436).
- (5) In subsection (2)(c) “the additional admission number”, in relation to any school and age group, means the aggregate of—
  - (a) the number of pupils admitted to the school in that age group in the first school year in relation to which the proposals in question had been wholly implemented who were admitted otherwise than for nursery education and were under the age of four years and six months on the date of their admission, and
  - (b) the number of pupils already admitted to the school for nursery education transferred in that year to a reception class at the school.

#### **420 Variation of standard numbers.**

- (1) The Secretary of State may by order applying to county or voluntary schools of any class or description vary any standard number that would otherwise apply by virtue of section 417 or 418.
- (2) Subject to subsections (3) to (5), the Secretary of State may by order vary any standard number that would otherwise apply to an individual school by virtue of section 417 or 418 or by virtue of any order made under subsection (1).
- (3) An order under subsection (2) reducing a standard number may only be made on the application of the admission authority for the school, and is subject to the procedure provided for in Schedule 32.
- (4) An order under subsection (2) increasing a standard number may be made on the application of the admission authority for the school or on an application made by the governing body or local education authority in accordance with section 416(7).
- (5) On an application for an order under subsection (2) increasing a standard number, the Secretary of State may—

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- (a) make an order under subsection (2) increasing the standard number to the number proposed,
- (b) after consultation with both the local education authority and the governing body of the school, make an order under subsection (2) increasing the standard number to such number (less than the number proposed) as he thinks desirable, or
- (c) refuse to make an order increasing the standard number.

#### 421 Review of standard numbers.

- (1) The admission authority for a county or voluntary school shall keep under review any standard numbers applying to the school under sections 417 to 420, having regard to any change in the school's capacity to accommodate pupils as compared with its capacity at the beginning of the school year in which those standard numbers first applied (whether by virtue of section 15 of the <sup>M71</sup>Education Act 1980, section 27 of the <sup>M72</sup>Education Reform Act 1988 or sections 417 to 420 above).
- (2) For the purposes of this section a school's capacity to accommodate pupils is changed if—
- (a) as a result of changes in the availability or use of accommodation at the school, there is any change in the amount of accommodation available for use by pupils at the school; or
  - (b) as a result of changes in the requirements applicable to the school under regulations made under section 542 there is any change in the number of pupils for whom accommodation may lawfully be provided at the school;
- and a school's capacity to accommodate pupils is reduced if the result of the changes is, in a case within paragraph (a), less accommodation or, in a case within paragraph (b), a reduction in the number there mentioned.

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

C63 S. 421 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, Sch. para.2.

#### Marginal Citations

M71 1980 c. 20.

M72 1988 c. 40.

<sup>F67</sup>421A

- (1) The admission authority for a county or voluntary school containing any infant class shall keep under review any standard number applicable to admissions to an infant class, having regard to—
- (a) the school's capacity to accommodate pupils, and
  - (b) the need to secure that the admission to the school in any school year of a number of children in any relevant age group equal to the relevant standard number would not cause prejudice of the kind referred to in section 411(3)(a) by reason of any qualifying measures.
- (2) The admission authority for any such school shall in particular carry out a review under subsection (1) as soon as reasonably practicable following the coming into force of regulations under section 1 of the School Standards and Framework Act 1998 by virtue of which any limit on class sizes is to apply in relation to any such class at the school.

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- (3) Where, as a result of a review under subsection (1), the authority consider that any standard number at the school should be varied in order to enable the objective referred to in subsection (1)(b) to be achieved, they shall make an application for an order under section 420(2) varying the standard number.
- (4) For the purposes of subsection (1) a school's capacity to accommodate pupils shall be calculated having regard to any guidance given from time to time by the Secretary of State.
- (5) In this Chapter, "infant class" has the meaning given in section 4 of the School Standards and Framework Act 1998.]

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**Textual Amendments**

**F67** S. 421A inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 2(1)(2)

*New county and voluntary schools*

**422 Admission of pupils to new schools.**

- (1) The initial arrangements for the admission of pupils to a new school shall be made—
  - (a) where the school will be a county or controlled school, by the local education authority; or
  - (b) where it will be an aided school, by the temporary governing body or by the promoters if—
    - (i) that body have not been constituted, and
    - (ii) the promoters consider that it is expedient for the arrangements to be determined without delay.
- (2) Any body or persons making any initial arrangements under this section shall have regard to the arrangements in force for the admission of pupils to comparable schools in the area of the local education authority.
- (3) Before making any such initial arrangements for a new school which will be a county school, the authority shall consult the temporary governing body unless—
  - (a) that body have not been constituted, and
  - (b) the authority consider that it is expedient for the initial arrangements to be determined without delay.
- (4) Before making any such arrangements for a new school which will be a controlled school the authority shall consult—
  - (a) the temporary governing body; or
  - (b) where that body have not been constituted, the promoters.
- (5) Before making any such initial arrangements for a new school which will be an aided school the temporary governing body or (as the case may be) the promoters shall consult the authority.
- (6) Sections [F68 411, 411A, 413 to 414, 423 and 423A] shall have effect in relation to a new school as if the references to the governing body included references to the person responsible for the admission of pupils under the initial arrangements for the school.

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- (7) In this section “new school” and “temporary governing body” have the meaning given by section 181(1) and (3) respectively; and “the promoters” means the persons making the relevant proposals (as defined by section 181(2)).

**Textual Amendments**

**F68** Words in s. 422(6) substituted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.32**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt.II** .

*Admissions appeals relating to county and voluntary schools*

**423 Appeal arrangements.**

- (1) A local education authority shall make arrangements for enabling the parent of a child to appeal against—
  - (a) any decision made by or on behalf of the authority as to the school at which education is to be provided for the child in the exercise of the authority’s functions, other than a decision leading to or embodied in a direction under section 431 (directions for admission), and
  - (b) any decision made by or on behalf of the governing body of a county or controlled school maintained by the authority refusing the child admission to the school.
- (2) The governing body of an aided or a special agreement school shall make arrangements for enabling the parent of a child to appeal against any decision made by or on behalf of the governing body refusing the child admission to the school.
- (3) Joint arrangements may be made under subsection (2) by the governing bodies of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Schedule 33 has effect in relation to the making and hearing of appeals pursuant to arrangements made under this section.
- (5) The decision of an appeal committee on such an appeal shall be binding—
  - (a) on the local education authority or governing body by or on whose behalf the decision under appeal was made, and
  - (b) in the case of a decision made by or on behalf of a local education authority, on the governing body of any county or controlled school at which the appeal committee determines that a place should be offered to the child in question.

<sup>F69</sup>(6) . . . . .

**Textual Amendments**

**F69** S. 423(6) repealed (1.9.1997) by 1997 c. 44, s. 57(1)(4), **Sch. 7 para. 33, Sch.8**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt.II** .

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**[423A** <sup>F70</sup> **Appeals relating to children to whom section 411A(2) applies.**

- (1) Nothing in section 423(1) or (2) requires any arrangements to be made for enabling the parent of a child to appeal against a decision—
  - (a) made by or on behalf of the admission authority for a county or voluntary school, and
  - (b) refusing the child admission to the school,in a case where, at the time when the decision is made, section 411A(2) applies to the child.
- (2) Where a local education authority are the admission authority for a county or controlled school, the authority shall make arrangements for enabling the governing body of the school to appeal against any decision made by or on behalf of the authority to admit to the school a child to whom, at the time when the decision is made, section 411A(2) applies.
- (3) Schedule 33A shall have effect in relation to the making and hearing of appeals pursuant to arrangements made under subsection (2).
- (4) The decision of an appeal committee on an appeal made pursuant to arrangements under subsection (2) shall be binding—
  - (a) on the local education authority by or on whose behalf the decision under appeal was made, and
  - (b) on the governing body of any county or controlled school at which the appeal committee determines that a place should be offered to the child in question.]

**Textual Amendments**

**F70** S. 423A inserted (1.9.1997) by 1997 c. 44, s. 12(1) (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II.

*Nursery and special schools, etc.*

**424 Admission of pupils to nursery schools and special schools, etc.**

- (1) Subject to subsection (2), nothing in section [<sup>F71</sup>411, 411A, 413, 414, 423 or 423A] applies in relation to—
  - (a) nursery schools, or
  - (b) children who will be under [<sup>F72</sup>compulsory school age] at the time of their proposed admission.
- (2) Where the arrangements for the admission of pupils to a school maintained by a local education authority provide for the admission to the school of children who will be under [<sup>F73</sup>compulsory school age] at the time of their proposed admission, those sections shall apply in relation to the admission of such pupils to the school otherwise than for nursery education.
- (3) None of the provisions of sections [<sup>F74</sup>411, 411A, 413 to 414, 423 and 423A], apart from section 414(6) to (9), apply in relation to—
  - (a) special schools, or
  - (b) children for whom statements of special educational needs are maintained under section 324.

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#### Textual Amendments

- F71** Words in s. 424(1) substituted (1.9.1997 in respect of words "411, 411A, 414, 423 or 423A" otherwise prosp.) by 1997 c. 44, s. 57(1), **Sch. 7 para. 34(a)**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**.
- F72** Words in s. 424(1)(b) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 34(b)**; S.I. 1998/386, art. 2(3), **Sch. 1 Pt. III**.
- F73** Words in s. 424(2) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 34(c)**; S.I. 1998/386, art. 2(3), **Sch. 1 Pt. III**.
- F74** Words in s. 424(3) substituted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 34(d)**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**.

#### *Admission arrangements for grant-maintained schools*

#### **425 Admission arrangements and information about them.**

Paragraph 5 of Schedule 23 has effect—

- (a) for making the governing body of a grant-maintained school responsible for determining the arrangements for admitting pupils to the school; and
- (b) for requiring the governing body of such a school to publish particulars of such arrangements and of the procedures applicable in relation to the admission of pupils to the school.

#### **[425A<sup>F75</sup> Restrictions on admissions to grant-maintained schools.**

Schedule 33B to this Act, which provides for restrictions on admissions to grant-maintained schools in connection with—

- (a) home-school partnership documents,
  - (b) partially-selective schools, and
  - (c) persons permanently excluded from two or more schools,
- shall have effect.]

#### Textual Amendments

- F75** S. 425A inserted (*prosp.*) by 1997 c. 44, **ss. 14(1), 58(3)** (with **ss. 57(3)**).

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

- C64** S. 425A modified (1.9.1998)(*temp.*) by S.I. 1998/1948, **reg. 3, Sch. para.3**.

#### **[<sup>F76</sup>425B**

- (1) An application for the admission of a child to a grant-maintained school may be refused on the grounds that his admission would prejudice the provision of efficient education or the efficient use of resources at the school.
- (2) For the purposes of subsection (1) prejudice of the kind referred to in that provision may arise by reason of any qualifying measures.
- (3) No prejudice shall, however, be taken to arise from the admission of a child to the school if, were he to be admitted to the school, the number of pupils within the relevant age group to which he would be admitted in the school year in which he would be

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admitted would not exceed the number of pupils intended to be admitted to the school in that age group in that year.]

**Textual Amendments**

**F76** S. 425B inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 3

*Admission numbers for grant-maintained schools*

**426 Minimum number for admission.**

- (1) The governing body of a grant-maintained school shall not fix as the number of pupils in any relevant age group it is intended to admit to the school in any school year a number which is less than the approved admission number for that age group.
- (2) Subject to subsections (3) and (4) and sections 427 and 428, the approved admission number for any relevant age group is the number specified in the relevant proposals as the number of pupils intended to be admitted to the school in that age group in the first school year beginning on or after the date of implementation of the proposals.

For this purpose “the relevant proposals” means the proposals published under section 193, 211 or 212 above (or, as the case may be, under section 32, 48 or 49 of the <sup>M73</sup>Education Act 1993 or section 62 of the <sup>M74</sup>Education Reform Act 1988).

- (3) Where proposals for a significant change in the character, or significant enlargement of the premises, of a grant-maintained school or for the transfer of such a school to a new site have been approved or adopted under section 261 above (or, as the case may be, under section 98 of the <sup>M75</sup>Education Act 1993 or section 89 of the Education Reform Act 1988), the approved admission number for any relevant age group for any school year for which the proposals have been wholly or partly implemented is—
  - (a) the number specified in the proposals as the number of pupils proposed to be admitted to the school in that age group in the first school year in relation to which the proposals have been wholly implemented, or
  - (b) if for any school year in relation to which the proposals have been partly implemented the Secretary of State directs the substitution of a different number, that number.
- (4) The approved admission number in relation to any relevant age group may be varied in the case of any such school with the approval of the Secretary of State.

[<sup>F77</sup>(5) Where

- (a) the governing body are seeking approval for a reduction of any approved admission number applicable to admissions to an infant class, and
- (b) the Secretary of State is satisfied that the admission to the school in any school year of a number of children in any relevant age group equal to the approved admission number would result in prejudice to the provision of efficient education or the efficient use of resources by reason of any qualifying measures,

the Secretary of State shall approve a reduction in that approved admission number by the smallest number which he considers sufficient to avoid such prejudice arising.

<sup>F78</sup>(6) . . . . .]

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#### Textual Amendments

- F77** S. 426(5)(6) inserted (1.9.1998) by S.I. 1998/1948, reg. 3, **Sch. para. 4(1)**  
**F78** S. 426 repealed (1.4.1999 to the extent of the repeal of s. 426(6) otherwise (*prosp.*)) by 1998 c. 31, ss. 140(1)(3), 145(3), **Sch. 30 para. 109, Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

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

- C65** S. 426 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, **Sch. para. 4**.  
 S. 426 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, **Sch. para. 5**.  
**C66** Power to restrict s. 426(1) conferred (24.7.1998) by 1998 c. 31, s. 144, **Sch. 32 Pt. II para. 6(1)(a)** (with ss. 138(9), 144(6)).

#### Marginal Citations

- M73** 1993 c. 35.  
**M74** 1988 c. 40.  
**M75** 1993 c. 35.

### 426 Minimum number for admission. **E+W**

- (1) The governing body of a grant-maintained school shall not fix as the number of pupils in any relevant age group it is intended to admit to the school in any school year a number which is less than the approved admission number for that age group.
- (2) Subject to subsections (3) and (4) and sections 427 and 428, the approved admission number for any relevant age group is the number specified in the relevant proposals as the number of pupils intended to be admitted to the school in that age group in the first school year beginning on or after the date of implementation of the proposals.

For this purpose “the relevant proposals” means the proposals published under section 193, 211 or 212 above (or, as the case may be, under section 32, 48 or 49 of the <sup>M262</sup>Education Act 1993 or section 62 of the <sup>M263</sup>Education Reform Act 1988).

- (3) Where proposals for a significant change in the character, or significant enlargement of the premises, of a grant-maintained school or for the transfer of such a school to a new site have been approved or adopted under section 261 above (or, as the case may be, under section 98 of the <sup>M264</sup>Education Act 1993 or section 89 of the Education Reform Act 1988), the approved admission number for any relevant age group for any school year for which the proposals have been wholly or partly implemented is—
  - (a) the number specified in the proposals as the number of pupils proposed to be admitted to the school in that age group in the first school year in relation to which the proposals have been wholly implemented, or
  - (b) if for any school year in relation to which the proposals have been partly implemented the Secretary of State directs the substitution of a different number, that number.
- (4) The approved admission number in relation to any relevant age group may be varied in the case of any such school with the approval of the Secretary of State.

[<sup>F203</sup>(5) Where

- (a) the governing body are seeking approval for a reduction of any approved admission number applicable to admissions to an infant class, and



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- (b) the Secretary of State is satisfied that the admission to the school in any school year of a number of children in any relevant age group equal to the approved admission number would result in prejudice to the provision of efficient education or the efficient use of resources by reason of any qualifying measures,
- the Secretary of State shall approve a reduction in that approved admission number by the smallest number which he considers sufficient to avoid such prejudice arising.
- (6) Where an order under section 27(1) relating to primary education applies to the area of the local education authority in which the school is situated, subsection (5) shall have effect as if the references to the Secretary of State were to the funding authority.]

#### Textual Amendments

**F203** S. 426(5)(6) inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 4(1)

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

**C112** S. 426 modified (1.9.1998)(temp.) by S.I. 1998/1948, reg. 3, Sch. para. 4.

S. 426 modified (1.9.1998)(temp.) by S.I. 1998/1948, reg. 3, Sch. para. 5.

**C113** Power to restrict s. 426(1) conferred (24.7.1998) by 1998 c. 31, s. 144, Sch. 32 Pt. II para. 6(1)(a) (with ss. 138(9), 144(6)).

#### Marginal Citations

**M262** 1993 c. 35.

**M263** 1988 c. 40.

**M264** 1993 c. 35.

- [<sup>F79</sup>426A
- (1) The governing body of a grant-maintained school containing any infant class shall keep under review any approved admission number applicable to admissions to an infant class, having regard to
- (a) the school's capacity to accommodate pupils, and
- (b) the need to secure that the admission to the school in any school year of a number of children in any relevant age group equal to the approved admission number would not result in prejudice to the provision of efficient education or the efficient use of resources by reason of qualifying measures.
- (2) The governing body of any such school shall in particular carry out a review under subsection (1) as soon as reasonably practicable following the coming into force of regulations under section 1 of the School Standards and Framework Act 1998 by virtue of which any limit on class sizes is to apply in relation to any such class at the school.
- (3) Where, as a result of a review under subsection (1), the governing body consider that any approved admission number at the school should be varied in order to enable the objective referred to in subsection (1)(b) to be achieved, they shall seek approval to the variation of that number in accordance with section 426(4).
- (4) For the purposes of subsection (1) a school's capacity to accommodate pupils shall be calculated having regard to any guidance given from time to time by the Secretary of State.]

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### Textual Amendments

**F79** S. 426A inserted (1.9.1998) by S.I. 1998/1948, reg. 3, Sch. para. 5(1)(2)

#### **427 Alteration of minimum number by Secretary of State.**

- (1) This section applies in relation to any grant-maintained school unless the funding authority have the function under section 428 in relation to that school.
- (2) The Secretary of State may by order increase the approved admission number for any relevant age group to such number as may be specified in the order for any school year specified in the order beginning after the date of the order.
- (3) No order may be made under subsection (2) which would have the effect of requiring such an increase in the number of pupils to be admitted to the school as would—
  - (a) constitute a significant change in the character of the school, or
  - (b) involve any alteration of the premises of the school.

Section 311(4) shall apply for the purposes of this subsection.

#### **428 Alteration of minimum number by funding authority.**

- (1) If an order under section 27(1) (allocation of responsibility for providing sufficient school places) applies to the area of a local education authority, the funding authority may give a direction under subsection (2) to the governing body of a grant-maintained school in the area.
- (2) A direction under this subsection—
  - (a) may increase the approved admission number for any relevant age group to such number as may be specified in the direction for any school year specified in the direction beginning after the date of the direction, and
  - (b) if any alteration would be required to the premises of the school in consequence of any increase in any approved admission number made by the direction, shall give particulars of the alteration.
- (3) No direction may be given under subsection (2) which would have the effect of requiring such an increase in the number of pupils to be admitted to the school as would—
  - (a) constitute a significant change in the character of the school, or
  - (b) involve a significant enlargement of the premises of the school.

Section 311(4) shall apply for the purposes of this subsection.

- (4) Before deciding to give a direction under subsection (2) the funding authority shall consult the governing body about the proposed content of the direction.
- (5) Before giving a direction under subsection (2) the funding authority shall serve a draft of the proposed direction on the governing body.
- (6) A governing body on which a draft is served under subsection (5) may, within the period of 15 days beginning with the day on which it was served, refer the matter to the Secretary of State and, if they do so, shall inform the funding authority.
- (7) On a reference under subsection (6) the Secretary of State may—

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- (a) require the funding authority not to give any direction in the terms of the draft, or
  - (b) authorise the funding authority to give a direction in those terms, or in those terms as required to be modified by the Secretary of State;
- and any direction given by the funding authority shall be in the terms authorised under paragraph (b).
- (8) Where the funding authority give a direction under this section, then—
- (a) if any particulars are specified in pursuance of subsection (2)(b), the governing body shall secure the alteration of the school premises in accordance with the particulars, and
  - (b) the funding authority shall make to them a grant of an amount equal to the reasonable expenses incurred or to be incurred in doing so.

*Admissions appeals relating to grant-maintained schools*

**429 Appeal arrangements.**

Paragraph 6 of Schedule 23 has effect for requiring the governing body of a grant-maintained school—

- (a) to make arrangements for appeals to an appeal committee against decisions or action taken in relation to admissions of pupils to the school; and
- (b) to publish particulars of such arrangements.

*Co-ordinated arrangements for admissions*

**430 Co-ordinated arrangements for admissions.**

- (1) In this section “co-ordinated arrangements for admissions”, in relation to any two or more maintained or grant-maintained schools, means arrangements under an agreement to which this section applies for the purpose of co-ordinating arrangements for admitting pupils to the schools concerned.
- (2) Co-ordinated arrangements for admissions, if—
- (a) contained in an agreement approved by the Secretary of State under this section, or
  - (b) made in pursuance of a scheme under this section,
- and any provision contained in any other arrangements for admitting pupils to any maintained or grant-maintained school in pursuance of a scheme under this section, shall have effect in the case of any school to which they relate despite anything in section 411(2) or in the instrument or articles of government for the school.
- (3) This section applies to an agreement made in relation to any two or more maintained or grant-maintained schools to which each authority responsible for determining the arrangements for admitting pupils to any of the schools is a party, whether or not any local education authority for any area in which any of the schools is situated is also a party.
- (4) The Secretary of State may make a scheme under this section for the purpose of co-ordinating arrangements, or assisting in the co-ordination of arrangements, for

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admitting pupils to any maintained or grant-maintained schools to which the scheme applies.

- (5) A scheme under this section may in particular require each authority responsible for determining the arrangements for admitting pupils to any of the schools to which the scheme applies—
  - (a) to include in their arrangements for admitting pupils such provisions as may be required by the scheme;
  - (b) to secure the making in accordance with the scheme of an agreement for the purpose of co-ordinating arrangements for admitting pupils to the schools to which the scheme applies; or
  - (c) to secure the modification in accordance with the scheme of any such agreement to which they are a party.
- (6) Before making a scheme under this section the Secretary of State shall, in respect of each school which appears to him to be a school to which the scheme will apply, consult—
  - (a) the governing body, and
  - (b) in the case of a maintained school, the local education authority.
- (7) A scheme under this section may apply—
  - (a) to all schools which for the time being are maintained or grant-maintained schools;
  - (b) to all schools which for the time being are maintained or grant-maintained schools falling within any category of such schools specified in the scheme; or
  - (c) to any maintained or grant-maintained school so specified.
- (8) Section 570 (revocation and variation) applies to a scheme under this section as it applies to an order made by the Secretary of State.
- (9) In this section “maintained school” means a county or voluntary school or a maintained special school which is not established in a hospital.

*Power to direct admission of child to school*

**431 Direction to admit child to specified school.**

- (1) The appropriate authority may give a direction under this section if, in the case of any child in the area of a local education authority, either (or both) of the following conditions is satisfied in relation to each school which is a reasonable distance from his home and provides suitable education, that is—
  - (a) he has been refused admission to the school, or
  - (b) he is permanently excluded from the school.
- (2) A direction under this section shall specify a school—
  - (a) which is a reasonable distance from the child’s home, and
  - (b) from which the child is not permanently excluded.
- (3) A direction under this section shall, unless it is given on the determination of the Secretary of State under section 432(4) or by the funding authority, specify a school in the area referred to in subsection (1).

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- (4) Where a school is specified in a direction under this section, the governing body (and, if the school is a county or voluntary school and the local education authority are not the appropriate authority, the local education authority) shall admit the child to the school.
- (5) Subsection (4) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (6) In this section “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (7) In this section and section 432—
  - (a) references to the appropriate authority are (subject to subsection (8)) references to the local education authority; and
  - (b) references to schools are references to county, voluntary and grant-maintained schools.
- (8) Where the education which is suitable education for the child is also education of a kind to which there relates an order made under section 27(1)(b) in respect of the area referred to in subsection (1) above, references in this section and section 432 to the appropriate authority are to be read in relation to—
  - (a) that child, and
  - (b) any county, voluntary or grant-maintained school in that area, and any such school in any other area to which an order under section 27(1)(b) applies which provides education which is relevant education in relation to that order, as references to the funding authority.

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

C67 S. 431 modified (1.9.1998)(temp.) by S.I. 1998/1948, reg. 3, Sch. para.6.

**432 Procedure for giving direction under section 431.**

- (1) Before deciding to give a direction under section 431, the appropriate authority shall consult—
  - (a) the parent of the child,
  - (b) the governing body of the school they propose to specify in the direction, and
  - (c) (if different) the authority which have a duty to maintain the school or to pay maintenance grant to the governing body (“the maintaining authority”).
- (2) Where the appropriate authority decide to give such a direction specifying any school they shall, before doing so, serve a notice in writing of their decision on—
  - (a) the governing body and head teacher of the school, and
  - (b) (if subsection (1)(c) applies) the maintaining authority,and shall not give the direction until the period for referring the matter to the Secretary of State under subsection (3) has expired and, if it is so referred, the Secretary of State has made his determination.
- (3) Any body or authority on whom a notice is served under subsection (2) may, within the period of 15 days beginning with the day on which the notice was served, refer

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the matter to the Secretary of State and, if they do so, shall inform the appropriate authority.

- (4) On a reference under subsection (3) the Secretary of State may determine which school is to be required to admit the child and, if he does so, that school shall be specified in the direction.
- (5) Where the appropriate authority give such a direction specifying a school, they shall give notice in writing of that fact to—
  - (a) the governing body and head teacher of the school, and
  - (b) (if subsection (1)(c) applies) the maintaining authority.

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

**C68** S. 432 modified (1.9.1998)(*temp.*) by S.I. 1998/1948, reg. 3, Sch. para.7.

*Time for admission of pupils*

**433 Time for admission of pupils.**

- (1) Section 14 (which requires a local education authority to secure that sufficient schools for providing primary and secondary education are available for their area) shall not be construed as imposing any obligation on the proprietor of a school to admit children as pupils otherwise than at the beginning of a school term.
- (2) Where, however, a child was prevented from entering a school at the beginning of a term—
  - (a) by his being ill or by other circumstances beyond his parent’s control, or
  - (b) by his parent’s having been then resident at a place from which the school was not accessible with reasonable facility,
 the school’s proprietor is not entitled by virtue of subsection (1) to refuse to admit him as a pupil during the currency of the term.
- (3) In cases where subsection (2) does not apply, the governing body of a school maintained by a local education authority shall comply with any general directions given by the authority as to the time of admission of children as pupils.
- (4) General directions given by a local education authority as respects the time of admission of children as pupils shall not prevent the admission to a school of children in respect of whose education grants may be made under arrangements which have been made under section 1 of the<sup>M76</sup>Nursery Education and Grant-Maintained Schools Act 1996.
- (5) Despite section 7 (duty of parent of child of compulsory school age to cause him to receive full-time education), a parent is not under a duty to cause a child to receive full-time education during any period during which, having regard to subsections (1) and (2), it is not practicable for the parent to arrange for him to be admitted as a pupil at a school.

**Marginal Citations**

**M76** 1996 c. 50.

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### *Registration of pupils*

#### **434 Registration of pupils.**

- (1) The proprietor of a school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars in respect of all persons who are pupils at the school.
- (2) Without prejudice to the generality of subsection (1), the prescribed particulars shall include particulars of the name and address of every person known to the proprietor to be a parent of a pupil at the school.
- (3) The regulations shall prescribe the grounds on which names are to be deleted from a register kept under this section; and the name of a person entered in such a register as a pupil at a school—
  - (a) shall, when any of the prescribed grounds is applicable, be deleted from the register on that ground; and
  - (b) shall not be deleted from the register otherwise than on any such ground.
- (4) The regulations may make provision—
  - (a) for enabling registers kept under this section to be inspected;
  - (b) for enabling extracts from such registers to be taken for the purposes of this Act by persons authorised to do so under the regulations; and
  - (c) for requiring the person by whom any such register is required to be kept to make to—
    - (i) the Secretary of State,
    - (ii) the funding authorities, and
    - (iii) local education authorities,such periodical or other returns as to the contents of the register as may be prescribed.
- (5) In this Act—

“registered pupil”, in relation to a school, means a person registered as a pupil at the school in the register kept under this section; and

“registered”, in relation to the parents of pupils at a school or in relation to the names or addresses of such parents or pupils, means shown in that register.
- (6) A person who contravenes or fails to comply with any requirement imposed on him by regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### *Withdrawal of pupils from primary school for secondary education*

#### **435 Withdrawal of pupils from a primary school for secondary education.**

A local education authority may make arrangements in respect of a primary school maintained by them (other than one that is for the time being organised for the provision of both primary and secondary education) under which any registered pupils who are under the age of 12 but have attained the age of 10 years and six months may be required to be withdrawn from the school for the purpose of receiving secondary education.

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### *Supplementary*

#### **436 Effect of admission for nursery education.**

- (1) Children admitted to a school for nursery education and subsequently transferred to a reception class at the school shall be regarded for the purposes of this Chapter as admitted to the school (otherwise than for nursery education) on being so transferred.
- (2) The admission of children to a school for nursery education shall be disregarded for the purpose of—
  - (a) applying in relation to a primary school any provision of sections 416 to 421 (apart from section 419) which refers to the number of pupils admitted or intended to be admitted to a school in any school year, or
  - (b) applying section 419(3) or (4) in relation to a primary school, or
  - (c) determining for the purposes of any provision of sections 416 to 421 what is a relevant age group in relation to a primary school,
 and for the purposes of sections 426 to 428.

## **CHAPTER II**

### SCHOOL ATTENDANCE

#### *School attendance orders*

#### **437 School attendance orders.**

- (1) If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.
- (2) That period shall not be less than 15 days beginning with the day on which the notice is served.
- (3) If—
  - (a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and
  - (b) in the opinion of the authority it is expedient that the child should attend school,
 the authority shall serve on the parent an order (referred to in this Act as a “school attendance order”), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.
- (4) A school attendance order shall (subject to any amendment made by the local education authority) continue in force for so long as the child is of compulsory school age, unless—
  - (a) it is revoked by the authority, or
  - (b) a direction is made in respect of it under section 443(2) or 447(5).



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- (5) Where a maintained or grant-maintained school is named in a school attendance order, the local education authority shall inform the governing body and the head teacher.
- (6) Where a maintained or grant-maintained school is named in a school attendance order, the governing body (and, in the case of a maintained school, the local education authority) shall admit the child to the school.
- (7) Subsection (6) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (8) In this Chapter—
  - “maintained school” means any county or voluntary school or any maintained special school which is not established in a hospital; and
  - “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

#### **438 Choice of school: child without statement of special educational needs.**

- (1) This section applies where a local education authority are required by virtue of section 437(3) to serve a school attendance order in respect of a child, other than a child for whom they maintain a statement under section 324.
- (2) Before serving the order, the authority shall serve on the parent a notice in writing—
  - (a) informing him of their intention to serve the order,
  - (b) specifying the school which the authority intend to name in the order and, if they think fit, one or more other schools which they regard as suitable alternatives, and
  - (c) stating the effect of subsections (3) to (6).
- (3) If the notice specifies one or more alternative schools and the parent selects one of them within the period of 15 days beginning with the day on which the notice is served, the school selected by him shall be named in the order.
- (4) If—
  - (a) within the period mentioned in subsection (3)—
    - (i) the parent applies for the child to be admitted to a school maintained by a local education authority and, where that authority are not the authority by whom the notice was served, notifies the latter authority of the application, or
    - (ii) the parent applies for the child to be admitted to a grant-maintained school and notifies the authority by whom the notice was served of the application, and
  - (b) the child is offered a place at the school as a result of the application, that school shall be named in the order.
- (5) If—
  - (a) within the period mentioned in subsection (3), the parent applies to the local education authority by whom the notice was served for education to be provided for the child at a school which is not maintained by a local education authority and is not a grant-maintained school, and

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- (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 517,  
that school shall be named in the order.
- (6) If, within the period mentioned in subsection (3)—
- (a) the parent—
    - (i) applies for the child to be admitted to a school which is not maintained by a local education authority and is not a grant-maintained school, and in respect of which no application is made under subsection (5), and
    - (ii) notifies the local education authority by whom the notice was served of the application,
  - (b) the child is offered a place at the school as a result of the application, and
  - (c) the school is suitable to his age, ability and aptitude and to any special educational needs he may have,  
that school shall be named in the order.

**439 Specification of schools in notices under section 438(2).**

- (1) Subject to subsection (3), a local education authority shall not, if it appears to them that subsection (2) applies in relation to any school, specify the school in a notice under section 438(2) unless they are responsible for determining the arrangements for the admission of pupils to the school.
- (2) This subsection applies where, if the child concerned were admitted to the school in accordance with a school attendance order resulting from the notice, the number of pupils at the school in the child's age group would exceed the number fixed—
  - (a) in the case of a maintained school, in accordance with section 416, or
  - (b) in the case of a grant-maintained school, in accordance with sections 426 to 428,  
as the number of pupils in that age group which it is intended to admit to the school in the school year in which he would be admitted.
- (3) Subsection (1) does not prevent a local education authority specifying in a notice under section 438(2) any maintained or grant-maintained school if—
  - (a) there is no maintained or grant-maintained school in their area which—
    - (i) the authority are not (apart from this subsection) prevented by subsection (1) from specifying, and
    - (ii) is, in the opinion of the authority, a reasonable distance from the home of the child concerned, and
  - (b) in the opinion of the authority, the school in question is a reasonable distance from the home of the child concerned.
- (4) A local education authority shall not specify in a notice under section 438(2) a school from which the child concerned is permanently excluded.
- (5) Before deciding to specify a particular maintained or grant-maintained school in a notice under section 438(2) a local education authority shall consult—
  - (a) the governing body, and

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- (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the school, that authority.
- (6) Where a local education authority decide to specify a particular maintained or grant-maintained school in a notice under section 438(2) they shall, before serving the notice, serve notice in writing of their decision on—
  - (a) the governing body and head teacher of the school, and
  - (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the school, that authority.
- (7) A governing body or local education authority on whom notice is served under subsection (6) may, within the period of 15 days beginning with the day on which the notice was received, apply to the Secretary of State for a direction under this section and, if they do so, shall inform the local education authority which served the notice.
- (8) Where the Secretary of State gives a direction under this section, the school or schools to be specified in the notice under section 438(2) shall be determined in accordance with the direction.

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

C69 S. 439 modified (1.9.1998) (temp.) by S.I. 1998/1948, reg. 3, Sch. para.8.

**440 Amendment of order at request of parent: child without statement of special educational needs.**

- (1) This section applies where a school attendance order is in force in respect of a child, other than a child for whom the local education authority maintain a statement under section 324.
- (2) If at any time—
  - (a) the parent applies for the child to be admitted to a school maintained by a local education authority or grant-maintained school which is different from the school named in the order,
  - (b) the child is offered a place at the school as a result of the application, and
  - (c) the parent requests the local education authority by whom the order was served to amend it by substituting that school for the one currently named,the authority shall comply with the request.
- (3) If at any time—
  - (a) the parent applies to the authority for education to be provided for the child at a school which is not maintained by a local education authority or a grant-maintained school and which is different from the school named in the order,
  - (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 517, and
  - (c) the parent requests the authority to amend the order by substituting that school for the one currently named,the authority shall comply with the request.
- (4) If at any time—

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- (a) the parent applies for the child to be admitted to a school which is not maintained by a local education authority and is not a grant-maintained school, which is different from the school named in the order and in respect of which no application is made under subsection (3),
  - (b) as a result of the application, the child is offered a place at the school, being a school which is suitable to his age, ability and aptitude and to any special educational needs he may have, and
  - (c) the parent requests the authority to amend the order by substituting that school for the one currently named,
- the authority shall comply with the request.

**441 Choice of school: child with statement of special educational needs.**

- (1) Subsections (2) and (3) apply where a local education authority are required by virtue of section 437(3) to serve a school attendance order in respect of a child for whom they maintain a statement under section 324.
- (2) Where the statement specifies the name of a school, that school shall be named in the order.
- (3) Where the statement does not specify the name of a school—
  - (a) the authority shall, in accordance with paragraph 10 of Schedule 27, amend the statement so that it specifies the name of a school, and
  - (b) that school shall then be named in the order.
- (4) Where—
  - (a) a school attendance order is in force in respect of a child for whom the local education authority maintain a statement under section 324, and
  - (b) the name of the school specified in the statement is changed,
 the local education authority shall amend the order accordingly.

**442 Revocation of order at request of parent.**

- (1) This section applies where a school attendance order is in force in respect of a child.
- (2) If at any time the parent applies to the local education authority requesting that the order be revoked on the ground that arrangements have been made for the child to receive suitable education otherwise than at school, the authority shall comply with the request, unless they are of the opinion that no satisfactory arrangements have been made for the education of the child otherwise than at school.
- (3) If a parent is aggrieved by a refusal of the local education authority to comply with a request under subsection (2), he may refer the question to the Secretary of State.
- (4) Where a question is referred to the Secretary of State under subsection (3), he shall give such direction determining the question as he thinks fit.
- (5) Where the child in question is one for whom the authority maintain a statement under section 324—
  - (a) subsections (2) to (4) do not apply if the name of a school or other institution is specified in the statement, and

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- (b) in any other case a direction under subsection (4) may require the authority to make such amendments in the statement as the Secretary of State considers necessary or expedient in consequence of his determination.

*School attendance: offences and education supervision orders*

**443 Offence: failure to comply with school attendance order.**

- (1) If a parent on whom a school attendance order is served fails to comply with the requirements of the order, he is guilty of an offence, unless he proves that he is causing the child to receive suitable education otherwise than at school.
- (2) If, in proceedings for an offence under this section, the parent is acquitted, the court may direct that the school attendance order shall cease to be in force.
- (3) A direction under subsection (2) does not affect the duty of the local education authority to take further action under section 437 if at any time the authority are of the opinion that, having regard to any change of circumstances, it is expedient to do so.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**444 Offence: failure to secure regular attendance at school of registered pupil.**

- (1) If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence.
- (2) Subsections (3) to (6) below apply in proceedings for an offence under this section in respect of a child who is not a boarder at the school at which he is a registered pupil.
- (3) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school—
  - (a) with leave,
  - (b) at any time when he was prevented from attending by reason of sickness or any unavoidable cause, or
  - (c) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.
- (4) The child shall not be taken to have failed to attend regularly at the school if the parent proves—
  - (a) that the school at which the child is a registered pupil is not within walking distance of the child's home, and
  - (b) that no suitable arrangements have been made by the local education authority or the funding authority for any of the following—
    - (i) his transport to and from the school,
    - (ii) boarding accommodation for him at or near the school, or
    - (iii) enabling him to become a registered pupil at a school nearer to his home.
- (5) In subsection (4) "walking distance"—
  - (a) in relation to a child who is under the age of eight, means 3.218688 kilometres (two miles), and

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- (b) in relation to a child who has attained the age of eight, means 4.828032 kilometres (three miles),  
 in each case measured by the nearest available route.
- (6) If it is proved that the child has no fixed abode, subsection (4) shall not apply, but the parent shall be acquitted if he proves—
  - (a) that he is engaged in a trade or business of such a nature as to require him to travel from place to place,
  - (b) that the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits, and
  - (c) if the child has attained the age of six, that he has made at least 200 attendances during the period of 12 months ending with the date on which the proceedings were instituted.
- (7) In proceedings for an offence under this section in respect of a child who is a boarder at the school at which he is a registered pupil, the child shall be taken to have failed to attend regularly at the school if he is absent from it without leave during any part of the school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) In this section “leave”, in relation to a school, means leave granted by any person authorised to do so by the governing body or proprietor of the school.

#### **445 Presumption of age.**

- (1) This section applies for the purposes of any proceedings for an offence under section 443 or 444.
- (2) In so far as it is material, the child in question shall be presumed to have been of compulsory school age at any time unless the parent proves the contrary.
- (3) Where a court is obliged by virtue of subsection (2) to presume a child to have been of compulsory school age, section 565(1) (provisions as to evidence) does not apply.

#### **446 Institution of proceedings.**

Proceedings for an offence under section 443 or 444 shall not be instituted except by a local education authority.

#### **447 Education supervision orders.**

- (1) Before instituting proceedings for an offence under section 443 or 444, a local education authority shall consider whether it would be appropriate (instead of or as well as instituting the proceedings) to apply for an education supervision order with respect to the child.
- (2) The court—
  - (a) by which a person is convicted of an offence under section 443, or
  - (b) before which a person is charged with an offence under section 444,

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may direct the local education authority instituting the proceedings to apply for an education supervision order with respect to the child unless the authority, having consulted the appropriate local authority, decide that the child’s welfare will be satisfactorily safeguarded even though no education supervision order is made.

- (3) Where, following such a direction, a local education authority decide not to apply for an education supervision order, they shall inform the court of the reasons for their decision.
- (4) Unless the court has directed otherwise, the information required under subsection (3) shall be given to the court before the end of the period of eight weeks beginning with the date on which the direction was given.
- (5) Where—
  - (a) a local education authority apply for an education supervision order with respect to a child who is the subject of a school attendance order, and
  - (b) the court decides that section 36(3) of the <sup>M77</sup>Children Act 1989 (education supervision orders) prevents it from making the order,the court may direct that the school attendance order shall cease to be in force.

- (6) In this section—

“the appropriate local authority” has the same meaning as in section 36(9) of the <sup>M78</sup>Children Act 1989, and

“education supervision order” means an education supervision order under that Act.

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**Marginal Citations**

**M77** 1989 c. 41.  
**M78** 1989 c. 41.

*Exemption*

**448 Exemption where child becomes five during term.**

- Where—
- (a) a child attains [<sup>F80</sup>compulsory school age] during the school term of a grant-maintained school, and
  - (b) arrangements have been made for the admission of the child to that school at the start of the next school term,
- then, during the period beginning with his attaining that age and ending with the start of that next school term, section 7 (duty of parents to secure the education of their children) and section 437 shall not apply to the child.

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**Textual Amendments**

**F80** Words in s. 448 substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.35**; S.I. 1998/386, art. 2(3), **Sch. 1 Pt.III**.

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## CHAPTER III

### CHARGES IN CONNECTION WITH EDUCATION AT LEA OR GRANT-MAINTAINED SCHOOLS

#### *Preliminary*

#### **449 Meaning of “maintained school” in Chapter III.**

In this Chapter “maintained school” means—

- (a) any school maintained by a local education authority, and
- (b) any grant-maintained school.

#### *Prohibition of charges*

#### **450 Prohibition of charges for admission.**

- (1) No charge shall be made in respect of admission to a maintained school.
- (2) Subsection (1) does not apply to the admission of any person to any maintained school for the purpose of—
  - (a) part-time education suitable to the requirements of persons of any age over compulsory school age;
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19; or
  - (c) teacher training.

#### **451 Prohibition of charges for provision of education.**

- (1) Subject to subsection (5), this section applies in relation to education provided at any maintained school for a registered pupil at the school.
- (2) Where the education is provided for the pupil during school hours no charge shall be made in respect of it.
- (3) Subsection (2) does not apply in relation to tuition in playing a musical instrument where the tuition is provided either individually or to a group of not more than four pupils, unless the tuition is—
  - (a) required as part of a syllabus for a prescribed public examination which is a syllabus for which the pupil is being prepared at the school, or
  - (b) provided in pursuance of a duty imposed by section 357(1) or 384 (implementation of National Curriculum or of provision for religious education in school’s basic curriculum).
- (4) Where the education is provided for the pupil outside school hours no charge shall be made in respect of it if it is—
  - (a) required as part of a syllabus for a prescribed public examination which is a syllabus for which the pupil is being prepared at the school, or
  - (b) provided in pursuance of a duty imposed by section 357(1) or 384.
- (5) Nothing in this section applies in relation to education provided at a grant-maintained school in pursuance of arrangements made under section 231(8).



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#### **452 Application of section 451 where education is provided partly during and partly outside school hours etc.**

- (1) Where a period allowed for any educational activity at a maintained school falls partly during school hours and partly outside school hours, then—
  - (a) if 50 per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of section 451 as provided during school hours, and
  - (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.
- (2) In subsection (1) “connected school travelling time” means time spent during school hours by the pupils taking part in the educational activity concerned in getting to or from the place where the activity takes place.
- (3) Where any education provided at a maintained school is provided on a residential trip, then—
  - (a) if the number of school sessions taken up by the trip is equal to or greater than 50 per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of section 451 as provided during school hours, and
  - (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.
- (4) In this section “half day” means any period of 12 hours ending with noon or midnight on any day.
- (5) For the purposes of subsection (3)—
  - (a) where 50 per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated as spent on the trip, and
  - (b) a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip if the time spent on the trip occupies 50 per cent. or more of the time allowed for that session at the school.
- (6) Nothing in section 451 shall be read as prohibiting the making of a charge in respect of board and lodging provided for a registered pupil at a maintained school on a residential trip.

#### **453 Examinations: prohibition of charges and recovery of wasted fees.**

- (1) No charge shall be made in respect of the entry of a registered pupil at a maintained school for a prescribed public examination in any syllabus for that examination for which the pupil has been prepared at the school.
- (2) Despite subsection (1), where—
  - (a) the governing body of a maintained school or the local education authority have paid or are liable to pay a fee in respect of the entry of a registered pupil at the school for a public examination in any syllabus for that examination, and
  - (b) the pupil fails without good reason to meet any examination requirement for that syllabus,

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that body or authority may recover the amount of the fee from the pupil's parent.

- (3) It shall be for the body or authority who have paid or are liable to pay the fee in question to determine for the purposes of this section any question whether a pupil who has failed to meet an examination requirement had good reason for the failure.

#### **454 Prohibition of incidental charges.**

- (1) Neither the parent of a registered pupil at a maintained school nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—
- (a) education provided for the pupil at the school in respect of which, by virtue of section 451, no charge may be made, or
  - (b) a syllabus for a prescribed public examination which is a syllabus for which the pupil has been prepared at the school.
- (2) Nothing in subsection (1) shall prevent the parent of a pupil from being required to pay for or supply any materials for use for the purposes of the production, in the course of the provision of education for the pupil at the school, of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.
- (3) No charge shall be made in respect of transport provided for a registered pupil at a maintained school where the transport is either—
- (a) incidental to education provided for the pupil at the school in respect of which, by virtue of section 451, no charge may be made, or
  - (b) provided for the purpose of enabling him to meet any examination requirement for any syllabus for a prescribed public examination which is a syllabus for which he has been prepared at the school.
- (4) For the purposes of subsection (3)(a) transport is incidental to education provided for registered pupils at a school if it is provided for the purpose of carrying such pupils—
- (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises, or
  - (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the governing body or the local education authority, from or to the school premises or any other such place.

#### *Permitted charges*

#### **455 Permitted charges.**

- (1) Subject to subsection (2), a charge may be made in respect of—
- (a) education provided for a registered pupil at a maintained school other than education in respect of which, by virtue of section 451, no charge may be made,
  - (b) the entry of a registered pupil at a maintained school for a public examination in any syllabus for that examination otherwise than in circumstances in which, by virtue of section 453(1), no charge may be made,

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- (c) transport provided for a registered pupil at a maintained school other than transport in respect of which, by virtue of section 454(3) or 509(2), no charge may be made, and
  - (d) board and lodging provided for a registered pupil at a maintained school on a residential trip.
- (2) A charge may not be made—
- (a) by virtue of subsection (1)(a) in respect of the provision for a pupil of education,
  - (b) by virtue of subsection (1)(b) in respect of the entry of a pupil for an examination in any syllabus for that examination, or
  - (c) by virtue of subsection (1)(c) in respect of the provision for a pupil of transport,
- unless the education is provided, the pupil is entered for the examination in that syllabus, or the transport is provided, by agreement with the pupil's parent.
- (3) Any education, examination entry or transport in respect of which a charge may be made by virtue of subsection (1) is referred to in this Chapter as an “optional extra”.

#### **456 Regulation of permitted charges.**

- (1) This section applies in relation to any charge permitted under section 455, other than a charge in respect of education provided at a grant-maintained school in pursuance of arrangements made under section 231(8); and a charge to which this section applies is referred to in this section as a “regulated charge”.
- (2) The amount of any regulated charge shall be payable by the parent of the pupil concerned.
- (3) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.
- (4) Without prejudice to the generality of subsection (3), the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—
- (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra, or
  - (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra, or
  - (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.
- (5) Subject to subsection (6), the cost of the provision of an optional extra shall not be taken to include any costs attributable to the provision of teaching staff other than staff engaged as mentioned in subsection (4)(c).
- (6) Where the optional extra in question consists of tuition in playing a musical instrument, the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.
- (7) Where charging is permitted under section 455 and the charge would be a regulated charge, the question whether any charge should be made, and the amount of any charge to be made, shall be determined—

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- (a) in a case where the cost of the provision of the optional extra or board and lodging in question is met by or from funds at the disposal of the governing body, by the governing body, and
  - (b) in any other case, by the local education authority.
- (8) The whole or any part of the amount of any charge which the local education authority determine under subsection (7)(b) to make—
- (a) shall, if the governing body so determine, be met by or from funds at the disposal of the governing body, and
  - (b) to the extent that it is so met, shall not be payable by the parent of the pupil concerned.

#### **457 Charges and remissions policies.**

- (1) Every governing body of a maintained school and every local education authority shall determine and keep under review a policy with respect to—
- (a) the provision of, and
  - (b) the classes or descriptions of case in which they propose to make charges for, any optional extra or board and lodging in respect of which charges are permitted by section 455.

This subsection does not apply in relation to education provided at a grant-maintained school in pursuance of arrangements made under section 231(8).

- (2) No such body or authority shall make such a charge unless they have both—
- (a) determined a policy under subsection (1)(b) (their “charging policy”), and
  - (b) determined a policy (their “remissions policy”) setting out any circumstances in which they propose to remit (in whole or in part) any charge which would otherwise be payable to them in accordance with their charging policy.
- (3) A remissions policy determined by the governing body of a school other than a grant-maintained school shall set out any circumstances in which the governing body propose to meet (in whole or in part) any charge payable to the local education authority, in accordance with the authority’s charging policy, for an optional extra or board and lodging provided for a registered pupil at the school.
- (4) A remissions policy shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which, by virtue of section 451, no charge may be made, and
  - (b) the pupil’s parents are in receipt of—
    - (i) income support,
    - (ii) family credit,
    - (iii) an income-based jobseeker’s allowance (payable under the <sup>M79</sup>Jobseekers Act 1995), or
    - (iv) disability working allowance,
 in respect of any period wholly or partly comprised in the time spent on the trip.
- (5) A remissions policy shall be kept under review by the governing body or local education authority by whom it was determined.

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#### Marginal Citations

M79 1995 c. 18.

### 458 Charges for board and lodging at boarding schools.

- (1) Subject to subsections (2) to (5), where a registered pupil at a maintained school is provided at the school with board and lodging, there shall be payable in respect of the board and lodging by the parent of the pupil concerned—
- (a) to the local education authority, in the case of a school maintained by such an authority, or
  - (b) to the governing body, in the case of a grant-maintained school,
- charges not exceeding the cost to the authority or governing body of providing the board and lodging.
- (2) Where—
- (a) the board and lodging are provided for the pupil at a school maintained by a local education authority, and
  - (b) the local education authority for his area are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him,
- then, where the school is maintained by the local education authority for his area, that authority shall remit the whole of the charges payable under this section and, in any other case, that authority shall pay the whole of the charges payable under this section to the authority which maintain the school.
- (3) Where—
- (a) the board and lodging are provided for the pupil at a grant-maintained school, and
  - (b) the local education authority for his area are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him,
- the whole of the charges payable under this section shall be payable by the authority instead of by the pupil's parent.
- (4) Where the local education authority for the pupil's area are satisfied that payment of the full charges payable under this section would involve financial hardship to the parent of the pupil concerned, the authority—
- (a) in the case of charges payable to the authority, shall remit so much of those charges as falls in accordance with subsection (5) to be so remitted, and
  - (b) in the case of charges payable to another local education authority or to the governing body of a grant-maintained school in respect of board and lodging, shall pay so much of those charges as falls in accordance with subsection (5) to be so paid.
- (5) The amount that falls to be remitted or paid by a local education authority by virtue of subsection (4)(a) or (b) is—
- (a) such part of the charges in question as the authority consider ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in subsection (4), or

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- (b) the whole of those charges if, in their opinion, such hardship cannot otherwise be avoided.

### *Supplementary*

#### **459 Provision of information.**

Regulations may require, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—

- (a) such information relevant for the purposes of this Chapter as to the school hours at the school, and
  - (b) such information as to the policies determined under section 457 which apply in relation to the school,
- as may be prescribed.

#### **460 Contributions and charges unaffected by Chapter III.**

- (1) Nothing in this Chapter shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the governing body of a maintained school or a local education authority for voluntary contributions for the benefit of the school or any school activities.
- (2) Any request or invitation made by or on behalf of such a body or authority for contributions for the benefit of a school or school activities shall not be regarded for the purposes of subsection (1) as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—
  - (a) that there is no obligation to make any contribution, and
  - (b) that registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.
- (3) Nothing in this Chapter relating to charges in respect of a registered pupil at a maintained school shall be read as relating to—
  - (a) charges made by persons other than the governing body or the local education authority, or
  - (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.

#### **461 Recovery of sums as civil debt.**

Any sum payable under section 453(2), 455 or 458 by the parent of a registered pupil at a maintained school shall be recoverable summarily as a civil debt.

#### **462 Interpretation of Chapter III.**

- (1) In this Chapter—
  - “equipment” does not include clothing;
  - “examination requirement”, in relation to a syllabus for an examination, means a requirement which a pupil must meet in order to qualify for

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assessment for the purposes of determining his achievements in that examination in that syllabus.

- (2) In this Chapter “residential trip” means any trip—
- (a) which is arranged for registered pupils at a maintained school by or on behalf of the governing body or the local education authority, and
  - (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.
- (3) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a syllabus for a prescribed public examination if any part of the education provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.
- (4) In this Chapter references to a public examination (or a prescribed public examination) are references to such an examination as it applies in relation to persons who are entered for a syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment takes place.
- (5) For the purposes of subsection (4)—
- (a) “an assessment” means an assessment for the purposes of determining the achievements of persons entered for the examination in question; and
  - (b) such an assessment is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any syllabus in that examination who has met the examination requirements for that syllabus—
    - (i) whether he has passed or failed, and
    - (ii) if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

## PART VII

### INDEPENDENT SCHOOLS

#### CHAPTER I

##### PRELIMINARY

#### 463 Meaning of “independent school”.

In this Act “independent school” means any school at which full-time education is provided for five or more pupils of compulsory school age (whether or not such education is also provided at it for pupils under or over that age) and which is not—

- (a) a school maintained by a local education authority,
- (b) a special school not so maintained, or
- (c) a grant-maintained school.

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## CHAPTER II

### REGISTRATION OF INDEPENDENT SCHOOLS

#### *Registration*

#### **464 Separate registration for England and for Wales.**

- (1) A register of all independent schools in England shall be kept by an officer of the Secretary of State who is appointed by the Secretary of State to be Registrar of Independent Schools for England.
- (2) A register of all independent schools in Wales shall be kept by an officer of the Secretary of State who is appointed by the Secretary of State to be Registrar of Independent Schools for Wales.
- (3) Each register shall be open to public inspection at all reasonable times.
- (4) In this Part “the Registrar of Independent Schools” (or “the Registrar”) means—
  - (a) in relation to a school in England, the Registrar of Independent Schools for England, and
  - (b) in relation to a school in Wales, the Registrar of Independent Schools for Wales,
 and references, in relation to a school, to the register or to registration are to the register kept by the relevant Registrar or to registration in that register.

#### **465 Provisional and final registration of a school.**

- (1) Subject to subsection (2), the Registrar of Independent Schools shall enter in the register the name of any independent school whose proprietor—
  - (a) makes an application for registration in such manner as may be prescribed, and
  - (b) provides such particulars as may be prescribed.
- (2) A school shall not be registered if—
  - (a) by virtue of an order made under section 470 or 471, the proprietor is disqualified from being the proprietor of an independent school or the school premises are disqualified from being used as a school, or
  - (b) the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of such an order.
- (3) The registration of a school shall initially be provisional only, and shall remain so until such time as the Secretary of State, after the school has been inspected on his behalf under Part I of the <sup>M80</sup>School Inspections Act 1996, gives notice to the proprietor that the registration is final.
- (4) In this Part—
 

“provisionally registered school” means an independent school whose registration is provisional only, and

“registered school” means an independent school whose registration is final.
- (5) In this section “proprietor”, in relation to a school, includes any person or body of persons proposing to be the proprietor.



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**Marginal Citations**

**M80** 1996 c. 57.

**466 Enforcement of registration: offences.**

- (1) Subject to subsection (2), a person is guilty of an offence if he conducts an independent school which is not a registered school or a provisionally registered school.
- (2) A person is not guilty of an offence under subsection (1) by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made under section 465 within that period.
- (3) The proprietor of an independent school is guilty of an offence if, while it is a provisionally registered school, he does any act calculated to lead to the belief that it is a registered school.

**467 Provision of information about registered and provisionally registered schools.**

- (1) Regulations may make provision for requiring the proprietor of a registered or provisionally registered school to provide the Registrar of Independent Schools from time to time with such particulars relating to the school as may be prescribed.
- (2) Regulations made under this section may in particular require the proprietor of a school to furnish the Registrar with such information as is required by the local authority for the purpose of determining whether the school is a children's home (within the meaning of the <sup>M81</sup>Children Act 1989).
- (3) Regulations may make provision for enabling the Secretary of State to order the deletion from the register of the name of any school in respect of which any requirement imposed by or under regulations made under this section is not complied with.
- (4) Subsection (9) of section 537 (general power of Secretary of State to require information from governing bodies etc.) confers power on the Secretary of State to make similar provision in relation to non-compliance with any requirement imposed by or under regulations under that section.

**Marginal Citations**

**M81** 1989 c. 41.

**468 School may be struck off for contravention of regulations about employment of teachers.**

Where the Secretary of State is satisfied that a person whose employment is prohibited or restricted by virtue of regulations under section 218(6) of the <sup>M82</sup>Education Reform Act 1988 (employment prohibited or restricted on medical grounds or for misconduct etc.)—

- (a) is employed in a registered or provisionally registered school in contravention of those regulations, or

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(b) is the proprietor of such a school,  
 he may order that the school be struck off the register or (as the case may be) that the Registrar is not to register the school.

**Marginal Citations**

**M82** 1988 c. 40.

*Complaints about registered and provisionally registered schools*

**469 Notice of complaint by Secretary of State.**

- (1) This section applies where the Secretary of State is satisfied that one or more of the following grounds of complaint apply in relation to a registered or provisionally registered school—
  - (a) the school premises or any parts of them are unsuitable for a school;
  - (b) the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages, and sex of the pupils attending the school;
  - (c) efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending it;
  - (d) the proprietor of the school or any teacher or other employee employed in the school is not a proper person to be the proprietor of an independent school or (as the case may be) to be a teacher or other employee in any school;
  - (e) there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by section 87 of the <sup>M83</sup>Children Act 1989 (welfare of children accommodated in independent schools).
- (2) The Secretary of State shall serve on the proprietor of the school a notice of complaint stating the grounds of complaint which apply together with full particulars of the matters complained of.
- (3) Unless any of those matters are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall specify—
  - (a) the measures necessary in the opinion of the Secretary of State to remedy those matters, and
  - (b) the time, not being less than six months after the service of the notice, within which those measures are required to be taken.
- (4) If it is alleged by the notice that a person employed as a teacher or other employee at the school is not a proper person to be a teacher or other employee in any school—
  - (a) that person shall be named in the notice,
  - (b) the particulars given in the notice shall specify the grounds of the allegation, and
  - (c) a copy of the notice shall be served on him.
- (5) Any notice of complaint, or copy of a notice of complaint, served under this section shall limit the time, not being less than one month after the service of the notice or copy, within which the complaint may be referred to an Independent Schools Tribunal under section 470.

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- (6) In this section and sections 470 to 473 “employee” means a person employed in work which brings him regularly into contact with persons who have not attained the age of 19.

**Marginal Citations**

M83 1989 c. 41.

**470 Determination of complaint by an Independent Schools Tribunal.**

- (1) Any person on whom a notice of complaint or copy of a notice of complaint is served under section 469 may, within the time limited by the notice or copy, appeal against the notice by referring the complaint to an Independent Schools Tribunal.
- (2) On the complaint being so referred, the tribunal, after giving all parties concerned an opportunity of being heard and after considering such evidence as may be tendered by them or on their behalf, may—
- (a) order that the complaint be annulled;
  - (b) order that the school to which the complaint relates be struck off the register;
  - (c) order that the school be so struck off unless the requirements of the notice (subject to such modifications, if any, as may be specified in the order) are complied with to the satisfaction of the Secretary of State before the expiry of such time as may be specified in the order;
  - (d) if satisfied—
    - (i) that any premises alleged by the notice to be unsuitable for use as a school are in fact unsuitable for such use, or
    - (ii) that any part of such premises is in fact unsuitable for such use, by order disqualify the premises, or that part, from being so used;
  - (e) if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order;
  - (f) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher or other employee in any school is in fact such a person, by order disqualify that person from being the proprietor of any independent school or (as the case may be) from being a teacher or other employee in any school.

**471 Determination of complaint by Secretary of State.**

- (1) Where—
- (a) a notice of complaint has been served on the proprietor of a school under section 469, and
  - (b) the complaint is not referred by him to an Independent Schools Tribunal under section 470 within the time limited by the notice,
- the Secretary of State may (subject to subsection (2)) make any order which such a tribunal would have had power to make if the complaint had been so referred.

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(2) If—

- (a) it is alleged by the notice that a person employed as a teacher or other employee at the school is not a proper person to be a teacher or other employee in any school, and
- (b) that person has, within the time limited by the copy of the notice served on him, referred the complaint to an Independent Schools Tribunal under section 470,

the Secretary of State may not make an order disqualifying him from being a teacher or other employee in any school.

#### **472 Effect of personal disqualification.**

Where, by virtue of an order made—

- (a) by an Independent Schools Tribunal under section 470, or
- (b) by the Secretary of State under section 471,

a person is disqualified either from being the proprietor of an independent school or from being a teacher or other employee in any school, then (unless the order otherwise directs) he shall by virtue of the order be disqualified both from being the proprietor of an independent school and from being a teacher or other employee in any school.

#### **473 Enforcement of disqualification.**

- (1) A person is guilty of an offence if he uses any premises for purposes for which they are disqualified by virtue of an order made under section 470 or 471.
- (2) A person is guilty of an offence if he—
  - (a) acts as the proprietor of an independent school, or
  - (b) accepts or endeavours to obtain employment as a teacher or other employee in any school,

while he is disqualified from so acting or from being so employed by virtue of an order made under section 470 or 471.

VALID FROM 11/01/2001

#### **[<sup>F81</sup>473A] Removal of disqualification: persons no longer unsuitable to work with children.**

- (1) Subject to section 473B, a person to whom this section applies may make an application under this section to the Tribunal.
- (2) This section applies to any person who is disqualified, by an order made under section 470 or 471 on the grounds that he is unsuitable to work with children—
  - (a) from being the proprietor of any independent school; or
  - (b) from being a teacher or other employee in any school.
- (3) On an application under this section the Tribunal shall determine whether or not the individual shall continue to be subject to the order.

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- (4) If the Tribunal is satisfied that the individual is no longer unsuitable to work with children, it shall direct that the order shall cease to have effect; otherwise it shall dismiss the application.
- (5) In this section and section 473B, “the Tribunal” means the tribunal established by section 9 of the <sup>M84</sup>Protection of Children Act 1999.]

#### Textual Amendments

**F81** Ss. 473A, 473B inserted (11.1.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 129**; S.I. 2000/3302, **art. 2(b)**

#### Marginal Citations

**M84** 1999 c. 14.

VALID FROM 11/01/2001

#### <sup>F82</sup>**473B Conditions for application under section 473A.**

- (1) A person may only make an application under section 473A with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the person’s case.
- (3) In the case of a person who was a child when the order was made, the appropriate conditions are satisfied if—
  - (a) at least five years have elapsed since the order was made; and
  - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other person, the appropriate conditions are satisfied if—
  - (a) at least ten years have elapsed since the order was made; and
  - (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal shall not grant an application under this section unless it considers—
  - (a) that the person’s circumstances have changed since the order was made, or, as the case may be, since he last made an application under this section; and
  - (b) that the change is such that leave should be granted.

#### Textual Amendments

**F82** Ss. 473A, 473B inserted (11.1.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 129**; S.I. 2000/3302, **art. 2(b)**

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#### **474 Removal of disqualification.**

- (1) If on the application of any person the Secretary of State is satisfied that any disqualification imposed by an order made under section 470 or 471 is, by reason of any change of circumstances, no longer necessary, he may by order remove the disqualification.
- (2) Any person who is aggrieved by the refusal of the Secretary of State to remove any such disqualification may appeal to an Independent Schools Tribunal within such time after the refusal has been communicated to him as may be limited by rules made under section 476.

#### **475 Duty of Registrar to comply with order for the deletion of a school from the register.**

Where an order directing that a school be struck off the register is made—

- (a) by the Secretary of State under section 468 or 471, or
- (b) by an Independent Schools Tribunal under section 470,

the Registrar of Independent Schools shall strike the school off the register as from the date on which the direction takes effect.

### *Independent Schools Tribunals*

#### **476 Constitution and proceedings of Independent Schools Tribunals.**

- (1) Schedule 34 has effect in relation to the constitution of Independent Schools Tribunals and the remuneration of their members.
- (2) The Lord Chancellor may, with the concurrence of the Lord President of the Council, make rules as to—
  - (a) the practice and procedure to be followed with respect to the constitution of Independent Schools Tribunals;
  - (b) the manner of making appeals to such tribunals; and
  - (c) proceedings before such tribunals and matters incidental to or consequential on such proceedings.
- (3) The rules may, in particular, make provision—
  - (a) requiring such a tribunal to sit at such places as may be directed in accordance with the rules; and
  - (b) as to appearance before such tribunals by counsel or a solicitor.
- (4) Part I of the <sup>M85</sup>Arbitration Act 1996 shall not apply to any proceedings before an Independent Schools Tribunal, except so far as any provisions of that Act may be applied, with or without modifications, to such proceedings by the rules.
- (5) Every order of an Independent Schools Tribunal shall be registered by the Registrar of Independent Schools and shall be open to public inspection at all reasonable times.

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#### **Marginal Citations**

**M85** 1996 c. 23.

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### Supplementary

#### 477 Disqualification in Scotland.

For the purposes of this Part, except section 474, a person who is disqualified by an order made (or having effect as if made) under section 100 of the <sup>M86</sup>Education (Scotland) Act 1980—

- (a) from being the proprietor of an independent school within the meaning of that Act, or
- (b) from being a teacher in any school,

shall be taken to be disqualified from being the proprietor of an independent school within the meaning of this Act, or (as the case may be) from being a teacher in any school, by virtue of an order made under section 470 or 471.

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**Marginal Citations**

M86 1980 c. 44.

#### 478 Offences: institution of proceedings and punishment.

- (1) No proceedings shall be instituted for an offence under section 466 or 473 except by or on behalf of the Secretary of State.
- (2) A person guilty of an offence under section 466 or 473 is liable on summary conviction—
  - (a) to a fine not exceeding level 4 on the standard scale, or
  - (b) to imprisonment for a term not exceeding three months, or both.

### CHAPTER III

#### ASSISTED PLACES AT INDEPENDENT SCHOOLS

<sup>F83</sup>479 .....

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**Textual Amendments**

F83 S. 479 repealed (1.9.1997) by 1997 c. 59, ss. 1(1)(a)(b)(3), 6(3), 7(3)(a), Sch., Pt.I.

<sup>F84</sup>480 .....

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**Textual Amendments**

F84 S. 480 repealed (1.9.1997) by 1997 c. 59, ss. 1(1)(a)(b)(3), 6(3), 7(3), Sch. Pt.I.

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F85 **481** .....

**Textual Amendments**

**F85** S. 481 repealed (1.9.1997) by 1997 c. 59, ss. 1(1)(a)(b)(3), 6(3), 7(3), Sch. Pt.I.

## CHAPTER IV

### CITY COLLEGES

#### **482 City technology colleges and city colleges for the technology of the arts.**

- (1) The Secretary of State may enter into an agreement with any person under which—
  - (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school with such characteristics as are specified in the agreement and in subsection (2), and
  - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
  - (a) is situated in an urban area,
  - (b) provides education for pupils of different abilities who have attained the age of 11 and who are wholly or mainly drawn from the area in which the school is situated, and
  - (c) has a broad curriculum with an emphasis either on science and technology or on technology in its application to the performing and creative arts.
- (3) A school to which an agreement under this section relates shall be known—
  - (a) as a city technology college, if the emphasis of its curriculum is on science and technology, or
  - (b) as a city college for the technology of the arts, if the emphasis of its curriculum is on technology in its application to the performing and creative arts.
- (4) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
  - (a) conditions and requirements imposed for the purpose of securing that no charge is made in respect of admission to the school or, subject to such exceptions as may be specified in the agreement, in respect of education provided at the school, and
  - (b) such other conditions and requirements in relation to the school as are specified in the agreement.
- (5) Any requirements having effect in relation to the school by virtue of section 218(2B) of the <sup>M87</sup>Education Reform Act 1988 (requirements as to the training and teaching experience of teachers at city colleges who seek to become qualified teachers) shall have effect for the purposes of this section and section 483 as requirements falling within subsection (4).



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### Marginal Citations

M87 1988 c. 40.

## 483 City colleges: financial provisions.

- (1) Payments under an agreement under section 482 may be in respect of capital or current expenditure.
- (2) In so far as such payments relate to current expenditure, the agreement shall provide for their continuance (subject to the fulfilment of the conditions and requirements falling within section 482(4))—
  - (a) for a period of not less than seven years, or
  - (b) for an indefinite period terminable by the Secretary of State by not less than seven years' written notice.
- (3) Where such payments relate to capital expenditure, the agreement shall provide for the repayment to the Secretary of State, in the event of the school at any time discontinuing or ceasing to have the characteristics specified in the agreement and in section 482(2), of sums determined by reference to—
  - (a) the value at that time of the school premises and other assets held for the purposes of the school, and
  - (b) the extent to which expenditure incurred in providing those assets was met by payments under the agreement.
- (4) Without prejudice to subsection (1), an agreement under section 482 may provide for indemnifying a person, in the event of the agreement being terminated by the Secretary of State, for expenditure—
  - (a) incurred by that person in carrying out the undertakings mentioned in section 482(1), or
  - (b) incurred by that person (otherwise than by virtue of subsection (3)) in consequence of the termination of the agreement.

VALID FROM 01/10/2000

### <sup>F86</sup>483A City colleges and academies: special educational needs.

- (1) This section applies in relation to any child falling within subsection (2) if the condition in subsection (3) is satisfied.
- (2) A child falls within this subsection if—
  - (a) he is a child for whom a statement is maintained under section 324, and
  - (b) he attends (or proposes to attend) a school which is a city technology college, a city college for the technology of the arts or a city academy.
- (3) The condition in this subsection is satisfied if—
  - (a) the school is approved by the Secretary of State under section 347(1), or
  - (b) the Secretary of State consents to the child being educated at the school.
- (4) The Secretary of State may by regulations make provision for securing that arrangements are made—

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- (a) for making the special educational provision specified in the statement;
  - (b) for making any non-educational provision specified in the statement.
- (5) Regulations under subsection (4) may require or authorise a local education authority—
- (a) to make payments to the school in respect of the child, or
  - (b) to provide any other assistance to the school in respect of the child.
- (6) No condition or requirement imposed by virtue of section 482(4)(a) is to prevent a local education authority making payments or providing assistance by virtue of subsection (5).
- (7) This section does not apply to schools in Wales.]

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**Textual Amendments**

**F86** S. 483A inserted (1.10.2000) by 2000 c. 21, s. 133 (with s. 150); S.I. 2000/2559, art. 2(1), Sch. Pt. I

## PART VIII

### GRANTS AND OTHER FINANCIAL MATTERS

#### *Grants*

#### **484 Grants for education support and training.**

- (1) The Secretary of State may pay grants, known as grants for education support and training, to local education authorities in respect of eligible expenditure incurred or to be incurred by them.
- (2) In this section “eligible expenditure” means expenditure of any class or description for the time being specified in regulations, being expenditure for or in connection with educational purposes which it appears to the Secretary of State that local education authorities should be encouraged to incur in the interests of education in England and Wales.
- (3) The regulations shall provide that any grant for education support and training payable in pursuance of the regulations—
  - (a) shall only be payable in respect of eligible expenditure incurred or to be incurred by a local education authority in a financial year to the extent to which that expenditure is approved for that year by the Secretary of State for the purposes of the regulations, and
  - (b) shall be payable at such rate as may be specified in the regulations.
- (4) The regulations may provide for the time and manner of payment of any grant for education support and training.
- (5) The regulations may provide for expenditure incurred or to be incurred by any local education authority in making payments, whether by way of maintenance, assistance or otherwise, to any body or persons who incur expenditure for or in connection with

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educational purposes (including another local education authority) to be treated, in such circumstances as may be specified in the regulations, as eligible expenditure.

- (6) The Secretary of State may exercise his power under subsection (1) separately and differently in relation to local education authorities in England and local education authorities in Wales, and “education in England and Wales” in subsection (2) shall be construed accordingly.
- (7) Nothing in section 29(1) or 507 applies in relation to any function of the Secretary of State under this section or under section 489 so far as it relates to regulations under this section; and nothing in sections 495 to 497 applies in relation to any function arising by virtue of section 489 so far as it relates to such regulations.

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

- C70** Power to extend s. 484 conferred (1.10.1998) by 1998 c. 30, ss. 19(8), 46(4) (with s. 42(8)); S.I. 1998/2215, art.2
- C71** S. 484 amended (1.10.1998) by 1998 c. 31, s. 7(10)(with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch. 1, Pt.1

**485 Grants in aid of educational services or research.**

Regulations shall make provision for the payment by the Secretary of State to persons other than local education authorities of grants in respect of expenditure incurred or to be incurred by them—

- (a) for the purposes of, or in connection with, the provision (or proposed provision) of educational services, or
- (b) for the purposes of educational research.

**486 Grants to bodies whose objects are promotion of learning or research.**

Regulations may provide for the payment of grants to bodies other than local education authorities whose object or main object is, in the opinion of the Secretary of State, the promotion of learning or research.

**487 Grants for education in Welsh.**

Regulations shall make provision for the payment by the Secretary of State to local education authorities and other persons of grants in respect of expenditure incurred or to be incurred in, or in connection with, the teaching of the Welsh language or the teaching in that language of other subjects.

**488 Grants for education of travellers and displaced persons.**

- (1) Regulations may make provision for the payment to local education authorities of grants in respect of expenditure incurred or to be incurred by them in making provision the purpose (or main purpose) of which is to promote and facilitate the education of persons to whom this section applies.
- (2) This section applies to a person if—

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- (a) by reason of his way of life (or, in the case of a child, his parent's way of life) he either has no fixed abode or leaves his main abode to live elsewhere for significant periods in each year;
  - (b) he fell within paragraph (a) within a prescribed period immediately preceding the making of the provision in question; or
  - (c) he is for the time being resident in a camp or other accommodation or establishment provided for refugees or for displaced or similar persons.
- (3) The regulations may—
- (a) prescribe classes or descriptions of expenditure in respect of which grants are payable under the regulations, and
  - (b) provide for the determination of the amount of any grant so payable.

**489 Conditions as to payment of grants under sections 484 to 488.**

- (1) Regulations made under any of sections 484 to 488 may provide—
- (a) for the payment of grant under the regulations to be dependent on the fulfilment of such conditions as may be determined by or in accordance with the regulations, and
  - (b) for requiring persons to whom payments have been made under the regulations to comply with such requirements as may be so determined.
- (2) Conditions and requirements determined under subsection (1)(a) and (b) by or in accordance with regulations made under section 484 may include conditions and requirements obliging the local education authority in question to delegate decisions about the spending of—
- (a) grant for education support and training, and
  - (b) amounts allocated by the authority to meet eligible expenditure (within the meaning of that section) which is approved by the Secretary of State,
- to such persons as may be determined by or in accordance with the regulations.
- (3) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to or regulating any institution that—
- (a) provides or is concerned in the provision of educational services, or
  - (b) is concerned in educational research,
- as, after consultation with the persons responsible for the management of the institution, appear to him to be requisite to enable them to fulfil any condition or meet any requirement imposed by regulations under section 485.
- (4) Any modification made by an order under subsection (3) may be made to have permanent effect or to have effect for such period as may be specified in the order.

**490 Grants in respect of special provision for ethnic minorities.**

- (1) Where subsection (2) applies, the power conferred by section 11 of the <sup>M88</sup>Local Government Act 1966 (grants in respect of ethnic minority population) shall apply in relation to the payment of grants by the Secretary of State to—
- (a) the governing body of a grant-maintained school, or
  - (b) a person who in pursuance of undertakings under an agreement under section 482 maintains and carries on, or provides for the carrying on of, a city technology college or a city college for the technology of the arts,

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as it applies in relation to the payment of grants to a local authority who in his opinion are required to make special provision in exercise of any of their functions in consequence of the presence within their area of such persons as are referred to in section 11 of that Act.

- (2) This subsection applies if, in the Secretary of State’s opinion, special provision is made by the governing body or person in question in consequence of the presence within the locality of the school or college of such persons as are referred to in section 11 of that Act.

**Marginal Citations**

**M88** 1966 c. 42.

*Payment of fees etc.*

**491 Payment of school fees and expenses.**

- (1) Regulations shall make provision for the payment by the Secretary of State, for the purpose of enabling pupils to take advantage without hardship to themselves or their parents of any educational facilities available to them, of the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable.
- (2) Regulations under this section may provide—
- (a) for the making of payments under the regulations to be dependent on the fulfilment of such conditions as may be determined by or in accordance with the regulations, and
  - (b) for requiring persons to whom payments have been made under the regulations to comply with such requirements as may be so determined.

*Recoupment*

**492 Recoupment: adjustment between local education authorities.**

- (1) Regulations may provide, in relation to cases where any provision for education to which this section applies is made by a local education authority in respect of a person who belongs to the area of another local education authority, for requiring or authorising the other authority to pay to the providing authority—
- (a) such amount as the authorities may agree, or
  - (b) failing agreement, such amount as may be determined by or under the regulations.
- (2) This section applies to primary education, secondary education and further education and to part-time education for those who have not attained [<sup>F87</sup>compulsory school age].
- (3) The regulations may provide for the amounts payable by one authority to another—
- (a) to reflect the whole or any part of the average costs incurred by local education authorities in the provision of education (whether in England and Wales as a whole or in any particular area or areas); and

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- (b) to be based on figures for average costs determined by such body or bodies representing local education authorities, or on such other figures relating to costs so incurred, as the Secretary of State considers appropriate.
- (4) The regulations may provide for the amounts so payable, in such cases as may be specified in or determined in accordance with the regulations, to be such amounts as may be determined by the Secretary of State.
- (5) Any dispute between local education authorities as to whether one of them is entitled to be paid any amount by another under the regulations shall be determined by the Secretary of State.
- (6) In this section—
  - (a) references to provision for education include provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education; and
  - (b) “further education” does not include further education of a kind such that expenditure on its provision would fall within paragraph 6 of Schedule 10 to the <sup>M89</sup>Local Government, Planning and Land Act 1980.

#### Textual Amendments

**F87** Words in s. 492(2) substituted (1.8.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para.36**; S.I. 1998/386, art. 2(3), **Sch. 1 Pt.III**.

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

**C72** Ss. 492-495: power to exercise functions modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**

#### Marginal Citations

**M89** 1980 c. 65.

### 493 Recoupment: cross-border provisions.

- (1) Regulations may make provision requiring or authorising payments of amounts determined by or under the regulations to be made by one authority to another where—
  - (a) the authority receiving the payment makes, in such cases or circumstances as may be specified in the regulations, provision for education in respect of a person having such connection with the area of the paying authority as may be so specified, and
  - (b) one of the authorities is a local education authority and the other an education authority in Scotland.
- (2) Subsections (3) and (4) of section 492 shall apply for the purposes of this section as they apply for the purposes of that section.
- (3) Any question concerning the connection of any person with the area of a particular local education authority or education authority shall be decided in accordance with the regulations.
- (4) In subsection (1) “provision for education” includes provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education.

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

**C73** Ss. 492-495: power to exercise functions modified (1.7.1999) by S.I. 1999/120, art. 5, Sch. 2

**494 Recoupment: excluded pupils.**

- (1) Subsection (2) applies where a pupil is permanently excluded from any school maintained by a local education authority or any grant-maintained school and, in the financial year in which the exclusion first takes effect—
  - (a) he is subsequently provided with—
    - (i) education at a school maintained by a local education authority,
    - (ii) education provided by such an authority otherwise than at school, or
    - (iii) education at a grant-maintained school, and
  - (b) the person accountable for that education (“the new provider”) is not the same as the person accountable for the education provided for him immediately before his exclusion (“the former provider”).
- (2) The former provider shall pay to the new provider an amount determined in accordance with regulations as the appropriate amount of funding to be transferred to the new provider in respect of that pupil for that financial year.
- (3) Every local education authority shall, where any scheme made (or treated as made) by them as mentioned in section 101(1) does not make the provision required by subsection (4) below, exercise their powers to revise the scheme so that it makes such provision.
- (4) The provision required by this subsection, in relation to a local education authority, is—
  - (a) provision requiring the authority, where a pupil is permanently excluded from a school and the exclusion first takes effect in a financial year in which the school is required to be covered by the scheme, to reduce the school’s budget share for that year by an amount determined in accordance with regulations as the appropriate amount of funding in respect of that pupil for that year to be subtracted from the school’s budget share; and
  - (b) provision requiring the authority, where a pupil admitted to a school in a financial year in which the school is required to be covered by the scheme has been permanently excluded—
    - (i) from a school maintained by them or any other local education authority, or
    - (ii) from any grant-maintained school,and the exclusion (as well as the admission) first took effect in that year, to allocate for the purposes of the school in that year an amount determined in accordance with regulations as the appropriate amount of funding in respect of that pupil for that year to be allocated for those purposes.
- (5) Expressions used in subsection (4) and in Chapter V of Part II have the same meaning as in that Chapter.
- (6) Subject to subsection (7), for the purposes of this section—

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- (a) the local education authority are accountable for education provided at any school maintained by them or education provided by them otherwise than at school; and
  - (b) the governing body are accountable for education provided at a grant-maintained school.
- (7) Where a pupil is permanently excluded from any school maintained by a local education authority or from any grant-maintained school and, in the financial year in which the exclusion first takes effect, the following events subsequently occur—
- (a) he is first provided with education for which a different local education authority or, in the case of exclusion from a grant-maintained school, any local education authority are accountable (“the first new provider”) and which is provided in a pupil referral unit or otherwise than at school, and
  - (b) at any time afterwards he is provided with education at a grant-maintained school or with education for which a local education authority other than the first new provider are accountable,
- then, in relation to the education mentioned in paragraph (b), the first new provider is to be treated as accountable for the education provided for the pupil immediately before the exclusion first took effect.
- (8) Any dispute as to whether any local education authority or governing body of a grant-maintained school are entitled to be paid any amount under this section by any other such authority or body shall be determined by the Secretary of State.
- (9) For the purposes of this section the permanent exclusion of a pupil does not take effect until—
- (a) any review under the articles of government of the decision to exclude him has been completed, and
  - (b) either any time for appealing under section 159 or those articles has expired without such an appeal being made or such an appeal has been finally concluded.
- (10) In this section “grant-maintained school” includes a grant-maintained special school.

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

**C74** S. 494 modified (20.11.1998) by [S.I. 1998/2670](#), [art.8](#).



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## PART IX

### ANCILLARY FUNCTIONS

#### CHAPTER I

##### ANCILLARY FUNCTIONS OF SECRETARY OF STATE

###### *General functions*

#### **495 Determination of disputes.**

- (1) Except where this Act expressly provides otherwise, any dispute between a local education authority and the governing body of a school as to the exercise of any power conferred or the performance of any duty imposed by or under this Act may be referred to the Secretary of State (despite any enactment which makes the exercise of the power or the performance of the duty contingent upon the opinion of the authority or of the governing body).
- (2) The Secretary of State shall determine any dispute referred to him under subsection (1).
- (3) Any dispute between two or more local education authorities as to which of them is responsible for the provision of education for any pupil shall be determined by the Secretary of State.

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

- C75** S. 495 modified (1.9.1999) by 1998 c. 31, s. 44(7) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
- C76** S. 495(1) extended (1.11.1996) by 1988 c. 40, s. 219(2) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 77 (with ss. 1(4), 561, 562, Sch. 39))

#### **496 Power to prevent unreasonable exercise of functions.**

- (1) If the Secretary of State is satisfied (either on a complaint by any person or otherwise) that a body to which this section applies have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by or under this Act, he may give such directions as to the exercise of the power or the performance of the duty as appear to him to be expedient (and may do so despite any enactment which makes the exercise of the power or the performance of the duty contingent upon the opinion of the body).
- (2) The bodies to which this section applies are—
  - (a) any local education authority,
  - (b) the governing body of any county, voluntary or maintained special school, and
  - (c) the governing body of any grant-maintained school.

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

- C77** S. 496 modified (1.9.1998) by 1997 c. 44, s. 43(4); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV.

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- C78** S. 496 modified (1.11.1996) by 1988 c. 40, s. 219(3) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.77 (with ss. 1(4), 561, 562, Sch. 39))  
 S. 496 extended (1.11.1996) by 1992 c. 13, s. 57(6)(a) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.113 (with ss. 1(4), 561, 562, Sch. 39))  
 S. 496 extended (1.11.1996) by 1992 c. 13, s. 56(3) (as added (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 112 (with ss. 1(4), 561, 562, Sch. 39))
- C79** S. 496 modified (1.9.1999) by 1998 c. 31, s. 44(7) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1
- C80** S. 496 extended (1.9.1999) by 1998 c. 31, ss. 24, 145(3), Sch. 4 para.10 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
- C81** Power to apply s. 496 conferred (1.10.1998) by 1998 c. 31, s. 105(7) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch.1 Pt. I.

#### 497 General default powers.

- (1) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a body to which this section applies have failed to discharge any duty imposed on them by or for the purposes of this Act, he may make an order—
- (a) declaring the body to be in default in respect of that duty, and
  - (b) giving such directions for the purpose of enforcing the performance of the duty as appear to him to be expedient.
- (2) The bodies to which this section applies are—
- (a) any local education authority,
  - (b) the governing body of any county, voluntary or maintained special school, and
  - (c) the governing body of any grant-maintained school.
- (3) Any directions given under subsection (1)(b) shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.

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

- C82** S. 497 modified (1.9.1998) by 1997 c. 44, s. 43(4); S.I. 1998/386, art. 2(4), Sch. 1 Pt.IV.
- C83** S. 497 modified (1.11.1996) by 1988 c. 40, s. 219(3) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.77 (with ss. 1(4), 561, 562, Sch. 39))
- C84** S. 497 modified (1.9.1999) by 1998 c. 31, s. 44(7) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
- C85** S. 497 extended (1.9.1999) by 1998 c. 31, s. 24, Sch. 4 para.10 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.
- C86** Power to apply s. 497 conferred (1.10.1998) by 1998 c. 31, s. 105(7) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch.1 Pt. I.
- C87** S. 497 applied (3.12.1998) by S.I. 1998/2876, reg.21.

VALID FROM 01/10/1998

#### <sup>F88</sup>497A Power to secure proper performance of LEA's functions.

- (1) This section applies to a local education authority's functions (of whatever nature) which relate to the provision of education—
- (a) for persons of compulsory school age (whether at school or otherwise), or

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- (b) for persons of any age above or below that age who are registered as pupils at schools maintained by the authority.
- (2) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a local education authority are failing in any respect to perform any function to which this section applies to an adequate standard (or at all), he may exercise his powers under subsection (3) or (4).
- (3) The Secretary of State may under this subsection direct an officer of the authority to secure that that function is performed in such a way as to achieve such objectives as are specified in the direction.
- (4) The Secretary of State may under this subsection give an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function—
- (a) is performed, on behalf of the authority and at their expense, by such person as is specified in the direction, and
  - (b) is so performed in such a way as to achieve such objectives as are so specified;
- and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified.
- (5) Where the Secretary of State considers it expedient that the person specified in directions under subsection (4) should perform other functions to which this section applies in addition to the function to which subsection (2) applies, the directions under subsection (4) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.
- (6) Any direction under this section may either—
- (a) have effect for an indefinite period until revoked by the Secretary of State, or
  - (b) have effect until any objectives specified in the direction have been achieved (as determined in accordance with the direction).
- (7) Any direction given under subsection (3) or (4) shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.]

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#### Textual Amendments

**F88** S. 497A inserted (1.10.1998) by 1998 c. 31, s. 8 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch.1 Pt. I.

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

**C88** S. 497A modified (1.9.1999) by 1998 c. 31, s. 44(7) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

**C89** S. 497A(1)(b) modified (12.1.1999) by S.I. 1998/3217, reg.2(b).

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VALID FROM 26/07/2002

**[<sup>F89</sup>497A Power to secure proper performance: duty of authority where directions contemplated**

Where, in relation to any function to which section 497A applies, the Secretary of State—

- (a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and
- (b) has notified the local education authority that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.]

**Textual Amendments**

**F89** S. 497AA inserted (26.7.2002 for E., 1.8.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 61, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 3; S.I. 2003/1718, art. 4, Sch. Pt. I

VALID FROM 01/10/1998

**[<sup>F90</sup>497B Power to secure proper performance: further provisions.**

- (1) Where the Secretary of State gives directions under section 497A(4) to an officer of a local education authority, the person specified in those directions shall, in the performance of the function or functions specified in the directions, be entitled to exercise the powers conferred by this section.
- (2) The specified person shall have at all reasonable times—
  - (a) a right of entry to the premises of the authority, and
  - (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the performance of the specified function or functions.
- (3) In exercising the right to inspect records or other documents under subsection (2), the specified person—
  - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

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to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in a legible form).

- (4) Without prejudice to subsection (2), the authority shall give the specified person all assistance in connection with the performance of the specified function or functions which they are reasonably able to give.
- (5) Subsection (2) shall apply in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
  - (a) the governing body of any such school shall give the specified person all assistance in connection with the exercise of his functions which they are reasonably able to give; and
  - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (6) Any reference in this section to the specified person includes a reference to any person assisting him in the performance of the specified function or functions.
- (7) In this section “document” and “records” each include information recorded in any form.]

#### Textual Amendments

**F90** S. 497B inserted (1.10.1998) by 1998 c. 31, s. 8 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch. 1 Pt. I

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

**C90** S. 497B modified (12.1.1999) by S.I. 1998/3217, reg.2(b)  
S. 497B modified (1.9.1999) by 1998 c. 31, s. 44(7), 145(3) (with ss. 138(9), 144(6))

### *Appointment of governors, etc.*

#### **498 Powers where no properly constituted governing body.**

- (1) Where it appears to the Secretary of State that, by reason of the default of any person, there is no properly constituted governing body of a school to which this section applies, the Secretary of State—
  - (a) may make such appointments and give such directions as he thinks desirable for the purpose of securing that there is a properly constituted governing body of that school, and
  - (b) may give directions rendering valid any acts or proceedings which in his opinion are invalid or otherwise defective by reason of the default.
- (2) This section applies to—
  - (a) any county, voluntary or maintained special school, and
  - (b) any grant-maintained school.

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

- C91** S. 498 extended (1.11.1996) by 1988 c. 40, s. 219(4) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.77 (with ss. 1(4), 561, 562, Sch. 39))
- C92** S. 498 modified (1.9.1999) by 1998 c. 31, s. 44(7) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1.

*Membership of education committees*

**499 Power to direct appointment of members of education committees.**

- (1) Subsection (2) applies to any local authorities which in accordance with section 102(1) of the <sup>M90</sup>Local Government Act 1972 have appointed any committees wholly or partly for the purpose of discharging any functions with respect to education which are conferred on them in their capacity as local education authorities.
- (2) The Secretary of State may by directions to any local authorities to which this subsection applies require—
  - (a) every such committee, or
  - (b) any such committee of a description specified in the direction,
 to include persons appointed, in accordance with the directions, for securing the representation on the committee of persons who appoint foundation governors for voluntary schools in the area for which the committee acts.
- (3) Subsection (4) applies to any two or more local authorities which in accordance with section 102(1) of the <sup>M91</sup>Local Government Act 1972 have appointed any committees wholly or partly for the purpose of discharging any functions with respect to education which are conferred on them in their capacity as local education authorities.
- (4) The Secretary of State may by directions to any local authorities to which this subsection applies require—
  - (a) every such committee, or
  - (b) any such committee of a description specified in the direction,
 to include persons appointed, in accordance with the directions, for securing the representation on the committee of persons who appoint foundation governors for voluntary schools in the area for which the committee acts or in such area as may be specified in the direction.
- (5) The power of the Secretary of State to give directions under subsection (2) or (4) shall be exercisable in relation to any sub-committees which—
  - (a) are appointed by the authorities concerned or any such committee as is mentioned in that subsection, and
  - (b) are so appointed wholly or partly for the purpose of discharging the authorities' functions as mentioned in subsection (1) or (3) or the committee's functions with respect to education,
 as it is exercisable in relation to the committees themselves.

**Marginal Citations**

**M90** 1972 c. 70.

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**M91** 1972 c. 70.

### *Rationalisation of school places*

#### **500 Directions to bring forward proposals to remedy excessive provision.**

- (1) Where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools in the area of any local education authority is excessive, then, for the purpose of remedying the excess—
  - (a) he may by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any voluntary school in the area, he may by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (2) Where—
  - (a) the Secretary of State is of the opinion that the provision for primary or secondary education in grant-maintained schools in the area of any local education authority is excessive, and
  - (b) an order under section 27(1) (allocation of responsibility for providing sufficient school places) applies to the area,he may by an order under this subsection direct the funding authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools for the purpose of remedying the excess.
- (3) An order under subsection (1) or (2) shall—
  - (a) require the proposals to be published, or (as the case may be) notice of the proposals to be served, not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under subsection (1)(a) or (2) may not require the proposals to relate to any named school.

#### **501 Directions to bring forward proposals for additional provision in maintained schools.**

- (1) The powers conferred by subsection (2) are exercisable where—
  - (a) an order under section 27(1)(b) applies to the area of a local education authority, and
  - (b) the Secretary of State is of the opinion that the schools providing relevant education which are available for the area are not sufficient for the purposes of section 14 and that additional provision for relevant education should be made in maintained schools in the area.
- (2) The Secretary of State may—
  - (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and

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- (b) in the case of any voluntary school in the area, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school,  
with a view (in each case) to securing that provision is made for such additional number of pupils in the area as may be specified in the order.
- (3) An order under subsection (2) shall—
  - (a) require the proposals to be published, or (as the case may be) notice of the proposals to be served, not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under subsection (2)(a) may not require the proposals to relate to any named school.
- (5) Paragraph 7 of Schedule 4 does not apply in relation to the implementation of any proposals under section 35 where the Secretary of State has made an order under subsection (2) above.

## **502 Publication of proposals by Secretary of State.**

- (1) Where—
  - (a) the Secretary of State has, in relation to the area of any local education authority, made an order under section 500(1) or (2) directing the local education authority, the funding authority or the governing body of a voluntary school to make proposals for the establishment, alteration or discontinuance of schools or (as the case may be) for the alteration of their school, and
  - (b) the time allowed under the order, and under any other order under that section relating to that area, for the publication of the proposals or (as the case may be) the service of notice of the proposals has expired,
 he may make in such manner as may be prescribed any such proposals as might have been made in accordance with the order or orders relating to that area by the person or persons to whom the directions were given.
- (2) Proposals made under this section shall—
  - (a) include particulars of the proposed time or times of implementation of the proposals, and
  - (b) except where they are proposals to cease to maintain or discontinue any school or relate to a special school—
    - (i) include particulars of the number of pupils proposed to be admitted to the school to which the proposals relate in each relevant age group in the first school year in relation to which the proposals have been wholly implemented, and
    - (ii) if, in the case of a grant-maintained school, pupils are proposed to be admitted for nursery education, give the prescribed information.
- (3) For the purposes of subsection (2)(b)—
  - (a) admission to a maintained school for nursery education shall be disregarded; and
  - (b) the transfer to a reception class of pupils admitted to a school for nursery education shall be treated as admission to the school.



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- (4) Proposals made under this section shall be accompanied by a statement which—
  - (a) describes any effect the implementation of the proposals would have on provision at the school for pupils who have special educational needs, and
  - (b) explains the effect of subsection (5).
- (5) Within the period of one month beginning with the date on which the proposals are made, objections to the proposals may be made by any of the following—
  - (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals and, in the case of a voluntary school, the person or persons who are named in the school's instrument of government as being entitled to appoint foundation governors,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M92</sup>Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.
- (6) Where—
  - (a) an order under section 27 applies to the area of a local education authority, and
  - (b) the Secretary of State makes proposals under this section which affect the provision of relevant education in the area,the funding authority shall be included among the persons who may submit objections to the proposals.
- (7) The reference in subsection (5) to the date on which the proposals are made is to the date on which the prescribed requirements in respect of the proposals are satisfied.

**Marginal Citations**

**M92** 1992 c. 13.

**503 Public inquiry into proposals.**

- (1) This section applies where in relation to the area of any local education authority the Secretary of State has made proposals under section 502 (otherwise than in pursuance of section 504(1)) which he has not withdrawn.
- (2) If objections have been made under section 502(5) within the period allowed under that subsection, then, unless all objections so made have been withdrawn in writing within that period, the Secretary of State shall cause a local inquiry to be held to consider his proposals, any proposals he refers to the inquiry and any objections.
- (3) Any proposals referred to a local inquiry under this section require the approval of the Secretary of State (if they would not require such approval apart from this subsection).
- (4) Where the Secretary of State has a duty to cause a local inquiry to be held under this section, he shall refer to the inquiry—
  - (a) any proposals made by him in relation to the area of the local education authority (and not withdrawn) but in respect of which he is not required under this section to cause a local inquiry to be held,
  - (b) any proposals made by the local education authority, or made in relation to the area by the funding authority, in the exercise of their powers to make

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proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), and

- (c) any proposals made by the governing body of any voluntary school in the area in exercise of their powers to make proposals for the alteration of their school (and not withdrawn),

where those proposals are not determined before he causes the inquiry to be held and appear to him to be related to the proposals made under section 502 in respect of which he is required under this section to cause the inquiry to be held.

- (5) If, before the Secretary of State causes the inquiry to be held, he forms the opinion that any proposals ought to be implemented, subsection (4) does not require him to refer those proposals to the inquiry unless—
  - (a) before the proceedings on the inquiry are concluded, or
  - (b) (if earlier) the proposals are determined,
 he subsequently forms a different opinion.
- (6) It shall not be open to the inquiry to question the principles specified in the order under section 500 or 501.
- (7) References in this section to the determination of any proposals are to any determination whether or not to approve, adopt or implement the proposals under section 37, 38, 43, 169 or 170, under Part III or under section 340.

#### **504 Adoption of proposals and approval of related proposals.**

- (1) Where the Secretary of State has made proposals under section 502 in respect of which he is required to cause a local inquiry to be held, he may when he has considered the report of the person appointed to hold the inquiry do one or more of the following—
  - (a) adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by him under that section which he referred to the inquiry;
  - (b) approve, with or without modifications, or reject any other proposals which he referred to the inquiry; and
  - (c) make any such further proposals under section 502 as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the person or persons to whom the directions were given.
- (2) Where the Secretary of State has made proposals under section 502 in respect of which he is not required to cause a local inquiry to be held and which he is not required to refer to such an inquiry, he may, after considering any objections made under subsection (5) of that section (and not withdrawn) within the period allowed under that subsection—
  - (a) adopt the proposals with or without modifications; or
  - (b) determine not to adopt the proposals.
- (3) Proposals adopted by the Secretary of State under this section shall have effect—
  - (a) if they relate to a maintained school, as if they—
    - (i) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or

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- (ii) in the case of a voluntary school, had been made by the governing body under their powers to make proposals for the alteration of their school,  
and had been approved by the Secretary of State under section 37, 43 or 169 or, as the case may be, section 340; and
- (b) if they relate to a grant-maintained school, as if they had been made by the funding authority under those powers and approved by the Secretary of State under Part III or, as the case may be, section 340;  
and the provisions of section 39 or 44 or Part III or, as the case may be, section 341 as to the approval of particulars of premises or proposed premises of schools shall have effect accordingly.

### **505 Supplementary provisions.**

- (1) An order under section 500 or 501 may not require any significant change to be made in the religious character of a voluntary school.
- (2) Where the governing body of a voluntary school make any proposals in pursuance of an order under section 500 or 501—
  - (a) the person or persons who are named in the school’s instrument of government as being entitled to appoint foundation governors shall be included among the persons who may submit objections to the proposals, and
  - (b) the local education authority shall reimburse any expenditure reasonably incurred by the governing body in making the proposals.
- (3) Proposals made in pursuance of an order under section 500 may not be withdrawn without the consent of the Secretary of State and such consent may be given on such conditions (if any) as the Secretary of State considers appropriate.
- (4) Where—
  - (a) proposals made by the governing body of a voluntary school in pursuance of an order under section 500 or 501 are approved, or
  - (b) proposals adopted by the Secretary of State under section 504 have effect as mentioned in subsection (3)(a)(ii) of that section,then, despite anything in section 45(1), the local education authority shall defray the cost of implementing the proposals.
- (5) Despite anything in section 184, a county or voluntary school is not eligible for grant-maintained status—
  - (a) if the local education authority have made any proposals in pursuance of an order under section 500 to cease to maintain the school which have not been withdrawn and no determination whether or not to approve or implement the proposals has been made under section 169 or 170 or section 504, or
  - (b) if the Secretary of State has made any proposals under section 502 for the local education authority to cease to maintain the school which have not been withdrawn and no determination whether or not to adopt the proposals has been made under section 504.
- (6) Section 37(4), (7) and (8) or, as the case may be, section 43(3), (4) and (5) do not apply in relation to any proposals under section 35(1)(c) or (d) or 41(2) made in pursuance of an order under section 500.

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- (7) In sections 500 to 504 “powers to make proposals for the alteration of their school”, in relation to the governing body of a voluntary school, means their powers to publish proposals under section 41(2).
- (8) In sections 500 to 504—
- (a) “powers to make proposals for the establishment, alteration or discontinuance of schools” means—
    - (i) in relation to the local education authority, all or any of the powers to publish proposals under section 35 or 167,
    - (ii) in relation to the funding authority, all or any of the powers to publish proposals under sections 211, 260 or 268, and
    - (iii) in relation to either authority, the power to serve notice of proposals under section 339;
  - (b) references to maintained schools are references to county, voluntary and maintained special schools; and
  - (c) references to grant-maintained schools include grant-maintained special schools.

#### *Medical examinations*

### **506 Power to require medical examination of pupils.**

- (1) Where—
- (a) a question is referred to the Secretary of State under section 442(3) or 495, and
  - (b) in his opinion the examination of any pupil by a registered medical practitioner appointed by him for the purpose would assist in determining the question,
- he may serve a notice on the parent of that pupil requiring the parent to present the pupil for examination by such a practitioner.
- (2) Any parent who without reasonable excuse fails to comply with any requirements of a notice served on him under subsection (1) is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

#### *Local inquiries*

### **507 Power to direct local inquiries.**

- (1) The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Act.
- (2) Subsections (2) to (5) of section 250 of the <sup>M93</sup>Local Government Act 1972 (giving evidence at and defraying costs of local inquiries) shall have effect with respect to any such inquiry as they have effect with respect to an inquiry held under that section.

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

**C93** S. 507 extended (1.11.1996) by 1992 c. 13, s. 57(6)(b) (as substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. 1 para.113 (with ss. 1(4), 561, 562, Sch. 39)

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**C94** S. 507 applied (28.7.2000 for certain purposes otherwise 1.1.2001 (W.) 1.4.2001 (E.)) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 34** (with s. 150)); S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3)

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**Marginal Citations**

**M93** 1972 c. 70.

## CHAPTER II

### ANCILLARY FUNCTIONS OF LOCAL EDUCATION AUTHORITIES

#### *Provision of services*

#### **508 Functions in respect of facilities for recreation and social and physical training.**

- (1) A local education authority shall secure that the facilities for primary, secondary and further education provided for their area include adequate facilities for recreation and social and physical training.
- (2) For that purpose a local education authority—
  - (a) may establish, maintain and manage, or assist the establishment, maintenance and management of,—
    - (i) camps, holiday classes, playing fields, play centres, and
    - (ii) other places, including playgrounds, gymnasiums and swimming baths not appropriated to any school or other educational institution, at which facilities for recreation and social and physical training are available for persons receiving primary, secondary or further education;
  - (b) may organise games, expeditions and other activities for such persons; and
  - (c) may defray, or contribute towards, the expenses of such games, expeditions and other activities.
- (3) When making arrangements for the provision of facilities or the organisation of activities in the exercise of their powers under subsection (2), a local education authority shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

#### **509 Provision of transport etc.**

- (1) A local education authority shall make such arrangements for the provision of transport and otherwise as they consider necessary, or as the Secretary of State may direct, for the purpose of facilitating the attendance of persons receiving education—
  - (a) at schools,
  - (b) at any institution maintained or assisted by the authority which provides further education or higher education (or both),
  - (c) at any institution within the further education sector, or
  - (d) at any institution outside both the further and the higher education sectors, where a further education funding council has secured provision for those

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persons at the institution under section 4(3) or (5) of the <sup>M94</sup>Further and Higher Education Act 1992.

- (2) Any transport provided in pursuance of arrangements under subsection (1) shall be provided free of charge.
- (3) A local education authority may pay the whole or any part, as they think fit, of the reasonable travelling expenses of any person receiving education—
  - (a) at a school, or
  - (b) at any such institution as is mentioned in subsection (1),
 for whose transport no arrangements are made under that subsection.
- (4) In considering whether or not they are required by subsection (1) to make arrangements in relation to a particular person, a local education authority shall have regard (amongst other things)—
  - (a) to the age of the person and the nature of the route, or alternative routes, which he could reasonably be expected to take; and
  - (b) to any wish of his parent for him to be provided with education at a school or institution in which the religious education provided is that of the religion or denomination to which his parent adheres.
- (5) Arrangements made by a local education authority under subsection (1) shall—
  - (a) make provision for pupils at grant-maintained schools which is no less favourable than the provision made in pursuance of the arrangements for pupils at schools maintained by a local education authority;
  - (b) make provision for persons receiving full-time education at any institution within the further education sector which is no less favourable than the provision made in pursuance of the arrangements for pupils of the same age at schools maintained by a local education authority; and
  - (c) make provision for persons receiving full-time education at institutions mentioned in subsection (1)(d) which is no less favourable than—
    - (i) the provision made in pursuance of the arrangements for persons of the same age with learning difficulties (within the meaning of section 15(5)) at schools maintained by a local education authority, or
    - (ii) where there are no such arrangements, the provision made in pursuance of the arrangements for such persons for whom the authority secures the provision of education at any other institution.
- (6) Regulations under section 414(6) may require publication (within the meaning of that section) by every local education authority of such information as may be required by the regulations with respect to the authority's policy and arrangements for provision under this section for persons attending institutions mentioned in subsection (1)(c) or (d) who are over compulsory school age and who have not attained the age of 19.

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**Marginal Citations**

**M94** 1992 c. 13.

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VALID FROM 20/01/2003

### **[<sup>F91</sup>509A] Provision of transport etc. for persons of sixth form age**

- (1) A local education authority shall prepare for each academic year a transport policy statement complying with the requirements of this section.
- (2) The statement shall specify the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training—
  - (a) at schools,
  - (b) at any institution maintained or assisted by the authority which provides further education or higher education (or both),
  - (c) at any institution within the further education sector, or
  - (d) at any establishment (not falling within paragraph (b) or (c)) which is supported by the Learning and Skills Council for England or the National Council for Education and Training for Wales.
- (3) The statement shall specify the arrangements that the authority consider it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at any establishment such as is mentioned in subsection (2).
- (4) The statement shall specify the arrangements proposed to be made by the governing bodies of—
  - (a) schools maintained by the authority at which education suitable to the requirements of persons over compulsory school age is provided, and
  - (b) institutions within the further education sector in the authority's area,for the provision of transport for facilitating the attendance of persons of sixth form age receiving education or training at the schools and institutions and for the provision of financial assistance in respect of the travelling expenses of such persons.
- (5) Those governing bodies shall co-operate in giving the local education authority any information and other assistance that is reasonably required by the authority for the performance of their functions under this section and section 509AB.
- (6) The statement shall specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985 (c. 67)) which are to be provided under any scheme established under section 93 of that Act to persons of sixth form age receiving education at any establishment such as is mentioned in subsection (2) above in the authority's area.
- (7) The authority shall—
  - (a) publish the statement, in a manner which they consider appropriate, on or before 31st May in the year in which the academic year in question begins, and
  - (b) make, and secure that effect is given to, any arrangements specified under subsections (2) and (3).
- (8) Nothing in this section prevents a local education authority from making, at any time in an academic year, arrangements—

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- (a) which are not specified in the transport policy statement published by the authority for that year, but
  - (b) which they have come to consider necessary for the purposes mentioned in subsections (2) and (3).
- (9) The Secretary of State may, if he considers it expedient to do so, direct a local education authority to make for any academic year—
- (a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at establishments such as are mentioned in subsection (2), or
  - (b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons,
- which have not been specified in the transport policy statement published by the authority for that academic year.
- (10) The Secretary of State may by order amend subsection (7)(a) by substituting a different date for 31st May.]

#### Textual Amendments

**F91** S. 509AA inserted (20.1.2003 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 19 para. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2952](#), art. 2; [S.I. 2003/1718](#), art. 5, [Sch. Pt. II](#)

VALID FROM 20/01/2003

#### **[<sup>F92</sup>509A] Further provision about transport policy statements**

- (1) A statement prepared under section 509AA shall state to what extent arrangements specified in accordance with subsection (2) of that section include arrangements for facilitating the attendance at establishments such as are mentioned in that subsection of disabled persons and persons with learning difficulties.
- (2) A statement prepared under that section shall—
  - (a) specify arrangements for persons receiving full-time education or training at establishments other than schools maintained by the local education authority which are no less favourable than the arrangements specified for pupils of the same age attending such schools, and
  - (b) specify arrangements for persons with learning difficulties receiving education or training at establishments other than schools maintained by the authority which are no less favourable than the arrangements specified for pupils of the same age with learning difficulties attending such schools.
- (3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the local education authority shall have regard (amongst other things) to—
  - (a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made,



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- (b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided,
  - (c) the distance from the homes of persons of sixth form age in their area of establishments such as are mentioned in section 509AA(2) at which education or training suitable to their needs is provided, and
  - (d) the cost of transport to the establishments in question and of any alternative means of facilitating the attendance of persons receiving education or training there.
- (4) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a local education authority shall have regard (amongst other things)—
- (a) to the nature of the route, or alternative routes, which he could reasonably be expected to take; and
  - (b) to any wish of his parent for him to be provided with education or training at a school, institution or other establishment in which the religious education provided is that of the religion or denomination to which his parent adheres.
- (5) In preparing a statement under section 509AA a local education authority shall have regard to any guidance issued by the Secretary of State under this section.
- (6) In preparing a statement under that section a local education authority shall consult—
- (a) any other local education authority that they consider it appropriate to consult,
  - (b) the governing bodies mentioned in subsection (4) of that section,
  - (c) the Learning and Skills Council for England (in the case of a local education authority in England) or the National Council for Education and Training for Wales (in the case of a local education authority in Wales), and
  - (d) any other person specified by the Secretary of State for the purposes of this section.
- (7) In preparing a statement under that section a local education authority shall also consult—
- (a) where they are the local education authority for a district in a metropolitan county, the Passenger Transport Authority for that county, and
  - (b) where they are the local education authority for a London borough or the City of London, Transport for London.]

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#### Textual Amendments

**F92** S. 509AB inserted (20.1.2003 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 19 para. 4](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/1718, art. 5, Sch. Pt. II

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VALID FROM 20/01/2003

**[<sup>F93</sup>509A Interpretation of sections 509AA and 509AB**

- (1) For the purposes of sections 509AA and 509AB a person receiving education or training at an establishment is of sixth form age if he is over compulsory school age but—
  - (a) is under the age of 19, or
  - (b) has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course.
- (2) References in section 509AA to an establishment supported by the Learning and Skills Council for England are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 5(2) of the Learning and Skills Act 2000.
- (3) References in section 509AA to an establishment supported by the National Council for Education and Training for Wales are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 34(2) of the Learning and Skills Act 2000.
- (4) References in section 509AB to persons with learning difficulties are to be construed in accordance with section 13(5) and (6) of the Learning and Skills Act 2000.
- (5) In sections 509AA and 509AB and this section—
 

“academic year” means any period commencing with 1st August and ending with the next 31st July;

“disabled person” has the same meaning as in the Disability Discrimination Act 1995;

“establishment” means an establishment of any kind, including a school or institution;

“governing body”, in relation to an institution within the further education sector, has the same meaning as in the Further and Higher Education Act 1992.
- (6) The Secretary of State may by order amend the definition of “academic year” in subsection (5).]

**Textual Amendments**

**F93** S. 509AC inserted (20.1.2003 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 19 para. 5](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/1718, art. 5, Sch. Pt. II

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VALID FROM 01/04/1999

**[<sup>F94</sup>509A Travel arrangements for children receiving nursery education otherwise than at school.**

- (1) A local education authority may provide a child with assistance under this section if they are satisfied that, without such assistance, he would be prevented from attending at any premises—
  - (a) which are not a school or part of a school, but
  - (b) at which relevant nursery education is provided,for the purpose of receiving such education there.
- (2) The assistance which may be provided for a child under this section consists of either—
  - (a) making arrangements (whether for the provision of transport or otherwise) for the purpose of facilitating the child’s attendance at the premises concerned, or
  - (b) paying the whole or any part of his reasonable travel expenses.
- (3) When considering whether to provide a child with assistance under this section in connection with his attendance at any premises, a local education authority may have regard (among other things) to whether it would be reasonable to expect alternative arrangements to be made for him to receive relevant nursery education at any other premises (whether nearer to his home or otherwise).
- (4) Where the assistance to be provided for a child under this section consists of making arrangements for the provision of transport, the authority may, if they consider it appropriate to do so, determine that the assistance shall not be so provided unless—
  - (a) the child’s parent, or
  - (b) the person providing the relevant nursery education concerned,agrees to make to the authority such payments in respect of the provision of the transport (not exceeding the cost to the authority of its provision) as they may determine.
- (5) In this section “relevant nursery education” means nursery education which is provided—
  - (a) by a local education authority, or
  - (b) by any other person—
    - (i) who is in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a) of the School Standards and Framework Act 1998, or
    - (ii) who is in receipt of grants under section 1 of the <sup>M95</sup>Nursery Education and Grant-Maintained Schools Act 1996.]

**Textual Amendments**

**F94** S. 509A inserted (1.4.1999) by 1998 c. 31, s. 124 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(4), Sch. 1 Pt. IV

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### Marginal Citations

M95 1996 c. 50.

## 510 Provision of clothing.

- (1) A local education authority may provide clothing for—
  - (a) any pupil who is a boarder at an educational institution maintained by the authority or at a grant-maintained school,
  - (b) any pupil at a nursery school maintained by the authority, and
  - (c) any pupil in a nursery class at a school maintained by the authority or at a grant-maintained school.
  
- (2) A local education authority may also provide clothing for any pupil—
  - (a) for whom they are providing board and lodging elsewhere than at an educational institution maintained by them, and
  - (b) for whom special educational provision is made in pursuance of arrangements made by them.
  
- (3) Where it appears to a local education authority, in a case where neither subsection (1) nor subsection (2) applies, that a pupil at—
  - (a) a school maintained by them or a grant-maintained school, or
  - (b) a special school (whether maintained by them or not),
 is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided at the school, the authority may provide him with such clothing as in their opinion is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school.
  
- (4) A local education authority may provide—
  - (a) for pupils at a school maintained by them, at a grant-maintained school or at an institution maintained by them which provides further education or higher education (or both),
  - (b) for persons who have not attained the age of 19 and who are receiving education at an institution within the further education sector, and
  - (c) for persons who make use of facilities for physical training made available for them by the authority under section 508(2),
 such articles of clothing as the authority may determine suitable for the physical training provided at that school or institution or under those facilities.
  
- (5) A local education authority may—
  - (a) with the consent of the proprietor of a school not maintained by the authority, other than a grant-maintained school or special school, and
  - (b) on such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor,
 make arrangements, in the case of any pupil at the school who is unable by reason of the inadequacy or unsuitability of his clothing to take full advantage of the education provided at the school, for securing for the pupil the provision of such clothing as is necessary for the purpose of ensuring that he is sufficiently and suitably clad while he remains a pupil at the school.

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- (6) Any arrangements made under subsection (5) shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with the provision of any article under the arrangements does not exceed the expense which would have been incurred by them in the provision of it if the pupil had been a pupil at a school maintained by them.

#### **511 Provisions supplementary to section 510.**

- (1) Provision of clothing under section 510 may be made in such way as to confer either a right of property in the clothing or a right of user only (at the option of the providing authority), except in any circumstances for which the adoption of one or other of those ways of making such provision is prescribed.
- (2) Where a local education authority have provided a person with clothing under section 510, then, in such circumstances respectively as may be prescribed—
- (a) the authority shall require his parent to pay to them in respect of its provision such sum (if any) as in their opinion he is able to pay without financial hardship, not exceeding the cost to the authority of its provision;
  - (b) the authority may require his parent to pay to them in respect of its provision such sum as is mentioned in paragraph (a) or any lesser sum; or
  - (c) his parent shall not be required to pay any sum in respect of its provision.
- (3) Any sum which a parent is duly required to pay by virtue of subsection (2)(a) or (b) may be recovered summarily as a civil debt.
- (4) Where a person who has attained the age of 18 (other than a registered pupil at a school) is provided with clothing under section 510, any reference in subsection (2) or (3) to his parent shall be read as a reference to him.

#### **512 Provision of meals etc. at schools maintained by local education authorities.**

- (1) A local education authority may provide registered pupils at any school maintained by them with milk, meals and other refreshment, either on the school premises or at any place other than the school premises where education is being provided.
- (2) Subject to subsection (3), a local education authority shall—
- (a) charge for anything provided by them under subsection (1), and
  - (b) charge every pupil the same price for the same quantity of the same item.
- (3) In relation to a pupil whose parents are in receipt of income support or of an income-based jobseeker's allowance (payable under the <sup>M96</sup>Jobseekers Act 1995) or who is himself in receipt of that benefit, a local education authority—
- (a) shall so exercise their power under subsection (1) as to ensure that such provision is made for him in the middle of the day as appears to them to be requisite, and
  - (b) shall make that provision for him free of charge.
- (4) A local education authority shall provide at any school maintained by them such facilities as they consider appropriate for the consumption of any meals or other refreshment brought to the school by registered pupils.
- (5) Subsections (1) and (4) shall apply in relation to—

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(a) persons, other than pupils, who receive education at a school maintained by a local education authority, and

(b) the authority maintaining the school,

as they apply in relation to pupils at any such school and the authority maintaining the school; and a local education authority shall charge for anything provided under subsection (1) as it so applies, and shall charge every such person the same price for the same quantity of the same item.

#### Marginal Citations

M96 1995 c. 18.

### 512ZA Duty to charge for meals etc.

- (1) A local education authority shall charge for anything provided by them under subsection (1) or (3) of section 512.
- (2) A local education authority shall charge every person the same price for the same quantity of the same item.
- (3) This section is subject to section 512ZB.

### 512ZB Provision of free school lunches and milk

- (1) Where the local education authority provide a school lunch in accordance with section 512(3) to a person who is eligible for free lunches, the authority shall provide the meal free of charge.
- (2) For this purpose a person is eligible for free lunches if—
  - (a) he is within subsection (4), and
  - (b) a request that the school lunches be provided free of charge has been made by him or on his behalf to the authority.
- (3) Where a local education authority exercise their power under subsection (1) of section 512 to provide a person within paragraph (a) or (c) of that subsection with milk, the authority shall provide the milk free of charge if—
  - (a) the person is within subsection (4), and
  - (b) a request that the milk be provided free of charge has been made by him or on his behalf to the authority.
- (4) A person is within this subsection if—
  - (a) his parent is—
    - (i) in receipt of income support,
    - (ii) in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995 (c. 18)),
    - (iii) in receipt of support provided under Part 6 of the Immigration and Asylum Act 1999 (c. 33), or
    - (iv) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 (c. 21) or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed, or

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- (b) he, himself, is—
- (i) in receipt of income support,
  - (ii) in receipt of an income-based jobseeker’s allowance, or
  - (iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 (c. 21) or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed.
- (5) In this section “prescribed” and “school lunch” have the same meaning as in section 512.

VALID FROM 01/02/1999

**[<sup>F96</sup>512A Transfer of functions under section 512 to governing bodies.**

- (1) The Secretary of State may by order make provision for imposing on the governing body of any school to which the order applies a duty or duties corresponding to one or more of the duties of the local education authority which are mentioned in subsection (2).
- (2) Those duties are—
- (a) the duty to provide school lunches in accordance with section 512(1A) and (1B);
  - (b) the duty to provide school lunches free of charge in accordance with section 512(3)(a); and
  - (c) the duty to provide milk free of charge in accordance with section 512(3)(b).
- (3) An order under this section may (subject to subsection (6)) apply to—
- (a) all maintained schools; or
  - (b) any specified class of such schools; or
  - (c) all such schools, or any specified class of such schools, maintained by specified local education authorities.
- (4) Where any duty falls to be performed by the governing body of a school by virtue of an order under this section—
- (a) the corresponding duty mentioned in subsection (2) shall no longer fall to be performed by the local education authority in relation to the school; and
  - (b) if the duty corresponds to the one mentioned in subsection (2)(b) or (c), section 533(3) shall not apply to any school lunches or milk provided by the governing body in pursuance of the order.
- (5) An order under this section may provide for section 513(2) not to apply—
- (a) to local education authorities generally, or
  - (b) to any specified local education authority,
- either in relation to all pupils for whom provision is made by the authority under section 513 or in relation to all such pupils who are of such ages as may be specified.
- (6) An order under this section shall not operate to—
- (a) impose any duty on the governing body of a school, or
  - (b) relieve a local education authority of any duty in relation to a school,

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at any time when the school does not have a delegated budget; and such an order may provide for section 512(2)(b) above to have effect, in relation to any provision made at any such time by the local education authority for pupils at the school, with such modifications as may be specified.

(7) In this section—

“delegated budget” and “maintained school” have the same meaning as in the School Standards and Framework Act 1998;

“school lunch” has the same meaning as in section 512 above;

“specified” means specified in an order under this section.]

#### Textual Amendments

**F96** S. 512A inserted (1.2.1999) by 1998 c. 31, s. 116 (with ss. 138(9), 144(6)); S.I. 1998/3198, art. 2(2), Sch.

### 513 Provision of meals etc. at schools not maintained by local education authorities.

- (1) A local education authority may, with the consent of the proprietor of a school in their area which is not maintained by them, make arrangements for securing the provision of milk, meals and other refreshment for pupils in attendance at the school.
- (2) Any arrangements under this section—
  - (a) shall be on such financial and other terms, if any, as may be determined by agreement between the authority and the proprietor of the school; and
  - (b) shall be such as to secure, so far as is practicable, that the expense incurred by the authority in connection with the provision of any service or item under the arrangements shall not exceed the expense which would have been incurred by them in providing it if the pupil had been a pupil at a school maintained by them.

### 514 Provision of board and lodging otherwise than at school.

- (1) Where a local education authority are satisfied with respect to any pupil—
  - (a) that primary or secondary education suitable to his age, ability and aptitude and to any special educational needs he may have can best be provided for him at a particular county, voluntary, grant-maintained or special school, but
  - (b) that such education cannot be so provided unless boarding accommodation is provided for him otherwise than at the school,
 they may provide such board and lodging for him under such arrangements as they think fit.
- (2) Where a local education authority are satisfied with respect to a pupil with special educational needs that provision of board and lodging for him is necessary for enabling him to receive the required special educational provision, they may provide such board and lodging for him under such arrangements as they think fit.
- (3) In making any arrangements under this section, a local education authority shall, so far as practicable, give effect to the wishes of the pupil’s parent as to the religion or religious denomination of the person with whom the pupil will reside.



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- (4) Subject to subsection (5), where a local education authority have provided a pupil with board and lodging under arrangements under this section, they shall require the pupil's parent to pay them such sums, if any, in respect of the board and lodging as in their opinion he is able to pay without financial hardship.
- (5) No sum is recoverable under subsection (4) if the arrangements were made by the authority on the ground that in their opinion education suitable to the pupil's age, ability and aptitude or special educational needs could not otherwise be provided for him.
- (6) The sums recoverable under subsection (4) shall not exceed the cost to the authority of providing the board and lodging.
- (7) Any sum payable under subsection (4) may be recovered summarily as a civil debt.

### **515 Provision of teaching services for day nurseries.**

- (1) Subject to subsection (2), a local education authority may, in accordance with arrangements made by them for that purpose, make available to a day nursery the services of any teacher who—
  - (a) is employed by them in a nursery school or in a primary school having one or more nursery classes, and
  - (b) has agreed to provide his services for the purposes of the arrangements.
- (2) Arrangements under subsection (1) in respect of a teacher in a voluntary school require the concurrence of the governing body of the school.
- (3) Arrangements under this section may make provision—
  - (a) for the supply of equipment for use in connection with the teaching services made available under the arrangements;
  - (b) for regulating the respective functions of any teacher whose services are made available under the arrangements, the head teacher of his school and the person in charge of the day nursery; and
  - (c) for any supplementary or incidental matters connected with the arrangements, including, where the teacher's school and the day nursery are in the areas of different local education authorities, financial adjustments between those authorities.
- (4) In this section “day nursery” means a day nursery provided under section 18 of the <sup>M97</sup>Children Act 1989 (provision by local authorities of day care for pre-school and other children).
- (5) A teacher shall not be regarded as ceasing to be a member of the teaching staff of his school and subject to the general directions of his head teacher by reason only of his services being made available in pursuance of arrangements under this section.

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#### **Marginal Citations**

**M97** 1989 c. 41.

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**516 Supply by LEA of goods and services to grant-maintained and grant-maintained special schools.**

- (1) Where the Secretary of State by order provides for this section to apply to a local education authority, the functions of the authority shall include the supply by the authority of such goods or services as may be specified in the order to the governing bodies of grant-maintained schools or grant-maintained special schools in such area as may be so specified.
- (2) The area specified in the order may not extend beyond the area which comprises—
  - (a) the area of the authority, and
  - (b) the area of any other local education authority which shares any boundary with the authority.
- (3) The terms on which goods and services are supplied by a local education authority in the exercise of a function exercisable by virtue of this section shall be such as can reasonably be expected to secure that the full cost of exercising the function is recovered by the authority.
- (4) This section shall not apply to a local education authority after the end of the period of two years beginning with the time when it first applies to the authority.
- (5) This section is without prejudice to the generality of any other enactment conferring functions on local education authorities.

*Payment of fees*

**517 Payment of fees at schools not maintained by a local education authority.**

- (1) Where, in pursuance of arrangements made under section 18 or Part IV (special educational needs), primary or secondary education is provided for a pupil at a school not maintained by them or another local education authority, the local education authority by whom the arrangements are made shall—
  - (a) if subsection (2), (3) or (4) applies, pay the whole of the fees payable in respect of the education provided in pursuance of the arrangements; and
  - (b) if board and lodging are provided for the pupil at the school and subsection (5) applies, pay the whole of the fees payable in respect of the board and lodging.
- (2) This subsection applies where—
  - (a) the pupil fills a place in the school which the proprietor of the school has put at the disposal of the authority; and
  - (b) the school is one in respect of which grants are made by the Secretary of State under section 485.
- (3) This subsection applies where the authority are satisfied that, by reason of a shortage of places in every school maintained by them or another local education authority to which the pupil could be sent with reasonable convenience, education suitable—
  - (a) to his age, ability and aptitude, and
  - (b) to any special educational needs he may have,
 cannot be provided by them for him except at a school not maintained by them or another local education authority.

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- (4) This subsection applies where (in a case in which neither subsection (2) nor subsection (3) applies) the authority are satisfied—
- (a) that the pupil has special educational needs, and
  - (b) that it is expedient in his interests that the required special educational provision should be made for him at a school not maintained by them or another local education authority.
- (5) This subsection applies where the authority are satisfied that education suitable—
- (a) to the pupil's age, ability and aptitude, and
  - (b) to any special educational needs he may have,
- cannot be provided by them for him at any school unless board and lodging are also provided for him (either at school or elsewhere)
- (6) As from such day as the Secretary of State may by order appoint this section shall have effect with the following modifications—
- (a) in subsections (1) and (3), for “not maintained by them or another local education authority” substitute “which is neither a maintained nor a grant-maintained school”;
  - (b) in subsection (3), for “every school maintained by them or another local education authority” substitute “every maintained or grant-maintained school”;
  - (c) in subsections (3) and (5), for “provided by them” substitute “provided”;
  - (d) omit subsection (4) and the reference to it in subsection (1); and
  - (e) at the end add—
- “(7) In this section “grant-maintained school” includes a grant-maintained special school, and subsection (5) does not apply where section 348(2) applies.”
- (7) An order under subsection (6) may appoint different days for different provisions and for different purposes.

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**Subordinate Legislation Made**

**P1** S. 517(6) power fully exercised (30.6.1997): 1.9.1997 appointed day by [S.I. 1997/1623](#).

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

**C95** S. 517 modified (1.9.1999) (the modification as mentioned in s. 517(6) has effect from 1.9.1997 as mentioned in [S.I. 1997/1623](#)) by [S.I. 1999/2260](#), [reg. 2\(1\)](#)

## **518 Payment of school fees and expenses; grant of scholarships etc.**

Regulations shall empower local education authorities, for the purpose of enabling persons to take advantage without hardship to themselves or their parents of any educational facilities available to them—

- (a) to defray such expenses of children attending county, voluntary, grant-maintained or special schools as may be necessary to enable them to take part in any school activities, and
- (b) to pay the whole or any part of the fees and expenses payable in respect of children attending schools at which fees are payable, and

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- (c) to grant scholarships, exhibitions, bursaries and other allowances in respect of persons over compulsory school age.

*Allowances for governors*

**519 Travelling and subsistence allowances for governors of schools and further or higher education institutions.**

- (1) A local education authority may, in accordance with the provisions of a scheme made by them for the purposes of this section, pay travelling and subsistence allowances to governors of—
  - (a) any county, voluntary or maintained special school which does not have a delegated budget (construed in accordance with section 115); and
  - (b) any institution providing higher education or further education (or both) which is maintained by a local education authority.
- (2) Such a scheme may make different provision in relation to schools or other institutions of different categories (including provision for allowances not to be paid in respect of certain categories) but shall not make different provision in relation to different categories of governor of the same school or institution.
- (3) Subject to subsections (4) and (5), a local education authority may pay travelling and subsistence allowances to any person appointed to represent them on the governing body of—
  - (a) any institution providing higher education or further education (or both) which is not maintained by them; or
  - (b) any independent school or special school which is not maintained by them.
- (4) A local education authority shall not pay any allowance under subsection (3) for expenses in respect of which the person incurring them is entitled to reimbursement by any person other than the authority.
- (5) A local education authority shall not pay any allowance under subsection (3) if they have not made any scheme under subsection (1) or if the arrangements under which the allowance would otherwise be payable—
  - (a) provide for allowances which are to any extent more generous than the most generous payable by the authority under any such scheme; or
  - (b) contain any provision which the authority would not have power to include in any such scheme.
- (6) No allowance may be paid to any governor of a school or institution of a kind mentioned in subsection (1), in respect of the discharge of his functions as such a governor, otherwise than under this section.

*Medical arrangements*

**520 Medical inspection and treatment of pupils.**

- (1) A local education authority shall make arrangements for encouraging and assisting pupils to take advantage of the provision for medical and dental inspection and treatment made for them in pursuance of section 5(1) or (1A) of the <sup>M98</sup>National Health Service Act 1977 or paragraph 1(a)(i) of Schedule 1 to that Act.

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- (2) If the parent of a pupil gives notice to the authority that he objects to the pupil availing himself of any of the provision so made, the pupil shall not be encouraged or assisted to do so.
- (3) A local education authority's duty under subsection (1) does not apply in relation to pupils at a grant-maintained school (in relation to whom the school's governing body have a similar duty under section 536(1)).

**Marginal Citations**

**M98** 1977 c. 49.

*Cleanliness of pupils*

**521 Examination of pupils for cleanliness.**

- (1) A local education authority may by directions in writing authorise a medical officer of theirs to have the persons and clothing of pupils in attendance at relevant schools examined whenever in his opinion such examinations are necessary in the interests of cleanliness.
- (2) Directions under subsection (1) may be given with respect to—
  - (a) all relevant schools, or
  - (b) any relevant schools named in the directions.
- (3) An examination under this section shall be made by a person authorised by the authority to make such examinations; and, if the examination is of a girl, it shall not be made by a man unless he is a registered medical practitioner.
- (4) For the purposes of this section “relevant schools” are—
  - (a) schools maintained by the authority; and
  - (b) grant-maintained schools within the authority's area.

**522 Compulsory cleansing of a pupil.**

- (1) If, on an examination under section 521, the person or clothing of a pupil is found to be infested with vermin or in a foul condition, any officer of the local education authority may serve a notice on the pupil's parent requiring him to cause the pupil's person and clothing to be cleansed.
- (2) The notice shall inform the parent that, unless within the period specified in the notice the pupil's person and clothing are cleansed to the satisfaction of such person as is specified in the notice, the cleansing will be carried out under arrangements made by the authority.
- (3) The period so specified shall not be less than 24 hours from the service of the notice.
- (4) If, on a report being made to him by the specified person at the end of the specified period, a medical officer of the authority is not satisfied that the pupil's person and clothing have been properly cleansed, he may by order direct that they shall be cleansed under arrangements made by the authority under section 523.

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- (5) An order made under subsection (4) shall be sufficient to authorise any officer of the authority—
- (a) to cause the pupil's person and clothing to be cleansed in accordance with arrangements made by the authority under section 523, and
  - (b) for that purpose to convey the pupil to, and detain him at, any premises provided in accordance with such arrangements.

### **523 Arrangements for cleansing of pupils.**

- (1) A local education authority shall make arrangements for securing that the person or clothing of any pupil required to be cleansed under section 522 may be cleansed (whether at the request of a parent or in pursuance of an order under section 522(4)) at suitable premises, by suitable persons and with suitable appliances.
- (2) Where the council of a district in the area of the authority are entitled to the use of any premises or appliances for cleansing the person or clothing of persons infested with vermin, the authority may require the council to permit the authority to use those premises or appliances for such purposes upon such terms as may be determined—
  - (a) by agreement between the authority and the council, or
  - (b) in default of such agreement, by the Secretary of State.
- (3) Subsection (2) does not apply in relation to Wales.
- (4) A girl may be cleansed under arrangements under this section only by a registered medical practitioner or by a woman authorised for the purpose by the authority.

### **524 Exclusion of a pupil pending examination or cleansing.**

- (1) Where—
  - (a) a medical officer of a local education authority suspects that the person or clothing of a pupil in attendance at a relevant school is infested with vermin or in a foul condition, but
  - (b) action for the examination or cleansing of the pupil's person and clothing cannot be taken immediately,
 the medical officer may direct that the pupil is to be excluded from the school until such action has been taken, if he considers it necessary to do so in the interests either of the pupil or of other pupils in attendance at the school.
- (2) A direction under subsection (1) is a defence to any proceedings under Chapter II of Part VI in respect of the failure of the pupil to attend school on any day on which he is excluded in pursuance of the direction, unless it is proved that the giving of the direction was necessitated by the wilful default of the pupil or his parent.
- (3) For the purposes of this section a “relevant school” is—
  - (a) a school maintained by the local education authority, or
  - (b) a grant-maintained school within the authority's area.

### **525 Offence of neglecting the cleanliness of a pupil.**

- (1) If, after the person or clothing of a pupil has been cleansed under section 522—
  - (a) his person or clothing is again infested with vermin, or in a foul condition, at any time while he is in attendance at a relevant school, and

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- (b) the condition of his person or clothing is due to neglect on the part of his parent,  
the parent is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (3) For the purposes of this section a “relevant school” is a school maintained by a local education authority or a grant-maintained school.

#### *Educational research and conferences*

### **526 Powers as to educational research.**

A local education authority may make such provision for conducting, or assisting the conduct of, research as appears to them to be desirable for the purpose of improving the educational facilities provided for their area.

### **527 Powers as to educational conferences.**

A local education authority may—

- (a) organise, or participate in the organisation of, conferences for the discussion of questions relating to education, and
- (b) expend such sums as may be reasonable in paying, or contributing towards, any expenditure incurred in connection with conferences for the discussion of such questions, including the expenses of any person authorised by them to attend such a conference.

*[<sup>F97</sup>Plans relating to children with behavioural difficulties]*

#### **Textual Amendments**

**F97** S. 527A and cross-heading inserted (1.4.1998) by 1997 c. 44, s.9 (with s. 57(3)); S.I. 1998/386, art. 2(2), **Sch. 1 Pt. II**

### **[527A <sup>F98</sup>Duty of LEA to prepare plan relating to children with behavioural difficulties.**

- (1) Every local education authority shall prepare, and from time to time review, a statement setting out the arrangements made or proposed to be made by the authority in connection with the education of children with behavioural difficulties.
- (2) The arrangements to be covered by the statement include in particular—
  - (a) the arrangements made or to be made by the authority for the provision of advice and resources to relevant schools, and other arrangements made or to be made by them, with a view to—
    - (i) meeting requests by such schools for support and assistance in connection with the promotion of good behaviour and discipline on the part of their pupils, and
    - (ii) assisting such schools to deal with general behavioural problems and the behavioural difficulties of individual pupils;

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- (b) the arrangements made or to be made by the authority in pursuance of section 19(1) (exceptional provision of education for children not receiving education by reason of being excluded or otherwise); and
  - (c) any other arrangements made or to be made by them for assisting children with behavioural difficulties to find places at suitable schools.
- (3) The statement shall also deal with the interaction between the arrangements referred to in subsection (2) and those made by the authority in relation to pupils with behavioural difficulties who have special educational needs.
- (4) In the course of preparing the statement required by this section or any revision of it the authority shall carry out such consultation as may be prescribed.
- (5) The authority shall—
- (a) publish the statement in such manner and by such date, and
  - (b) publish revised statements in such manner and at such intervals,
- as may be prescribed, and shall provide such persons as may be prescribed with copies of the statement or any revised statement.
- (6) In discharging their functions under this section a local education authority shall have regard to any guidance given from time to time by the Secretary of State.
- (7) In this section “relevant school”, in relation to a local education authority, means—
- (a) a school maintained by the authority (whether situated in their area or not), or
  - (b) a grant-maintained or grant-maintained special school situated in their area.]

#### Textual Amendments

**F98** S. 527A inserted (1.4.1998) by 1997 c. 44, s.9 (with s. 57(3)); S.I. 1998/386, art. 2(2), Sch. 1 Pt.II.

### *Disability statements relating to further education*

#### **528 Duty of LEA to publish disability statements relating to further education.**

- (1) Every local education authority shall publish disability statements at such intervals as may be prescribed.
- (2) In subsection (1) “disability statement” means a statement containing information of a prescribed description about the provision of facilities for further education made by the local education authority in respect of persons who are disabled persons for the purposes of the <sup>M99</sup>Disability Discrimination Act 1995.

#### Commencement Information

**I2** S. 528 wholly in force at 30.10.1997; s. 528 not in force at Royal Assent see s. 583(3); s. 528 in force at 1.8.1997 in its application to England by S.I. 1997/1623, art. 2(1) and at 30.10.1997 in its application to Wales by S.I. 1997/2352, art. 2.

#### Marginal Citations

**M99** 1995 c. 50.



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### *Acquisition and holding of property*

#### **529 Power to accept gifts on trust for educational purposes.**

- (1) A local education authority may accept, hold and administer any property on trust for purposes connected with education.
- (2) Any intention on the part of a local education authority that a school (other than a nursery school or a special school) should be vested in the authority as trustees shall be treated for the purposes of section 35(1) as an intention to maintain the school as a county school (so that proposals for that purpose shall be published and submitted as required by that subsection); and the other provisions of section 35 and sections 36 to 40 shall apply accordingly.
- (3) Any school which in accordance with subsection (2) is vested in a local education authority as trustees shall be a county school.

#### **530 Compulsory purchase of land.**

- (1) The Secretary of State may authorise a local education authority to purchase compulsorily any land (whether within or outside their area) which—
  - (a) is required for the purposes of any school or institution which is, or is to be, maintained by them or which they have power to assist, or
  - (b) is otherwise required for the purposes of their functions under this Act.
- (2) The Secretary of State shall not authorise the compulsory purchase of any land required for the purposes of a voluntary school unless he is satisfied that the arrangements made—
  - (a) as to the vesting of the land to be purchased, and
  - (b) as to the appropriation of that land for the purposes of the school,are such as to secure that the expenditure ultimately borne by the local education authority will not include any expenditure which, if the land had been purchased by the governing body of the school, would have fallen to be borne by the governing body.
- (3) Subsection (2) shall not, however, apply where the local education authority propose that expenditure to be incurred in connection with the purchase should ultimately be borne by them under section 68 (power to give assistance).
- (4) In this section “land” includes buildings and other structures and land covered with water.

#### **531 Acquisition of land by agreement.**

- (1) For the removal of doubt, it is declared that making land available for the purposes of a school or institution—
  - (a) which is, or is to be, maintained by a local education authority, or
  - (b) which such an authority have power to assist,is a function of the authority within the meaning of section 120 of the <sup>M100</sup>Local Government Act 1972 (which relates to the acquisition by a local authority by agreement of land for the purpose of any of their functions), even though the land will not be held by the authority.

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- (2) A local education authority shall not acquire by agreement any land required for the purposes of a voluntary school unless they are satisfied that the arrangements made—
- (a) as to the vesting of the land to be acquired, and
  - (b) as to the appropriation of that land for the purposes of the school,
- are such as to secure that the expenditure ultimately borne by them will not include any expenditure which, if the land had been acquired by the governing body of the school, would have fallen to be borne by the governing body.

#### Marginal Citations

M100 1972 c. 70.

### *Appointment of chief education officer*

#### **532 Appointment of chief education officer.**

A local education authority's duties under the Local Government Act 1972 with respect to the appointment of officers shall (without prejudice to the generality of the provisions of that Act) include the duty of appointing a fit person to be the chief education officer of the authority.

## CHAPTER III

### ANCILLARY FUNCTIONS OF GOVERNING BODIES

#### *Provision of services*

#### **533 Duties of governing bodies of maintained schools with respect to provision of school meals etc.**

- (1) The governing body of any school maintained by a local education authority shall—
  - (a) afford the authority such facilities as they require to enable them to perform their functions under section 512, and
  - (b) allow the authority to make such use of the premises and equipment of the school, and such alterations to the school buildings, as the authority consider necessary for that purpose.
- (2) Nothing in subsection (1) shall require the governing body of a voluntary school to incur any expenditure.
- (3) Where the governing body of a school which has a delegated budget (within the meaning of Part II) provide pupils or other persons who receive education at the school with milk, meals or other refreshment, they shall—
  - (a) charge for everything so provided,
  - (b) charge every such pupil the same price for the same quantity of the same item, and
  - (c) charge every person other than a pupil the same price for the same quantity of the same item.

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### **534 Duties of governing bodies of grant-maintained schools with respect to provision of school meals etc.**

- (1) The governing body of a grant-maintained school may provide registered pupils at the school with milk, meals and other refreshment, either on the school premises or at any place other than the school premises where education is being provided.
- (2) Subject to subsection (3), a governing body shall—
  - (a) charge for anything provided by them under subsection (1), and
  - (b) charge every pupil the same price for the same quantity of the same item.
- (3) In relation to a pupil whose parents are in receipt of income support or of an income-based jobseeker's allowance (payable under the <sup>M101</sup>Jobseekers Act 1995) or who is himself in receipt of that benefit, a governing body—
  - (a) shall so exercise their power under subsection (1) as to ensure that such provision is made for him in the middle of the day as appears to them to be requisite, and
  - (b) shall make that provision for him free of charge.
- (4) A governing body of a grant-maintained school shall provide at the school such facilities as they consider appropriate for the consumption of any meals or other refreshment brought to the school by registered pupils.
- (5) Subsections (1) and (4) shall apply in relation to—
  - (a) persons, other than pupils, who receive education at a grant-maintained school, and
  - (b) the governing body of the school,as they apply in relation to pupils at any such school and its governing body; and a governing body shall charge for anything provided under subsection (1) as it so applies, and shall charge every such person the same price for the same quantity of the same item.

#### **Marginal Citations**

M101 1995 c. 18.

### **535 Provision of teaching services for day nurseries.**

- (1) Subject to subsection (2), the governing body of a county or voluntary primary school having one or more nursery classes may, in accordance with arrangements made by them for that purpose, make available to a day nursery the services of any teacher who is employed by them in the school and has agreed to provide his services for the purposes of the arrangements.
- (2) No arrangements shall be made under subsection (1) except at the request of the local education authority and on terms approved by them.
- (3) Arrangements under this section may make provision—
  - (a) for the supply of equipment for use in connection with the teaching services made available under the arrangements,
  - (b) for regulating the respective functions of any teacher whose services are made available under the arrangements, the head teacher of his school and the person in charge of the day nursery, and

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- (c) for any supplementary or incidental matters connected with the arrangements, including, where the teacher's school and the day nursery are in the areas of different local education authorities, financial adjustments between those authorities.
- (4) In this section “day nursery” means a day nursery provided under section 18 of the <sup>M102</sup>Children Act 1989 (provision by local authorities of day care for pre-school and other children).
- (5) A teacher shall not be regarded as ceasing to be a member of the teaching staff of his school and subject to the general directions of his head teacher by reason only of his services being made available in pursuance of arrangements under this section.

**Marginal Citations**

**M102** 1989 c. 41.

*Medical arrangements*

**536 Medical inspection and treatment of pupils at grant-maintained schools.**

- (1) The governing body of a grant-maintained school shall make arrangements for encouraging and assisting pupils at the school to take advantage of the provision for medical and dental inspection and treatment made for them in pursuance of section 5(1) or (1A) of the <sup>M103</sup>National Health Service Act 1977 or paragraph 1(a)(i) of Schedule 1 to that Act.
- (2) If the parent of a pupil gives notice to the governing body that he objects to the pupil availing himself of any of the provision so made, the pupil shall not be encouraged or assisted to do so.

**Marginal Citations**

**M103** 1977 c. 49.

**CHAPTER IV**

PROVISION OF INFORMATION BY GOVERNING BODIES ETC.

**537 Power of Secretary of State to require information from governing bodies etc.**

- (1) The Secretary of State may by regulations make provision requiring—
  - (a) the governing body of every school which is—
    - (i) maintained by a local education authority, or
    - (ii) a grant-maintained school, or
    - (iii) a special school which is not maintained by a local education authority, and
  - (b) the proprietor of each independent school,
 to provide such information about the school as may be prescribed.

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- (2) For the purposes of this section information about the continuing education of pupils leaving a school, or the employment or training taken up by such pupils on leaving, is to be treated as information about the school.
- (3) Where the Secretary of State exercises his power to make regulations under this section he shall do so with a view to making available information which is likely to—
  - (a) assist parents in choosing schools for their children;
  - (b) increase public awareness of the quality of the education provided by the schools concerned and of the educational standards achieved in those schools; or
  - (c) assist in assessing the degree of efficiency with which the financial resources of those schools are managed.
- (4) Information which is required by virtue of regulations under this section shall be provided—
  - (a) in such form and manner,
  - (b) on such occasions, and
  - (c) to such person or persons, in addition to or in place of the Secretary of State, as may be prescribed [F99]; and regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Secretary of State is to be treated, for the purposes of any provision of such regulations or this section, as compliance with any requirement of such regulations relating to the provision of information to the Secretary of State.].
- (5) No information provided in accordance with regulations under this section shall name any pupil to whom it relates.
- (6) The Secretary of State may—
  - (a) publish information provided in accordance with regulations under this section in such form and manner as he considers appropriate;
  - (b) make arrangements for such information to be published in such form and manner, and by such persons, as he may specify for the purposes of this section;
  - (c) make regulations requiring local education authorities to publish prescribed categories of such information, together with such supplementary information as may be prescribed, in such form and manner as may be prescribed.
- (7) The Secretary of State may make regulations requiring—
  - (a) the governing body of any school which is maintained by a local education authority or which is a grant-maintained school,
  - (b) the proprietor of any city technology college or city college for the technology of the arts, or
  - (c) any local education authority,to provide prescribed persons with prescribed categories of information published under subsection (6).
- (8) Information provided under subsection (7) shall be provided in such form and manner as may be prescribed.
- (9) Regulations under this section may make provision enabling the Secretary of State, in such circumstances as may be prescribed, to order the deletion from the register of

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independent schools of the name of any independent school the proprietor of which fails to comply with any requirement imposed by or under the regulations.

- (10) In subsection (9) “the register of independent schools” means—
- (a) in relation to any school in England, the register of independent schools kept under section 464 by the Registrar of Independent Schools for England; and
  - (b) in relation to any school in Wales, the equivalent register kept by the Registrar of Independent Schools for Wales.
- (11) Without prejudice to the generality of section 569(4), regulations under this section may make provision for the designation by the Secretary of State, in accordance with the regulations, of particular schools or classes of schools for the purposes of the application of particular provisions of the regulations in relation to such schools.
- (12) This section is not to be taken as restricting, or otherwise affecting, any other powers that the Secretary of State may have to make regulations with respect to, or otherwise to require, the provision of information by any person.
- (13) This section does not apply to nursery schools.

#### Textual Amendments

**F99** Words in s. 537(4) added (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.37**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt.I**.

#### [537A] <sup>F100</sup> Provision of information about individual pupils’ performance.

- (1) The Secretary of State may by regulations make provision requiring—
- (a) the governing body of every school which is—
    - (i) maintained by a local education authority, or
    - (ii) a grant-maintained school, or
    - (iii) a special school which is not maintained by a local education authority, and
  - (b) the proprietor of each independent school,
- to provide to the Secretary of State such individual performance information relating to pupils or former pupils at the school as may be prescribed.
- (2) In this section “individual performance information” means information about the performance of individual pupils (identified in the prescribed manner)—
- (a) in any assessment made for the purposes of the National Curriculum or in accordance with a baseline assessment scheme (within the meaning of Chapter I of Part IV of the Education Act 1997);
  - (b) in any prescribed public examination;
  - (c) in connection with the attainment of any vocational qualification; or
  - (d) in any such other assessment or examination, or in connection with the attainment of any such other qualification, as may be prescribed.
- (3) The Secretary of State may provide any information received by him by virtue of subsection (1)—
- (a) to any prescribed body or person, or
  - (b) to any body or person falling within a prescribed category.

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- (4) Any body or person holding any individual performance information may provide that information to any body to which this subsection applies; and any body to which this subsection applies—
  - (a) may provide any information received by it under this subsection—
    - (i) to the Secretary of State, or
    - (ii) to the governing body or proprietor of the school attended by the pupil or pupils to whom the information relates; and
  - (b) may, at such times as the Secretary of State may determine, provide to any prescribed body such information received by it under this subsection as may be prescribed.
- (5) Subsection (4) applies to any body which, for the purposes of or in connection with the functions of the Secretary of State relating to education, is responsible for collating or checking information relating to the performance of pupils—
  - (a) in any assessment or examination falling within subsection (2)(a), (b) or (d), or
  - (b) in connection with the attainment of any qualification falling within subsection (2)(c) or (d).
- (6) No individual performance information received under or by virtue of this section shall be published in any form which includes the name of the pupil or pupils to whom it relates.
- (7) References in this section to the attainment of a qualification of any description include references to the completion of any module or part of a course leading to any such qualification.]

**Textual Amendments**

**F100** S. 537A inserted (14.6.1997) by 1997 c. 44, s.20; S.I. 1997/1468, art. 2(1), Sch. 1 Pt.I.

**538 Provision of information to Secretary of State by governing bodies of maintained schools.**

The governing body or temporary governing body of a county, voluntary or maintained special school shall make such reports and returns, and give such information, to the Secretary of State as he may require for the purpose of the exercise of his functions in relation to education.

**539 Provision of information by governing body of grant-maintained schools.**

- (1) The governing body of a grant-maintained school shall publish, at such times and in such manner as may be required by regulations made by the Secretary of State, such information in respect of the school as may be so required.
- (2) The governing body shall make such reports and returns, and give such information, to the Secretary of State as he may require for the purpose of his functions in relation to education.
- (3) The governing body shall make such reports and returns, and give such information, to the funding authority as they may require for the purpose of the exercise of their functions.

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- (4) The governing body shall make such reports and returns, and give such information, to any local education authority by whom any functions are exercisable—
- (a) in relation to the school, or
  - (b) in relation to registered pupils at the school,
- as the authority may require for the purpose of the exercise of those functions.
- (5) The governing body shall make such reports and returns, and give such information, in relation to registered pupils at the school aged five or under as any local education authority may require for the purpose of exercising their functions under section 19(1) (a) of the <sup>M104</sup>Children Act 1989 (review of provision for day care).

**Marginal Citations**

M104 1989 c. 41.

**540 Distribution of information about schools providing secondary education.**

- (1) Where the governing body of any school providing primary education receive a request which—
- (a) is made by the governing body of any school providing secondary education, and
  - (b) relates to the distribution of information about the school providing secondary education to parents of pupils at the school providing primary education without charge to those parents,
- the governing body of that school shall secure that the request is treated no less favourably (whether as to services provided or as to the terms on which they are provided) than any such request made by the governing body of any other school providing secondary education.
- (2) In this section “school” means—
- (a) any county or voluntary school or any maintained special school which is not established in a hospital, or
  - (b) any grant-maintained school or any grant-maintained special school.

**541 Distribution of information about further education institutions.**

- (1) The Secretary of State may by regulations require—
- (a) the governing body of any school providing secondary education, and
  - (b) the proprietor of any city technology college or city college for the technology of the arts,
- to provide such persons as may be prescribed with such categories of information falling within subsection (2) as may be prescribed.
- (2) Information falls within this subsection if it is—
- (a) published under section 50 of the <sup>M105</sup>Further and Higher Education Act 1992 (information with respect to institutions within the further education sector), and
  - (b) made available to governing bodies and proprietors for distribution.



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- (3) Information provided under subsection (1) shall be provided in such form and manner as may be prescribed.
- (4) In this section “school” means—
  - (a) any county or voluntary school or any maintained special school which is not established in a hospital, or
  - (b) any grant-maintained school or any grant-maintained special school.

**Marginal Citations**

M105 1992 c. 13.

**PART X**

MISCELLANEOUS AND GENERAL

**CHAPTER I**

EDUCATIONAL PREMISES

*Required standards for educational premises*

**542 Prescribed standards for school premises.**

- (1) Regulations shall prescribe the standards to which the premises of schools maintained by local education authorities and of grant-maintained schools are to conform; and without prejudice to the generality of section 569(4) different standards may be prescribed for such descriptions of schools as are specified in the regulations.
- (2) Where a school is maintained by a local education authority, the authority shall secure that the school premises conform to the prescribed standards.
- (3) Where a school is a grant-maintained school, the governing body shall secure that the school premises conform to the prescribed standards.
- (4) Subsections (2) and (3) have effect subject to section 543.

**543 Relaxation of prescribed standards in special cases.**

- (1) Where subsection (2), (3) or (4) applies in relation to a school, the Secretary of State may direct that, despite the fact that the prescribed requirement referred to in that subsection is not satisfied, the school premises shall be taken, as respects the matters specified in the direction, to conform to the standards prescribed under section 542 so long as—
  - (a) the direction remains in force, and
  - (b) any conditions specified in the direction as respects those matters are observed.
- (2) This subsection applies if the Secretary of State is satisfied, having regard—

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- (a) to the nature of the school’s existing site,
  - (b) to any existing buildings on the site, or
  - (c) to other special circumstances affecting the school premises,
- that it would be unreasonable to require conformity with any prescribed requirement as to any matter.
- (3) This subsection applies if—
- (a) the school is to have an additional or new site, and
  - (b) the Secretary of State is satisfied, having regard to the shortage of suitable sites, that it would be unreasonable to require conformity with any prescribed requirement relating to sites.
- (4) This subsection applies if—
- (a) the school is to have additional buildings, or is to be transferred to a new site,
  - (b) existing buildings not previously part of the school premises, or temporary buildings, are to be used for that purpose, and
  - (c) the Secretary of State is satisfied, having regard to the need to control public expenditure in the interests of the national economy, that it would be unreasonable to require conformity with any prescribed requirement relating to buildings.
- (5) In this section “prescribed requirement” means a requirement of regulations under section 542.

#### **544 Approval etc. of school premises and boarding hostels.**

- (1) Regulations may make provision requiring the Secretary of State’s approval (or, in such cases as may be prescribed, the approval of the funding authority) to be obtained for the provision of new premises for, or the alteration of the premises of—
- (a) any school to which this section applies, or
  - (b) any boarding hostel provided by a local education authority for persons receiving education at any such school.
- (2) Regulations may make provision for the inspection of any such hostel.
- (3) The schools to which this section applies are—
- (a) any school maintained by a local education authority,
  - (b) any grant-maintained school, and
  - (c) any special school not maintained by a local education authority.

#### **545 Exemption from building byelaws of approved buildings.**

- (1) Where plans for, or particulars in respect of, a building required for the purposes of any school or other educational institution are approved by the Secretary of State, he may by order direct that any provision of a local Act or of a byelaw made under such an Act—
- (a) shall not apply in relation to the building, or
  - (b) shall apply in relation to it with such modifications as may be specified in the order.
- (2) The reference in subsection (1) to plans or particulars approved by the Secretary of State includes a reference to—

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- (a) particulars submitted to and approved by him under regulations under section 544 or section 218(7) of the <sup>M106</sup>Education Reform Act 1988, or
- (b) particulars given in pursuance of section 428(2)(b).

**Marginal Citations**

M106 1988 c. 40.

*Control of potentially harmful materials and apparatus*

**546 Control of potentially harmful materials and apparatus in schools.**

- (1) Regulations may make provision for requiring the Secretary of State's approval to be obtained for the use in schools to which this section applies of such materials or apparatus as may be specified in the regulations, being materials or apparatus which could or might involve a serious risk to health.
- (2) The schools to which this section applies are—
  - (a) any school maintained by a local education authority,
  - (b) any grant-maintained school, and
  - (c) any special school not maintained by a local education authority.

*Nuisance or disturbance on school premises*

**547 Nuisance or disturbance on school premises.**

- (1) Any person who without lawful authority is present on premises to which this section applies and causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) This section applies to premises, including playgrounds, playing fields and other premises for outdoor recreation, of—
  - (a) any school maintained by a local education authority, or
  - (b) any grant-maintained school.
- (3) If—
  - (a) a police constable, or
  - (b) (subject to subsection (5)) a person whom a local education authority have authorised to exercise the power conferred by this subsection,has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.
- (4) The power conferred by subsection (3) may also be exercised, in relation to premises of an aided, special agreement or grant-maintained school, by a person whom the governing body have authorised to exercise it.
- (5) A local education authority may not authorise a person to exercise the power conferred by subsection (3) in relation to premises of a voluntary or grant-maintained school without first obtaining the consent of the governing body.

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- (6) Subject to subsection (7), no proceedings for an offence under this section shall be brought by any person other than—
- (a) a police constable, or
  - (b) a local education authority.
- (7) Proceedings for an offence under this section committed on premises of an aided, special agreement or grant-maintained school may be brought by a person whom the governing body have authorised to bring such proceedings.
- (8) A local education authority may not bring proceedings for an offence under this section committed on premises of a voluntary or grant-maintained school without first obtaining the consent of the governing body.

## CHAPTER II

### [<sup>F101</sup> PUNISHMENT AND RESTRAINT OF PUPILS]

#### Textual Amendments

**F101** Pt. X Ch. II: Chapter heading and cross-heading substituted for Chapter heading (1.9.1998) by virtue of 1997 c. 44, s. 57(1), **Sch. 7 para. 38**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV**

### [<sup>F102</sup> Corporal punishment]

#### Textual Amendments

**F102** Pt. X Ch. II: Chapter heading and cross-heading substituted for Chapter heading (1.9.1998) by virtue of 1997 c. 44, s. 57(1), **Sch. 7 para. 38**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV**

#### **548 No right to give corporal punishment.**

- (1) Where, in any proceedings, it is shown that corporal punishment has been given to any pupil to whom this subsection applies by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.
- (2) Where, in any proceedings, it is shown that corporal punishment has been given to any pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if it was inhuman or degrading.
- (3) Subsection (1) applies to—
- (a) any pupil for whom education is provided—
    - (i) at a school maintained by a local education authority,
    - (ii) at a special school not so maintained, or
    - (iii) at a grant-maintained school;
  - (b) any pupil for whom education is provided at an independent school—
    - (i) which is maintained or assisted by a Minister of the Crown (including a school of which a government department is a proprietor) or is assisted by a local education authority, and

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- (ii) which falls within a prescribed class;
  - (c) any pupil for whom education is provided by a local education authority otherwise than at a school; and
  - (d) any pupil who is an assisted person for the purposes of this paragraph and for whom education is provided at an independent school not falling within paragraph (b) above.
- (4) A pupil is an assisted person for the purposes of subsection (3)(d) if—
- (a) he holds an assisted place under the scheme operated by the Secretary of State [F103 provided under section 2(1) of the Education (Schools) Act 1997];
  - (b) any of the fees or expenses payable in respect of his attendance at school are paid by—
    - (i) the Secretary of State under section 491, or
    - (ii) a local education authority under section 517, or
    - (iii) the funding authority or a local education authority under paragraph 9 or 10 of Schedule 4;
  - (c) any of the fees payable in respect of his attendance at school are paid by a local education authority under section 518; or
  - (d) he falls within a prescribed category of persons.
- (5) The Secretary of State may prescribe, for the purposes of subsection (4)(d), one or more categories of persons who appear to him to be persons in respect of whom any fees are paid out of public funds.
- (6) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it is done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.

#### Textual Amendments

**F103** Words in s. 548(4)(a) substituted (1.9.1997) by 1997 c. 59, ss. 6(1), 7(3) (with s. 1(3))

### 549 Interpretation of section 548.

- (1) Subject to subsection (2), references in section 548 to giving corporal punishment are to doing anything for the purpose of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute battery.
- (2) A person is not to be taken for the purposes of section 548 as giving corporal punishment by virtue of anything done for reasons that include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).
- (3) In determining for the purposes of section 548(2) whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.
- (4) In section 548 “member of the staff” means—

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- (a) in relation to a person who is a pupil by reason of the provision of education for him at a school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there; and
  - (b) in relation to a person who is a pupil by reason of the provision of education for him by a local education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.
- (5) In section 548 and this section “pupil” does not include any person who has attained the age of 18.

**550 No avoidance of section 548 by refusing admission to school etc.**

A person shall not be debarred from receiving education (whether by refusing him admission to a school, suspending his attendance or otherwise) by reason of the fact that any provision of section 548 applies in relation to him or, if he were admitted, might so apply.

*[<sup>F104</sup> Power to restrain pupils]*

**Textual Amendments**

**F104** S. 550A and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 4 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

**[<sup>F105</sup> 550A Power of members of staff to restrain pupils.**

- (1) A member of the staff of a school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely—
  - (a) committing any offence,
  - (b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
  - (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.
- (2) Subsection (1) applies where a member of the staff of a school is—
  - (a) on the premises of the school, or
  - (b) elsewhere at a time when, as a member of its staff, he has lawful control or charge of the pupil concerned;

but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548.
- (3) Subsection (1) shall not be taken to prevent any person from relying on any defence available to him otherwise than by virtue of this section.
- (4) In this section—

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“member of the staff”, in relation to a school, means any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school;

“offence” includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.]

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**Textual Amendments**

**F105** S. 550A and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 4 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

[<sup>F106</sup> Detention]

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**Textual Amendments**

**F106** S. 550B and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 5 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

[<sup>F107</sup> **550B** Detention outside school hours lawful despite absence of parental consent.

- (1) Where a pupil to whom this section applies is required on disciplinary grounds to spend a period of time in detention at his school after the end of any school session, his detention shall not be rendered unlawful by virtue of the absence of his parent’s consent to it if the conditions set out in subsection (3) are satisfied.
- (2) This section applies to any pupil who has not attained the age of 18 and is attending—
  - (a) a school maintained by a local education authority;
  - (b) a grant-maintained or grant-maintained special school; or
  - (c) a city technology college or city college for the technology of the arts.
- (3) The conditions referred to in subsection (1) are as follows—
  - (a) the head teacher of the school must have previously determined, and have—
    - (i) made generally known within the school, and
    - (ii) taken steps to bring to the attention of the parent of every person who is for the time being a registered pupil there,  
that the detention of pupils after the end of a school session is one of the measures that may be taken with a view to regulating the conduct of pupils;
  - (b) the detention must be imposed by the head teacher or by another teacher at the school specifically or generally authorised by him for the purpose;
  - (c) the detention must be reasonable in all the circumstances; and
  - (d) the pupil’s parent must have been given at least 24 hours’ notice in writing that the detention was due to take place.
- (4) In determining for the purposes of subsection (3)(c) whether a pupil’s detention is reasonable, the following matters in particular shall be taken into account—
  - (a) whether the detention constitutes a proportionate punishment in the circumstances of the case; and

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- (b) any special circumstances relevant to its imposition on the pupil which are known to the person imposing it (or of which he ought reasonably to be aware) including in particular—
- (i) the pupil's age,
  - (ii) any special educational needs he may have,
  - (iii) any religious requirements affecting him, and
  - (iv) where arrangements have to be made for him to travel from the school to his home, whether suitable alternative arrangements can reasonably be made by his parent.
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude a notice from being given to a pupil's parent under this section by any other effective method.]

**Textual Amendments**

**F107** S. 550B and cross-heading inserted (1.9.1998) by 1997 c. 44, s. 5 (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV

### CHAPTER III

#### OTHER PROVISIONS ABOUT SCHOOLS

##### *Duration of school day etc.*

**551 Regulations as to duration of school day etc.**

- (1) Regulations may make provision with respect to the duration of the school day and school year at, and the granting of leave of absence from, any schools to which this section applies.
- [<sup>F108</sup>(1A) In subsection (1) the reference to the duration of the school year at any such schools is a reference to the number of school sessions that must be held during any such year.]
- (2) The schools to which this section applies are—
- (a) any school maintained by a local education authority;
  - (b) any grant-maintained school; and
  - (c) any special school not maintained by a local education authority.

**Textual Amendments**

**F108** S. 551(1A) inserted (14.6.1997) by 1997 c. 44, s. 57(1), Sch. 7 para.39; S.I. 1997/1468, art. 2(1), Sch. 1 Pt.I



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### *Single-sex schools*

#### **552 Transitional exemption orders for purposes of Sex Discrimination Act 1975.**

- (1) Where—
- (a) by reason of section 37(7)(b), 43(4)(b), 169(6)(b) or 199(2) any proposals for a school to cease to be an establishment which admits pupils of one sex only may not be determined until the Secretary of State has made his determination with respect to any proposals for acquisition of grant-maintained status, and
  - (b) the proposals for acquisition of grant-maintained status and the proposals for the school to cease to be such an establishment are approved (with or without modification),
- paragraph 1 of Schedule 2 to the 1975 Act shall not apply but the new governing body shall be treated as having applied for the making by the Secretary of State of a transitional exemption order, and he may make such an order accordingly.
- (2) Where the governing body of a grant-maintained school publish under section 259 proposals for the school to cease to be an establishment which admits pupils of one sex only and (by virtue of section 264(1)) Part III of this Act has effect with the modifications in section 264(2) to (7) in relation to the proposals, then—
- (a) paragraph 1 of Schedule 2 to the 1975 Act shall not apply unless the proposals require the approval of the Secretary of State, and
  - (b) in any other case, the governing body shall be treated as having applied for the making by the funding authority of a transitional exemption order, and the funding authority may make such an order accordingly.
- (3) Where under section 260 the funding authority submit to the Secretary of State a copy of proposals for a school to cease to be an establishment which admits pupils of one sex only, then—
- (a) if the proposals require the approval of the Secretary of State, the governing body shall be treated as having applied for the making by him of a transitional exemption order, and
  - (b) in any other case, the governing body shall be treated as having applied for the making by the funding authority of such an order,
- and the Secretary of State or, as the case may be, the funding authority may make such an order accordingly.
- (4) Where in pursuance of section 339(1)(b) a local education authority serve notice of proposals for a maintained special school to cease to be an establishment which admits pupils of one sex only, the responsible body shall be treated as having applied for the making by the Secretary of State of a transitional exemption order, and the Secretary of State may make such an order accordingly.
- (5) Where proposals made by the Secretary of State under section 502—
- (a) are for a school to cease to be an establishment which admits pupils of one sex only, and
  - (b) have effect as mentioned in section 504(3),
- the responsible body shall be treated as having applied for the making by the Secretary of State of a transitional exemption order, and the Secretary of State may make such an order accordingly.
- (6) In this section—

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“the 1975 Act” means the <sup>M107</sup>Sex Discrimination Act 1975,  
 “responsible body” has the same meaning as in section 22 of the 1975 Act,  
 and  
 “transitional exemption order” has the same meaning as in section 27 of  
 the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).

#### **Marginal Citations**

**M107** 1975 c. 65.

### *Educational trusts*

#### **553 Schemes under the Endowed Schools Acts.**

- (1) Where under any provision (however expressed) of a scheme made under the Endowed Schools Acts 1869 to 1948 the power of the trustees under the scheme to apply any property to which the scheme relates for purposes authorised by the scheme is subject to the approval or order of any other person, the scheme shall have effect as if no such approval or order was required.
- (2) The Secretary of State may, on the application of any person whose approval or order would apart from this section be required under such a scheme, direct that the requirement shall continue to have effect despite subsection (1); but no liability shall be taken to have been incurred in respect of any failure before the making of such a direction to obtain any such approval or order.

### *Religious educational trusts*

#### **554 Power to make new provision as to use of endowments.**

- (1) This section applies where—
  - (a) the premises of a voluntary or grant-maintained school have ceased to be used for a voluntary or (as the case may be) grant-maintained school; or
  - (b) in the opinion of the Secretary of State it is likely such premises will cease to be so used.
- (2) In such a case the Secretary of State may (subject to sections 555 and 556(1) and (2)) by order make new provision as to the use of any endowment if it is shown either—
  - (a) that the endowment is or has been held wholly or partly for or in connection with the provision at the school of religious education in accordance with the tenets of a particular religion or religious denomination; or
  - (b) that the endowment is or has been used wholly or partly for or in connection with the provision at the school of such religious education and that (subject to subsection (4)) the requirements of subsection (3) are fulfilled.
- (3) The requirements of this subsection are—

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- (a) that the school was or has been maintained as a voluntary school since 1st April 1945 (the date when Part II of the <sup>M108</sup>Education Act 1944 came into force) or, in the case of a grant-maintained school, was so maintained from that date until immediately before it became a grant-maintained school; and
  - (b) that religious education in accordance with the tenets of the religion or denomination concerned—
    - (i) is, and has been from that date, provided at the school, or
    - (ii) where the premises have ceased to be used for the purposes of the school, was provided at the school from that date until immediately before the premises ceased to be so used,in pursuance of section 377 or 378 or section 380 or 381 (or any corresponding earlier enactment).
- (4) For the purposes of this section—
- (a) where in the case of any school falling within subsection (3)(a) it is shown—
    - (i) that religious education in accordance with the tenets of a particular religion or denomination is provided at the school, or
    - (ii) if the premises have ceased to be used for the purposes of the school, such religious education was so provided immediately before the premises ceased to be so used,such religious education shall be taken to have been provided at the school from 1st April 1945, unless the contrary is shown; and
  - (b) where religious education in accordance with such tenets is shown to have been given to any pupils at a controlled school or a grant-maintained school which was a controlled school immediately before it became a grant-maintained school, the religious education shall be taken to have been given to them at the request of their parents, unless the contrary is shown.
- (5) For the purposes of this section—
- “endowment” includes property not subject to any restriction on the expenditure of capital; and
  - “shown” means shown to the satisfaction of the Secretary of State.
- (6) This section applies where the premises of a non-provided public elementary school ceased before 1st April 1945 to be used for such a school as it applies where the premises of a voluntary school have ceased to be used for such a school.

**Marginal Citations**

M108 1944 c. 31.

**555 Procedure applicable to orders under section 554.**

- (1) No order shall be made under section 554 except on the application of the persons appearing to the Secretary of State to be the appropriate authority of the religion or denomination concerned.
- (2) The Secretary of State shall, not less than one month before making an order under section 554, give notice of the proposed order and of the right of persons interested to make representations on it.

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- (3) Such notice shall be given—
- (a) by giving to any persons appearing to the Secretary of State to be trustees of an endowment affected by the proposed order a notice of the proposal to make it, together with a draft or summary of the provisions proposed to be included; and
  - (b) by publishing, in such manner as the Secretary of State thinks sufficient for informing any other persons interested, a notice of the proposal to make the order and of the place where any person interested may (during a period of not less than a month) inspect such a draft or summary, and by keeping a draft or summary available for inspection in accordance with the notice.
- (4) The Secretary of State shall take into account any representations made to him by any person interested before the order is made.
- (5) In this section “endowment” has the same meaning as in section 554.

**556 Content of orders under section 554.**

- (1) An order under section 554—
- (a) may require or authorise the disposal by sale or otherwise of any land or other property forming part of an endowment affected by the order, including the premises of the school and any teacher’s dwelling-house; and
  - (b) may consolidate any endowments to be dealt with by the scheme.
- (2) Subject to subsection (1), and to any provision affecting the endowments which is a provision of a public general Act of Parliament, an order under section 554 shall establish and give effect, with a view to enabling the religion or denomination concerned to participate more effectively in the administration of the statutory system of public education, to a scheme or schemes for the endowments dealt with by the order to be used for appropriate educational purposes either—
- (a) in connection with schools which are voluntary schools or grant-maintained schools; or
  - (b) partly in connection with such schools (or either description of such schools) and partly in other ways related to the locality served by the voluntary or grant-maintained school at the premises that have gone or are to go out of use for such a school.
- (3) In subsection (2) “use for appropriate educational purposes” means use for educational purposes in connection with the provision of religious education in accordance with the tenets of the religion or denomination concerned (including in particular, but without prejudice to the generality of the foregoing, use for any purpose specified in Schedule 36).
- (4) A scheme given effect under section 554—
- (a) may provide for the retention of the capital of any endowment and application of the accruing income; or
  - (b) may authorise the application or expenditure of capital to such extent and subject to such conditions as may be determined by or in accordance with the scheme;

and any such scheme may provide for the endowments dealt with by the scheme or any part of them to be added to any existing endowment applicable for any such purpose as is authorised for the scheme by subsection (2).

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- (5) Where a scheme given effect under section 554 provides for the endowments dealt with by the order or any part of them to be used for the purposes specified in Schedule 36, any such scheme may provide for the endowments thereby dealt with or any part of them to be added to any existing endowment applicable for those purposes (whether it is so applicable by virtue of a scheme given effect to under that section or otherwise).
- (6) Section 568(5) does not apply to an order under section 554, but such an order may include such incidental or supplementary provisions as appear to the Secretary of State to be necessary or expedient either for the bringing into force or for the operation of any scheme established by it, including in particular provisions—
  - (a) for the appointment and powers of trustees of the property comprised in the scheme or, if the property is not all applicable for the same purposes, of any part of that property; and
  - (b) for the property or any part of it to vest by virtue of the scheme in the first trustees under the scheme or trustees of any endowment to which it is to be added or, if not so vested, to be transferred to them.
- (7) Any order under section 554 shall have effect despite any Act of Parliament (other than a public general Act), letters patent or other instrument relating to, or trust affecting, the endowments dealt with by the order.
- (8) In this section “endowment” has the same meaning as in section 554.

## **557 Adoption of statutory trusts.**

- (1) This section applies to endowments which are—
  - (a) regulated by a qualifying scheme under the Endowed Schools Acts 1869 to 1948 as applied by section 86(1) of the <sup>M109</sup>Education Act 1944 or by an order under section 554 of this Act or section 2 of the <sup>M110</sup>Education Act 1973; and
  - (b) held under any such scheme or order on trusts which provide for capital or income or both to be applicable for or in connection with—
    - (i) the provision of religious education at relevant schools, or relevant schools of any description (but not only at a particular school or schools) in a diocese or other geographical area; or
    - (ii) the provision of premises for relevant schools, or relevant schools of any description (but not only at a particular school or schools) at which religious education is or is to be provided in a diocese or other geographical area;

but this section does not apply to an endowment if or in so far as it constitutes a religious education fund.
- (2) The trustees of any endowments to which this section applies may, by resolution complying with subsection (6), adopt the uniform statutory trusts as the trusts on which those endowments are to be held.
- (3) The uniform statutory trusts are those set out in Schedule 36.
- (4) On the adoption by trustees of the uniform statutory trusts in respect of any endowments the scheme or order which regulates the endowments shall have effect as if the uniform statutory trusts are incorporated in the scheme or order to the exclusion of the corresponding provisions of the scheme or order.

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- (5) The trustees of two or more endowments which are held on the uniform statutory trusts may, by resolution complying with subsection (6), consolidate all or any of those endowments and, where they do so, the endowments shall be treated, for all purposes, as held for the purposes of a single charity.
- (6) For a resolution to comply with this subsection—
- (a) it must be passed by a simple majority of the trustees or, if the trustees are a body corporate or a company, by a simple majority of the members of the body corporate or an ordinary resolution of the company; and
  - (b) it must be recorded in the records of the decisions of the trustees affecting the endowments of the trust.
- (7) Where trustees pass a resolution under subsection (2), it shall be their duty to send a copy of the resolution to the Secretary of State.
- (8) The uniform statutory trusts applicable to endowments to which this section applies shall not affect—
- (a) the rights of any person under the third proviso to section 2 of the <sup>M111</sup>School Sites Act 1841, under section 86(3) of the <sup>M112</sup>Education Act 1944 or under section 1 of the <sup>M113</sup>Reverter of Sites Act 1987 (rights replacing certain reversionary interests in land), or
  - (b) the rights of any local education authority which have arisen under paragraph 7 or 8 of the First Schedule to the <sup>M114</sup>Education Act 1946 (rights in relation to school sites provided by such authorities) or which may arise under section 60(4) or 62(2),
- except in so far as any right falling within paragraph (a) above is or has been extinguished by an order under section 554 of this Act or section 2 of the <sup>M115</sup>Education Act 1973 made by virtue of section 5 of the Reverter of Sites Act 1987.

- (9) In this section—

“company” means a company formed under the Companies Acts;

“the Companies Acts” means the <sup>M116</sup>Companies Act 1985, the <sup>M117</sup>Companies Act 1948 or any Act repealed by that Act of 1948;

“endowment” has the same meaning as in section 554;

“provision”, in relation to premises, means provision by the purchase of a site, the erection of premises or the maintenance, improvement or enlargement of premises;

“qualifying scheme” means a scheme in force on 1st January 1994 (the date when section 287 of the <sup>M118</sup>Education Act 1993 came into force);

“relevant school” means a voluntary school or a grant-maintained school;

“religious education” means religious education in accordance with the tenets of a particular religion or religious denomination; and

“religious education fund” includes a Sunday school fund.

- (10) In Schedule 36 as incorporated in any scheme or order—

“the area” means the diocese or other geographical area within which the trust assets may be applied under the scheme or order, as the case may be;

“relevant school” means a relevant school at which the religious education provided for in the scheme or order, as the case may be, is or is to be provided; and

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“the relevant trust assets” means the endowments in respect of which the trustees have adopted the uniform statutory trusts, including the income derived therefrom.

#### Marginal Citations

M109 1944 c. 31.  
M110 1973 c. 16.  
M111 1841 c. 38.  
M112 1944 c. 31.  
M113 1987 c. 15.  
M114 1946 c. 50.  
M115 1973 c. 16.  
M116 1985 c. 6.  
M117 1948 c. 38.  
M118 1993 c. 35.

## CHAPTER IV

### EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

#### 558 Meaning of “child” for purposes of enactments relating to employment of children or young persons.

For the purposes of any enactment relating to the prohibition or regulation of the employment of children or young persons, any person who is not over compulsory school age shall be deemed to be a child within the meaning of that enactment.

#### 559 Power of local education authorities to prohibit or restrict employment of children.

- (1) If it appears to a local education authority that a child who is a registered pupil at a county, voluntary or special school is being employed in such a manner as to be prejudicial to his health, or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority may serve a notice in writing on the employer—
  - (a) prohibiting him from employing the child, or
  - (b) imposing such restrictions upon his employment of the child as appear to them to be expedient in the interests of the child.
- (2) A local education authority may serve a notice in writing on the parent or employer of a child who is a registered pupil at a county, voluntary or special school requiring the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.
- (3) A person who—
  - (a) employs a child in contravention of any prohibition or restriction imposed under subsection (1), or

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- (b) fails to comply with the requirements of a notice served under subsection (2), shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable on summary conviction—
- (a) to a fine not exceeding level 1 on the standard scale, or
  - (b) to imprisonment for a term not exceeding one month, or both.
- (5) Section 28(1) and (3) of the <sup>M119</sup>Children and Young Persons Act 1933 (powers of entry for the enforcement of the provisions of Part II of that Act as to the employment of children) shall apply with respect to the provisions of any notice served under this section as they apply with respect to the provisions of Part II of that Act.
- (6) This section shall cease to have effect on the coming into force of section 2 of the <sup>M120</sup>Employment of Children Act 1973.

**Marginal Citations**

**M119** 1933 c. 12.

**M120** 1973 c. 24.

**560 Work experience in last year of compulsory schooling.**

- (1) The enactments relating to the prohibition or regulation of the employment of children shall not apply to the employment of a child in his last year of compulsory schooling if the employment is in pursuance of arrangements made or approved—
- (a) by the local education authority, or
  - (b) in the case of a child at a grant-maintained school, by the governing body of the school,
- with a view to providing him with work experience as a part of his education.
- (2) For the purposes of subsection (1) a child shall be taken to be in his last year of compulsory schooling from the beginning of the term at his school which precedes the beginning of the school year in which he would cease to be of compulsory school age.
- (3) Subsection (1) shall not be taken to permit the employment of a person in any way contrary to—
- (a) an enactment which in terms applies to persons of less than, or not over, a specified age expressed as a number of years, or
  - (b) section 1(2) of the <sup>M121</sup>Employment of Women, Young Persons and Children Act 1920 or section 55(1) of the <sup>M122</sup>Merchant Shipping Act 1995 (which prohibit the employment of children in ships).
- (4) No arrangements shall be made under subsection (1) for a child to be employed in any way which would be contrary to an enactment prohibiting or regulating the employment of young persons if he were a young person (within the meaning of the enactment) and not a child.
- (5) Where a child is employed in pursuance of arrangements made under subsection (1), so much of any enactment as—



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- (a) regulates the employment of young persons (whether by excluding them from any description of work, prescribing the conditions under which they may be permitted to do it or in any other way), and
  - (b) would apply in relation to him if he were of an age to be treated as a young person for the purposes of that enactment,
- shall apply in relation to him, in and in respect of the employment arranged for him, in all respects as if he were of an age to be so treated.
- (6) Nothing in section 495 or 496 applies in relation to any power conferred on a local education authority or the governing body of a grant-maintained school by subsection (1).
  - (7) In this section “enactment” includes any byelaw, regulation or other provision having effect under an enactment.

**Marginal Citations**

M121 1920 c. 65.

M122 1995 c. 21.

## CHAPTER V

### PERSONS NOT COVERED BY ACT

#### **561 Act not to apply to persons in service of the Crown.**

No power or duty conferred or imposed by this Act on—

- (a) the Secretary of State,
- (b) local education authorities, or
- (c) parents,

shall be construed as relating to any person who is employed by or under the Crown in any service or capacity with respect to which the Secretary of State certifies that, by reason of the arrangements made for the education of children and young persons so employed, the exercise and performance of those powers and duties with respect to such children and young persons is unnecessary.

#### **562 Act not to apply to persons detained under order of a court.**

(1) No power or duty conferred or imposed by or under this Act on—

- (a) the Secretary of State,
- (b) local education authorities, or
- (c) parents,

shall be construed as relating to any person who is detained in pursuance of an order made by a court or of an order of recall made by the Secretary of State, but a local education authority may make arrangements for a person who is detained in pursuance of such an order to receive the benefit of educational facilities provided by the authority.

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- (2) A child or young person who is being educated as a boarder at a school shall not be regarded for the purposes of subsection (1) as detained in pursuance of an order made by a court by reason of the fact that he is required to be at the school—
- (a) by virtue of an order made by a court under the <sup>M123</sup>Children and Young Persons Act 1933 or by virtue of anything done under such an order; or
  - (b) by virtue of a requirement of a probation order or by virtue of anything done under such a requirement.

**Marginal Citations**

M123 1933 c. 12.

## CHAPTER VI

### GENERAL

#### *Documents and evidence*

#### **563 Educational records.**

- (1) Regulations may make provision as to—
- (a) the keeping, disclosure and transfer of educational records about persons receiving education at schools to which this section applies; and
  - (b) the supply of copies of such records to such persons, and in such circumstances, as may be determined by or under the regulations.
- (2) The regulations may authorise persons who supply copies of such records in pursuance of the regulations to charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.
- (3) The schools to which this section applies are—
- (a) any school maintained by a local education authority;
  - (b) any grant-maintained school; and
  - (c) any special school not maintained by a local education authority.

#### **564 Certificates of birth and registrars' returns.**

- (1) Where the age of any person is required to be proved for the purposes of this Act or of any enactment relating to the employment of children or young persons, the registrar having the custody of the register of birth and deaths containing the entry relating to the birth of that person shall—
- (a) on being presented by any person (“the applicant”) with a written requisition in such form and containing such particulars as may be determined by regulations, and
  - (b) on payment of a fee of [<sup>F109</sup>£3.50] ,
- supply the applicant with a copy of the entry certified under his hand.
- (2) A registrar shall, on being requested so to do, supply free of charge a form of requisition for the purposes of subsection (1).

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- (3) A registrar shall supply to a local education authority such particulars of the entries contained in any register of births and deaths in his custody, and in such form, as (subject to regulations) the authority may from time to time require.
- (4) In this section—  
“register of births and deaths” means a register of births and deaths kept under the <sup>M124</sup>Births and Deaths Registration Act 1953, and  
“registrar” includes a registrar of births and deaths and a superintendent registrar.

#### Textual Amendments

**F109** Fee in s. 564(1)(b) substituted (1.4.1998) by [S.I. 1997/2939, art. 2, Sch.](#) (which S.I. was revoked (1.4.1999) by [S.I. 1998/3171, art. 3](#))

#### Marginal Citations

**M124** 1953 c. 20.

### 565 Evidence: presumption as to age.

- (1) Where in any proceedings under this Act the person by whom the proceedings are brought—
- (a) alleges that any person whose age is material to the proceedings is under, of, or over, any age, and
  - (b) satisfies the court that, having used all reasonable diligence to obtain evidence as to the age of that person, he has been unable to do so,
- the court may, unless the contrary is proved, presume that person to be under, of, or (as the case may be) over, the age alleged.
- (2) This section has effect subject to section 445(3).

### 566 Evidence: documents.

- (1) In any legal proceedings, any of the following documents, namely—
- (a) a document purporting to be a document issued by a local education authority, and to be signed by the clerk of that authority or by the chief education officer of that authority or by any other officer of the authority authorised to sign it,
  - (b) a document purporting to be an extract from the minutes of the proceedings of the governing body of a county or voluntary school, and to be signed by the chairman of the governing body or by their clerk,
  - (c) a document purporting to be a certificate giving particulars of the attendance of a child or young person at a school, and to be signed by the head teacher of the school, and
  - (d) a document purporting to be a certificate issued by a medical officer of a local education authority, and to be signed by such an officer,
- shall be received in evidence and shall be treated, without further proof, as the document which it purports to be and as having been signed by the person by whom it purports to have been signed, unless the contrary is proved.

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- (2) In any legal proceedings, any such extract or certificate as is mentioned in subsection (1)(b), (c) or (d) shall be evidence of the matters stated in it.

### *Stamp duty*

#### **567 Stamp duty.**

- (1) Subject to subsection (5), stamp duty shall not be chargeable in respect of any transfer effected under—
- (a) section 201 (taken with section 198 of, and Schedule 10 to, the <sup>M125</sup>Education Reform Act 1988), or
  - (b) section 279(3) or (4).
- (2) Subject to subsection (5), stamp duty shall not be chargeable in respect of any transfer to a funding authority under section 277.
- (3) Subject to subsection (5), stamp duty shall not be chargeable in respect of any transfer to a local education authority—
- (a) under or by virtue of section 277(1)(a) or 298(2) of property which immediately after the transfer is held by the authority for the purposes of a county or voluntary school or a maintained special school not established in a hospital, or
  - (b) by virtue of section 277(2) of property which immediately after the transfer is held by the authority for the purposes of a new county school.
- (4) Subject to subsection (5), stamp duty shall not be chargeable in respect of any transfer to the governing body of a grant-maintained school—
- (a) by virtue of section 277(2), or
  - (b) in the case of a school established under section 211(2) or 212, from the funding authority.
- (5) No instrument (other than a statutory instrument) made or executed under or in pursuance of any of the provisions mentioned in subsections (1) to (4) above shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the <sup>M126</sup>Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the <sup>M127</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

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#### **Marginal Citations**

- M125** 1988 c. 40.  
**M126** 1982 c. 39.  
**M127** 1891 c. 39.

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### *Orders, regulations and directions*

#### **568 Orders.**

- (1) Any power of the Secretary of State to make orders under this Act (other than an order under any of the excepted provisions) shall be exercised by statutory instrument.
- (2) For the purposes of subsection (1) “the excepted provisions” are—
  - sections 24 and 27;
  - sections 46 to 48, 50, 51, 54, 55, 57, 58, 63, 64, 77(7), 85, 95(1), 104(1), 110(4), 112(4), 128(6) and 179;
  - sections 202, 220, 233, 274 and 302 and the definition of “Church in Wales school” in section 311(1);
  - section 349;
  - sections 420(2) and 427;
  - sections 468, 471(1) and 474;
  - section 489(3),
  - sections 497, 500, 501 and 516;
  - section 545; andparagraph 5 of Schedule 21 and paragraph 3 of Schedule 28.
- (3) A statutory instrument containing any order made by the Secretary of State under this Act, other than an order under—
  - section 354(6), 355(2)(a), 356(2)(c) or 401,
  - section 517(6),
  - section 554,
  - section 583(3) or (4), or
  - Schedule 40,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) No order shall be made under section 354(6), 355(2)(a) or 401 unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Any order made—
  - (a) by the Secretary of State under this Act by statutory instrument, or
  - (b) by the funding authority under section 220, 233 or 302 or paragraph 5 of Schedule 21,may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- (6) Without prejudice to the generality of subsection (5), an order made by the Secretary of State under this Act by statutory instrument may make in relation to Wales provision different from that made in relation to England.

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## **569 Regulations.**

- (1) Any power of the Secretary of State to make regulations under this Act shall be exercised by statutory instrument.
- (2) A statutory instrument containing regulations under this Act, other than regulations under section 480 or 492 or paragraph 1(4) of Schedule 20, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No regulations shall be made under section 480 or 492 or paragraph 1(4) of Schedule 20 unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- (5) Without prejudice to the generality of subsection (4), regulations under this Act may make in relation to Wales provision different from that made in relation to England.
- (6) Subsection (5) does not apply to regulations under section 579(4).

### **Extent Information**

**E1** [S. 569](#) extends to Scotland so far as relating to regulations under s. 493 see [s. 583\(7\)](#).

## **570 Revocation and variation of certain orders and directions.**

- (1) This section applies to any order or directions made or given under this Act by—
  - (a) the Secretary of State,
  - (b) the funding authority, or
  - (c) a local education authority,
 other than an order to which section 568(1) applies.
- (2) Subject to subsection (3), any such order or directions may be varied or revoked by a further order or directions made or given by the Secretary of State, the funding authority or the local education authority, as the case may be.
- (3) Where the power to make or give any such order or directions is only exercisable—
  - (a) on the application or with the consent of any person or body of persons, or
  - (b) after consultation with any person or body of persons, or
  - (c) subject to any other conditions,
 no order or directions made or given under that power may be varied or revoked under subsection (2) unless the same conditions are complied with.

### *Guidance*

## **571 Publication of guidance.**

- (1) The Secretary of State shall publish any guidance given by him for the purposes of any [<sup>F110</sup>provision of this Act] in such manner as he thinks fit.

<sup>F111</sup>(2) .....

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### Textual Amendments

- F110** Words in s. 571(1) substituted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 41(a)**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt.I**
- F111** S. 571(2) repealed (14.6.1997) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 41(b), **Sch.8**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt.I**

### *Service of documents*

#### **572 Service of notices and other documents.**

Any order, notice or other document required or authorised by this Act to be served on any person may be served—

- (a) by delivering it to that person, or
- (b) by leaving it at his usual or last known place of residence, or
- (c) by sending it in a prepaid letter addressed to him at that place.

### *Construction*

#### **573 Meaning of expressions relating to alteration etc. of premises or character of schools.**

- (1) The following provisions apply for the purposes of this Act except where the context otherwise requires.
- (2) References to the alteration of school premises include making improvements, extensions or additions to the premises; and “alterations”, in relation to any school premises, shall be construed similarly except that it does not include a significant enlargement of the premises.
- (3) References to the enlargement of any school premises include any modification of the school’s existing premises which has the effect of increasing the number of pupils for whom accommodation can be provided.
- (4) Subject to section 41(4) and section 266(1), references to a change in the character of a school include, in particular, changes in character resulting from—
  - (a) education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as girls or for girls as well as boys, or
  - (b) the making or alteration of arrangements for the admission of pupils by reference to ability or aptitude.
- (5) In relation to a change in the character of a school or an enlargement of school premises, “significant” implies that there is a substantial change in the function or size of the school.
- (6) If a question arises whether a change in the character of a county, voluntary or grant-maintained school or an enlargement of its premises would be a significant change or enlargement, that question shall be determined by the Secretary of State.

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#### **574 Changes to school not amounting to discontinuance etc.**

- (1) For the purposes of this Act and any other enactment relating to the duties of a local education authority neither—
- (a) references in whatever terms to discontinuing a school (including those to a local authority ceasing to maintain a school), nor
  - (b) references in whatever terms to establishing a new school,
- shall be read as applying by reason only of a change such as is mentioned in subsection (2) being made to an existing school (so that, where such a change is made to an existing school, the school shall be regarded as continuing despite the change and as being the same school before and after it, unless for other reasons it is to be regarded as discontinued).
- (2) The changes are—
- (a) education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as girls or for girls as well as boys;
  - (b) an enlargement or alteration of the school premises; and
  - (c) the transfer of the school to a new site.

#### **575 Meaning, for certain purposes, of expressions relating to employment.**

- (1) In the provisions to which this section applies—
- (a) “contract of employment”, “employee” and “employer” have the same meaning as in the <sup>M128</sup>Employment Rights Act 1996, and
  - (b) “employed” means employed under a contract of employment.
- (2) This section applies to—
- (a) the provisions of Chapter VI of Part II relating to schools with delegated budgets;
  - (b) Parts III and V; and
  - (c) Schedule 7.
- (3) For the purposes of the provisions to which this section applies—
- (a) a person employed by a local education authority is to be regarded as employed to work at a school if his employment with the authority for the time being involves work at that school, and
  - (b) a person employed by a local education authority is to be regarded as employed to work solely at a school if his only employment with the authority (disregarding any employment under a separate contract with the authority) is for the time being at that school.
- (4) Subsection (1) also applies for construing references to “employed” in subsection (3).
- (5) Nothing in this section affects the construction of any of the expressions defined by this section where they occur in provisions of this Act other than those to which this section applies.

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#### **Marginal Citations**

**M128** 1996 c. 18.



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## 576 Meaning of “parent”.

- (1) In this Act, unless the context otherwise requires, “parent”, in relation to a child or young person, includes any person—
  - (a) who is not a parent of his but who has parental responsibility for him, or
  - (b) who has care of him,except that in the provisions mentioned in subsection (2) it only includes such a person if he is an individual.
- (2) Those provisions are—
  - (a) sections 78(3), 81(4), 162, 186 to 188, 190, 200, 223, 226 and 228; and
  - (b) paragraph 7(2) and (7) of Schedule 8, paragraph 7(1) of Schedule 9, Schedule 18, paragraph 8 of Schedule 23 and Schedule 24.
- (3) In subsection (1) “parental responsibility” has the same meaning as in the <sup>M129</sup>Children Act 1989.
- (4) In determining for the purposes of subsection (1) whether an individual has care of a child or young person, any absence of the child or young person at a hospital or boarding school and any other temporary absence shall be disregarded.

### Modifications etc. (not altering text)

**C96** S. 576(1) applied (with modifications) (24.7.1998) by 1998 c. 31, ss. 142(10), 145(4) (with ss. 138(9), 144(6))

### Marginal Citations

**M129** 1989 c. 41.

## 577 Minor authorities.

- (1) For the purposes of this Act a school maintained by a local education authority serves an area for which there is a minor authority if the area served by the school is—
  - (a) a parish or community;
  - (b) an area in England which is not within a parish and is not situated in—
    - (i) a county for which there is no council, or
    - (ii) a county in which there are no district councils; or
  - (c) an area comprising two or more areas each of which falls within paragraph (a) or (b).
- (2) Where the area served by the school is a parish, the minor authority in relation to the school is—
  - (a) the parish council (if there is one), or
  - (b) the parish meeting (if there is no parish council).
- (3) Where the area served by the school is a community, the minor authority in relation to the school is the community council.
- (4) Where the area served by the school is an area falling within subsection (1)(b), the minor authority in relation to the school is the district council for the area.

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- (5) Where the area served by the school is an area falling within subsection (1)(c), the relevant authorities acting jointly are the minor authority in relation to the school.
- (6) In subsection (5) “the relevant authorities” means the bodies which, if the two or more constituent areas referred to in subsection (1)(c) were taken separately, would be the minor authorities for those areas.
- (7) References in this section to the area served by a school are references to the area appearing to the local education authority to be served by the school.

### 578 Meaning of “the Education Acts”.

In this Act “the Education Acts” means this Act together with the following Acts—

- the <sup>M130</sup>Education Act 1962;
- the <sup>M131</sup>Education Act 1967;
- the <sup>M132</sup>Education Act 1973;
- the <sup>M133</sup>Education Act 1980;
- the <sup>M134</sup>Education (Fees and Awards) Act 1983;
- the <sup>M135</sup>Further Education Act 1985 (except sections 4 and 5);
- the <sup>M136</sup>Education Act 1986;
- the <sup>M137</sup>Education (No. 2) Act 1986;
- the <sup>M138</sup>Education Reform Act 1988;
- the <sup>M139</sup>Education (Student Loans) Act 1990;
- the <sup>M140</sup>School Teachers’ Pay and Conditions Act 1991;
- the <sup>M141</sup>Further and Higher Education Act 1992;
- the <sup>M142</sup>Education Act 1994;
- the <sup>M143</sup>Education (Student Loans) Act 1996;
- the <sup>M144</sup>Nursery Education and Grant-Maintained Schools Act 1996;
- the <sup>M145</sup>School Inspections Act 1996.
- [<sup>F112</sup>the <sup>M146</sup>Education Act 1997.]
- [<sup>F113</sup>the <sup>M147</sup> Education (Schools) Act 1997]
- [<sup>F114</sup>the <sup>M148</sup>Education (Student Loans) Act 1998]

#### Textual Amendments

- F112** Entry in s. 578 added (14.6.1997) by 1997 c. 44, ss. 57(1), 58(2), **Sch. 7 para. 42**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt. I**
- F113** Entry in s. 578 inserted (31.7.1997) by 1997 c. 59, ss. 6(2), 7(2)(3)
- F114** Entry in s. 578 inserted (27.1.1998) by 1998 c. 1, ss. 6(1), 7(2) (which insertion falls (13.8.1998) by reason of the repeal of 1998 c. 1 by 1998 c. 30, s. 44(2), **Sch.4** (with s. 42(8)); S.I. 1998/2004, **art.2** (with art. 3))

#### Marginal Citations

- M130** 1962 c. 12.
- M131** 1967 c. 3.
- M132** 1973 c. 16.
- M133** 1980 c. 20.
- M134** 1983 c. 40.
- M135** 1985 c. 47.

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M136 1986 c. 40.  
M137 1986 c. 61.  
M138 1988 c. 40.  
M139 1990 c. 6.  
M140 1991 c. 49.  
M141 1992 c. 13.  
M142 1994 c. 30.  
M143 1996 c. 9.  
M144 1996 c. 50.  
M145 1996 c. 57.  
M146 1997 c. 44.  
M147 1997 c. 59.  
M148 1998 c. 1

## 579 General interpretation.

(1) In this Act, unless the context otherwise requires—

“the appropriate further education funding council” has the meaning given by section 1(6) of the Further and Higher Education Act 1992;

“boarder” includes a pupil who boards during the week but not at weekends;

“child” means a person who is not over compulsory school age;

“clothing” includes footwear;

“exclude”, in relation to the exclusion of a pupil from a school (otherwise than under section 524), means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly);

“financial year” means a period of twelve months ending with 31st March;

“functions” includes powers and duties;

“governing body” or “governors” (without more), in relation to a voluntary school and any function conferred or imposed by this Act exclusively on the foundation governors of such a school, means the foundation governors of the school;

“head teacher” includes acting head teacher;

“higher education” means education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988;

“land” includes buildings and other structures, land covered with water, and any interest in land;

“liability” includes obligation;

“local authority” means a county council, a county borough council, a district council, a London borough council or the Common Council of the City of London;

“the local education authority”—

(a) in relation to a school maintained (or proposed to be maintained) by a local authority, means (in accordance with section 34(1)) that authority; and

(b) in relation to a grant-maintained school, means the local education authority for the area in which the school is situated;

“local government elector” has the meaning given by section 270(1) of the <sup>M149</sup>Local Government Act 1972;

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“medical officer”, in relation to a local education authority, means a registered medical practitioner who is employed or engaged (whether regularly or for the purposes of any particular case) by the authority or whose services are made available to the authority by the Secretary of State;

“modifications” includes additions, alterations and omissions and “modify” shall be construed accordingly;

“premises”, in relation to a school, includes any detached playing fields but, except where otherwise expressly provided, does not include a teacher’s dwelling-house;

“prescribed” means prescribed by regulations;

“proprietor”, in relation to a school, means the person or body of persons responsible for the management of the school (so that, in relation to a county, voluntary or grant-maintained school, it means the governing body);

“reception class” means a class in which education is provided which is suitable to the requirements of pupils aged five and any pupils under or over that age whom it is expedient to educate with pupils of that age;

“regulations” means regulations made by the Secretary of State;

“relevant age group”, in relation to a school, means an age group in which pupils are normally admitted (or, as the case may be, will normally be admitted) to the school;

“school buildings”, in relation to a school, means any building or part of a building forming part of the school premises, other than a building or part required only—

- (a) as a caretaker’s dwelling,
- (b) for use in connection with playing fields,
- (c) to afford facilities for enabling the Secretary of State facilities to carry out his functions under section 5(1) or (1A) of, and Schedule 1 to, the <sup>M150</sup>National Health Service Act 1977 (which relate to the provision of medical and dental services for pupils), or
- (d) to afford facilities for providing milk, meals or other refreshment for pupils in attendance at the school;

“school day”, in relation to a school, means any day on which at that school there is a school session;

[<sup>F115</sup>“school year”, in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first such term to begin after the following July;]

“trust deed”, in relation to a voluntary school, includes any instrument (other than an instrument of government or articles of government made under this Act) regulating the constitution of the school’s governing body or the maintenance, management or conduct of the school;

“young person” means a person over compulsory school age but under the age of 18.

- (2) References in this Act to an interest in land include any easement, right or charge in, to or over land.
- (3) For the purposes of this Act children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class.
- (4) For the purposes of this Act a person shall be treated as belonging, or as not belonging, to the area of a particular local education authority in accordance with regulations;

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and any question under the regulations shall, in the case of a dispute, be determined by the Secretary of State.

- (5) For the purposes of this Act a school shall be regarded as “assisted” by a local education authority who do not maintain it if the authority make to its proprietor any grant in respect of the school or any payment in consideration of the provision of educational facilities there.
- (6) Subject to subsection (7), an institution other than a school shall be regarded for the purposes of this Act as “assisted” by a local education authority if the authority make to the persons responsible for its maintenance any grant in respect of the institution or any payment in consideration of the provision of educational facilities there.
- (7) Neither—
- (a) a university, nor
  - (b) any institution within the further education sector or within the higher education sector other than a university,

shall be regarded for the purposes of this Act as “assisted” by a local education authority by virtue of the making by the authority to the persons responsible for the maintenance of the university or institution of any grant or payment such as is mentioned in subsection (6).

#### Textual Amendments

**F115** Definition in s. 579(1) inserted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.43**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt. I**

#### Marginal Citations

**M149** 1972 c. 70.  
**M150** 1977 c. 49.

## 580 Index.

The expressions listed in the left-hand column below are defined by, or (as the case may be) are to be interpreted in accordance with, the provisions of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
admission authority (in Chapter I of Part VI)	section 415
admitted to a school for nursery education	section 579(3)
aggregated budget (in Part II)	sections 101(3) and 105
agreed syllabus	section 375(2) and (4)
aided school	section 32(1) and (3)
allocation formula (in Part II)	section 106(2)
alteration (of school premises) and alterations (in relation to such premises)	section 573(2)

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annual parents' meeting (in Chapter VI of Part II)	section 162(1)
appropriate diocesan authority (in Part III in relation to a Church of England, Church in Wales or Roman Catholic Church school)	section 311(1)
appropriate further education funding council	section 579(1)
area (of a local education authority)	section 12(6)
articles of government	
(in relation to a county, voluntary or maintained special school)	section 127(1)
(in relation to a grant-maintained school)	section 218(1)
(in relation to a grant-maintained special school)	paragraph 1 of Schedule 28
(in relation to a group of grant-maintained schools)	section 280(2)
assess (in Part V)	section 350(2)
assessment arrangements (in Part V)	section 353
assisted (in relation to a school or other institution)	section 579(5) to (7)
F116	...
...	
attainment targets (in Part V)	section 353
authority responsible for election arrangements (in Chapter V of Part III)	section 243(2)
belonging to the area of a local education authority (in relation to a person)	section 579(4)
boarder	section 579(1)
budget share (in Part II)	section 101(3) and (6)
capital grant (in relation to grant-maintained schools)	section 246(1) (or section 252)
cease to maintain (in relation to a school)	section 574
the chairmen's panel (in Part IV)	section 333(2)
change in character (in relation to a school)	section 573(4)
character (of a school) (in Part III)	section 311(4)
child	
(generally)	section 579(1)
(in Part IV)	section 312(5)

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[ <sup>F117</sup> (in Chapter I of Part VI except sections 431 to 433)	section 411(8)]
child for whom a local education authority are responsible (in Part IV)	section 321(3)
Church in Wales school	section 311(1)
Church of England school	section 311(1)
city college for the technology of the arts	section 482(3)
city technology college	section 482(3)
clothing	section 579(1)
commencement of this Act	section 583(2)
compulsory school age	section 8 (or paragraph 1 of Schedule 40)
contract of employment (in relation to provisions specified in section 575(2))	section 575(1)
controlled school	section 32(1) and (2)
co-opted governor (in relation to a county, voluntary or maintained special school)	section 78(1)
core governor	section 285 and Schedule 25
county school	section 31(1)
date of implementation	
(in Part III in relation to proposals for acquisition of grant-maintained status)	section 200(2)
(in Part III in relation to a new grant-maintained school)	section 217
date of publication of proposals (in Part III in relation to proposals under that Part)	section 311(6)
delegation requirement (in Part II)	section 107(2)
discontinue (in relation to a school)	section 574
disposal of premises (in sections 297 to 300)	section 301(3)
dissolution date (in sections 274 to 279)	section 274(6)
the Education Acts	section 578
eligible for grant-maintained status (in Part III)	section 184
eligible governor (in Part III)	paragraph 4 of Schedule 24
eligible to vote in a ballot held in accordance with section 189 (in Chapter II of Part III)	section 190(1)

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employed, employee, employer (in relation to provisions specified in section 575(2))	section 575(1)
employed to work, or to work solely, at a school (in relation to provisions specified in section 575(2))	section 575(3)
employee (in sections 469 to 473)	section 469(6)
enlargement (in relation to school premises)	section 573(3)
establish (in relation to a new school)	section 574
examination requirement (in Chapter III of Part VI)	section 462(1)
exclude, exclusion (except in section 524)	section 579(1)
financial year	section 579(1)
first governor (in relation to a grant-maintained school)	paragraphs 7 and 12 of Schedule 24
foundation governor (in relation to a voluntary school)	section 78(2)
(in relation to a grant-maintained school)	paragraphs 8 and 13 of Schedule 24
foundation subjects	section 354(1) and (2)
functions	section 579(1)
funding authority	section 26
further education	section 2(3) to (5)
general schools budget (in Part II)	section 101(3)
governing body, governor (in Chapters IV to VI of Part II)	section 182
(in relation to a school grouped for purposes of Chapter IV of Part II)	section 89(6)
(in relation to a voluntary school and functions of foundation governors)	section 579(1)
governing body in liquidation (in sections 274 to 279)	section 274(3)
governor of an elected category (in Part III)	paragraph 3 of Schedule 24
governors' report (in Chapter VI of Part II)	section 161(1)
grant-maintained school (generally)	section 183(1)



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(in sections 500 to 504)	section 505(8)
grant-maintained school formerly conducted by a governing body in liquidation (in sections 274 to 279)	section 274(5)
grant-maintained special school	sections 337(4) and 346(3)
grant regulations (in Chapter VI of Part III)	section 244(2)
grants for education support and training	section 484(1)
group (of schools)	
(in Part II)	section 89(5)
(in Chapter IX of Part III)	section 280(7)
head teacher	
(generally)	section 579(1)
(in relation to a county, voluntary or maintained special school organised into separate departments)	section 132
higher education	section 579(1)
incorporation date	
(in Chapter II of Part III)	section 200(5)
(in Chapter IV of Part III)	section 217
(in Part IV)	section 345(3)
independent school	section 463
initial governor (in Part III)	paragraph 2 of Schedule 24
institution outside (or within) the further education sector	section 4(3)
institution outside (or within) the higher education sector	section 4(4)
instrument of government	
(in relation to a county, voluntary or maintained special school)	section 76(1)
(in relation to a grant-maintained school)	section 218(1)
(in relation to a grant-maintained special school)	paragraph 1 of Schedule 28
(in relation to a group of grant-maintained schools)	section 280(2)
interest in land	section 579(2)
junior pupil	section 3(2)
key stage	section 355(1)

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land	section 579(1)
the lay panel (in Part IV)	section 333(2)
learning difficulty	section 312(2) and (3)
liability	section 579(1)
local authority	section 579(1)
local education authority	section 12(1) to (5)
the local education authority	
(generally)	section 579(1)
(in relation to a scheme under Part II)	section 101(2)
local government elector	
(generally)	section 579(1)
(in Part III in relation to an area)	section 311(7)
maintain (in relation to a school maintained by a local education authority)	section 34
maintained school	
(in Part IV)	section 312(5)
(in Part V)	section 350(1)
(in Chapter II of Part VI)	section 437(8)
(in Chapter III of Part VI)	section 449
(in sections 500 to 504)	section 505(8)
maintained nursery school	sections 6(1) and 33(1)
maintained special school	sections 6(2), 33(1) and 337(3)
maintenance grant (in relation to grant-maintained schools)	section 244(1) (or section 250(1))
medical officer (in relation to a local education authority)	section 579(1)
minor authority	section 577
middle school	section 5(3)
modifications, modify	section 579(1)
the National Curriculum	sections 352(1) and 353
new governing body (in Part III)	section 195(2)
new school (in Part II)	section 181(1)
nursery school	section 6(1)
optional extra (in Chapter III of Part VI)	section 455(3)
parent	section 576

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parent governor	
(in relation to a county, voluntary or maintained special school)	section 78(3)
(in relation to a grant-maintained school)	paragraphs 5 and 10 of Schedule 24
F116	...
...	
F116	...
...	
pending	
(in Part III in relation to proposals published under section 193)	section 193(4)
(in Chapter III of Part III in relation to the procedure for acquisition of grant-maintained status)	section 203(1)
powers to make proposals for the alteration of their school (in sections 500 to 504 in relation to the governing body of a voluntary school)	section 505(7)
powers to make proposals for the establishment, alteration or discontinuance of schools (in sections 500 to 504)	section 505(8)
premises	
(in relation to a school)	section 579(1)
(in Part III)	section 311(1)
prescribed	section 579(1)
the President (in Part IV)	section 333(2)
primary education	section 2(1)
primary school	section 5(1)
programmes of study (in Part V)	section 353
proceeds of disposal (in sections 297 to 300)	section 301(3)
procedure applicable under Chapter IV of Part II (in Chapter V of Part III)	section 243(3)
promoters (in Part III)	section 212(1)
proposals (in Chapter VII of Part III)	section 266(2)
proposals for acquisition of grant-maintained status (in Part III)	section 183(2)
proposals for the establishment of a new grant-maintained school (in Part III)	section 183(2)

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proprietor (in relation to a school)	section 579(1)
prospectively disqualified (in Chapter V of Part III)	section 243(4)
provisionally registered school (in Part VII)	section 465(4)
pupil	sections 3(1) and 19(5)
reception class	section 579(1)
register, registration (in Part VII in relation to independent schools)	section 464(4)
registered (in relation to parents or pupils)	section 434(5)
registered school (in Part VII)	section 465(4)
Registrar of Independent Schools (or the Registrar in Part VII)	section 464(4)
regulations	section 579(1)
relevant age group	section 579(1)
relevant education (in relation to an order under section 27(1))	section 27(7)
relevant particulars (in relation to a proposed initial governor of a grant-maintained school)	section 200(4)
relevant proposals (in Part II)	section 181(2)
relevant standard number (in Chapter I of Part VI)	section 411(7)
required to be covered by a scheme (in Part II in relation to a school)	section 102
reserved teacher (in Chapter VI of Part II in relation to a controlled school)	section 143(2)
reserved teacher (in Chapter VI of Part II in relation to a special agreement school)	section 144(1)
residential trip (in Chapter III of Part VI)	section 462(2)
responsible for a child (in Part IV in relation to a local education authority)	section 321(3)
right to a delegated budget (in Part II)	section 115(a)
Roman Catholic Church school	section 311(1)
scheme (in Part II)	section 101(1)
school	section 4(1) and (2)
school in respect of which financial delegation is required (in Part II)	section 115

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school which has a delegated budget (in Part II)	section 115
school attendance order	section 437(3)
school buildings	section 579(1)
school day	section 579(1)
school property (in sections 274 to 279)	section 274(4)
[ <sup>F118</sup> school year	section 579(1)]
secondary education	section 2(2) and (5)
secondary school	section 5(2)
section 67 loan liabilities (in sections 274 to 279)	section 274(7)
senior pupil	section 3(2)
sex education	section 352(3)
significant (in relation to a change in character or enlargement of premises of a school)	section 573(5)
special agreement	section 32(5)
special agreement school	section 32(1) and (4)
special educational needs	section 312(1)
special educational provision	section 312(4)
special purpose grant (in relation to grant-maintained schools)	section 245(1) (or section 251)
special school	sections 6(2) and 337
sponsor governor (in Part III)	paragraphs 9 and 14 of Schedule 24
suitable education (in Chapter II of Part VI)	section 437(8)
teacher governor	
(in relation to a county, voluntary or maintained special school)	section 78(4)
(in relation to a grant-maintained school)	paragraphs 6 and 11 of Schedule 24
temporary governing body, temporary governor (in Part II)	section 181(3)
time of publication of proposals (in Part III in relation to proposals under that Part)	section 311(6)
the Tribunal (in Part IV)	section 313(5)
trust deed (in relation to a voluntary school)	section 579(1)

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trustees of the school (in sections 296 to 300)	section 301(2)
voluntary school	sections 31(2) and 32
[ <sup>F117</sup> wholly based on selection by reference to ability or aptitude (in Chapter I of Part VI)]	section 411(9)]
young person	section 579(1)

#### Textual Amendments

- F116** Entries in s. 580 repealed (1.9.1997) by 1997 c. 59, ss. 6(3), 7(3)(a), **Sch. Pt. I**
- F117** S. 580: entries inserted (1.9.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.44**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**
- F118** S. 580: entry inserted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 44**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt. I**

#### *Final provisions*

#### **581 Application to Isles of Scilly.**

This Act shall apply to the Isles of Scilly—

- (a) as if the Isles were a separate non-metropolitan county (and the Council of the Isles of Scilly were accordingly a county council), and
- (b) subject to such other modifications as are specified in an order made by the Secretary of State.

#### **582 Consequential amendments, repeals, transitional provisions etc.**

- (1) The enactments specified in Schedule 37 are amended in accordance with that Schedule, the amendments being consequential on the provisions of this Act.
- (2) The enactments and instruments specified in Schedule 38 are repealed or revoked to the extent specified.
- (3) The transitional and saving provisions contained in Schedule 39 shall have effect.
- (4) The transitory provisions contained in Schedule 40 shall have effect.

#### Commencement Information

- I3** S. 582 wholly in force at 1.9.1997; s. 582(1) in force at 1.11.1996 so far as relating to Sch. 37 Pt. I; s. 582(2) in force at 1.11.1996 so far as relating to Sch. 38 Pts. I, III; s. 582(3)(4) in force at 1.11.1996 see s. 583(2); S. 582(1) in force at 1.9.1997 so far as relating to Sch. 37 Pt. II and s. 583(2) in force at 1.9.1997 so far as relating to Sch. 38 Pt. II by S.I. 1997/1623, art. 2(2)

#### **583 Short title, commencement and extent.**

- (1) This Act may be cited as the Education Act 1996.

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- (2) Subject to subsection (3), this Act shall come into force on 1st November 1996 (and references to the commencement of this Act are to its coming into force on that date).
- (3) The following provisions—  
section 8,  
section 317(6),  
section 348,  
section 528,  
Part II of Schedule 37 and section 582(1) so far as relating thereto, and  
Part II of Schedule 38 and section 582(2) so far as relating thereto,  
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) The Secretary of State may by order make such incidental, supplemental, saving or transitional provision as he thinks fit in connection with the coming into force in accordance with subsection (2) of any provision of this Act reproducing the effect of a provision of the <sup>M151</sup>Education Act 1993 which has not previously been brought into force by an order under section 308(3) of that Act (commencement).
- (5) Where an order under subsection (3) brings into force any provision of section 317(6) or 528, then in relation to the coming into force of that provision—  
(a) section 568(5) and (6) shall not apply to the order, but  
(b) the order may make such provision as is authorised to be made, by virtue of section 67(2) and (3) of the <sup>M152</sup>Disability Discrimination Act 1995 (regulations and orders), by an order under section 70(3) of that Act (commencement).
- (6) Subject to subsections (7) and (8), this Act extends to England and Wales only.
- (7) This section, section 493 and section 569 so far as relating to regulations under section 493 extend also to Scotland; and this section extends also to Northern Ireland.
- (8) Section 582 and Schedules 37 to 40 have the same extent as the enactments to which they relate.

#### Subordinate Legislation Made

- P2** S. 583(3) power partly exercised (19.11.1996); 1.1.1997 appointed for specified provisions by [S.I. 1996/2904, art. 2](#)  
S. 583(3) power partly exercised (30.6.1997); 1.9.1997 appointed for specified provisions by [S.I. 1997/1623, arts. 2, 3](#)  
S. 583(3) power partly exercised (20.10.1997); 30.9.1997 appointed for specified provisions by [S.I. 1997/2352, art. 2](#)

#### Marginal Citations

- M151** 1993 c. 35.  
**M152** 1995 c. 50.

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## SCHEDULES

### SCHEDULE 1

Section 19.

#### PUPIL REFERRAL UNITS

##### *General adaptations of enactments*

- 1 References in any enactment to the proprietor or governing body of a school shall be read, in relation to a pupil referral unit, as references to the local education authority.
- 2 References in any enactment to the head teacher of a school shall be read, in relation to a pupil referral unit, as references to the teacher in charge of the unit (whether known as the head teacher or not).

##### *Modifications of enactments by regulations*

- 3 Regulations may provide for any enactments relating to schools maintained by local education authorities (or schools including such schools)—
  - (a) to apply in relation to pupil referral units,
  - (b) to apply in relation to such units with such modifications as may be prescribed, or
  - (c) not to apply in relation to such units.

##### *Registration*

- 4 (1) A person who is registered as a pupil at a school other than a pupil referral unit shall not, by reason only of being registered also as a pupil at such a unit, cease for the purposes of the Education Acts to be treated as a registered pupil at that school.  
(2) In this Schedule “registered” means shown in the register kept under section 434.

##### *Application of Local Government Act 1986*

- 5 A pupil referral unit is a maintained school for the purposes of section 2A(1)(b) of the <sup>M153</sup>Local Government Act 1986 (prohibition on promoting homosexuality).

#### **Marginal Citations**

**M153** 1986 c. 10.

##### *Curriculum*

- 6 (1) Section 370(1) (duty of LEA to state policy) applies in relation to pupil referral units as it applies in relation to county schools.



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- (2) In relation to every pupil referral unit, the Secretary of State, the local education authority and the teacher in charge shall exercise their functions with a view to securing that the curriculum for the unit satisfies the requirements of section 351 (balanced and broadly based curriculum) and of any other enactment which applies to the curriculum for pupil referral units.
- (3) Each local education authority shall, with the approval of the Secretary of State, make arrangements for the consideration and disposal of any complaint to the effect that the authority, or the teacher in charge of any pupil referral unit—
  - (a) have acted or are proposing to act unreasonably with respect to the exercise of any power conferred, or the performance of any duty imposed, on them by or under any enactment referred to in sub-paragraph (2) above, or
  - (b) have failed to discharge any such duty.
- (4) The Secretary of State shall not entertain under section 496 or 497 (power to prevent unreasonable exercise of functions; general default powers) any complaint in respect of any local education authority if it is a complaint—
  - (a) for which arrangements are required to be made under sub-paragraph (3) above, or
  - (b) that a local education authority have failed to exercise their powers to secure compliance by the teacher in charge of a pupil referral unit with any such duty as is referred to in that sub-paragraph,unless a complaint in respect of the local education authority or, as the case may be, the teacher in charge of the unit has been made in respect of the same matter and disposed of in accordance with arrangements under that sub-paragraph.

#### *Discipline*

- 7 The teacher in charge of a pupil referral unit may exclude a pupil from the unit on disciplinary grounds .

#### *Sex education, political indoctrination and political issues*

- 8 Sections 403, 406 and 407 (sex education, political indoctrination, and treatment of political issues) apply in relation to pupil referral units as they apply in relation to county schools.

#### *Charges*

- 9 (1) Chapter III of Part VI applies in relation to pupil referral units as if the references to governing bodies were omitted.
- (2) Section 458(2)(b) (charges for board and lodging) shall have effect in relation to a pupil provided with board and lodging at a unit as if after “that” there were inserted “for the time being”.

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### *Application of Environmental Protection Act 1990*

- 10 A pupil referral unit is an educational institution for the purposes of Part IV of the <sup>M154</sup>Environmental Protection Act 1990 (litter).

#### **Marginal Citations**

**M154** 1990 c. 43.

### *Information*

- 11 Each local education authority shall—
- (a) on such occasions, and
  - (b) in such form and manner,
- as may be prescribed, make available to registered parents of registered pupils at any pupil referral unit such information about the unit as may be prescribed.

### *Disapplication of Schedule 4*

- 12 Schedule 4 (distribution of functions where order made under section 27) does not apply in relation to pupil referral units or the provision for pupils at such units of board and lodging (whether at units or elsewhere).

### *Children with special educational needs*

- 13 Sections 317(1) to (4), 318 and 324(5)(b), and paragraph 3(4) of Schedule 27, apply in relation to pupil referral units as they apply in relation to maintained schools.

### *School attendance orders*

- 14 (1) Where a pupil referral unit is named in a school attendance order—
- (a) the local education authority shall inform the teacher in charge of the unit, and
  - (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the unit, that authority shall admit the child to the unit;
- but paragraph (b) above does not affect any power to exclude from a unit a pupil who is already a registered pupil there.
- (2) Section 438(4) does not apply in relation to a pupil referral unit.
- (3) A local education authority—
- (a) shall, before deciding to specify a particular pupil referral unit in a notice under section 438(2) where another local education authority are responsible for determining the arrangements for the admission of pupils to the unit, consult that authority; and
  - (b) if they decide to specify the unit in the notice, shall serve notice in writing of their decision on that authority.

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- (4) Section 439(7) and (8) apply where a notice is served on a local education authority under sub-paragraph (3) above as they apply where notice is served under section 439(6).
- (5) The parent of a child in respect of whom a school attendance order is in force may not under section 440 request the local education authority to amend the order by substituting a pupil referral unit for the school named in the order.
- (6) Where a child is a registered pupil at both a pupil referral unit and at a school other than a unit, the references in section 444 to the school at which he is a registered pupil shall be read as references to the unit.

*[<sup>F119</sup>Management committees]*

**Textual Amendments**

**F119** Sch. 1 para. 15 and cross heading added (1.12.1997) by virtue of 1997 c. 44, s.48; S.I. 1997/1468, art. 2(5), Sch. 1 Pt.V

- <sup>F120</sup>15 (1) Regulations may make provision—
- (a) for requiring any local education authority who maintain a pupil referral unit to establish a committee to act as the management committee for the unit; and
  - (b) for that committee to discharge on behalf of the authority such of their functions in connection with the unit as are delegated by them to the committee in accordance with the regulations.
- (2) Regulations under this paragraph may in particular make provision—
- (a) for enabling a local education authority to establish a joint committee to act as the management committee for two or more pupil referral units maintained by the authority;
  - (b) for requiring the approval of the Secretary of State to be obtained before any such joint committee is established;
  - (c) as to the composition of a management committee established under the regulations and—
    - (i) the appointment and removal of its members, and
    - (ii) their terms of office,and in particular for requiring such a committee to include persons representing schools (including grant-maintained schools) situated in the area from which the unit or units in question may be expected to draw pupils;
  - (d) for requiring or (as the case may be) prohibiting the delegation by a local education authority to a management committee of such functions in connection with pupil referral units as are specified in the regulations;
  - (e) for authorising a management committee to establish sub-committees;
  - (f) for enabling (subject to any provisions of the regulations) a local education authority or a management committee to determine to any extent the committee's procedure and that of any sub-committee;
  - (g) for limiting the personal liability of members of any such committee or sub-committee in respect of their acts or omissions as such members;

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- (h) for applying to any such committee or sub-committee, with or without modification—
- (i) any provision of the Education Acts, or
  - (ii) any provision made by or under any other enactment and relating to committees or (as the case may be) sub-committees of a local authority.

#### Textual Amendments

**F120** Sch. 1 para. 15 and cross heading added (1.12.1997) by virtue of 1997 c. 44, s.48; S.I. 1997/1468, art. 2(5), Sch. 1 Pt.V

## SCHEDULE 2

Sections 20 and 21.

### THE FUNDING AUTHORITIES

#### *Status*

- 1 A funding authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the authority shall not be regarded as property of, or property held on behalf of, the Crown.

#### *Powers*

- 2 (1) Subject to sub-paragraph (2) below, a funding authority may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—
- (a) acquiring and disposing of land and other property,
  - (b) entering into contracts,
  - (c) investing sums not immediately required for the purpose of the discharge of their functions, and
  - (d) accepting gifts of money, land or other property.
- (2) A funding authority shall not borrow money.
- 3 (1) The Secretary of State may authorise a funding authority to purchase compulsorily any land required for the purpose of implementing any proposals under section 211, 212 or 260 (establishment or change in character of grant-maintained school) which are required to be implemented.
- (2) The <sup>M155</sup>Acquisition of Land Act 1981 shall apply to compulsory purchase under this paragraph.

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**Marginal Citations**

M155 1981 c. 67.

*Tenure of members*

- 4 (1) A person shall hold and vacate office as a member of a funding authority in accordance with the terms of his appointment and, on ceasing to be a member, shall be eligible for re-appointment.
- (2) A member of a funding authority may at any time resign his office by notice in writing to the Secretary of State.
- 5 If the Secretary of State is satisfied that a member of a funding authority—
- (a) has been absent from meetings of the authority for a period longer than six consecutive months without the permission of the authority, or
  - (b) is unable or unfit to discharge the functions of a member,
- the Secretary of State may, by notice in writing to that member, remove him from office and thereupon the office shall become vacant.

*Salaries, allowances and pensions*

- 6 (1) A funding authority—
- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine, and
  - (b) shall, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of a funding authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the authority to make to that person a payment of such amount as the Secretary of State may determine.
- (3) A funding authority shall pay to the members of any of their committees who are not members of the authority such travelling, subsistence and other allowances as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

*Staff*

- 7 (1) A funding authority may, with the approval of the Secretary of State as to numbers, appoint such employees as they think fit on such terms and conditions as to remuneration and other matters as the authority may determine.

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- (2) A determination under sub-paragraph (1) above requires the approval of the Secretary of State given with the consent of the Treasury.
- (3) An employee of a funding authority may not be appointed as a member of the authority, and a member of a funding authority may not be appointed as an employee of the authority.

#### *Chief officer*

- 8 (1) One of the employees of a funding authority shall be the chief officer.
- (2) The first chief officer shall be appointed by the Secretary of State on such terms and conditions as to remuneration and other matters as the Secretary of State may with the consent of the Treasury determine.
- (3) Each subsequent chief officer shall be appointed by the authority with the approval of the Secretary of State.

#### *Superannuation of employees*

- 9 (1) Employment with a funding authority shall continue to be included among the kinds of employment to which a scheme under section 1 of the <sup>M156</sup>Superannuation Act 1972 can apply.
- (2) A funding authority shall pay to [<sup>F121</sup>the Minister for the Civil Service], at such times as [<sup>F122</sup>he] may direct, such sums as [<sup>F122</sup>he] may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (3) Where an employee of a funding authority ceases to be such an employee and becomes a member of the authority and was by reference to his employment by the authority a participant in a scheme under section 1 of that Act, the Treasury may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the authority (whether or not any benefits are payable to him by virtue of paragraph 6 above).

#### **Textual Amendments**

**F121** Words in Sch. 2 para. 9(2) substituted (retrospectively) by 1997 c. 44, s. 57(1), **Sch. 7 para. 45(a)**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt. I** (which Sch. 7 para. 45 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F122** Words in Sch. 2 para. 9(2) substituted (retrospectively) by 1997 c. 44, s. 57(1), **Sch. 7 para. 45(b)**; S.I. 1997/1468, art. 2(1), **Sch. 1 Pt. I** (which Sch. 7 para. 45 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

#### **Marginal Citations**

**M156** 1972 c. 11.

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### *Committees*

- 10 (1) A funding authority may establish a committee for any purpose.
- (2) The authority shall fix the number of the members which a committee established under this paragraph may have, and the terms on which they are to hold and vacate office.
- (3) A committee may include persons who are not members of the authority.
- (4) The authority shall keep under review the structure of committees established by them under this paragraph and the scope of each committee's activities.

### *Delegation of functions*

- 11 A funding authority may authorise the chairman, the chief officer or any committee established by them under paragraph 10 above to exercise such of their functions as they may determine.

### *Proceedings*

- 12 Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to a funding authority under section 25—
- (a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the authority or of any of their committees, and
- (b) the authority shall provide the Secretary of State with such copies of any documents distributed to members of the authority or of any of their committees as he may require.
- 13 The validity of any proceedings of a funding authority or of any of their committees shall not be affected by a vacancy amongst the members or by any defect in the appointment of a member.
- 14 Subject to the preceding provisions of this Schedule, a funding authority may regulate their own procedure and that of any of their committees.

### *Accounts*

- 15 (1) A funding authority shall—
- (a) keep proper accounts and proper records in relation to the accounts;
- (b) prepare a statement of accounts in respect of each financial year of the authority; and

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- (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information contained in it is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared,
- and shall contain such additional information as the Secretary of State may with the approval of the Treasury require to be provided for the information of Parliament.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the date on which the authority is established and ending with the next following 31st March, and each successive period of twelve months.

*Application of seal and proof of instruments*

- 16 The application of the seal of a funding authority shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specifically by the authority to act for that purpose, and
  - (b) of one other member.
- 17 Any document purporting to be an instrument made or issued by or on behalf of a funding authority and to be—
- (a) duly executed under their seal, or
  - (b) signed or executed by a person authorised by the authority to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 3

Section 22.

TRANSFER TO FUNDING AUTHORITY OF FUNCTIONS OF SECRETARY OF STATE

*Functions relating to grant-maintained schools*

- 1 (1) The Secretary of State may by order provide for any of his functions under the provisions of this Act mentioned in sub-paragraph (2) to be exercisable instead by



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a funding authority, either generally or in such circumstances as may be specified in the order.

<sup>F123</sup>(2) Those provisions are—

- (a) sections 220 and 221 (alterations to instruments and articles of government);
- (b) section 231(6) (consent to borrowing);
- (c) section 233 (making and varying joint schemes);
- (d) section 302 (variation of trust deeds);
- (e) paragraph 5 of Schedule 21 (transitional powers of governing bodies); and
- (f) paragraph 15 of Schedule 22 (approval of schemes for payment of allowances to governors).

(3) An order under this paragraph may—

- (a) confer or impose such related functions on the funding authority, and
  - (b) provide for Part III of this Act to have effect with such modifications,
- as the Secretary of State considers necessary or desirable in connection with any transfer of any functions under the provisions of this Act mentioned in subparagraph (2).

#### Textual Amendments

**F123** [Sch. 3 para. 1\(2\)](#): powers under s. 231(6) of this Act as mentioned in Sch. 3 para. 1(2) transferred to the Funding Agency for Schools (E.) (5.3.1997) by [S.I. 1997/294](#), [art.3](#)

#### *Functions under agreements relating to CTCs and CCTAs*

- 2 (1) The Secretary of State may by order provide—
- (a) for a funding authority to exercise the function of making and receiving payments under all or any of the agreements which he has entered into or may enter into under section 482 (CTCs and CCTAs); and
  - (b) for any such agreement to have effect accordingly.
- (2) Any sums received by a funding authority in the exercise of those functions shall be paid to the Secretary of State.

#### *Functions in respect of grants for certain expenditure due to ethnic minority population*

- 3 (1) The Secretary of State may by order impose on a funding authority the function of paying on his behalf grants under section 11 of the <sup>M157</sup>Local Government Act 1966 (grants in respect of ethnic minority population) so far as payable by him by virtue of section 490 (grants to grant-maintained schools, CTCs and CCTAs).
- (2) The payments shall be of such amounts and be paid to such persons as the Secretary of State may, in accordance with section 11 of the Local Government Act 1966, determine.

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**Marginal Citations**

M157 1966 c. 42.

SCHEDULE 4

Section 27.

DISTRIBUTION OF FUNCTIONS WHERE ORDER MADE UNDER SECTION 27

**PART I**

INTRODUCTORY

- 1 (1) Where an order under section 27 is in force, the Education Acts shall have effect subject to—
- (a) this Schedule, and
  - (b) the provisions of this Act which modify the effect of any provision of those Acts, or confer new functions, in respect of any area to which such an order applies.
- (2) In particular, to the extent that this Schedule governs the payments to be made to any local education authority or the governing body of any grant-maintained school in respect of charges by that authority or body for the provision of board and lodging (at a boarding school or otherwise than at school), section 458(2) to (5) and section 514(5) (charges) shall not apply.
- (3) In this Schedule—
- (a) sections 458(1) and 514(4) are referred to as the “existing charging provisions”; and
  - (b) “maintained school” means any county or voluntary school or any maintained special school not established in a hospital.

**PART II**

FUNCTIONS WHERE RESPONSIBILITY FOR PROVIDING SUFFICIENT SCHOOL PLACES IS SHARED

*Introductory*

- 2 If an order under section 27(1)(a) applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

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### *Responsibility for providing sufficient school places*

- 3
- (1) If the schools providing relevant education which are available for the area are not sufficient, the funding authority shall, for the purpose of securing the availability of sufficient schools providing such education for the area, exercise their powers to make proposals for the establishment, alteration and discontinuance of schools.
  - (2) In performing that duty, the funding authority shall have regard to the need for securing that special educational provision is made for pupils who have special educational needs.
  - (3) The schools available for any area shall not be treated as sufficient for the purposes of this paragraph unless they are sufficient for the purposes of section 14(1) (duty of local education authority to secure availability of schools).
  - (4) Nothing in this paragraph requires a funding authority to take any action where to do so would not be an effective use of their resources.
  - (5) In this paragraph “powers to make proposals for the establishment, alteration and discontinuance of schools” means all or any of the powers to publish proposals under sections 211, 260 or 268 or give notice of proposals under section 339.

## **PART III**

### **FUNCTIONS WHERE RESPONSIBILITY FOR PROVIDING SUFFICIENT SCHOOL PLACES IS TRANSFERRED**

#### *Introductory*

- 4
- If an order under section 27(1)(b) applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

### *Responsibility for providing sufficient school places*

- 5
- (1) The duty under section 14(1) shall be discharged by the funding authority instead of the local education authority.
  - (2) In discharging that duty the funding authority shall, in particular, have regard to the matters referred to in section 14(6)(b) (provision for pupils who have special educational needs).
  - (3) The funding authority may provide board and lodging otherwise than at school for pupils at maintained or grant-maintained schools; and, where the authority do so, the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the authority not exceeding the cost to the authority of the provision.
  - (4) Where the governing body of a grant-maintained school provide board and lodging at the school for pupils there, the parents of the pupils concerned shall, subject to

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the following provisions of this Schedule, pay charges to the governing body not exceeding the cost to the governing body of the provision.

- 6 (1) The local education authority may continue to secure the provision of relevant education falling within section 14(1) and (subject to paragraph 7) to secure the provision of schools for that purpose.
- (2) In exercising those powers the local education authority shall, in particular, have regard to the matters referred to in section 14(6) (which include the separation of primary and secondary education, and the provision of boarding accommodation for those for whom boarding is desirable).
- (3) Where the local education authority—
- (a) provide board and lodging at a maintained school for pupils there, or
  - (b) provide board and lodging otherwise than at school for pupils at maintained or grant-maintained schools,
- the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the authority not exceeding the cost to the authority of the provision.

*Powers to establish, maintain and alter schools*

- 7 (1) The local education authority may not exercise the power under section 16 to establish any school, or to begin to maintain as a county school any school which is not such a school, (in both cases referred to in this paragraph as “the school in question”) unless—
- (a) under sections 167 to 171 or section 173 their duty to maintain one or more other schools ceases; and
  - (b) the school in question is intended to provide education for pupils in the area which was served by the other school or (as the case may be) the other schools.
- (2) This paragraph does not apply—
- (a) to special schools;
  - (b) to nursery schools;
  - (c) where relevant education is only primary education, if the school in question is or will be a secondary school which also provides primary education; or
  - (d) where relevant education is only secondary education, if the school in question is or will be a primary school which also provides secondary education.
- 8 (1) No proposals in respect of any school (referred to in this paragraph as “the school in question”) published under section 41(1) (proposal that existing or proposed school should be maintained as a voluntary school) may be implemented unless—
- (a) under sections 167 to 171 or section 173 the duty of the local education authority to maintain one or more other schools ceases; and

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- (b) the school in question is intended to provide education for pupils in the area which was served by the other school or (as the case may be) the other schools.

(2) This paragraph does not apply—

- (a) where relevant education is only primary education, if the school in question is or will be a secondary school which also provides primary education; or
- (b) where relevant education is only secondary education, if the school in question is or will be a primary school which also provides secondary education.

#### *Charges for board and lodging or independent education*

9 (1) Sub-paragraph (3) below applies where—

- (a) any pupil of compulsory school age ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school;
- (b) the funding authority are of the opinion that it is not practicable for the pupil to obtain admission to any maintained or grant-maintained school which is a reasonable distance from his home and provides efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have; and
- (c) the authority are of the opinion that it is appropriate for the pupil to be provided with the particular board and lodging or, as the case may be, education.

(2) Sub-paragraph (3) below also applies where—

- (a) any pupil ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school; and
- (b) the funding authority are of the opinion that—
  - (i) the conditions in sub-paragraph (1) above have been, but are no longer, met by reason only of the pupil having ceased to be of compulsory school age or sub-paragraph (1)(b) above having ceased to apply, and
  - (ii) it would not be desirable for the pupil to cease to be provided with the particular board and lodging or, as the case may be, education.

(3) Where this sub-paragraph applies—

- (a) if board and lodging is provided by the funding authority, no charge shall be payable to the authority under this Schedule in respect of the board and lodging;
- (b) if board and lodging is provided at a maintained or grant-maintained school or by a local education authority, the funding authority shall pay the whole of the charges payable to any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging; and
- (c) in any other case the funding authority shall pay the whole of the fees payable in respect of the board and lodging or, as the case may be, the education.

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- (4) This paragraph does not apply in the case of a pupil for whom a statement is maintained under section 324.
- 10 (1) This paragraph applies where any pupil ordinarily resident in the area is being provided—
- (a) with board and lodging (at a boarding school or otherwise than at school), or
  - (b) with education at a school which is not a maintained or grant-maintained school,
- but does not apply in any case where paragraph 9(3) applies.
- (2) If board and lodging is provided at a school maintained by the responsible education authority and the authority are of the opinion that it is desirable for the pupil to be provided with board and lodging, or board and lodging otherwise than at school is provided by the authority, then—
- (a) the authority may remit the whole or any part of the charges payable to them under this Schedule in respect of the board and lodging; and
  - (b) if they are of the opinion that, in order to avoid financial hardship to the pupil's parent, the parent should not pay the whole or any part of those charges, the authority shall remit the whole or, as the case may be, that part of those charges.
- (3) If board and lodging otherwise than at school is provided by the funding authority, or board and lodging is provided at a grant-maintained school or a school maintained by another local education authority, then—
- (a) the responsible education authority may pay the charges payable to the funding authority, or any local education authority or governing body, under this Schedule or the existing charging provisions in respect of the board and lodging; and
  - (b) if they are of the opinion that it is desirable for the pupil to be provided with board and lodging, they shall pay so much (if any) of those charges as in their opinion is required to be paid by them in order to avoid financial hardship to the parent.
- (4) In any other case to which this paragraph applies—
- (a) the local education authority may pay the whole of the fees payable in respect of the board and lodging or, as the case may be, the education; and
  - (b) if they are of the opinion that it is—
    - (i) desirable for the pupil to be provided with board and lodging, and
    - (ii) appropriate for him to be provided with the particular board and lodging,
 they shall pay so much (if any) of the fees payable in respect of board and lodging as in their opinion is required to be paid by them in order to avoid financial hardship to the parent; and
  - (c) if they are of the opinion that it is—
    - (i) desirable for the pupil to be provided with education otherwise than in a maintained or grant-maintained school, and
    - (ii) appropriate for him to be provided with the particular education,

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they shall pay so much (if any) of the fees payable in respect of the education as in their opinion is required to be paid by them in order to avoid financial hardship to the parent.

- (5) In this paragraph “the responsible education authority”, in relation to a pupil ordinarily resident in any area, means the local education authority for the area.
- (6) This paragraph does not apply in the case of a pupil for whom a statement is maintained under section 324.
- 11 (1) Where a pupil in the area for whom a statement is maintained under section 324 is attending a maintained or grant-maintained school, this paragraph applies if he is provided with board and lodging at the school or otherwise than at school and either—
- (a) the school is named in the statement and—
    - (i) the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless the particular board and lodging are also provided, or
    - (ii) the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless board and lodging are also provided and that it is appropriate for him to be provided with the particular board and lodging; or
  - (b) the school is not named in the statement but the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him unless board and lodging are also provided and that it is appropriate for him to be provided with the particular board and lodging.
- (2) Where the board and lodging is provided by the responsible education authority, no charge shall be payable to the authority under this Schedule in respect of the board and lodging.
- (3) Where the board and lodging is provided—
- (a) by the funding authority or another local education authority, or
  - (b) at a grant-maintained school or a school maintained by another local education authority,
- the responsible education authority shall pay the charges payable to the funding authority or any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging.
- (4) In any other case to which this paragraph applies, the responsible education authority shall pay to the person providing the board and lodging the whole of the fees in respect of the board and lodging.
- (5) In this paragraph “the responsible education authority”, in relation to a pupil, means the local education authority responsible for the pupil for the purposes of Part IV (special educational needs).
- 12 (1) Where a pupil in the area for whom a statement is maintained under section 324 is attending a maintained or grant-maintained school and is provided with board and lodging at the school or otherwise than at school, then—

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- (a) where the board and lodging is provided by the responsible education authority, the authority may remit the whole or any part of the charges payable to them under this Schedule in respect of the board and lodging;
- (b) where the board and lodging is provided—
  - (i) by the funding authority or another local education authority, or
  - (ii) at a grant-maintained school or a school maintained by another local education authority,
 the responsible education authority may pay the whole or any part of the charges payable to the funding authority or any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging; and
- (c) in any other case, the responsible education authority may pay to the person providing the board and lodging the whole or any part of the fees in respect of the board and lodging.

- (2) In this paragraph “the responsible education authority”, in relation to a pupil, means the local education authority responsible for the pupil for the purposes of Part IV.

#### *General*

- 13 (1) The following provisions shall not apply—
- (a) section 458 (charges and remission of charges for board and lodging in maintained and grant-maintained schools);
  - (b) section 514 (power of LEA to provide board and lodging otherwise than at school and recovery of charges from parents); and
  - (c) section 517(3) (payment by LEA of fees where pupil attends non-maintained school because of shortage of places in maintained and grant-maintained schools).
- (2) Any charges payable to the local education authority, the funding authority or the governing body of a grant-maintained school under this Schedule may be recovered summarily as a civil debt.
- 14 (1) Section 438 shall have effect as if for subsection (5) there were substituted—
- “(5) If—
- (a) within the period mentioned in subsection (3), the parent—
    - (i) applies to the funding authority, or the local education authority by whom the notice was served, for education to be provided for the child at a school which is not a school maintained by a local education authority or a grant-maintained school, and
    - (ii) in the case of an application to the funding authority, notifies the local education authority by whom the notice was served of the application,
  - (b) the child is offered a place at the school, and
  - (c) either the funding authority are required under paragraph 9 of Schedule 4 to pay the fees payable in respect of the education



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provided at the school or the local education authority agree to pay the whole of those fees under paragraph 10 of that Schedule, that school shall be named in the order.”

(2) Section 440 shall have effect as if for subsection (3) there were substituted—

“(3) If at any time—

- (a) the parent applies to the funding authority or the local education authority by whom the notice was served for education to be provided for the child at a school which is not a school maintained by a local education authority or a grant-maintained school and is different from the school named in the order,
  - (b) the child is offered a place at the school,
  - (c) either the funding authority are required under paragraph 9 of Schedule 4 to pay the fees payable in respect of the education provided at the school or the local education authority agree to pay the whole of those fees under paragraph 10 of that Schedule, and
  - (d) the parent requests the local education authority to amend the order by substituting that school for the one currently named,
- the authority shall comply with the request.”

#### PART IV

##### FUNCTIONS WHERE RESPONSIBILITY EITHER SHARED OR TRANSFERRED

###### *Introductory*

- 15 If an order under section 27(1)(a) or (b) applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

###### *Responsibility for providing sufficient school places*

- 16 In relation to any power under section 211 to publish proposals for the establishment of a grant-maintained school—
- (a) references to establishing a school for the purpose of providing primary education include establishing a primary school which also provides secondary education; and
  - (b) references to establishing a school for the purpose of providing secondary education include establishing a secondary school which also provides primary education.
- 17 (1) Where relevant education is only primary education—
- (a) no proposals may be published under section 260 in respect of any grant-maintained school which is a secondary school or if the implementation of the proposals would cause the school to become a secondary school;

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- (b) no proposals may be published under section 268 in respect of any grant-maintained secondary school; and
  - (c) no direction may be given under section 428(2) to the governing body of any grant-maintained secondary school.
- (2) Where relevant education is only secondary education—
- (a) no proposals may be published under section 260 in respect of any grant-maintained school which is a primary school or if the implementation of the proposals would cause the school to become a primary school;
  - (b) no proposals may be published under section 268 in respect of any grant-maintained primary school; and
  - (c) no direction may be given under section 428(2) to the governing body of any grant-maintained primary school.
- 18 The funding authority shall not by virtue of paragraph 3 or 5 be under any duty in respect of junior pupils who have not attained [<sup>F124</sup>compulsory school age].

#### Textual Amendments

**F124** Words in [Sch. 4 para. 18](#) substituted (1.8.1998) by [1997 c. 44, s. 57\(1\)](#), [Sch. 7 para. 46\(2\)](#); [S.I. 1998/386, art. 2\(3\)](#), [Sch. 1 Pt.III](#) (which [Sch. 7 para. 46](#) is repealed (*prosp.*) by [1998 c. 31, s. 140\(1\)\(3\)](#), [Sch. 30 para. 223](#), [Sch.31](#)(with ss. 138(9), 144(6)))

#### *Boarding schools*

- 19 The powers of the funding authority to publish proposals under sections 211 and 260 or to give notice of proposals under section 339 may, in particular, be so exercised as to secure the provision of boarding accommodation at boarding schools.

#### *Other modifications of this Act*

- 20 Section 259 shall have effect as if the funding authority were among the persons who may submit objections under subsection (6) of that section to proposals under that section.
- 21 Section 267 shall have effect as if—
- (a) the reference in subsection (3) to the local education authority included the funding authority; and
  - (b) the funding authority were among the persons who may submit objections under subsection (7) of that section to proposals under that section.
- 22 Section 272 shall have effect as if—
- (a) paragraph (a) of subsection (1) were omitted, and
  - (b) the funding authority were among the persons required to be consulted under subsection (5)(b).

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- 23 Section 426(4) shall have effect as if the reference to the Secretary of State were to the funding authority.

## SCHEDULE 5

Section 32.

### SPECIAL AGREEMENTS

#### *Preservation of special agreements*

- 1 Any special agreement in force immediately before the commencement of this Act shall continue in force despite the repeal by this Act of Schedule 3 to the <sup>M158</sup>Education Act 1944.

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**Marginal Citations**

**M158** 1944 c.31.

#### *Variation of special agreements*

- 2 (1) A special agreement may be varied by a further agreement between the local education authority and the governors of the school to which it relates, or in such other manner (if any) as may be specified in the agreement.
- (2) Sub-paragraph (1) has effect subject to the requirements of paragraph 3.

#### *The grant requirements*

- 3 (1) A special agreement shall provide for the making of a grant by the local education authority to persons specified in the agreement in consideration of the execution by those persons of the proposals to which the agreement relates.
- (2) Subject to sub-paragraph (3), the amount of any such grant shall be not less than half, and not more than three-quarters, of the cost of executing the proposals to which the agreement relates.
- (3) Where the proposals include proposals for establishing a playing field or any buildings of a kind which it is, under section 45(2)(b), the duty of the local education authority to provide, then—
- (a) if the proposals as respects the playing field or buildings are to be executed by the persons specified in the agreement, the amount of the grant (so far as attributable to the cost thereof) shall be equal to the whole of the cost; and
  - (b) if those proposals are to be executed by the local education authority, the cost thereof shall be borne by them and excluded in computing the amount of the grant.

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### *Religious education*

- 4 (1) A special agreement may provide—
- (a) for the giving of religious education in the school in accordance with the provisions of the trust deed relating to it, or (where provision for that purpose is not made by such a deed) in accordance with the practice observed in the school before it became a voluntary school; and
  - (b) for the employment in the school, for the purpose of giving such religious education, of such number of reserved teachers as may be specified in the agreement.
- (2) Sub-paragraph (1)(a) has effect subject to section 378(1)(c) and any arrangements made under section 378(2).

### *Repayment of grants*

- 5 Any grant made in respect of a school in pursuance of a special agreement may, at any time while the school is a special agreement school, be repaid by the governing body to the local education authority by whom the school is maintained.

### *Modification of obligations with respect to repairs and alterations*

- 6 Where a special agreement is in force in relation to a school, then, until the proposals to which the agreement relates have been carried out—
- (a) the provisions of Part II relating to the respective obligations of the governing bodies of voluntary schools and the local education authority in respect of repairs and alterations to the premises of the school shall not have effect in relation to the school; and
  - (b) the respective obligations of the governing body of the school and the local education authority in relation to those matters shall instead be such as may be determined by agreement between the governing body and the authority or, in default of agreement, by the Secretary of State.

## SCHEDULE 6

Section 39.

### TRANSFER OF PREMISES WHERE VOLUNTARY SCHOOL CHANGES TO COUNTY SCHOOL

- 1 In connection with proposals by a local education authority under section 35(1)(b) for the maintenance as a county school of a school which is for the time being maintained by them as a voluntary school, they and the school's governing body may make an agreement for the transfer to the authority of any interest in the school premises which is held by any persons for the purposes of any trust deed relating to the school.

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- 2 Such an agreement shall not take effect unless it has been approved by the Secretary of State.
- 3 The Secretary of State shall not approve such an agreement unless—
  - (a) he is satisfied that due notice of the agreement has been given to—
    - (i) any persons (other than the governing body) who have an interest in the school by virtue of a trust deed relating to it, and
    - (ii) any other persons who appear to him to be concerned; and
  - (b) he is satisfied that the execution of the agreement will effect the transfer of all interests necessary for the purpose of enabling the authority to maintain the school as a county school.
- 4 Before approving an agreement under this Schedule, the Secretary of State shall consider any representations made to him by or on behalf of any persons appearing to him to be concerned with the proposed transfer.
- 5 An agreement under this Schedule—
  - (a) may provide for the transfer to the authority, subject to any conditions, reservations and restrictions specified in the agreement, either of the whole of any such interest as is referred to in paragraph 1 or of a lesser interest in the premises, and
  - (b) may include such other provisions (whether relating to the consideration for the transfer or otherwise) as may be agreed upon between the authority and the governing body.
- 6 Where an agreement under this Schedule has been approved by the Secretary of State, the governing body may, whether or not the interest to be transferred under the agreement is vested in them, convey that interest to the authority.
- 7 Where a person other than the governing body has a right to the occupation or use of the school premises or any part of them for a particular purpose, no provision of an agreement under this Schedule shall affect that right unless he has consented to it.
- 8 In this Schedule “premises” includes a teacher’s dwelling-house.

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## SCHEDULE 7

Section 88(1).

INCORPORATION OF GOVERNING BODIES OF COUNTY,  
VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS*Name and seal of incorporated body*

- 1 (1) A governing body incorporated under section 88(1) shall be known as “The governing body of ...” with the addition of the name of the school.
- (2) The application of the seal of any such governing body must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (3) Every document purporting to be an instrument made or issued by or on behalf of any such governing body and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

*Powers of incorporated body*

- 2 (1) A governing body incorporated under section 88(1) may do anything (including in particular the things referred to in the following sub-paragraphs) which appears to them to be necessary or expedient for the purpose of or in connection with the exercise of any of the functions conferred on them under or in pursuance of any enactment.
- (2) A governing body so incorporated may—
- (a) acquire and dispose of land and other property;
  - (b) enter into contracts, other than contracts of employment;
  - (c) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
  - (d) accept gifts of money, land and other property and apply it, or hold and administer it on trust, for any of those purposes; and
  - (e) do anything incidental to the conduct of the school.
- (3) Sub-paragraphs (1) and (2) have effect subject to—
- (a) any provisions of the instrument of government or articles of government for the school, and
  - (b) if the school has a delegated budget (as defined in section 115(b)) any provisions of the scheme falling within section 101(1) which covers the school.

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- (4) The governing body so incorporated of an aided school may enter into contracts for the employment of teachers and other staff, subject to any provisions of the articles of government for the school other than any provisions for the time being excluded by section 137(2) (aided schools having delegated budgets) from applying to the school.

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

C97 Sch. 7 para. 2(3) amended (1.4.1999) by S.I. 1999/711, reg. 6

*Property, rights and liabilities*

- 3 On the incorporation under section 88(1) of a governing body (“the new governing body”) for a school which, immediately before the incorporation date, was conducted by a temporary governing body constituted under arrangements made under section 96 or 97—
- (a) all land and other property which, immediately before the date of incorporation, was property of the temporary governing body used or held for the purposes of the school, and
  - (b) all rights and liabilities of the temporary governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body.
- 4 On the incorporation under section 88(1) of a governing body (“the new governing body”) constituted under an instrument of government for two or more schools grouped in pursuance of a resolution under section 89—
- (a) all land and other property which, immediately before the date of incorporation, was property of the governing body of any of those schools used or held for the purposes of the school in question, and
  - (b) all rights and liabilities of the governing body of any of those schools subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body.

*Contracts of employment*

- 5 Without prejudice to the generality of paragraphs 3 and 4, where those provisions effect a transfer of rights and liabilities under a contract of employment—
- (a) the contract shall have effect from the date of incorporation as if originally made between the employee and the incorporated governing body, and
  - (b) without prejudice to sub-paragraph (a) above, anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the incorporated governing body,

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but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions shall arise by reason only of the change of employer effected by those provisions.

#### *Dissolution and discontinuance*

- 6 (1) A governing body incorporated under section 88(1) are dissolved by virtue of this paragraph—
- (a) if the school they conduct is discontinued;
  - (b) where the school becomes a grant-maintained school or grant-maintained special school, when the local education authority cease to maintain the school; or
  - (c) if a new governing body of the school are constituted under Chapter IV of Part II.
- (2) Where such a governing body conduct two or more schools, sub-paragraph (1) applies when, in relation to each of the schools, paragraph (a), (b) or (c) is satisfied.
- 7 (1) Where such a governing body are to be dissolved by reason of—
- (a) the discontinuance of the county, voluntary or maintained special school which they conduct, or
  - (b) in the case of a governing body conducting two or more such schools, the discontinuance of each such school conducted by them,
- they shall have power to transfer any land or other property of theirs which is used or held for the purposes of the school to any person who provides education.
- (2) Where such a governing body are so dissolved—
- (a) any such land or property for which no provision has been made under sub-paragraph (1) for transfer, and
  - (b) all rights and liabilities of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school in question,
- shall be transferred to and, by virtue of this Act, vest in the local education authority.
- (3) Sub-paragraphs (1) and (2) do not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 8 (1) This paragraph applies where such a governing body dissolved by virtue of paragraph 6 are the governing body of two or more schools grouped in pursuance of a resolution under section 89.
- (2) Where none of the schools in the group are discontinued, then in the case of each school formerly a member of the group—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and



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- (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes, shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
- (3) An order made by virtue of sub-paragraph (2) may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of the schools in the group, and
- (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes, shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
- (4) Where not all of the schools in the group are discontinued, then in the case of each school formerly a member of the group which is not discontinued—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
- (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes, shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
- (5) An order made by virtue of sub-paragraph (4) may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of any school which is to be discontinued or the schools in the group, and
- (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes, shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
- (6) Sub-paragraph (5) does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 9 (1) This paragraph applies in relation to the governing body of two or more schools grouped in pursuance of a resolution under section 89.
- (2) Where one or more schools conducted by the governing body are discontinued but the governing body are not dissolved by reason of the discontinuance, then in the case of each school formerly a member of the group which is discontinued—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
- (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

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shall be held by the governing body for the purposes of the schools in the group.

- (3) Sub-paragraph (2) does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- (4) Where, in the case of one or more schools conducted by the governing body, new governing bodies are constituted under Chapter IV of Part II to conduct those schools but the governing body are not dissolved by reason of the constitution of such bodies, then in the case of each school formerly a member of the group—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.

- 10 For the purposes of this Schedule, references to the discontinuance of a school are—
- (a) to the local education authority ceasing to maintain it in accordance with proposals under section 167 (discontinuance of county or voluntary schools) or section 339 (discontinuance of special schools), or
  - (b) to its discontinuance under section 173 (discontinuance by governors of voluntary schools).

#### *Supplementary provisions about transfers*

- 11 Where a transfer under this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Acts 1925 to 1986,
  - (b) to deliver any such certificate under those Acts, and
  - (c) to do such other things under those Acts,
- as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- 12 Paragraphs 6 to 8 of Schedule 1.0 to the <sup>M159</sup>Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers effected by this Schedule as they apply to transfers to which that Schedule applies.

#### **Marginal Citations**

**M159** 1988 c. 40.

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## SCHEDULE 8

Section 88(2).

### MEMBERSHIP AND PROCEEDINGS ETC. OF GOVERNING BODIES OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

#### *Introductory*

- 1 In this Schedule, except where a school of a particular category is referred to—  
“governing body” means the governing body of a county, voluntary or  
maintained special school, and  
“school” means a county, voluntary or maintained special school.

#### *Co-option or other appointment of governors*

- 2 (1) Subject to sub-paragraph (2), where the instrument of government for a county, controlled or maintained special school provides for one or more persons to be co-opted by governors as members of the governing body, it shall not make any provision which has the effect of restricting those governors in their choice of person to co-opt.
- (2) The instrument of government for a county, controlled or maintained special school shall require the governors concerned, in co-opting a person to be a member of the governing body—
- (a) to have regard—
    - (i) to the extent to which they and the other governors are members of the local business community, and
    - (ii) to any representations made to the governing body as to the desirability of increasing the connection between the governing body and that community, and
  - (b) where it appears to them that no governor of the school is a member of the local business community or that it is desirable to increase the number of governors who are, to co-opt a person who appears to them to be a member of that community.
- (3) In this paragraph references to the co-option of governors—
- (a) are to the co-option of governors required to be co-opted by virtue of section 79; but
  - (b) do not include the co-option of foundation governors.
- 3 If—
- (a) the instrument of government for a school provides for one or more governors to be appointed by persons acting jointly, and
  - (b) those persons fail to make an agreed appointment,
- the appointment shall be made by, or in accordance with a direction given by, the Secretary of State.

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- 4 The instrument of government for a voluntary school shall name the person or persons (if any) who are entitled to appoint any foundation governor.

*Ex officio governors*

- 5 If a school has more than one head teacher (whether or not as a result of two or more schools being grouped under section 89), each of them shall be a governor (ex officio) unless he chooses not to be.

- 6 The instrument of government for a voluntary school may provide for any foundation governorship to be held ex officio by the holder of an office named in the instrument.

*Election of governors*

- 7 (1) In this paragraph “the appropriate authority”—
- (a) in relation to a county, controlled or maintained special school, means the local education authority, and
  - (b) in relation to an aided or special agreement school, means the governing body.
- (2) The appropriate authority in relation to a school shall determine—
- (a) for the purposes of an election of parent governors, any question whether a person is a parent of a registered pupil at the school, and
  - (b) for the purposes of an election of teacher governors, any question whether a person is a teacher at the school.
- (3) The appropriate authority shall make all necessary arrangements for, and determine all other matters relating to, an election of parent governors or teacher governors.
- (4) The power conferred by sub-paragraph (3)—
- (a) includes power to make provision as to qualifying dates, but
  - (b) does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected.
- (5) Any election of parent governors or teacher governors which is contested shall be held by secret ballot.
- (6) The arrangements made under sub-paragraph (3) shall, in the case of any election of a parent governor, provide for every person who is entitled to vote in the election to have an opportunity to do so by post or, if he prefers, by having his ballot paper returned to the school by a registered pupil at the school.
- (7) Where a vacancy for a parent governor is required to be filled by election, the appropriate authority shall take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school is—
- (a) informed of the vacancy and that it is required to be filled by election;

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- (b) informed that he is entitled to stand as a candidate, and vote, at the election;  
and
- (c) given an opportunity to do so.

### *Qualifications of governors and tenure of office*

- 8 No person shall be qualified for membership of a governing body unless he is aged 18 or over at the date of his election or appointment.
- 9 No person shall at any time hold more than one governorship of the same school.
- 10
  - (1) Regulations may make provision as to the circumstances in which persons are to be disqualified for holding office as governors of schools.
  - (2) The instrument of government for a school may make provision as to circumstances in which persons are to be disqualified for holding office as governors of the school.
  - (3) The fact that a person is qualified to be elected or appointed as a governor of a particular category of a school does not disqualify him for election or appointment as a governor of any other category of that school.
- 11
  - (1) The instrument of government for a county, controlled or maintained special school shall provide for each governor, other than one who is a governor ex officio, to hold office for a term of four years.
  - (2) The instrument of government for an aided secondary school shall provide for each governor appointed by a person named in the instrument as a sponsor of the school to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
  - (3) This paragraph shall not be taken to prevent a governor—
    - (a) from being elected or appointed for a further term, or
    - (b) from being disqualified, by virtue of provision made under paragraph 10, for continuing to hold office.
- 12 Any governor of a school may at any time resign his office.
- 13
  - (1) Any governor of a school who was appointed otherwise than by being co-opted, or any foundation governor of a voluntary school, may be removed from office by the person or persons who appointed him.
  - (2) For the purposes of this paragraph, a parent governor appointed in accordance with any provision made by virtue of section 81 shall be treated as having been co-opted.

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### *Meetings and proceedings*

- 14        The proceedings of a governing body of a school shall not be invalidated by—
- (a) any vacancy among their number, or
  - (b) any defect in the election or appointment of any governor.
- 15        (1) Regulations may make provision (including provision modifying the effect of paragraph 14) as to the meetings and proceedings of governing bodies.
- (2) The instrument of government for a school may make provision as to the meetings and proceedings of the school’s governing body.
- (3) The provision that may be made under sub-paragraph (1) or (2) includes, in particular, provision—
- (a) for the election by the governors of a school of one of their number to be chairman, and one to be vice-chairman, of the governing body;
  - (b) for the period for which the chairman and vice-chairman are to be elected;
  - (c) for the establishment by the governing body of committees (which may include persons who are not members of the governing body) and for the constitution, meetings and proceedings of committees so established;
  - (d) for the delegation of functions of the governing body, in such circumstances as may be specified, to committees established by that body, to any member of that body or to the head teacher;
  - (e) for the chairman, or such other member of a governing body as may be specified, to have power in specified circumstances to discharge any of the governing body’s functions as a matter of urgency; and
  - (f) as to the quorum required for the purposes of making appointments of parent governors in accordance with any provision made by virtue of section 81 or when business is transacted by governors of a particular category.
- (4) In sub-paragraph (3) “specified” means specified in regulations or the instrument of government (as the case may be).
- 16        (1) No decision of a kind mentioned in sub-paragraph (2) which is taken at a meeting of the governing body of an aided or special agreement school shall have effect unless it is confirmed at a second meeting of the governing body held not less than 28 days after the first.
- (2) The decisions in question are—
- (a) any decision that would result in—
    - (i) the submission of any proposals under section 41 (alteration etc. of school), or
    - (ii) a transfer of the school to a new site in circumstances falling within section 41(3), or
    - (iii) the submission of any proposals under section 51 (division of school into two or more schools);
  - (b) any decision—

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- (i) to request the making of an order under section 46 (establishment of new school in substitution for old) or section 47 (transfer to new site), or
- (ii) as to the submissions to be made to the Secretary of State in any consultations under section 46(4) or section 47(3) (transfer to new site);
- (c) any decision that would result in an application under section 57 or 58(1) (revocation of order by virtue of which school is aided or special agreement school);
- (d) any decision to serve a notice under section 173 (discontinuance of school); and
- (e) any decision to make an agreement under Schedule 6 (transfer to local education authority of interests in school premises on school changing to county school).

#### *Information as to meetings and proceedings*

- 17 The minutes of the proceedings of the governing body of a school shall be open to inspection by the local education authority.
- 18 (1) Regulations may require the governing body of a school to make available, to such persons or classes of person as may be prescribed, such documents and information relating to the meetings and proceedings of the governing body as may be prescribed.
- (2) Documents and information required by the regulations to be made available shall be made available in such form and manner, and at such times, as may be prescribed.

#### *Travelling and subsistence allowances*

- 19 Section 519 makes provision for a local education authority to pay travelling and subsistence allowances to governors of a school where it does not have a delegated budget.

#### *Information and training for governors*

- 20 (1) The local education authority shall secure that every governor of a school is provided (free of charge) with—
- (a) a copy of the school's instrument of government and articles of government, and
  - (b) such other information as they consider appropriate in connection with the discharge of his functions as a governor.
- (2) The local education authority shall also secure that there is made available to every governor of a school (free of charge) such training as the authority consider necessary for the effective discharge of those functions.

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*Conflict between instrument of government and regulations*

- 21 Any provision made by an instrument of government by virtue of paragraph 10(2), 11 or 15(2) which relates to a matter dealt with by regulations under paragraph 10(1) or 15(1) shall have effect subject to the regulations.

SCHEDULE 9

Section 98.

TEMPORARY GOVERNING BODIES OF COUNTY,  
VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

*Preliminary*

- 1 In this Schedule—
- “arrangement” means an arrangement made under section 96 or 97 for the constitution of a temporary governing body; and
- “promoters”, in relation to a new school which will be a voluntary school, means the persons making the relevant proposals.

*Constitution of temporary governing bodies*

- 2 (1) Subject to the following provisions of this Schedule, a temporary governing body of a new school shall be constituted—
- (a) in accordance with sections 79 and 80 (so far as applicable), where the school will be a county, controlled or maintained special school, and
- (b) in accordance with sections 84 and 85 (so far as applicable), where the school will be an aided school.
- (2) For the purposes of the application of section 79, 80, 84 or 85 in relation to the constitution of the temporary governing body of a new school, the new school shall be treated as having as registered pupils the maximum number of pupils referred to in the relevant proposals.
- 3 (1) A local education authority shall not make an arrangement in respect of a new school which will be a controlled school without the agreement of the promoters as to the provision which will be made in relation to the temporary foundation governors; and in the event of any disagreement between the authority and the promoters in respect of that provision, either of them may refer the matter to the Secretary of State.
- (2) A local education authority shall not make an arrangement in respect of a new school which will be an aided school without the agreement of the promoters as to the composition of the temporary governing body; and in the event of any disagreement between the authority and the promoters as to the composition of that body, either of them may refer the matter to the Secretary of State.



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- (3) On a reference under this paragraph, the Secretary of State shall give such direction as he thinks fit.

#### *Appointment of temporary governors*

- 4 The temporary parent governors of a new school shall, subject to paragraph 6, be appointed—
- (a) where the school will be a county, controlled or maintained special school, by the local education authority, and
  - (b) where it will be an aided school, by the promoters.
- 5 The temporary teacher governors of a new school shall, subject to paragraph 6, be co-opted by a resolution passed at a meeting of those temporary governors who have not themselves been co-opted.
- 6 (1) Where—
- (a) two or more schools have been, or are to be, discontinued, and
  - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school,
- the local education authority may provide for any of the governing bodies of the discontinued schools to appoint some or all of the temporary parent or teacher governors of the new school.
- (2) No provision may be made under sub-paragraph (1) for the appointment of temporary parent or teacher governors of a new school which will be an aided school without the agreement of the promoters; and in the event of any disagreement between the authority and the promoters as to whether any such provision should be made, either of them may refer the matter to the Secretary of State.
- (3) On a reference under sub-paragraph (2), the Secretary of State shall give such direction as he thinks fit.
- (4) Before making any provision under sub-paragraph (1) for the appointment of temporary parent or teacher governors of a new school which will be a controlled school, the local education authority shall consult the promoters.
- 7 (1) No person shall be appointed under paragraph 4 or 6 as a temporary parent governor of a new school unless—
- (a) he is the parent of a child who is likely to become a registered pupil at the school, or
  - (b) where it is not reasonably practicable to appoint such a person, he is the parent of a child of compulsory school age.
- (2) No person shall be appointed under paragraph 4 as a temporary parent governor of a new school if he is—
- (a) an elected member of the local education authority; or

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- (b) an employee of the authority or of the governing body of any aided school maintained by the authority.
- (3) No person shall be appointed under paragraph 5 or 6 as a temporary teacher governor of a new school unless he is employed as a teacher in a school maintained by a local education authority.
- 8 (1) Where any person, other than a prospective sponsor, appoints a person as a temporary governor of a new school, he shall have regard to the desirability of that person being suitably experienced.
- (2) For the purposes of this paragraph a person is suitably experienced—
- (a) if he has served as a governor or temporary governor of a school, and
- (b) in particular, in a case where registered pupils at another school which has been, or is to be, discontinued are expected to transfer to the new school, if he has served as a governor or temporary governor of that other school.
- (3) In sub-paragraph (1) “prospective sponsor” means a person who is to be named in the instrument of government as a sponsor of the school in question.
- 9 (1) Subject to sub-paragraph (2), where temporary governors are required to co-opt one or more persons to be members of the temporary governing body, the arrangement under which the temporary governing body are constituted shall not make any provision which has the effect of restricting those temporary governors in their choice of person to co-opt.
- (2) In co-opting a person to be a member of a temporary governing body of a new school which will be a county, controlled or maintained special school, the temporary governors concerned shall have regard—
- (a) to the extent to which they and the other temporary governors are members of the local business community, and
- (b) to any representations made to the temporary governing body as to the desirability of increasing the connection between the temporary governing body and that community,
- and, where it appears to them that no temporary governor of the new school is a member of the local business community or that it is desirable to increase the number of temporary governors who are, shall co-opt a person who appears to them to be a member of that community.
- (3) This paragraph does not apply in relation to the co-optation of temporary foundation governors, and sub-paragraph (2) does not apply in relation to the co-optation of temporary teacher governors.
- 10 If—
- (a) a temporary governor is to be appointed by persons acting jointly, and
- (b) those persons fail to make an agreed appointment,
- the appointment shall be made by, or in accordance with a direction given by, the Secretary of State.

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### *Qualifications of temporary governors and tenure of office*

- 11 No person shall be qualified for membership of a temporary governing body unless he is aged 18 or over at the date of his appointment.
- 12 (1) No person shall at any time hold more than one temporary governorship of the same school.
- (2) The fact that a person is qualified to be appointed as a temporary governor of a particular category of a new school does not disqualify him for appointment as a temporary governor of any other category of that school.
- 13 Regulations may make provision as to the circumstances in which persons are to be disqualified for holding office as temporary governors.
- 14 A member of a temporary governing body may at any time resign his office, or be removed from office, in the same way as a member of a governing body constituted under an instrument of government.

### *Meetings and proceedings*

- 15 (1) The proceedings of a temporary governing body shall not be invalidated by—
- (a) any vacancy among their number, or
  - (b) any defect in the appointment of any temporary governor.
- (2) If the clerk to a temporary governing body fails to attend any meeting of theirs, they may appoint one of their number to act as clerk for the purposes of that meeting (but without prejudice to his position as a temporary governor).
- 16 Regulations may make provision in relation to temporary governing bodies similar to that which may be made in relation to governing bodies by regulations under paragraph 15(1) of Schedule 8.
- 17 (1) Subject to sub-paragraph (2), the first meeting of a temporary governing body shall be called by their clerk.
- (2) Where the clerk fails to call the first meeting within such period as the local education authority consider reasonable, the authority shall call it.

### *Information as to meetings and proceedings*

- 18 The minutes of the proceedings of a temporary governing body shall be open to inspection by the local education authority.

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*Travelling and subsistence allowances.*

- 19 Section 519 (allowances for governors) shall apply in relation to the members of a temporary governing body as it applies in relation to the members of a governing body of a school falling within subsection (1)(a) of that section.

*Expenses of temporary governing bodies*

- 20 Where a temporary governing body are constituted for a new school, the local education authority shall be under the same duty to defray the expenses incurred in relation to the temporary governing body as they would be if the relevant proposals had been implemented and the temporary governing body were the governing body of the school.

*Information for temporary governing bodies*

- 21 A local education authority shall secure that the temporary governing body of a new school which will be maintained by them are, on being constituted, provided (free of charge) with such explanatory and other information as the authority consider is required to enable the temporary governing body to discharge their functions effectively.

*Powers of the Secretary of State*

- 22 For the purposes of the following provisions—
- (a) section 495(1) (determination of disputes),
  - (b) section 496 (prevention of unreasonable exercise of functions), and
  - (c) sections 497 and 498 (default powers),
- a temporary governing body shall be treated as if they were the governing body of the school in question.

SCHEDULE 10

Section 99.

TRANSITION FROM TEMPORARY GOVERNING BODY TO GOVERNING  
 BODY CONSTITUTED UNDER AN INSTRUMENT OF GOVERNMENT

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

**C98** Sch. 10 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(e)

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### *Time limit for constitution of governing body*

- 1 The local education authority shall secure that the governing body of a new school are constituted—
- (a) as soon as is reasonably practicable after the requirement for there to be an instrument of government for the school takes effect under section 99, and
  - (b) in any event not later than the last day of the term in which pupils first attend the new school or (as the case may be) first attend the school after it becomes maintained by the authority.

### *Status of temporary governing body pending constitution of governing body*

- 2 Where the requirement for there to be an instrument of government for a new school has taken effect under section 99, the temporary governing body shall, until such time as the governing body are constituted—
- (a) continue in existence (despite the fact that the arrangement under which they were constituted has come to an end under section 96 or 97); and
  - (b) be treated as if they were the governing body.

### *Role of temporary governing body as regards constitution of governing body*

- 3
- (1) Before making an order under section 76 as to the instrument of government for a new school, the local education authority shall consult the temporary governing body and the head teacher.
  - (2) Before making such an order in respect of a new school which will be a voluntary school, the authority shall—
    - (a) secure the agreement of the temporary governing body to the terms of the proposed order; and
    - (b) secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.
  - (3) Where a local education authority propose to make an order under section 76 as to the instrument of government for a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
  - (4) On a reference under sub-paragraph (3), the Secretary of State shall give such direction as he thinks fit.
- 4
- (1) A temporary governing body shall recommend (with reasons) persons who belong to the community served by the new school and who are, in their opinion, suitable for appointment as co-opted members of the governing body who will succeed them.
  - (2) Before making any recommendations under this paragraph, a temporary governing body shall consult representatives of the local business community.

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### *Initial constitution of governing body*

- 5
- (1) When the requirement for there to be an instrument of government for a new school takes effect under section 99, sub-paragraph (2) shall apply for the purposes of the application of section 79, 80, 84 or 85 in relation to the constitution of the school's governing body.
  - (2) Where this sub-paragraph applies, the school shall be treated as having as registered pupils the maximum number of pupils referred to in the relevant proposals.
  - (3) Subject to sub-paragraph (4), sub-paragraph (2) shall, as from the time when the governing body is first constituted, continue to apply for the purposes of determining what provision would be required to be made by a new instrument of government for the school.
  - (4) Sub-paragraph (2) shall cease so to apply in relation to the school at such time as—
    - (a) the number of registered pupils at the school reaches the maximum referred to in that sub-paragraph; or
    - (b) the local education authority give any direction by virtue of sub-paragraph (5).
  - (5) The instrument of government for a school in relation to which sub-paragraph (2) applies when the instrument is made shall provide for the local education authority to have power to direct that sub-paragraph (2) shall cease to apply in relation to the school.

### *Information about temporary governing body for successors*

- 6
- (1) Immediately before the arrangement under which a temporary governing body are constituted comes to an end under section 96 or 97, they shall prepare, for the purpose of assisting the governing body who will succeed them, a brief report of the action which they have taken in the discharge of their functions.
  - (2) All minutes and papers of a temporary governing body, including the report prepared under sub-paragraph (1), shall be made available to their successors.

## SCHEDULE 11

Sections 122 and 124.

### CONTENTS OF STATEMENTS UNDER SECTION 122(2) AND SECTION 124(1)

#### PART I

##### STATEMENTS UNDER SECTION 122(2)

- 1
- (1) This Part of this Schedule applies to any statement prepared by a local education authority under section 122(2).
  - (2) In this Part of this Schedule “the scheme” means the scheme referred to in section 122(1).

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- 2 The statement shall contain the following particulars in respect of the financial year to which it relates—
- (a) the amount of the authority’s general schools budget for the year (as initially determined for the purposes of the scheme),
  - (b) the amount of the authority’s aggregated budget for the year under the scheme (as so determined),
  - (c) such particulars as may be prescribed of amounts deducted in respect of excepted heads or items of expenditure (as defined in section 105(3)) in arriving at the amount specified in the statement by virtue of sub-paragraph (b),
  - (d) such particulars as may be prescribed of amounts deducted by virtue of section 105(1)(b) in arriving at the amount so specified, and
  - (e) such particulars of the allocation formula under the scheme as may be prescribed.
- 3 (1) The statement shall also contain, with respect to each school required to be covered by the scheme in the year in question, particulars in relation to that year of the planned expenditure per pupil arising from the division of the school’s budget share (as initially determined for the purposes of the scheme) by the initial pupil number.
- (2) In sub-paragraph (1) “the initial pupil number” means the number of registered pupils at the school in question which is required under the scheme to be used in applying the allocation formula under the scheme for initial determination of the school’s budget share for the year.
- 4 The statement shall contain such further information in respect of the financial provision the authority plan to make in the year in question for county and voluntary schools maintained by them as may be prescribed.

## PART II

### STATEMENTS UNDER SECTION 124(1)

- 5 (1) A statement prepared by a local education authority under section 124(1) shall give the following particulars in respect of the financial year to which it relates—
- (a) the initial amount appropriated for meeting expenditure in the year in respect of all the schools required to be covered by the statement,
  - (b) the amount remaining after deducting from that initial amount the aggregate of the amounts referred to in sub-paragraph (2), and
  - (c) such particulars as may be prescribed of the amounts referred to in sub-paragraph (2).
- (2) Those amounts are the initial amounts appropriated for meeting the following descriptions of expenditure in the year in respect of all the schools required to be covered by the statement—
- (a) expenditure treated by the authority as expenditure of a capital nature,
  - (b) expenditure in respect of the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any loan used to meet expenditure falling within paragraph (a), and
  - (c) expenditure of such other descriptions as may be prescribed.
- 6 (1) The statement shall also give, in relation to each school required to be covered by it, the following particulars in respect of the year—

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- (a) the share of the general expenditure amount which is appropriated by the authority for meeting expenditure for the purposes of the school,
  - (b) the share which is so appropriated of such of the amounts referred to in paragraph 5(2)(c) as may be prescribed,
  - (c) the amount of any expenditure initially planned for the purposes of the school and treated by the authority as expenditure of a capital nature, and
  - (d) such particulars as may be prescribed of the basis on which the authority determine the shares specified in the statement by virtue of paragraphs (a) and (b).
- (2) In sub-paragraph (1) “the general expenditure amount” means the amount of which particulars are required to be given by paragraph 5(1)(b).
- 7 The statement shall contain such further information in respect of the financial provision initially planned by the authority for the schools required to be covered by the statement as may be prescribed.
- 8 Where only one school is required to be covered by the statement, the references in paragraph 5 to all the schools are references to that school and paragraph 6 does not apply.

## SCHEDULE 12

Section 126.

### FINANCIAL DELEGATION AND NEW SCHOOLS

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

**C99** Sch. 12 excluded (*temp.* until 1.9.1999) by **S.I. 1998/3097, art.5**

#### *Preliminary*

- 1 In this Schedule “temporary governing body” does not include a temporary governing body who by virtue of paragraph 2 of Schedule 10 fall to be treated as a governing body.

#### *New county and voluntary schools*

- 2 (1) For the purposes of applying (in accordance with this Schedule) sections 101 to 122 and Part I of Schedule 11 in relation to new schools which will be county or voluntary schools—
- (a) references to a school conducted by a governing body shall be read as including a new school which has a temporary governing body, and
  - (b) other references to the governing body of a school shall be read as including the temporary governing body of a new school.
- (2) For those purposes—
- (b) references to a county or voluntary school maintained by a local education authority, and
  - (b) references, in a context referring to a local education authority, to county and voluntary schools,



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shall be read as including a new school which on implementation of the relevant proposals will be a county or voluntary school maintained by the authority.

- 3 (1) A new school which will be a county or voluntary school is required to be covered by a scheme in any financial year if it has a temporary governing body during the whole or any part of that year.
- (2) In the case of such a school, sections 101 to 122 and Part I of Schedule 11 apply subject to the modifications set out in paragraphs 4 to 7.
- 4 (1) Where a school required to be covered by a scheme in a financial year is a new school during the whole or any part of that year, the provision required by section 106(4)(a) shall not apply in relation to the determination of the school's budget share for the year, so far as that share falls in accordance with the scheme to be treated as referable to planned expenditure by the local education authority for the purposes of the school in respect of any period before the implementation of the relevant proposals.
- (2) Accordingly—
- (a) paragraph 3(1) of Schedule 11 shall apply in relation to the school as if it referred to such part (if any) of the school's budget share for the year as falls to be determined in accordance with the provision required by section 106(4)(a); and
- (b) the statement under section 122(2) shall include in relation to the school the additional particulars mentioned in sub-paragraph (3).
- (3) Those particulars are the amount of such part (if any) of the school's budget share for the year (as initially determined for the purposes of the scheme) as falls in accordance with the scheme to be treated as referable to planned expenditure such as is mentioned in sub-paragraph (1).
- (4) Sub-paragraph (1) shall not be taken as prejudicing the inclusion in the allocation formula under a scheme, by virtue of section 106(4)(b), of provision taking into account in relation to a new school any forecast made in accordance with the scheme of the number of pupils it will have on implementation of the relevant proposals.
- 5 The delegation requirement under a scheme shall not apply in relation to a new school (where it is not a school to which section 110 applies) until such date as may be determined by or under the scheme.
- 6 Section 110 shall have effect, in relation to a new school to which it applies, with the omission of subsection (3)(a).
- 7 Section 122(7) shall not apply in relation to the temporary governing body of a new school.

#### *New special schools*

- 8 (1) Any reference—
- (a) in section 120, to maintained special schools or to a maintained special school, or
- (b) in section 124, to special schools or to a special school,
- shall be read as including a new school proposed to be established by a local education authority which will be a maintained special school and which has a temporary governing body.

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- (2) Any reference in section 120 or 124 to a school’s governing body shall be read, in relation to such a new school, as a reference to its temporary governing body.
- (3) The reference in section 124(1) to a local education authority maintaining a special school or special schools shall be read, in relation to such a new school, as a reference to the authority being under a duty by virtue of paragraph 20 of Schedule 9 to defray expenses in relation to its temporary governing body.
- 9 Section 124(8) shall not apply in relation to the temporary governing body of a new school.

*Financial delegation apart from schemes*

- 10 Section 125 shall not apply in relation to a new school.

SCHEDULE 13

Section 133.

STAFFING OF COUNTY, CONTROLLED, SPECIAL  
 AGREEMENT AND MAINTAINED SPECIAL SCHOOLS

*The selection panel*

- 1 (1) The articles of government for a county, controlled, special agreement or maintained special school shall provide—
- (a) for the constitution of a selection panel whenever such a panel is required by virtue of this Schedule in relation to the appointment of a head teacher or deputy head teacher, and
- (b) for a selection panel to consist of a specified number of persons appointed to it by the local education authority and a specified number of governors appointed to it by the governing body.
- (2) Neither of the numbers specified by virtue of sub-paragraph (1)(b) shall be less than three; and the number specified in relation to appointments made by the governing body shall not be less than the number specified in relation to appointments made by the authority.
- (3) The articles shall provide for the governing body and the authority to have power to replace, at any time, any member of a selection panel whom they have appointed.
- 2 Regulations may make provision as to the meetings and proceedings of selection panels.

*Appointment of head teacher*

- 3 (1) The articles of government for a county, controlled, special agreement or maintained special school shall, in relation to the appointment of a head teacher for the school, make provision for the matters set out in sub-paragraphs (2) to (11).
- (2) If the post of head teacher is vacant, the local education authority shall appoint an acting head teacher after consulting the governing body.

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- (3) Before appointing a head teacher, the local education authority shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
- (4) The local education authority shall not appoint a person to be head teacher unless his appointment has been recommended by a selection panel constituted in accordance with the articles.
- (5) The selection panel shall interview such applicants for the post as they think fit.
- (6) If the panel fail to agree on the applicants whom they wish to interview—
  - (a) the members of the panel appointed by the governing body are to have the right to nominate not more than two applicants to be interviewed by the panel, and
  - (b) the other members of the panel are to have the right to nominate not more than two other applicants to be interviewed.
- (7) Where the panel consider it appropriate to do so, they shall recommend to the authority for appointment as head teacher one of the applicants interviewed by them.
- (8) If the panel are unable to agree on a person to recommend to the authority, they shall—
  - (a) repeat (with a view to reaching agreement) such of the steps mentioned in sub-paragraphs (5) to (7) as they think fit,
  - (b) where—
    - (i) they have repeated any of those steps in pursuance of paragraph (a) and remain unable to agree, or
    - (ii) they have decided that it is not appropriate to repeat any of those steps,require the authority to re-advertise the vacancy, and
  - (c) where the vacancy is re-advertised, repeat all of the steps mentioned in sub-paragraphs (5) to (7).
- (9) If the authority decline to appoint a person recommended by the panel, the panel shall—
  - (a) where there are applicants for the post whom they have not interviewed, interview such of those applicants (if any) as they think fit,
  - (b) recommend another of the applicants interviewed by them, if they think fit,
  - (c) ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised, and
  - (d) where the vacancy is re-advertised, repeat the steps mentioned in sub-paragraphs (5) to (7).
- (10) The authority shall re-advertise the vacancy where they are required to do so by the panel, and may do so where—
  - (a) it has been duly advertised,
  - (b) the panel have failed either to make a recommendation which is acceptable to the authority or to request that the vacancy be re-advertised, and
  - (c) the authority are of the opinion that the panel have had sufficient time in which to carry out their functions.

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- (11) The chief education officer of the authority, or a member of his department nominated by him, shall have the right to attend all proceedings of the panel (including interviews) for the purpose of giving advice to members of the panel.
- (12) In this paragraph “head teacher” does not include an acting head teacher.

*Appointment of deputy head teacher*

- 4 (1) The articles of government for a county, controlled, special agreement or maintained special school shall, in relation to the appointment of a deputy head teacher for the school, make either—
  - (a) the same provision, modified as mentioned in sub-paragraphs (2) and (3), as that made (in accordance with paragraph 3) in relation to the appointment of a head teacher for the school, or
  - (b) the same provision as that made (in accordance with paragraph 5) in relation to the appointment of other teachers at the school.
- (2) If the articles (in accordance with sub-paragraph (1)(a)) provide for the appointment of a deputy head teacher to be on the recommendation of a selection panel, they shall provide that where the head teacher is not a member of the panel—
  - (a) he may be present, for the purpose of giving advice, at any proceedings of the panel (including interviews), and
  - (b) whether or not he attends any such proceedings, he shall be consulted by the panel before they make any recommendation to the local education authority.
- (3) No provision similar to that set out in paragraph 3(2) is required in the articles in relation to the appointment of a deputy head teacher.

*Appointment of other staff: general*

- 5 (1) The articles of government for a county, controlled, special agreement or maintained special school shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) Where there is a vacancy in a post (other than that of head teacher or deputy head teacher) which is part of the complement of the school, the local education authority shall decide whether, if the post is not a new one, it should be retained.
- (3) If the authority decide that the post should be retained or it is a new post, they shall—
  - (a) advertise the vacancy and fill it in accordance with the procedure laid down by virtue of paragraph 6, unless they have the intention mentioned in paragraph (b) below;
  - (b) fill the vacancy in accordance with the procedure laid down by virtue of paragraph 7, if they intend to appoint a person who, at the time when they form that intention, is an employee of theirs or has been appointed to take up employment with them at a future date.
- (4) Nothing in this paragraph (or in any of paragraphs 6 to 9) applies in relation to any temporary appointment pending—
  - (a) the return to work of the holder of the post in question, or
  - (b) the taking of any steps required by the articles in relation to the vacancy in question.

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*Appointment of other staff: vacancy advertised*

- 6
- (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) to (7).
  - (2) Where the local education authority decide to advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of theirs) who are qualified to fill the post.
  - (3) Where the vacancy is advertised, the governing body shall—
    - (a) interview such applicants for the post as they think fit, and
    - (b) where they consider it appropriate to do so, recommend to the authority for appointment to the post one of the applicants interviewed by them.
  - (4) If the governing body are unable to agree on a person to recommend to the authority, they shall—
    - (a) repeat the steps mentioned in sub-paragraph (3), if they consider that to do so might lead to their reaching agreement,
    - (b) where they have repeated those steps and remain unable to agree, or decide that it is not appropriate to repeat them, ask the authority to re-advertise the vacancy, and
    - (c) where the vacancy is re-advertised, repeat those steps.
  - (5) If the authority decline to appoint a person recommended by the governing body, the governing body shall—
    - (a) where there are applicants for the post whom they have not interviewed, interview such of those applicants (if any) as they think fit,
    - (b) recommend another of the applicants interviewed by them, if they think fit,
    - (c) ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised, and
    - (d) where the vacancy is re-advertised, repeat the steps mentioned in sub-paragraph (3).
  - (6) Where the authority are asked to re-advertise the vacancy by the governing body, they shall do so unless—
    - (a) they decide that the post is to be removed from the complement of the school, or
    - (b) they decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.
  - (7) Whenever governors meet to discuss the appointment or an applicant is interviewed—
    - (a) the head teacher (if he would not otherwise be entitled to be present), and
    - (b) such person (if any) as the authority appoint to represent them,shall be entitled to be present for the purpose of giving advice.

*Appointment of other staff: vacancy not advertised*

- 7
- (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) and (3).
  - (2) Where the vacancy is not advertised, the governing body—

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- (a) shall be entitled to determine a specification for the post in consultation with the head teacher, and
  - (b) if they do so, shall send a copy of it to the local education authority.
- (3) When considering whom to appoint to the post, the authority shall—
- (a) have regard to any such specification, and
  - (b) consult the governing body and the head teacher.

*Delegation of functions under paragraph 6 or 7*

- 8 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) The governing body shall have power, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, to delegate any of the functions which are theirs by virtue of paragraph 6 or 7—
- (a) to one or more governors,
  - (b) to the head teacher, or
  - (c) to one or more governors and the head teacher acting together.
- (3) In such a case, the provision made by virtue of paragraph 6(6) shall apply with the substitution of references to the person or persons to whom the functions are delegated for references to the governing body.

*Restriction on making appointment where vacancy advertised*

- 9 Where a local education authority have advertised a vacancy in accordance with the provision made by the articles of government for a school by virtue of paragraph 6(2), they shall not appoint a person to the post unless—
- (a) his appointment has been recommended in accordance with the provision made by the articles by virtue of paragraph 6(3) to (5), or
  - (b) they decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.

*Consultation by LEA before appointing certain non-teaching staff*

- 10 The articles of government for a county, controlled, special agreement or maintained special school shall require the local education authority to consult the governing body and the head teacher before appointing any person to work solely at the school otherwise than—
- (a) in a teaching post,
  - (b) in a non-teaching post which is part of the complement of the school, or
  - (c) solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.

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*Dismissal etc. of staff*

- 11 (1) The articles of government for a county, controlled, special agreement or maintained special school shall make provision for the matters set out in sub-paragraphs (2) to (7).
- (2) The local education authority shall consult the governing body and (except where he is the person concerned) the head teacher before—
- (a) dismissing a person to whom sub-paragraph (3) applies, or
  - (b) otherwise requiring such a person to cease to work at the school, or
  - (c) permitting such a person to retire in circumstances in which he would be entitled to compensation for premature retirement.
- (3) This sub-paragraph applies to any person who is—
- (a) employed in a post which is part of the complement of the school, or
  - (b) employed to work solely at the school in any other post, otherwise than solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.
- (4) Where a teacher at the school is required to complete an initial period of probation, the local education authority shall consult the governing body and the head teacher before—
- (a) extending his period of probation, or
  - (b) deciding whether he has completed it successfully.
- (5) Where the governing body recommend to the local education authority that a person should cease to work at the school, the authority shall consider their recommendation.
- (6) Both the governing body and the head teacher shall have power to suspend a person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (7) The governing body or head teacher shall—
- (a) when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body, and
  - (b) end the suspension if directed to do so by the authority.
- (8) In this paragraph “suspend” means suspend without loss of emoluments; and in sub-paragraph (2) the reference to dismissing a person does not include a dismissal under section 143(6) or 144(3) (dismissal of teachers of religious education).

SCHEDULE 14

Section 136.

STAFFING OF COUNTY, CONTROLLED AND SPECIAL  
AGREEMENT SCHOOLS WITH DELEGATED BUDGETS

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

C100 Sch. 14 extended (1.4.1999) by S.I. 1999/711, reg. 4

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### *Introductory*

- 1 (1) In this Schedule “the school” means a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) References in this Schedule to a vacancy in any post include a prospective vacancy in the post.
- (3) References in this Schedule to staff qualification requirements are to any requirements with respect to—
- (a) qualifications,
  - (b) health and physical capacity, or
  - (c) fitness on educational grounds or in any other respect,
- of teachers and other persons employed in work that brings them regularly into contact with persons who have not attained the age of 19 which for the time being apply under regulations under section 218 of the <sup>M160</sup>Education Reform Act 1988.
- (4) References in this Schedule to the chief education officer of a local education authority include any officer of the authority nominated by the chief education officer.

#### **Marginal Citations**

**M160** 1988 c. 40.

### *Appointment of head teacher and deputy head teacher*

- 2 Paragraphs 3 to 7 apply in relation to an appointment to fill a vacancy in the post of head teacher or deputy head teacher of the school.
- 3 The governing body shall notify the local education authority of the vacancy in writing before taking any of the steps mentioned below.
- 4 (1) Where the vacancy is in the post of head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant—
- (a) the governing body shall recommend a person for appointment as acting head teacher, and
  - (b) the local education authority shall appoint the person recommended unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Where the vacancy is in the post of deputy head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant—



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- (a) the governing body may recommend a person for appointment as acting deputy head teacher, and
      - (b) if they do recommend a person, the local education authority shall appoint him unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
    - (3) If the authority decline to appoint a person recommended by the governing body for appointment as acting head teacher, the governing body shall recommend another person for appointment.
  - 5 Before recommending a person for appointment as head teacher or deputy head teacher, the governing body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
  - 6
    - (1) The governing body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on them by this paragraph.
    - (2) The selection panel shall—
      - (a) interview such applicants for the post as they think fit,
      - (b) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them, and
      - (c) if their recommendation is approved by the governing body, recommend the applicant in question to the local education authority for appointment.
    - (3) If the panel are unable to agree on a person to recommend to the governing body, or the governing body do not approve their recommendation, the governing body—
      - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
      - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in sub-paragraph (2).
  - 7
    - (1) The local education authority shall appoint the person recommended by the selection panel unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
    - (2) If the authority decline to appoint the person recommended by the panel, the governing body—
      - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
      - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in paragraph 6(2).
- Appointment of other teachers*
- 8 Subject to paragraph 9, paragraphs 10 to 14 apply in relation to an appointment to fill a vacancy in any teaching post (whether full-time or part-time) at the school, other than the post of head teacher or deputy head teacher.

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- 9 (1) Paragraphs 10 to 14 do not apply in relation to a temporary appointment to fill such a vacancy—
- (a) for a period not exceeding four months, or
  - (b) where it appears to the governing body that the period for which the person appointed will hold the post in question will not exceed four months.
- (2) Where it appears to the governing body in the case of any post that it would be appropriate to make an appointment such as is mentioned in sub-paragraph (1)—
- (a) they may recommend a person for appointment to the post on such terms as to the duration of the appointment as they may specify, and
  - (b) the local education authority shall appoint the person recommended on the terms specified unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- 10 Before taking any of the steps mentioned below, the governing body shall—
- (a) determine a specification for the post in consultation with the head teacher, and
  - (b) send a copy of the specification to the local education authority.
- 11 (1) The local education authority may nominate for consideration for appointment to the post any person who appears to them to be qualified to fill it and who at the time of his nomination either—
- (a) is an employee of theirs or has been appointed to take up employment with them at a future date, or
  - (b) is employed by the governing body of an aided school maintained by them.
- (2) The authority shall not nominate a person within sub-paragraph (1)(b) without the consent of the governing body of the aided school.
- 12 (1) The governing body may advertise the vacancy at any time after they have sent a copy of the specification for the post to the local education authority in accordance with paragraph 10, and shall do so unless either—
- (a) they accept for appointment to the post a person nominated by the local education authority under paragraph 11, or
  - (b) they decide to recommend to the authority for appointment to the post a person who is already employed to work at the school.
- (2) Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it.
- 13 (1) Where the governing body advertise the vacancy, they shall—
- (a) interview such applicants for the post and such of the persons (if any) nominated by the local education authority under paragraph 11 as they think fit, and
  - (b) where they consider it appropriate to do so, either recommend to the authority for appointment one of the applicants interviewed by them or notify

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the authority that they accept for appointment any person nominated by the authority under paragraph 11.

- (2) If the governing body are unable to agree on a person to recommend or accept for appointment, they may repeat the steps mentioned in sub-paragraph (1)(a) and (b), with or without first re-advertising the vacancy in accordance with paragraph 12(2).
- 14 (1) The local education authority shall appoint the person recommended or accepted for appointment by the governing body unless (in the case of a person other than one nominated by the authority) he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint a person recommended by the governing body, the governing body shall repeat such of the steps mentioned in paragraph 13(1)(a) and (b) as they think fit, with or without first re-advertising the vacancy in accordance with paragraph 12(2).
- 15 The governing body may, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, delegate any of their functions under paragraphs 9 to 14—
- (a) to one or more governors,
  - (b) to the head teacher, or
  - (c) to one or more governors and the head teacher acting together.

*Advice of chief education officer on appointments of teachers*

- 16 (1) The chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice—
- (a) all proceedings (including interviews) of the governing body, and of any selection panel appointed under paragraph 6, relating to appointments to which paragraphs 3 to 7 apply, and
  - (b) all proceedings (including interviews) of the governing body, and of any persons to whom any functions of the governing body under paragraphs 9 to 14 are delegated, relating to appointments to which paragraph 9 applies or to which paragraphs 10 to 14 apply.
- (2) The chief education officer shall offer such advice as he considers appropriate with respect to—
- (a) the appointment of a head teacher, a deputy head teacher, an acting head teacher or an acting deputy head teacher, or
  - (b) any matter arising in connection with such an appointment.
- (3) If requested to do so by the governing body, the chief education officer shall give such advice as he considers appropriate in relation to any appointment to which paragraph 9 applies or to which paragraphs 10 to 14 apply.
- (4) Any advice given by the chief education officer to—
- (a) the governing body,
  - (b) any selection panel appointed under paragraph 6, or

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- (c) any persons to whom any functions of the governing body under paragraphs 9 to 14 are delegated,

with respect to any matter which relates to an appointment and falls to be determined by them shall be considered by them before determining that matter, whether or not the advice was given at their request.

*Advice of head teacher on appointments of teachers*

- 17 Except in relation to the appointment of a head teacher—
- (a) paragraph 16(1) applies in relation to the head teacher (if not otherwise entitled to be present at the proceedings there mentioned) as it applies in relation to the chief education officer, and
- (b) paragraph 16(4) applies in relation to advice given by the head teacher as it applies in relation to advice given by the chief education officer.

*Appointment of non-teaching staff*

- 18 (1) Where the governing body wish to appoint a person to work in a non-teaching post at the school, they may recommend a person to the local education authority for appointment to the post.
- (2) A recommendation under this paragraph shall be in writing and shall specify—
- (a) the duties to be performed by the person appointed (including, where the post is part-time, his hours of work);
- (b) the grade (on the scale of grades currently applicable in relation to employment with the authority) which the governing body consider appropriate for the post; and
- (c) where the authority have a discretion with respect to the remuneration to be paid to a person appointed to the post, the determination of any matter to which that discretion applies and which the governing body consider appropriate in the case of the person recommended for appointment.
- (3) Before selecting a person to recommend under this paragraph and determining in relation to such a recommendation any matters mentioned in sub-paragraph (2), the governing body shall consult—
- (a) the head teacher (where he would not otherwise be involved in the decision), and
- (b) if the post involves (or in the case of a new post, it is proposed that it should involve) work at the school for 16 hours a week or more, the chief education officer of the authority.
- (4) For the purposes of sub-paragraph (2)(c), the authority are to be regarded as having a discretion with respect to the remuneration to be paid to a person appointed to a post if any provisions regulating the rates of remuneration or allowances payable to persons in the authority's employment either—
- (a) do not apply in relation to that appointment, or
- (b) leave to the authority any degree of discretion as to rate of remuneration or allowances in the case of that appointment.

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- 19 (1) The local education authority shall appoint a person recommended to them under paragraph 18 unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Any such appointment shall be on such terms as to give effect, so far as they relate to any matter mentioned in paragraph 18(2), to the governing body's recommendation in respect of that matter.

#### *The clerk to the governing body*

- 20 (1) Where there is a vacancy in the office of clerk to the governing body of the school, the local education authority shall appoint a person selected by the governing body.
- (2) Before selecting a person to recommend for such appointment, the governing body shall consult the chief education officer of the authority.

#### *Discipline*

- 21 (1) The regulation of conduct and discipline in relation to the staff of the school, and any procedures for giving members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body.
- (2) The governing body shall establish—
- (a) disciplinary rules and procedures, and
  - (b) procedures such as are mentioned in sub-paragraph (1),
- and shall take such steps as appear to them to be appropriate for making them known to the staff at the school.
- (3) Where the implementation of any determination made by the governing body in the exercise of their control over the conduct and discipline of the staff requires any action which—
- (a) is not within the functions exercisable by the governing body by virtue of this Act, but
  - (b) is within the power of the local education authority,
- the authority shall take that action at the request of the governing body.

#### *Suspension*

- 22 (1) Both the governing body and the head teacher shall have power to suspend any person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (2) The governing body or head teacher shall, when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body.
- (3) A suspension under this paragraph may only be ended by the governing body.

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- (4) The governing body shall, on ending such a suspension, immediately inform the authority and the head teacher.
- (5) In this paragraph “suspend” means suspend without loss of emoluments.

*Dismissal, etc.*

- 23 (1) Where the governing body determine—
  - (a) that any person employed to work at the school should cease to work there, or
  - (b) that the clerk to the governing body should be dismissed,
 they shall notify the local education authority in writing of their determination and the reasons for it.
  - (2) If in a case within sub-paragraph (1)(a) the person concerned is employed to work solely at the school (and he does not resign), the authority shall, before the end of the period of 14 days beginning with the date on which the notification under sub-paragraph (1) is given, either—
    - (a) give him such notice terminating his contract of employment with the authority as is required under that contract, or
    - (b) terminate that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.
  - (3) If in a case within sub-paragraph (1)(a) the person concerned is not employed to work solely at the school, the authority shall require him to cease to work at the school.
  - (4) In a case within sub-paragraph (1)(b), the authority shall dismiss the clerk to the governing body on receipt of the notification from the governing body.
- 24 (1) Where paragraph 23(3) applies, no part of the costs incurred by the local education authority in respect of the emoluments of the person concerned, so far as they relate to any period falling after the expiration of his contractual notice period, shall be met from the school’s budget share.
  - (2) The reference in sub-paragraph (1) to the person’s contractual notice period is to the period of notice that would have been required under his contract of employment with the authority for termination of that contract if such notice had been given on the date on which the notification under paragraph 23(1) was given.
- 25 (1) The governing body shall—
  - (a) make arrangements for giving any person in respect of whom they propose to make a determination under paragraph 23(1) an opportunity of making representations as to the action they propose to take (including, if he so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and
  - (b) have regard to any representations made by him.
  - (2) The governing body shall also make arrangements for giving any person in respect of whom they have made a determination under paragraph 23(1) an opportunity

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of appealing against it before they notify the local education authority of the determination.

- 26 (1) The head teacher (except where he is the person concerned) and the chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the governing body relating to a determination under paragraph 23(1).
- (2) The governing body shall consider any advice given by a person who is entitled to attend such proceedings under this paragraph before making a determination under paragraph 23(1).
- 27 (1) The local education authority shall not dismiss a person employed by them to work solely at the school except as provided by paragraph 23.
- (2) Sub-paragraph (1) does not apply in a case where the dismissal of the person in question is required under regulations under section 218(6) of the <sup>M161</sup>Education Reform Act 1988 (regulations prohibiting or restricting employment or further employment of teachers etc. in cases of misconduct or on medical or educational grounds).

**Marginal Citations**

M161 1988 c. 40.

*School meals staff*

- 28 Nothing in paragraphs 18, 19 and 21 to 27 applies in relation to the appointment of a person to work at the school, or in relation to a person so employed, where—
- (a) the person concerned is to be, or is, employed to work solely in connection with the provision of meals, and
- (b) less than 50 per cent. of the person's remuneration will be, or is, met from the school's delegated budget.

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## SCHEDULE 15

Section 158.

### REINSTATEMENT OF PUPILS EXCLUDED FROM COUNTY, VOLUNTARY OR MAINTAINED SPECIAL SCHOOLS

#### PART I

#### COUNTY, CONTROLLED AND MAINTAINED SPECIAL SCHOOLS

##### *Preliminary*

- 1       The articles of government for a county, controlled or maintained special school shall make provision for the matters set out in paragraphs 2 to 7.

##### *Reinstatement of permanently excluded pupils*

- 2       (1) Where the local education authority have been informed of the permanent exclusion of a pupil from the school, they shall—
- (a) after giving the governing body an opportunity to express their views, and
  - (b) after considering any views expressed within the prescribed period by the governing body,
- consider whether the pupil should be reinstated immediately, reinstated by a particular date or not reinstated.
- (2) If the authority decide that the pupil should be reinstated, they shall—
- (a) give the appropriate direction to the head teacher, and
  - (b) inform the relevant person and the governing body of the direction.
- (3) If the authority decide that the pupil should not be reinstated, they shall inform the relevant person of their decision.
- 3       (1) The head teacher shall comply with any direction for the reinstatement of a pupil who has been permanently excluded from the school—
- (a) which is given by the local education authority by virtue of paragraph 2, or
  - (b) which is given by the governing body.
- (2) If conflicting directions are given by the authority and the governing body, the head teacher shall comply with the direction which will lead to the earlier reinstatement of the pupil.
- 4       Where the governing body direct the head teacher to reinstate a pupil who has been permanently excluded from the school, they shall inform the relevant person and the local education authority of the direction.



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### *Reinstatement of pupils excluded for a fixed period*

- 5 (1) Where a pupil is excluded from the school for a fixed period in circumstances in which he would, as a result of the exclusion—
- (a) be excluded from the school for a total of more than five school days in any one term, or
  - (b) lose an opportunity to take a public examination,
- the head teacher shall comply with any direction given by the local education authority or the governing body for the pupil's reinstatement.
- (2) If conflicting directions are given by the authority and the governing body, the head teacher shall comply with the direction which will lead to the earlier reinstatement of the pupil.
- 6 (1) Where the local education authority—
- (a) have been informed of the exclusion of a pupil from the school for a fixed period, and
  - (b) propose to give any such direction as is mentioned in paragraph 5(1),
- they shall consult the governing body before giving such a direction.
- (2) Where they give such a direction, the authority shall inform the relevant person and the governing body of the direction.
- 7 Where the governing body give any such direction as is mentioned in paragraph 5(1), they shall inform the relevant person and the local education authority of the direction.

## **PART II**

### **AIDED AND SPECIAL AGREEMENT SCHOOLS**

#### *Preliminary*

- 8 The articles of government for an aided or a special agreement school shall make provision for the matters set out in paragraphs 9 to 13.

#### *Reinstatement of permanently excluded pupils*

- 9 (1) Where the governing body have been informed of the permanent exclusion of a pupil from the school, they shall consider whether he should be reinstated immediately, reinstated by a particular date or not reinstated.
- (2) If the governing body decide that the pupil should be reinstated, they shall—
- (a) give the appropriate direction to the head teacher, and
  - (b) inform the relevant person and the local education authority of the direction.

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- (3) If the governing body decide that the pupil should not be reinstated, they shall (without delay) inform the relevant person and the local education authority of their decision.
- 10 The head teacher shall comply with any direction for the reinstatement of the pupil given by the governing body by virtue of paragraph 9.

*Reinstatement of pupils excluded for a fixed period*

- 11 (1) Where a pupil is excluded from the school for a fixed period in circumstances in which he would, as a result of the exclusion—
- (a) be excluded from the school for a total of more than five school days in any one term, or
  - (b) lose an opportunity to take a public examination,
- the head teacher shall comply with any direction given by the governing body or the local education authority for the pupil's reinstatement.
- (2) If conflicting directions are given by the authority and the governing body, the head teacher shall comply with the direction which will lead to the earlier reinstatement of the pupil.
- 12 (1) Before giving any such direction as is mentioned in paragraph 11(1) the local education authority shall—
- (a) give the governing body an opportunity to express their views; and
  - (b) consider any views expressed within the prescribed period by the governing body.
- (2) Where the authority give any such direction, they shall inform the relevant person and the governing body of the direction.
- 13 Where the governing body give any such direction as is mentioned in paragraph 11(1), they shall inform the relevant person and the local education authority of the direction.

**PART III**

GENERAL

*Power to prescribe periods for the taking of any required steps*

- 14 Regulations may provide that, where a local education authority or governing body of a school are required under the preceding provisions of this Schedule to take any step, the duty must, subject to prescribed exceptions, be performed within the prescribed period; but such a provision shall not relieve the authority or body of the duty to take any step which has not been taken within that period.

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### *Meaning of “the relevant person”*

- 15        In this Schedule “the relevant person” means—
- (a)    in relation to a pupil under the age of 18, a parent of his;
  - (b)    in relation to a pupil who has attained that age, the pupil himself.

## SCHEDULE 16

Section 159.

### APPEALS AGAINST EXCLUSION OR REINSTATEMENT OF PUPILS

#### *Duty to inform parent or pupil of right of appeal*

- 1        (1) The articles of government for a county, controlled or maintained special school shall require the local education authority, where by virtue of paragraph 2(3) of Schedule 15 they inform the relevant person of their decision that a pupil should not be reinstated, to give him notice in writing—
- (a)    of his right to appeal against the decision;
  - (b)    of the last date on which an appeal may be made (calculated in accordance with paragraph 3(1) below);
  - (c)    of his right to give notice under paragraph 3(2) below stating that he does not intend to appeal;
  - (d)    that no appeal may be made after notice under that provision is given.
- (2) The articles of government for an aided or a special agreement school shall require the governing body, where by virtue of paragraph 9(3) of Schedule 15 they inform the relevant person of their decision that a pupil should not be reinstated, to give him notice in writing—
- (a)    of his right to appeal against the decision;
  - (b)    of the last date on which an appeal may be made (calculated in accordance with paragraph 3(1) below);
  - (c)    of his right to give notice under paragraph 3(2) below stating that he does not intend to appeal;
  - (d)    that no appeal may be made after notice under that provision is given.

#### *Suspension of direction for reinstatement pending appeal etc.*

- 2        (1) A direction for the reinstatement of a pupil given by virtue of paragraph 2 of Schedule 15 shall not have effect for a period ending with the fifth school day ending after the governing body are informed of the direction by the local education authority unless, within that period, the governing body inform the authority that they do not intend to appeal against the direction.
- (2) Where, within that period, the governing body lodge an appeal against the direction in accordance with the arrangements made by the local education authority under section 159(1)—

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- (a) the authority shall, before the end of the fourth school day after the day on which the appeal is lodged, inform the relevant person of his right to make representations to the appeal committee, and
  - (b) the direction shall not have effect unless it is confirmed by the appeal committee or the appeal is withdrawn.
- (3) No appeal against such a direction may be made by the governing body after the direction has taken effect.

*Time limits and notices waiving right to appeal*

- 3 (1) No appeal under section 159(1)(a) or (2) against a decision not to reinstate a pupil may be made after the 15th school day after the day on which the relevant person is given notice in writing under paragraph 1(1) or (2).
- (2) Any notice in writing given by the relevant person to the body responsible for making any arrangements under section 159(1) or (2) which states that he does not intend to appeal against a decision not to reinstate the pupil shall be final.
- (3) The time limit for appealing under section 159 shall be treated as having expired on the day on which notice is given under sub-paragraph (2) (if earlier than the last day on which an appeal may be made in accordance with sub-paragraph (1)).

*Appeal committees*

- 4 (1) Part I of Schedule 33 (school admission appeals) shall have effect in relation to appeals under section 159 with the necessary modifications.
- (2) Accordingly, in the application of that Part of that Schedule in relation to any such appeals—
- (a) any reference to section 423(1) shall be read as a reference to section 159(1);
  - (b) any reference to section 423(2) shall be read as a reference to section 159(2); and
  - (c) any reference to section 423(3) shall be read as a reference to section 159(3).

*Procedure on an appeal*

- 5 In the following provisions of this Schedule—
- “appeal” means an appeal under section 159;
  - “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33, as it applies in accordance with paragraph 4 above.
- 6 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 7 The appeal committee shall meet to consider an appeal—

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- (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or
- (b) if the body responsible for making any arrangements under section 159 has determined a shorter period, within that period.

[<sup>F125</sup>7A(1) For the purpose of fixing the time (falling within the period mentioned in paragraph 7) at which the hearing of an appeal is to take place, the body mentioned in that paragraph shall take reasonable steps to ascertain any times falling within that period when—

- (a) the relevant person, or
- (b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 8 or 9,

would be able to attend.

- (2) Where in accordance with sub-paragraph (1) that body have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.]

#### Textual Amendments

**F125** Sch. 16 para. 7A inserted (1.9.1998) by 1997 c. 44, s. 7(2) (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt.IV (which s. 7 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), Sch.31 (with ss. 138(9), 144(6)))

[<sup>F126</sup>8 (1) On an appeal by a pupil or parent the appeal committee shall give the appellant an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.

(2) On such an appeal the committee shall allow—

- (a) the head teacher to make written representations and to appear and make oral representations,
- (b) the local education authority and the governing body to make written representations,
- (c) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations, and
- (d) the governing body to be represented.]

#### Textual Amendments

**F126** Sch. 16 para. 8 substituted (1.9.1998) by 1997 c. 44, s. 7(3) (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt.IV (which s. 7 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), Sch.31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

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- 9 (1) On an appeal by a governing body the appeal committee shall give a governor nominated by the governing body an opportunity of appearing and making oral representations, and shall allow the governing body to be represented.
- (2) On such an appeal the committee shall allow—
- (a) the relevant person to make written representations and to appear and make oral representations,
  - (b) the local education authority to make written representations, and
  - (c) an officer of the authority nominated by the authority to appear and make oral representations.
- 10 (1) The body responsible for making any arrangements under section 159 shall, in setting any time limits in connection with appeals, have regard to the desirability of securing that appeals are disposed of without delay.
- (2) If the relevant person making an appeal under section 159(1)(a) or (2) requests that body to do so, it may in exceptional circumstances extend the period in which an appeal committee is to hear the appeal and communicate its decision.
- 11 (1) Appeals shall be heard in private except when the local education authority or governing body by whom the arrangements under section 159 are made direct otherwise.
- (2) Without prejudice to any of the provisions of this Schedule—
- (a) a member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal committee; and
  - (b) any member of the Council on Tribunals may attend, as an observer, any meeting of an appeal committee at which an appeal is considered.
- 12 Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.
- [<sup>F127</sup>12(A)] In deciding—
- (a) whether the pupil in question should be reinstated (and, if so, the time when this should take place), or
  - (b) whether any direction for the reinstatement of the pupil in question should be confirmed,
- an appeal committee shall have regard to both the interests of that pupil and the interests of other pupils at his school and members of its staff.
- (2) In making any such decision an appeal committee shall also have regard to the measures publicised by the head teacher under section 154(7).
- (3) Sub-paragraphs (1) and (2) do not apply where an appeal committee decides that the pupil in question was not guilty of the conduct which the head teacher relied on as grounds for his permanent exclusion.

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- (4) Sub-paragraphs (1) and (2) shall not be read as precluding an appeal committee from having regard to any other relevant matters.]

#### Textual Amendments

**F127** Sch. 16 para. 12A inserted (1.9.1998) by 1997 c. 44, s. 7(4) (with s. 57(3)); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV (which s. 7 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), Sch.31 (with ss. 138(9), 144(6))); S.I. 1999/2323, art. 2(1), SAch. 1

- 13 In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.
- 14 The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to the relevant person, [<sup>F128</sup>the head teacher,] the local education authority and the governing body, and shall be so communicated—
- within the period ending with the 17th school day after the day on which the appeal is lodged, or
  - if the body responsible for making any arrangements under section 159 has determined a shorter period, within that period.

#### Textual Amendments

**F128** Words in Sch. 16 para. 14 inserted (1.9.1998) by 1997 c. 44, s. 57(1), Sch. 7 para. 47(a); S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV (which Sch. 7 para. 47 is repealed (1.9.1999) by 1998 c. 31, ss. 140(1)(3), 145(3), Sch. 30 para. 223, Sch.31 (with ss. 138(9), 144(6))); S.I. 1999/2323, art. 2(1), Sch. 1

- 15 (1) Subject to paragraphs 6 to 14, all matters relating to the procedure on appeals <sup>F129</sup> . . . shall be determined by the local education authority or governing body by whom the arrangements under section 159 are made.
- (2) Neither section 106 of the <sup>M162</sup>Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee.

#### Textual Amendments

**F129** Words in Sch. 16 para. 15(1) repealed (1.9.1998) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 47(b), Sch.8; S.I. 1998/386, art. 2(4), Sch. 1 Pt. IV (which Sch. 7 para. 47 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, Sch.31 (with ss. 138(9), 144(6))); S./I. 1999/2323, art. 2(1), Sch. 1

#### Marginal Citations

**M162** 1972 c. 70.

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### Notices

- 16 (1) Where in accordance with paragraph 1(1) or (2) notice in writing is required to be given to a person, the notice may be given either—
- (a) by delivering it to the person's last-known address, or
  - (b) by properly addressing, pre-paying and sending by first class post to the person's last-known address a letter containing the notice.
- (2) For the purposes of calculating the period referred to in paragraph 3(1), a notice shall be taken to have been given—
- (a) where first class post is used, on the second school day after the date of posting, or
  - (b) where the notice is delivered, on the date of delivery,
- unless (in either case) the contrary is shown.

### Meaning of "the relevant person"

- 17 In this Schedule "the relevant person" means—
- (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.

### Power of Secretary of State to make amendments

- 18 The Secretary of State may by order amend the preceding provisions of this Schedule.

## SCHEDULE 17

Section 161.

### GOVERNORS' ANNUAL REPORTS

#### General

- 1 (1) The articles of government for a county, voluntary or maintained special school shall impose the requirements set out in paragraphs 2 to [F1309F].
- (2) In those paragraphs "the report" means a governors' report prepared under section 161.

#### Textual Amendments

**F130** Word in *Sch. 17* para. 1(1) substituted (10.1.1997) by *S.I. 1996/3210*, art. 2(2)

- 2 The report shall be as brief as is reasonably consistent with the requirements as to its contents.



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### *Requirements as to contents*

- 3 Where there is an obligation on the governing body (by virtue of section 162) to hold an annual parents’ meeting, the report shall—
- (a) give details of the date, time and place for the next annual parents’ meeting and its agenda;
  - (b) indicate that the purpose of that meeting will be to discuss both the governors’ report and the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school; and
  - (c) report on the consideration which has been given to any resolutions passed at the previous annual parents’ meeting.
- 4 The report shall—
- (a) give the name of each governor and indicate whether he—
    - (i) is a parent, teacher or foundation governor,
    - (ii) was co-opted or otherwise appointed as a governor, or
    - (iii) is an ex officio governor;
  - (b) in the case of an appointed governor, say by whom he was appointed;
  - (c) in relation to each governor who is not an ex officio governor, give the date on which his term of office comes to an end; and
  - (d) name, and give the address of, the chairman of the governing body and their clerk.
- 5 The report shall give such information as is available to the governing body about arrangements for the next election of parent governors.
- 6 The report shall contain a financial statement—
- (a) reproducing or summarising any financial statement of which a copy has been provided to the governing body by the local education authority under section 122 or 124 since the last governors’ report was prepared under section 161;
  - (b) indicating, in general terms, how any sum made available to the governing body by the authority—
    - (i) in respect of the school’s budget share, or
    - (ii) under section 125,in the period covered by the report was used;
  - (c) giving details of the application of any gifts made to the school in that period; and
  - (d) stating the total amount of any travelling and subsistence allowances paid to members of the governing body in that period.
- 7 The report shall give such information about—
- (a) public examinations and other assessments of pupils’ achievements,
  - (b) pupils’ absences from the school,
  - (c) the continuing education of pupils leaving the school, and
  - (d) the employment or training taken up by such pupils,
- as is required to be published by virtue of section 414(6) and (7).
- [<sup>F131</sup>7A The report shall give the information about public examinations and other assessments of pupils’ achievements—
- (a) at schools in England (where the school is in England), or

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(b) at schools in Wales (where the school is in Wales),  
which has most recently been made available to the governing body by the Secretary of State.]

#### Textual Amendments

**F131** Sch. 17 para. 7A added (10.1.1997) by S.I. 1996/3210, art. 2(3)

- 8 The report shall describe what steps have been taken by the governing body to develop or strengthen the school's links with the community (including links with the police).
- 9 The report shall draw attention to the information made available by the governing body in accordance with regulations made under section 408 so far as relating to the matters mentioned in subsection (2)(b) of that section (information as to educational provision made for pupils at the school and syllabuses followed by them).
- [<sup>F132</sup>9A The report shall summarise, where the school is in England, the nature, amount and purpose of training and professional development undertaken by the school's teaching staff in the period since the last governors' report was prepared under section 161, identifying in particular the nature, amount and purpose of any training and professional development so undertaken on any day when the staff were required to be available for work but were not required to teach pupils.]

#### Textual Amendments

**F132** Sch. 17 paras. 9A-9F added (10.1.1997) by S.I. 1996/3210, art. 2(4)

- <sup>F133</sup>9B The report shall give, where the school is in Wales, such information about any targets for improvement set by the governing body in respect of the performance of pupils at the school as is required to be published by virtue of regulations made under section 414(6).

#### Textual Amendments

**F133** Sch. 17 paras. 9A-9F added (10.1.1997) by S.I. 1996/3210, art. 2(4)

- <sup>F134</sup>9C The report shall describe in general terms—
- (a) the arrangements made for the security of the pupils and staff at the school and the school premises, and
  - (b) any changes to those arrangements since the last governors' report was prepared under section 161.

#### Textual Amendments

**F134** Sch. 17 paras. 9A-9F added (10.1.1997) by S.I. 1996/3210, art. 2(4)

- <sup>F135</sup>9D The report shall indicate in relation to the period since the last governors' report was prepared under section 161—
- (a) to what extent the aims of the governing body with respect to sport at the school have been attained; and

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(b) any notable sporting achievements of the school’s teams during that period.

**Textual Amendments**

**F135** Sch. 17 paras. 9A-9F added (10.1.1997) by S.I. 1996/3210, art. 2(4)

<sup>F136</sup>9E The report shall give the dates of the beginning and end of each school term, and of half-term holidays, for the next school year.

**Textual Amendments**

**F136** Sch. 17 paras. 9A-9F added (10.1.1997) by S.I. 1996/3210, art. 2(4)

<sup>F137</sup>9F The report shall summarise any changes to information contained in the school prospectus since it was last published pursuant to regulations made under section 414(6).

**Textual Amendments**

**F137** Sch. 17 paras. 9A-9F added (10.1.1997) by S.I. 1996/3210, art. 2(4)

*Power of Secretary of State to make amendments*

10 The Secretary of State may by order amend the preceding provisions of this Schedule.

SCHEDULE 18

Section 162.

ANNUAL PARENTS’ MEETINGS

*Proceedings at an annual parents’ meeting*

1 The articles of government for a county, voluntary or maintained special school shall provide for the proceedings at an annual parents’ meeting to be under the control of the governing body.

2 (1) The articles of government for a county, voluntary or maintained special school shall provide for any annual parents’ meeting at which the required number of parents of registered pupils at the school are present to be entitled to pass (by a simple majority) resolutions on any matters which may properly be discussed at the meeting.

(2) In sub-paragraph (1) “the required number”, in relation to a school, means any number equal to or greater than 20 per cent. of the number of registered pupils at the school.

3 No person who is not a parent of a registered pupil at the school may vote on any question put to an annual parents’ meeting.

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*Consideration of resolutions passed at an annual parents' meeting*

- 4 (1) The articles of government for a county, voluntary or maintained special school shall require the governing body—
- (a) to consider any resolution which is duly passed at an annual parents' meeting and which they consider is a matter for them;
  - (b) to send to the head teacher a copy of any resolution which is so passed and which they consider is a matter for him; and
  - (c) to send to the local education authority a copy of any resolution which is so passed and which they consider is a matter for the authority.
- (2) The articles of government shall in addition—
- (a) require the head teacher to consider any resolution a copy of which has been sent to him by virtue of sub-paragraph (1)(b) and to provide the governing body with a brief comment on it (in writing) for inclusion in their next governors' report; and
  - (b) require the local education authority to do likewise in relation to any resolution a copy of which has been sent to them by virtue of sub-paragraph (1)(c).

*Determination of question whether person is to be treated as pupil's parent*

- 5 (1) The articles of government for a county, controlled or maintained special school shall provide for any question whether any person is to be treated, for the purposes of any provision of the articles relating to the annual parents' meeting, as the parent of a registered pupil at the school to be determined by the local education authority.
- (2) The articles of government for an aided or a special agreement school shall provide for any such question to be determined by the governing body.

SCHEDULE 19

Section 166.

CONDUCT AND STAFFING OF NEW COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

**PART I**

GENERAL

*Articles of government for new schools*

- 1 (1) The requirement for there to be articles of government for a school (imposed by section 127) shall not apply in relation to a new school until the requirement for there to be an instrument of government for the school takes effect under section 99.
- (2) Before making an order under section 127 as to the articles of government for a new school, the local education authority shall consult the temporary governing body and the head teacher.
- (3) Before making such an order in respect of a new school which will be a voluntary school, the authority shall—

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- (a) secure the agreement of the temporary governing body to the terms of the proposed order, and
  - (b) secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.
- (4) Where a local education authority propose to make an order under section 127 in respect of a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
- (5) On a reference to him under this paragraph, the Secretary of State shall give such direction as he thinks fit.

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

**C101** Sch. 19 para. 1(1) modified (1.1.1999) by S.I. 1998/3097, reg. 6

- 2 Section 129(2) (amendment of articles) shall not apply in relation to a new school; but if the articles of government for a new county or voluntary school contain any provisions to which section 129(1) would apply during any period when the school had a delegated budget (“inconsistent provisions”) they shall also include in relation to each inconsistent provision the statement required by section 129(3).

*Conduct of new schools: general*

- 3 The determination of those matters relating to the conduct of a new school which require to be determined before a governing body is constituted for the school under an instrument of government shall be under the direction of the temporary governing body, but subject to any provision made by or under this Act (including, in particular, this Schedule) or any other enactment.

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

**C102** Sch. 19 para. 3 modified (1.1.1999) by S.I. 1998/3097, reg. 7

- 4 Regulations may make in relation to consultation with temporary governing bodies provision similar to the provision that may be made in relation to consultation with governing bodies by regulations under section 131 (consultation not required in urgent cases).

**PART II**

STAFFING OF NEW SCHOOLS: FINANCIAL DELEGATION NOT PROPOSED

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

**C103** Sch. 19 Pt. II modified (temp from 1.4.1999) by S.I. 1999/638, regs. 1, 5

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*Staffing of new county, controlled or maintained special schools*

- 5 Subject to paragraph 19(4), paragraphs 6 to 11 apply in relation to any new school for which a temporary governing body have been constituted and which will be a county, controlled or maintained special school.
- 6 (1) The complement of teaching and non-teaching posts for the school shall be determined by the local education authority.
- (2) Section 133(2) and (3) (staff complements) shall apply in relation to a complement determined under this paragraph.
- 7 (1) Whenever a selection panel is required by virtue of paragraph 8 or 9, it shall be constituted in accordance with this paragraph.
- (2) A selection panel shall consist of—
- (a) such number of persons appointed to it by the local education authority, and
- (b) such number of temporary governors appointed to it by the temporary governing body,
- as the authority shall determine.
- (3) Neither of the numbers so determined shall be less than three; and the number determined in relation to appointments made by the temporary governing body shall not be less than the number determined in relation to appointments made by the authority.
- (4) The temporary governing body and the authority may replace, at any time, any member of a selection panel whom they have appointed.
- (5) Regulations may make provision, for the purposes of this paragraph, as to the meetings and proceedings of selection panels.
- 8 (1) Subject to sub-paragraph (2) below, sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 (appointment of head teacher) shall apply in relation to the appointment of a head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
- (b) subject to any necessary modifications.
- (2) Where—
- (a) two or more schools are to be discontinued (“the discontinued schools”), and
- (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to the new school,
- the local education authority may, in consultation with the temporary governing body, appoint one of the head teachers of the discontinued schools as the first head teacher for the new school, instead of following the procedure set out in sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 (as applied by sub-paragraph (1) above).
- (3) If the post of head teacher is vacant, the authority may, if they think fit, appoint an acting head teacher after consulting the temporary governing body.
- 9 (1) Subject to sub-paragraph (2) below, sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 shall apply in relation to the appointment of a deputy head teacher for the school—

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- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
    - (b) subject to any necessary modifications.
  - (2) If the local education authority so decide, those provisions of Schedule 13 shall not so apply and instead the general staff appointment provisions shall apply in relation to the appointment of a deputy head teacher for the school—
    - (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
    - (b) subject to any necessary modifications.
  - (3) Where (in accordance with sub-paragraph (1)) the appointment of a deputy head teacher is on the recommendation of a selection panel and the head teacher is not a member of the panel, the head teacher—
    - (a) shall be entitled to be present, for the purpose of giving advice, at any proceedings of the panel (including interviews), and
    - (b) whether or not he attends any such proceedings, shall be consulted by the panel before they make any recommendation to the local education authority.
  - (4) In this paragraph and paragraph 10 “the general staff appointment provisions” means the following provisions of Schedule 13—
    - (a) paragraph 5(3);
    - (b) paragraph 6(2) to (7);
    - (c) paragraph 7(2) and (3); and
    - (d) paragraph 8(2) and (3).
- 10
  - (1) The general staff appointment provisions shall apply in relation to the appointment of a person to a post (other than that of head teacher or deputy head teacher) which is part of the complement of the school as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government).
  - (2) The local education authority shall consult the temporary governing body and the head teacher before appointing any person to work solely at the school otherwise than—
    - (a) in a teaching post,
    - (b) in a non-teaching post which is part of the complement of the school, or
    - (c) solely in connection with either or both of the following—
      - (i) the provision of meals;
      - (ii) the supervision of pupils at midday.
  - (3) This paragraph does not apply in relation to a temporary appointment pending—
    - (a) the return to work of the holder of the post in question, or
    - (b) the taking of any steps required by virtue of this Schedule in relation to the vacancy in question.
  - (4) Paragraph 9(4) applies for the purposes of this paragraph.
- 11
  - (1) The clerk to the temporary governing body shall be appointed by the local education authority.
  - (2) When the arrangement for the constitution of the temporary governing body comes to an end under section 96 or 97, the person who was the clerk to that body shall

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act as clerk to the governing body who succeed them, pending the appointment of a clerk under section 135.

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

**C104** Sch. 19 para. 11(2) excluded (1.1.1999) by S.I. 1998/3097, reg. 8(f)

- 12 Subject to paragraph 19(4), a local education authority shall, in discharging their duty under paragraph 21 of Schedule 9 (temporary governing bodies) to provide information to the temporary governing body of a new school which will be a county, controlled or maintained special school, inform the temporary governing body, in particular—
- (a) of the number of members of any selection panel required by virtue of paragraph 8 or 9 above who are to be appointed by the authority and the number who are to be appointed by the temporary governing body;
  - (b) where the authority intend to exercise the power conferred on them by paragraph 8(2) above, of their intention to do so;
  - (c) of the provision which is to apply in relation to the appointment of the deputy head teacher of the school;
  - (d) of the complement of staff for the school; and
  - (e) of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.

*Staffing of new aided schools*

- 13 Subject to paragraph 19(5), paragraphs 14 to 16 apply in relation to a new school which will be an aided school.
- 14 Subject to paragraph 15(1), the local education authority and the temporary governing body shall have the same powers, and be under the same duties, for the purposes of the appointment and dismissal of staff at the school as would the authority and the governing body for an aided school whose articles of government provided for—
- (a) staff employed solely in connection with the provision of school meals to be appointed by the authority, and
  - (b) other staff employed at the school to be appointed by the governing body.
- 15 (1) The first appointment of a clerk to the temporary governing body shall be made by the promoters of the school (that is, the persons making the relevant proposals).
- (2) When the arrangement for the constitution of the temporary governing body comes to an end under section 97, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of their clerk.

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

**C105** Sch. 19 para. 15(2) excluded (1.1.1999) by S.I. 1998/3097, reg. 8(f)

- 16 (1) The local education authority shall, with a view to enabling staff to be appointed in good time, notify the temporary governing body of any determination, prohibition or direction they intend to make or give pursuant to subsection (2)(b), (4)(a) or (b) or (5) of section 134 (staffing of aided schools).



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- (2) The authority shall, in discharging their duty under paragraph 21 of Schedule 9 to provide information to the temporary governing body of a new school which will be an aided school, inform the temporary governing body, in particular, of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.

*Expenditure on staff for new schools*

- 17 Where a temporary governing body are constituted for a new school, the local education authority shall be under the same duty to defray the expenses incurred in relation to the staff appointed in accordance with paragraphs 6 to 11 or (as the case may be) 14 and 15, as they would be if the relevant proposals had been implemented and the temporary governing body were the governing body of the school.

**PART III**

STAFFING OF NEW SCHOOLS: FINANCIAL DELEGATION PROPOSED

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

**C106** Sch. 19 Pt. III modified (temp. from 1.4.1999) by S.I. 1999/638, regs. 1, 5

*Adaptation of references*

- 18 For the purposes of the application (in accordance with paragraphs 19 to 24) of sections 136 to 141 and Schedule 14 in relation to new schools which will be county or voluntary schools—
- (a) references to the governing body of a school shall be read as including the temporary governing body of a new school;
  - (b) references to a county school shall be read as including a new school which on implementation of the relevant proposals will be a county school; and
  - (c) references to a voluntary school of a particular category, or maintained by a particular local education authority, shall be read as including a new school which on implementation of the relevant proposals will be a voluntary school of that category, or maintained by that authority.

*Application or otherwise of provisions about staffing*

- 19 (1) Subject to paragraphs 20 to 24, section 136 or (as the case may be) section 137 (staffing of county or voluntary schools with delegated budgets) shall apply to a new school which on implementation of the relevant proposals will be a school of a category to which that section applies not only at any time when (by virtue of Schedule 12) the new school has a delegated budget but also at any time when it has a temporary governing body and sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the delegation requirement under the scheme will apply to the school on or before the implementation of the relevant proposals.

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- (3) This sub-paragraph is satisfied if the local education authority propose to exercise any power under the scheme to delegate the management of the school’s budget share for a financial year by making such a delegation—
- (a) to the temporary governing body before the implementation of the relevant proposals, or
  - (b) to the governing body of the school on implementation of those proposals.
- (4) Paragraphs 6 to 12 of this Schedule shall not apply in relation to a new school to which section 136 for the time being applies.
- (5) Paragraphs 14 to 16 of this Schedule shall not apply in relation to a new school to which section 137 for the time being applies.
- 20 Sections 136, 137 and 138 and Schedule 14 (staffing of schools with delegated budgets) shall apply, in the case of a new school, for the purposes only of—
- (a) the appointment of staff at the school, and
  - (b) the taking of such steps with respect to any other matters referred to in those provisions as may be appropriate in preparation for the conduct of the school following implementation of the relevant proposals.
- 21 In the case of a new school which is a proposed county, controlled, aided or special school, no appointments of staff for the school shall be made by the local education authority before the constitution of a temporary governing body for the school.
- 22 Section 139(2) and (5) [<sup>F138</sup>to (5B)] (payments in respect of dismissal [<sup>F138</sup>or premature retirement]) shall not apply in relation to a new school.

#### Textual Amendments

**F138** Words in Sch. 19 para. 22 inserted (21.3.1997) by 1997 c. 44, ss. 57(1), 58(4), Sch. 7 para. 48(2) (which Sch. 7 para. 48 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), Sch. 1

- 23 Any provision included in a scheme by virtue of subsection (3) of section 140 (community schools), so far as it relates to the appointment of staff at a school to which that section applies, shall apply in relation to a new school which on implementation of the relevant proposals will be a school to which that section applies.
- 24 (1) Section 141 (amendment of articles) shall not apply in relation to a new school.
- (2) The local education authority shall, however, incorporate—
- (a) the statement mentioned in section 141(2) in the articles of government for a new school which will be a county or controlled school and to which section 136 applies, or
  - (b) the statement mentioned in section 141(3) in the articles of government for a new school which will be an aided school and to which section 137 applies.

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## PART IV

### OTHER MATTERS RELATING TO CONDUCT ETC. OF NEW SCHOOLS

#### *Preparation of curriculum*

- 25 (1) The head teacher of a new school for which a temporary governing body have been constituted shall, in preparing to discharge his functions under Part V in relation to the curriculum for the school, consult that body and the local education authority.
- (2) Any authority who have been consulted under this paragraph shall inform the head teacher of the resources which are likely to be made available to the school; and the head teacher shall have regard to any information so given to him.

#### *School terms, holidays and sessions*

- 26 (1) Pending the coming into force of the articles of government for a new school which will be a county or controlled school—
- (a) the dates when the school terms and holidays are to begin and end shall be determined by the local education authority, and
  - (b) the times of the school sessions shall be determined by the temporary governing body after consultation with the authority.
- (2) Pending the coming into force of the articles of government for a new school which will be an aided school—
- (a) the dates and times when the school terms and holidays are to begin and end, and
  - (b) the times of the school sessions,
- shall be determined by the temporary governing body.
- (3) In this paragraph “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

#### *Discipline*

- [<sup>F139</sup>27 Section 154 (responsibility for discipline) applies to a new school as if references to the school’s governing body were references to the temporary governing body.]

#### **Textual Amendments**

**F139** Sch. 19 para. 27 substituted (1.4.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 48(3)**; S.I. 1998/386, art. 2(2), **Sch. 1 Pt.II** (which Sch. 7 para. 48 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

#### *Reports and information*

- 28 (1) A temporary governing body shall provide the local education authority with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time).

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- (2) The head teacher of a new school for which a temporary governing body have been constituted shall provide that body or (as the case may be) the local education authority with such reports in connection with the discharge of his functions as that body or the authority may require (either on a regular basis or from time to time).
- (3) In the case of a new school which will be an aided school—
  - (a) the local education authority shall notify the temporary governing body of any requirement imposed by them on the head teacher under sub-paragraph (2), and
  - (b) the head teacher shall provide the temporary governing body with a copy of any report which he makes in complying with any such requirement.

*Consultation on expenditure by local education authority*

- 29 (1) Where a temporary governing body have been constituted for a new school, the local education authority shall consult that body and the head teacher on their proposed expenditure on books, equipment and stationery for the school.
- (2) Sub-paragraph (1) does not apply in relation to a new school which has a delegated budget.

SCHEDULE 20

Sections 193 and 213.

PROPOSALS FOR SCHOOLS TO BECOME, OR BE  
ESTABLISHED AS, GRANT-MAINTAINED SCHOOLS

**PART I**

PROPOSALS FOR ACQUISITION OF GRANT-MAINTAINED STATUS

*Publication of proposals and notice*

- 1 (1) Where proposals are required to be published under section 193, they shall be published by being—
  - (a) posted at or near the main entrance to the school, or (if there is more than one main entrance) all of them,
  - (b) posted in at least one conspicuous place within the area served by the school, and
  - (c) made available for inspection at all reasonable times at the school or at any other place within that area to which members of the public may conveniently have access.
- (2) Within the period of 10 days beginning with the date of publication of the proposals there shall be published in at least one newspaper circulating in that area a notice in respect of the proposals containing such summary of the proposals as the governing body may think appropriate (including, in particular, the information required by sub-paragraph (3)).

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- (3) The notice shall—
- (a) state that proposals for acquisition of grant-maintained status have been published and submitted to the Secretary of State for approval,
  - (b) specify the proposed date of implementation of the proposals,
  - (c) state that, if the proposals are approved, the school will on that date cease to be maintained by the local education authority,
  - (d) state that, if the proposals are approved, the school will on and after that date be conducted by a governing body incorporated under Part III and receive annual grants from the funding authority,
  - (e) give the information required to be specified in the proposals by paragraph 4(1)(a) and (2)(a),
  - (f) state where the proposals may be inspected, and
  - (g) explain the effect of paragraph 5.
- (4) The Secretary of State may by regulations make such provision (whether by way of modification of, or substitution for, the provisions of sub-paragraphs (1) to (3)) as he considers appropriate in relation to—
- (a) the publication of proposals for acquisition of grant-maintained status, and
  - (b) the publication of such notice (if any) in respect of proposals for acquisition of grant-maintained status as may be prescribed.
- (5) For the purposes of the application of section 311(6) in relation to sub-paragraph (2) above the requirement to publish a notice under that sub-paragraph shall not be regarded as a requirement with respect to the publication of the proposals in question.

*Statement to be annexed to proposals*

- 2 (1) There shall be annexed to any proposals published under section 193 a statement which shall—
- (a) state the result of the ballot, giving the number of votes cast in favour of seeking grant-maintained status for the school, the percentage of those eligible to vote who voted, and the number of votes cast against,
  - (b) state whether the school is a county, controlled, aided or special agreement school,
  - (c) briefly describe the existing character of the school including, in the case of a school which has a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is provided,
  - (d) state the number of pupils for whom accommodation can be provided at the school, and
  - (e) give such other information as may be prescribed.
- (2) The statement so annexed shall be treated for the purposes of section 193 and of paragraph 1 as forming part of the proposals.

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*Statement to accompany published proposals*

- 3 Any proposals published under section 193 shall be accompanied by a statement which shall—
- (a) describe the requirements of Part III as to the membership of the governing body of a grant-maintained school,
  - (b) state that the head teacher will be a governor of the school ex officio if the school becomes a grant-maintained school,
  - (c) explain the circumstances in which a person named in the proposals in accordance with section 234 or 236, or regulations made by virtue of section 240, as a proposed initial governor may be replaced under section 237 or 238 or the regulations,
  - (d) explain the procedure applicable under Part III in each case in which such a replacement is required,
  - (e) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, explain the requirements applicable under Part III in any such case,
  - (f) explain the effect of paragraph 5, and
  - (g) give such other information as may be prescribed.

*Details of proposals*

- 4 (1) Any proposals published under section 193 shall—
- (a) where any person is proposed as a sponsor of the school, state the name of that person and the number of initial sponsor governors to be appointed by him (in accordance with section 229),
  - (b) specify the number of initial parent, teacher and first or, as the case may be, foundation governors proposed for the governing body (in accordance with sections 223 to 228),
  - (c) give the name of the person who is the head teacher of the school on the date of publication of the proposals,
  - (d) give the relevant particulars in respect of each person required by section 234 or 236, or regulations made by virtue of section 240, to be named in the proposals as published as a proposed initial governor,
  - (e) where it is proposed that any foundation governorship be held ex officio, specify the relevant office,
  - (f) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, state that fact and refer to the explanation given in the statement accompanying the proposals in accordance with paragraph 3(e),
  - (g) give the name under which it is proposed that the governing body should be incorporated under section 195, and
  - (h) specify the proposed date of implementation of the proposals.
- (2) The proposals shall describe the arrangements it is proposed to adopt, if the school becomes a grant-maintained school, in respect of—
- (a) the admission of pupils to the school,

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- (b) the provision to be made at the school for pupils who have special educational needs, and
  - (c) the induction of newly-qualified teachers at the school and the in-service training and professional development of teachers at the school.
- (3) In giving the information required by sub-paragraph (2)(a), the proposals shall in particular specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the proposed date of implementation of the proposals and, if pupils are proposed to be admitted for nursery education, give the prescribed information.

#### *Objections to proposals*

- 5 Within the period of two months beginning with the date of publication of any proposals under section 193, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) any persons holding property on trust for the purposes of the school,
  - (c) the governing body of any school affected by the proposals, and
  - (d) any local education authority concerned.

#### *Interpretation*

- 6 (1) For the purposes of this Part of this Schedule, the determination of an initial governor of an elected category is pending on the date of publication of any proposals under section 193 if sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if an election or appointment required by section 234(7) has not been held or made by the date of publication.
- (3) This sub-paragraph applies if—
- (a) an election or appointment required for filling an outstanding vacancy for a governor of an elected category on the existing governing body has not been held or made by the date of publication, and
  - (b) the vacancy falls to be taken into account in determining whether an election or appointment is required by section 234(7).

### **PART II**

#### **PROPOSALS FOR ESTABLISHMENT OF NEW GRANT-MAINTAINED SCHOOL**

#### *Content of proposals*

- 7 (1) Proposals published under section 211 or 212 shall—
- (a) where any person is proposed as a sponsor of the school, state the name of that person and the number of sponsor governors to be appointed by him (in accordance with section 229),

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- (b) specify the number of initial first or, as the case may be, foundation governors proposed for the governing body (in accordance with sections 226 to 228),
  - (c) specify the number of parent and teacher governors proposed for the governing body (in accordance with sections 223 and 224),
  - (d) specify in the case of initial first, initial foundation or sponsor governors their proposed term of office (not being less than five nor more than seven years),
  - (e) where it is proposed that any foundation governorship be held ex officio, specify the relevant office,
  - (f) give the name under which it is proposed that the governing body should be incorporated under section 215, and
  - (g) specify the proposed incorporation date and the proposed date of implementation of the proposals.
- (2) The proposals shall describe the arrangements it is proposed to adopt in respect of the admission of pupils to the school and, in particular, shall specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the date of implementation of the proposals and, if pupils are proposed to be admitted for nursery education, give the prescribed information.

*Statement to be annexed to proposals*

- 8 There shall be annexed to any proposals published under section 211 or 212 a statement briefly describing the intended character of the proposed school including, in the case of proposals published under section 212 for a school which is intended to have a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is to be provided.

*Statement to accompany published proposals*

- 9 Any proposals published under section 211 or 212 shall be accompanied by a statement explaining the effect of paragraph 10 or (as the case may be) paragraph 11.

*Objections*

- 10 (1) Within the period of two months beginning with the date of publication of any proposals under section 211, objections to the proposals may be submitted to the funding authority by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals are for a school which may provide education to which section 2(1) of the <sup>M163</sup>Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.



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- (2) Within one month after the end of the period mentioned in sub-paragraph (1), the funding authority shall send to the Secretary of State copies of any objections made under that sub-paragraph (and not withdrawn in writing) within that period, together with their observations on them.

**Marginal Citations**

M163 1992 c. 13.

- 11 Within the period of two months beginning with the date of publication of any proposals under section 212, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M164</sup>Further and Higher Education Act 1992 applies),
  - (d) the funding authority (except, in relation to Wales, before the Schools Funding Council for Wales begin to exercise their functions), and
  - (e) any local education authority concerned.

**Marginal Citations**

M164 1992 c. 13.

*Approval of school premises*

- 12 (1) Where proposals for the establishment of a new grant-maintained school are published under section 211, the funding authority shall prepare the particulars in respect of the proposed premises of the school mentioned in sub-paragraph (3).
- (2) Where proposals for the establishment of a new grant-maintained school are published under section 212, the particulars in respect of the proposed premises of the school mentioned in sub-paragraph (3) shall be submitted to the funding authority, at such time and in such form and manner as the authority may direct, by the promoters.
- (3) The particulars are—
- (a) particulars of the provision made or to be made in respect of the means of access to and within the proposed premises of the school, and
  - (b) such other particulars in respect of the proposed premises of the school as may be required or, in the case of proposals published under section 212, as the funding authority may require.
- (4) The particulars prepared or submitted under sub-paragraph (3)(a) shall indicate the extent to which the provision referred to conforms with the minimum requirements, so far as they are relevant to school premises, of—

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- (a) Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or
- (b) (if that Note has been replaced by a document prescribed by regulations made or having effect as if made under the <sup>M165</sup>Town and Country Planning Act 1990) that document.

#### Marginal Citations

M165 1990 c. 8.

## SCHEDULE 21

Section 196.

### ACQUISITION OF GRANT-MAINTAINED STATUS: EXERCISE OF POWERS BEFORE DATE OF IMPLEMENTATION

#### *Introductory*

- 1 The functions conferred by or under paragraphs 2 to 5 on the new governing body or any members of the body—
- (a) may be exercised by them at any time during the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals, but
  - (b) may be exercised only for the purpose of or in connection with the conduct of the school on or after the date of implementation of the proposals,
- and those functions shall be exercised in accordance with any requirements of regulations (or, in the case of paragraph 3 or 5, of the directions or order in question) as to the circumstances, manner and conditions of their exercise.

#### *Powers to contract, etc.*

- 2 The new governing body may—
- (a) enter into contracts including, in particular, contracts for the employment of teachers and other staff, and
  - (b) acquire and dispose of land and other property.

#### *Access to school*

- 3 Any member of, or person authorised by, the new governing body shall, if the Secretary of State directs that this paragraph applies in relation to the school, be entitled to have access to and use the premises of the school.

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### *Information*

- 4 (1) If the new governing body request the existing governing body or the local education authority in writing to provide them with such information falling within sub-paragraph (2) as may be prescribed, the existing governing body or, as the case may be, the authority shall comply with the request.
- (2) Information falls within this sub-paragraph if—
- (a) it is held by the existing governing body or, as the case may be, the local education authority, and
  - (b) it relates to the school, including persons employed to work at the school and pupils at the school.

### *General powers of Secretary of State*

- 5 (1) The Secretary of State may by order make such provision as he considers appropriate in connection with the school's transition to grant-maintained status and the impending transfer of responsibility for the conduct of the school.
- (2) An order under sub-paragraph (1) may in particular provide for any provision of this Act specified in the order to have effect as if references to the governing body included the new governing body.
- (3) Such an order may in particular—
- (a) exclude or modify any powers of the local education authority or of the existing governing body in relation to any matter to which any power exercisable by the new governing body in accordance with any provision made by virtue of sub-paragraph (2) applies,
  - (b) require the new governing body to be consulted before the local education authority or the existing governing body exercise in relation to the school any function of a description specified in the order or take in relation to the school any action of a description so specified, and
  - (c) require or enable the new governing body to participate in the exercise in relation to the school of any such function or the taking in relation to the school of any such action.

### *Grants to new governing body*

- 6 (1) The funding authority may make grants to the new governing body of a school in respect of expenditure incurred or to be incurred by that body in pursuance of any provision made by or under paragraphs 2 to 5 in respect of the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals.
- (2) The funding authority may impose on a new governing body to whom such a grant is made such requirements as they may from time to time determine (whether before, at or after the time when the grant is made).

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- (3) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the funding authority of the whole or any part of the following amount.
- (4) That amount is—
- (a) the amount of the payments made in respect of the grant, or
  - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.

*Liability for expenses of new governing body*

- 7 The duty of a local education authority to maintain any school shall not apply in relation to any expenses incurred by the new governing body of the school.

SCHEDULE 22

Section 218(4).

GOVERNING BODIES OF GRANT-MAINTAINED SCHOOLS

*Introductory*

- 1 In this Schedule—
- “school” means a grant-maintained school, and
- “instrument”, in relation to a school, means the instrument of government for the school.

*Election of governors*

- 2 The instrument for a school may make provision—
- (a) as to the procedure for the election of members of the governing body, and
  - (b) for the determination of any questions arising in connection with, or matters relating to, such elections.

*Disqualification for, tenure of and removal from office*

- 3 A person who is a member of the teaching or other staff at a school which is required to have first governors shall be disqualified for holding office as such a governor on the governing body.
- 4 The instrument for a school may make provision as to the circumstances in which persons are to be disqualified for holding office as members of the governing body.
- 5 Subject to paragraph 10, the instrument for a school must provide for each governor of an elected category to hold office for a term of four years.
- 6 (1) Subject to paragraph 10, the instrument for a school must make the following provision for the term of office of—

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- (a) first or, as the case may be, foundation governors, other than a foundation governor who is a governor ex officio, and
  - (b) where there are sponsor governors, those governors.
- (2) Except where sub-paragraph (3), (4) or (5) applies, such a governor is to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
- (3) The initial instrument must provide, except where sub-paragraph (4) or (5) applies—
  - (a) subject to paragraph (b), for such a governor to hold office for such term as was specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school as the proposed term of office for initial governors of the category in question, and
  - (b) in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which name a person as a sponsor of the school, for any sponsor governor to hold office for such term as was specified as the proposed term of office for such governors in those proposals.
- (4) Any additional first or foundation governor appointed in pursuance of provision made in the instrument by virtue of section 230(2) is to hold office for such term (not being more than five years) as may be specified in the terms of that governor's appointment.
- (5) Any first governor appointed in pursuance of provision made in the instrument by virtue of section 227 is to hold office for such term (not being less than five nor more than seven years) as may be specified in the terms of his appointment.
- 7 No provision made in the instrument by virtue of paragraph 5, 6 or 10 shall be taken to prevent a governor—
  - (a) from being elected or appointed for a further term, or
  - (b) from being disqualified, by virtue of paragraph 3 or any provision made by virtue of paragraph 4, for continuing to hold office.
- 8 The instrument for a school must provide that any member of the governing body may at any time resign his office.
- 9 (1) The instrument for a school must provide that any foundation governor (other than one holding office ex officio) and any sponsor governor may be removed from office by the person or persons who appointed him.
  - (2) For the purposes of this paragraph, an initial foundation governor shall be treated as having been appointed by the person or persons entitled to appoint foundation governors under provision included in the instrument in accordance with section 228(7)(b).

*Initial appointments: terms of office*

- 10 (1) The instrument for a school must, until every initial governor has ceased to hold office, make the provision required by sub-paragraphs (2) and (3).
  - (2) In the case of a governing body incorporated under Chapter II of Part III—
    - (a) an initial governor of an elected category who was a governor of that category on the governing body of the school immediately before the

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incorporation date shall hold office for the remainder of his term of office on the former governing body, and

- (b) an initial governor of an elected category who was elected under section 234, or elected or nominated under section 237 to hold office as such, shall hold office for a term of four years.
- (3) An initial first governor, initial foundation governor (other than a foundation governor who is a governor ex officio) or initial sponsor governor shall hold office for such term (not being less than five nor more than seven years) beginning with the incorporation date as may be specified as his proposed term of office in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (4) In the case of a governing body incorporated under Chapter IV of Part III, the instrument for a school must, until every governor of an elected category appointed before the date of implementation of the proposals has ceased to hold office, provide for any such governor to hold office for the prescribed term.

#### *Meetings and proceedings*

- 11 The proceedings of the governing body of a school shall not be invalidated by—
- (a) any vacancy among their number, or
  - (b) any defect in the election or appointment of any governor.
- 12 Subject to the provisions of Chapter V of Part III and any instrument of government or articles of government made under that Chapter, the governing body of a school may regulate their own procedure.
- 13 (1) The instrument for a school may make provision as to the meetings and proceedings of the governing body.
- (2) The provision that may be made in pursuance of this paragraph includes, in particular, provision—
- (a) as to the election of a chairman and vice-chairman,
  - (b) as to the establishment, constitution, meetings and proceedings of committees,
  - (c) for the delegation of the governing body's functions, in such circumstances as may be specified in the instrument, to committees established by that body or to any member of that body, and
  - (d) as to the procedure (including any quorum) when business is transacted by members of the governing body of a particular category.
- (3) The provision mentioned in sub-paragraph (2)(b) may provide for a committee to include persons who are not members of the governing body.
- (4) The instrument shall make provision for an appeal committee for the purposes of paragraph 6(1) of Schedule 23 to include among its members (with full voting powers) a person nominated by the governing body from among persons who are eligible to be lay members.
- (5) A person is eligible to be a lay member for the purposes of sub-paragraph (4) if—
- (a) he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity), and

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- (b) he does not have, and has not at any time had, any connection with—
- (i) the school, or
  - (ii) any person who is a member of, or employed by, the governing body of the school,
- of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.

*Information as to meetings and proceedings*

- 14 (1) Regulations may require the governing body of a school to make available, to such persons or classes of person as may be prescribed, such documents and information relating to the meetings and proceedings of the governing body as may be prescribed.
- (2) Documents and information required by the regulations to be made available shall be made available in such form and manner, and at such times, as may be prescribed.

*Allowances for governors*

- 15 (1) The governing body of a school may pay to their members such travelling, subsistence or other allowances as may be determined in accordance with a scheme made by the governing body and approved by the Secretary of State.
- (2) A scheme under this paragraph may be varied or revoked by a subsequent scheme made under this paragraph.

*Seal etc.*

- 16 (1) The application of the seal of the governing body of a school must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (2) Every document purporting to be an instrument made or issued by or on behalf of the governing body of a school and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

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## SCHEDULE 23

Section 218(5).

### CONTENT OF ARTICLES OF GOVERNMENT FOR GRANT-MAINTAINED SCHOOLS

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

**C107** Sch. 23 modified (*temp.*) (1.9.1998) by S.I. 1998/1948, reg. 3(1)(2), Sch. para. 9(1)(2)

#### *Introductory*

- 1 In this Schedule—
- “school” means a grant-maintained school, and
  - “articles”, in relation to a school, means the articles of government for the school.

#### *Performance and delegation of functions*

- 2 (1) The articles must make provision as to the functions to be exercised in relation to the school by—
- (a) the Secretary of State,
  - (b) the funding authority,
  - (c) the governing body,
  - (d) any committee or other body established by the governing body,
  - (e) the head teacher, and
  - (f) any other persons specified in or determined under the articles.
- (2) The articles must also include provision as to the delegation of such functions by those on whom they are imposed or conferred by or under the articles.
- (3) The articles may include provision as to the establishment by the governing body of committees or other bodies of persons for the purposes of or in connection with the performance in relation to the school of such functions as may be determined by or under the articles.

#### *Staff*

- 3 (1) The articles must include provision as to—
- (a) disciplinary rules and procedures applicable to members of the staff of the school, and
  - (b) procedures for giving them opportunities for seeking redress of any grievances relating to their employment.
- (2) The articles must also include provision as to arrangements—
- (a) for giving any member of the staff an opportunity of making representations as to any proposal to dismiss him by the governing body or any persons authorised under the articles to dismiss him, including (if he so wishes) oral representations to such person or persons as may be appointed for the purpose,
  - (b) for requiring the governing body or any persons authorised under the articles to dismiss him to have regard to any representations made by him before taking any decision to dismiss him, and



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- (c) for giving any member of staff whom it has been decided to dismiss an opportunity of appealing against that decision before any action is taken to implement it.

#### *Curriculum*

- 4 (1) The articles must include provision for securing the discharge by the governing body and the head teacher of duties imposed on them under Chapters I and II of Part V and sections 384, 388, 389, 400 and 408.
- (2) The articles must include provision as to arrangements for the consideration and disposal of complaints relating to any matter concerning the curriculum followed within the school including, in particular, the discharge by the governing body of those duties.
- (3) The articles must require the governing body, when considering the content of the secular curriculum for the school, to have regard to any representations with regard to that curriculum—
  - (a) which are made to them by any persons connected with the community served by the school, or
  - (b) which are made to them by the chief officer of police and are connected with his responsibilities.

#### *Admission arrangements*

- 5 (1) The articles must—
  - (a) provide for the governing body to be responsible for determining the arrangements for admitting pupils to the school; and
  - (b) include provision as to the policy to be followed in deciding admissions.
- (2) The articles must also require the governing body to publish, for each school year, particulars of—
  - (a) the arrangements for admission of pupils to the school; and
  - (b) the procedures applicable under the articles in relation to the admission of pupils to the school.

#### *Appeals relating to admission and exclusion of pupils*

- 6 (1) The articles must include provision as to the arrangements for appeals (in such circumstances as may be provided by the articles) to an appeal committee constituted in accordance with the instrument of government against any decision or action taken—
  - (a) by the governing body, or
  - (b) by any persons authorised under the articles to take any decision or action of the kind in question,in relation to admissions of pupils to the school or the permanent exclusion of a pupil from the school.
- (2) The articles must enable the governing body to make such arrangements jointly with the governing body of one or more other grant-maintained schools.

[<sup>F140</sup>(2A) Sub-paragraphs (1) and (2), so far as they apply in relation to arrangements in respect of appeals—

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- (a) do not require the articles to provide for any matter for which provision is made by Schedule 25A (exclusion appeals); and
  - (b) have effect subject to paragraph 4(2) of Schedule 33B (refusal of admission in case of children permanently excluded from two or more schools).]
- (3) The articles must require the governing body to publish, for each school year, particulars of any arrangements made by them in respect of appeals by parents against any such decision or action in relation to admissions of pupils to the school as is mentioned in sub-paragraph (1) above.

#### Textual Amendments

**F140** Sch. 23 para. 6(2A) inserted (1.9.1997 except in relation to the insertion of para. 6(2A)(a), as to which the insertion came into force on 1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 49(3)**; S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II** (with transitional provisions); S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV** (with transitional provisions); and Sch. 7 para. 49 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**.

#### *Annual reports*

- 7
- (1) The articles must require the governing body to prepare once in every school year a report in such form and containing such information as the articles may require.
  - (2) The articles must require the governing body to take such steps as are reasonably practicable to secure that—
    - (a) the registered parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the report, and
    - (b) copies of the report are available for inspection (at all reasonable times and free of charge) at the school.

#### *Annual parents' meetings*

- 8
- (1) The articles must require the governing body, subject to any exceptions provided for in the articles, to hold a meeting once in every school year which is open to—
    - (a) all parents of registered pupils at the school, and
    - (b) such other persons as the governing body may invite.
  - (2) The articles must include provision as to—
    - (a) the procedure to be followed and the matters to be considered at such a meeting,
    - (b) the determination of any questions arising in connection with such a meeting, and
    - (c) the taking by the governing body or any other persons of such action as may be required by the articles for the purposes of, or in connection with, such a meeting or any resolutions passed at it.

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## SCHEDULE 24

Section 222.

### CATEGORIES OF GOVERNORS

#### PART I

##### INTRODUCTORY

###### *Application*

- 1 (1) This Schedule applies, in relation to the governing body of a grant-maintained school, for the purposes of Part III.
- (2) Part II of this Schedule applies for the purpose of determining who are to be the initial governors of a grant-maintained school.
- (3) Part III of this Schedule applies for the purpose of determining who are to be the governors of a grant-maintained school on and after the incorporation date.

###### *General interpretation*

- 2 References to an initial governor are to any person who becomes a member of the governing body on the incorporation date.
- 3 References to a governor of an elected category are to a person who is a parent or teacher governor as defined by section 78(3) or (4) or is such a governor within the meaning of this Schedule.
- 4 In relation to any proposals for acquisition of grant-maintained status in respect of a school, a person who is a governor of an elected category on the existing governing body of the school is an eligible governor of that category if—
  - (a) his term of office as a governor is due to end after the date of implementation of the proposals, and
  - (b) he has notified the existing governing body that he is willing to serve on the proposed governing body and has not withdrawn that notification.

#### PART II

##### INITIAL GOVERNORS

###### *Parent governors*

- 5 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “parent governor” means—
  - (a) a person who, immediately before the incorporation date in relation to the school, is a parent governor (as defined by section 78(3)) in relation to the school, or
  - (b) a person elected or appointed under section 234, or elected, appointed or nominated under section 237, to hold office as an initial parent governor on the governing body.

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- (2) A person elected under section 234 to hold office as an initial parent governor must be elected by registered parents of registered pupils at the school and a person elected or appointed under that section to hold such office must when he is elected or appointed be such a parent.
- (3) A person elected, appointed or nominated under section 237 to hold office as an initial parent governor—
  - (a) in the case of an election, must be elected by registered parents of registered pupils at the school and must when he is elected be such a parent, and
  - (b) in the case of an appointment or nomination, must be a registered parent of a registered pupil at the school at the time of his appointment or nomination.

#### *Teacher governors*

- 6 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “teacher governor” means—
  - (a) a person who, immediately before the incorporation date in relation to the school, is a teacher governor (as defined by section 78(4)) in relation to the school, or
  - (b) a person elected under section 234, or elected or nominated under section 237, to hold office as an initial teacher governor on the governing body.
- (2) A person elected under section 234 to hold office as an initial teacher governor must be elected by teachers at the school and must when he is elected be such a teacher.
- (3) A person elected or nominated under section 237 to hold office as an initial teacher governor—
  - (a) in the case of an election, must be elected by teachers at the school and must when he is elected be such a teacher, and
  - (b) in the case of a nomination, must be a teacher at the school at the time of his nomination.

#### *First governors*

- 7 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “first governor” means a person who is selected under section 236(1), or nominated under section 238(1), and appears to the persons selecting or nominating him to be committed to the good government and continuing viability of the school.
- (2) In relation to a governing body to be incorporated under Chapter IV of Part III, “first governor” means a person appointed by the funding authority who appears to them to be committed to the good government and continuing viability of the proposed school.

#### *Foundation governors*

- 8 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “foundation governor” means—
  - (a) a person who is selected under section 236(2) or nominated under section 238(2),

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- (b) where the statement annexed (under paragraph 2 of Schedule 20) to the proposals for acquisition of grant-maintained status describes the religious character of the school, a person who is appointed for the purpose of securing that (subject to the approval or adoption under section 261 of any proposals) the religious character of the school is such as is indicated in the statement, and
  - (c) where there is a trust deed relating to the school, a person who is appointed for the purpose of securing that the school is conducted in accordance with the deed.
- (2) In relation to a governing body to be incorporated under Chapter IV of Part III, “foundation governor” means—
- (a) a person who is appointed by the promoters,
  - (b) where the statement annexed under paragraph 8 of Schedule 20 to the proposals for the establishment of a new grant-maintained school describes the religious character of the school, a person who is appointed for the purpose of securing that (subject to the approval or adoption under section 261 of any proposals) the religious character of the proposed school is such as is indicated in the statement, and
  - (c) where there is a trust deed relating to the proposed school, a person who is appointed for the purpose of securing that the proposed school is conducted in accordance with that deed.

#### *Sponsor governors*

- 9 In relation to a governing body to be incorporated under Chapter II of Part III, “sponsor governor” means a person appointed by a person named as a sponsor of the school in the proposals for acquisition of grant-maintained status.

### **PART III**

#### **GOVERNORS OTHER THAN INITIAL GOVERNORS**

#### *Parent governors*

- 10 (1) “Parent governor” means a person who—
- (a) is elected by registered parents of registered pupils at the school,
  - (b) is appointed under a provision of the instrument of government made by virtue of section 223(3),
  - (c) is appointed by virtue of section 223(6), or
  - (d) is an initial parent governor.
- (2) To qualify for such election, the person must when he is elected be a registered parent of a registered pupil at the school.

#### *Teacher governors*

- 11 (1) “Teacher governor” means a person who—
- (a) is elected by teachers at the school,
  - (b) is appointed by virtue of section 224(4), or

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(c) is an initial teacher governor.

(2) To qualify for such election, the person must when he is elected be a teacher at the school.

#### *First governors*

12 “First governor” means—

- (a) a person appointed by the governing body who appears to them to be committed to the good government and continuing viability of the school,
- (b) a person appointed under a provision of the instrument of government made by virtue of section 227 who appears to the person appointing him to be committed to the good government and continuing viability of the school, or
- (c) an initial first governor.

#### *Foundation governors*

13 “Foundation governor” means a person who—

- (a) is appointed otherwise than by a local education authority or the funding authority,
- (b) where paragraph 8(1)(b) or (2)(b) applies, is appointed for the purpose there referred to, and
- (c) where there is a trust deed relating to the school, is appointed for the purpose of securing that the school is conducted in accordance with that deed.

#### *Sponsor governors*

14 “Sponsor governor” means—

- (a) a person appointed by a person named in the instrument of government as a sponsor of the school,
- (b) while the instrument of government is the initial instrument, a person appointed by a person named as a sponsor of the school in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school, or
- (c) an initial sponsor governor.

## SCHEDULE 25

Section 285.

### CORE GOVERNORS FOR GROUPS

#### *Introductory*

1 The provision made for core governors in the instrument of government for the governing body of a group must be in accordance with this Schedule.

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### *Kinds of core governor*

- 2
- (1) Core governors may be either—
    - (a) appointed by the governing body, or
    - (b) externally appointed.
  - (2) Externally appointed core governors may be either—
    - (a) appointed in respect of a particular school in the group, being a school—
      - (i) which was a voluntary school immediately before it became grant-maintained, or
      - (ii) which was established in pursuance of proposals published under section 212, or
    - (b) where the group consists only of such schools, appointed in respect of the group otherwise than by the governing body.
  - (3) A person appointed as mentioned in sub-paragraph (2)(a) must be appointed by the persons named in the instrument of government for the group as being entitled to appoint externally appointed core governors in respect of the school.
  - (4) A person appointed as mentioned in sub-paragraph (2)(a) must be appointed—
    - (a) (where any statement annexed to the proposals in pursuance of which the school became a grant-maintained school described the religious character of the school) for the purpose of securing that, subject to any change in the character of the school which may be authorised by or under Part III, the religious character of the school is such as was indicated in the statement, and
    - (b) (where there is a trust deed relating to the school) for the purpose of securing that the school is conducted in accordance with the deed.
  - (5) Core governors, other than externally appointed core governors appointed in respect of particular schools in the group, must be appointed from among persons who appear to the person making the appointment to be committed to the good government and continuing viability of all the schools in the group.
  - (6) A person who is a member of the teaching or other staff at any of the schools in the group is disqualified from holding office as a core governor, other than an externally appointed core governor.

### *Groups consisting only of former voluntary schools or section 212 schools*

- 3
- (1) This paragraph applies in the case of such a group as is mentioned in paragraph 2(2)(b).
  - (2) The minimum number of externally appointed core governors (referred to in this paragraph as “MN”) is one greater than the number of governors other than externally appointed core governors.
  - (3) Any head teacher of a school in the group who has chosen not to be a governor shall be counted as one for the purposes of sub-paragraph (2).
  - (4) In respect of each school in the group there must be the same number of externally appointed core governors.
  - (5) The total number of externally appointed core governors in respect of schools in the group must not be less than the highest number, not exceeding MN, that is consistent with sub-paragraph (4).

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### *Other groups*

- 4 (1) This paragraph applies in the case of a group other than such a group as is mentioned in paragraph 2(2)(b).
- (2) If any school in the group falls within paragraph 2(2)(a), one externally appointed governor must be appointed in respect of that school.
- (3) The appropriate number of the core governors must (on the date or dates on which they respectively take office) be parents of registered pupils at schools in the group, and the appropriate number of the core governors must (on the date or dates on which they respectively take office) be members of the local community; but one person may satisfy both requirements.
- (4) In sub-paragraph (3) “the appropriate number” means not less than two or, if all but one of the schools in the group fall within paragraph 2(2)(a), at least one.
- (5) In appointing core governors, the governing body must secure that those governors include persons appearing to the governing body to be members of the local business community (and such persons may also satisfy one or both of the requirements of sub-paragraph (3)).
- (6) The number of core governors must be such number, not being—
- (a) less than five, or
  - (b) (subject to paragraph (a)) more than the number of schools in the group, as will secure that they and the parent governors outnumber the other governors.
- (7) Any head teacher of a school in the group who has chosen not to be a governor shall be counted as one for the purposes of sub-paragraph (6).

## [<sup>F141</sup>SCHEDULE 25A

### APPEALS AGAINST EXCLUSION OF PUPILS FROM GRANT-MAINTAINED SCHOOLS

#### **Textual Amendments**

**F141** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (with transitional provisions)

### *<sup>F142</sup> Introductory*

#### **Textual Amendments**

**F142** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

<sup>F143</sup><sub>1</sub>

In this Schedule—

“appeal” means an appeal mentioned in section 307A;



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“appeal committee” means an appeal committee constituted for the purposes of an appeal in accordance with the instrument of government of the school;

“the relevant person” means—

- (a) in relation to a pupil under the age of 18, a parent of his;
- (b) in relation to a pupil who has attained that age, the pupil himself.

#### Textual Amendments

**F143** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

#### *F144 Procedure on appeal*

#### Textual Amendments

**F144** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F145<sub>2</sub>** An appeal shall be by notice in writing setting out the grounds on which it is made.

#### Textual Amendments

**F145** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F146<sub>3</sub>** (1) Subject to sub-paragraph (2), the appeal committee shall meet to consider an appeal—
- (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or
  - (b) if the governing body have determined a shorter period, within that period.
- (2) The governing body may extend the period within which the appeal committee are to consider an appeal where—
- (a) the relevant person requests them to do so; and
  - (b) they are satisfied that the circumstances are exceptional and justify the period under sub-paragraph (1) being extended.

#### Textual Amendments

**F146** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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- <sup>F147</sup>4 (1) For the purpose of fixing the time (falling within the period mentioned in paragraph 3) at which the hearing of an appeal is to take place, the governing body shall take reasonable steps to ascertain any times falling within that period when—
- (a) the relevant person, or
  - (b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 5,
- would be able to attend.
- (2) Where in accordance with sub-paragraph (1) the governing body have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.

#### Textual Amendments

**F147** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- <sup>F148</sup>5 (1) The appeal committee shall give the relevant person an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.
- (2) The appeal committee shall allow—
- (a) the head teacher and a member of the governing body to make written representations;
  - (b) the head teacher and a member of the governing body to appear and make oral representations; and
  - (c) the governing body to be represented.

#### Textual Amendments

**F148** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- <sup>F149</sup>6 An appeal shall be held in private except when otherwise directed by the governing body, but any member of the Council on Tribunals may attend as an observer any meeting of the appeal committee at which an appeal is considered.

#### Textual Amendments

**F149** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- <sup>F150</sup>7 Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.

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### Textual Amendments

**F150** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F1518** (1) In deciding whether the pupil in question should be reinstated (and, if so, the time when this should take place), the appeal committee shall have regard to both the interests of that pupil and the interests of other pupils at his school and members of its staff.
- (2) In making its decision on an appeal, the appeal committee shall also have regard to the measures publicised by the head teacher under section 306A(7).
- (3) Sub-paragraphs (1) and (2) do not apply where the appeal committee decides that the pupil in question was not guilty of the conduct which the head teacher relied on as grounds for his permanent exclusion.
- (4) Sub-paragraphs (1) and (2) shall not be read as precluding an appeal committee from having regard to any other relevant matters.

### Textual Amendments

**F151** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F1529** In the event of a disagreement between the members of the appeal committee the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.

### Textual Amendments

**F152** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F15310** Subject to paragraph 11, the decision of the appeal committee and the grounds on which it is made shall be communicated by the committee in writing to the relevant person, the governing body, the head teacher and the local education authority to whose area the pupil belongs within—
- (a) the period ending with the 17th school day after the day on which the appeal is lodged; or
- (b) if the governing body have determined a shorter period, that period.

### Textual Amendments

**F153** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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- F154**<sup>11</sup> Where the governing body extend the period for the consideration of an appeal in accordance with paragraph 3(2), they shall (to the extent it appears to them to be necessary as a result of the extension of that period) extend the period within which the appeal committee are to communicate their decision.

#### Textual Amendments

**F154** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F155**<sup>12</sup> Subject to paragraphs 2 to 11, all matters relating to the procedure on appeals shall be determined by the governing body.

#### Textual Amendments

**F155** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F156**<sup>13</sup> (1) Subject to sub-paragraph (2), where joint arrangements for appeals have been made in accordance with paragraph 6(2) of Schedule 23 (content of articles of government), paragraphs 2 to 12 shall have effect in respect of appeals to committees established in accordance with the joint arrangements.
- (2) In the case of any appeal made in pursuance of the joint arrangements—
- (a) paragraphs 3, 4, 6, 10(b), 11 and 12 shall have effect as if for “the governing body” there were substituted “the governing body and the governing body of every other school which is a party to the arrangements, acting jointly”; and
  - (b) paragraphs 5(2) and 10 (except paragraph 10(b)) shall have effect as if for “the governing body” there were substituted “the governing body against whose decision the appeal is made”.

#### Textual Amendments

**F156** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

#### *F157 Power of Secretary of State to make amendments*

#### Textual Amendments

**F157** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

- F158**<sup>14</sup> The Secretary of State may by order amend the preceding provisions of this Schedule.]

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### Textual Amendments

**F158** Sch. 25A inserted (1.9.1998) by 1997 c. 44, s. 8(2), **Sch.1**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (subject to transitional provisions in Sch. 2 Pt. II); and Sch. 1 of the amending Act is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

## SCHEDULE 26

Section 323.

### MAKING OF ASSESSMENTS UNDER SECTION 323

#### *Introductory*

- 1 In this Schedule “assessment” means an assessment of a child’s educational needs under section 323.

#### *Medical and other advice*

- 2 (1) Regulations shall make provision as to the advice which a local education authority are to seek in making assessments.
- (2) Without prejudice to the generality of sub-paragraph (1), the regulations shall require the authority, except in such circumstances as may be prescribed, to seek medical, psychological and educational advice and such other advice as may be prescribed.

#### *Manner; and timing, of assessments, etc.*

- 3 (1) Regulations may make provision—
- (a) as to the manner in which assessments are to be conducted,
  - (b) requiring the local education authority, where, after conducting an assessment under section 323 of the educational needs of a child for whom a statement is maintained under section 324, they determine not to amend the statement, to serve on the parent of the child a notice giving the prescribed information, and
  - (c) in connection with such other matters relating to the making of assessments as the Secretary of State considers appropriate.
- (2) Sub-paragraph (1)(b) does not apply to a determination made following the service of notice under paragraph 10 of Schedule 27 (amendment of statement by LEA) of a proposal to amend the statement.
- (3) Regulations may provide that, where a local education authority are under a duty to make an assessment, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make an assessment which has not been performed within that period.

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### *Attendance at examinations*

- 4 (1) Where a local education authority propose to make an assessment, they may serve a notice on the parent of the child concerned requiring the child's attendance for examination in accordance with the provisions of the notice.
- (2) The parent of a child examined under this paragraph may be present at the examination if he so desires.
- (3) A notice under this paragraph shall—
- (a) state the purpose of the examination,
  - (b) state the time and place at which the examination will be held,
  - (c) name an officer of the authority from whom further information may be obtained,
  - (d) inform the parent that he may submit such information to the authority as he may wish, and
  - (e) inform the parent of his right to be present at the examination.

### *Offence*

- 5 (1) Any parent who fails without reasonable excuse to comply with any requirements of a notice served on him under paragraph 4 commits an offence if the notice relates to a child who is not over compulsory school age at the time stated in it as the time for holding the examination.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## SCHEDULE 27

Section 324.

### MAKING AND MAINTENANCE OF STATEMENTS UNDER SECTION 324

#### *Introductory*

- 1 In this Schedule “statement” means a statement of a child's special educational needs under section 324.

#### *Copy of proposed statement*

- 2 Before making a statement, a local education authority shall serve on the parent of the child concerned—
- (a) a copy of the proposed statement, and
  - (b) a written notice explaining the arrangements under paragraph 3, the effect of paragraph 4 and the right to appeal under section 326 and containing such other information as may be prescribed,

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but the copy of the proposed statement shall not specify any matter in pursuance of section 324(4) or any prescribed matter.

VALID FROM 15/06/2001

#### *Amendments to a statement*

- <sup>F159</sup>2A (1) A local education authority shall not amend a statement except—
- (a) in compliance with an order of the Tribunal,
  - (b) as directed by the Secretary of State under section 442(4), or
  - (c) in accordance with the procedure laid down in this Schedule.
- (2) If, following a re-assessment review, a local education authority propose to amend a statement, they shall serve on the parent of the child concerned a copy of the proposed amended statement.
- (3) Sub-paragraphs (3) and (4) of paragraph 2 apply to a copy of a proposed amended statement served under sub-paragraph (2) as they apply to a copy of a proposed statement served under paragraph 2(1).
- (4) If, following a periodic review, a local education authority propose to amend a statement, they shall serve on the parent of the child concerned—
- (a) a copy of the existing statement, and
  - (b) an amendment notice.
- (5) If, at any other time, a local education authority propose to amend a statement, they shall proceed as if the proposed amendment were an amendment proposed after a periodic review.
- (6) An amendment notice is a notice in writing giving details of the amendments to the statement proposed by the authority.

#### **Textual Amendments**

**F159** Sch. 27 paras. 2-2B substituted for Sch. 27 para. 2 (15.6.2001 for E. for certain purposes and otherwise 1.1.2002 and 8.12.2001 for W. for certain purposes and otherwise 1.4.2002) by 2001 c. 10, s. 10, **Sch. 1 para. 3** (with s. 43(13)); S.I. 2001/2217, arts. 4, 5, **Sch. Pts. I, II** (as amended by S.I. 2001/2614, **art. 4**); S.I. 2001/3992, arts. 4, 5, **Sch. Pts. I, II**

VALID FROM 15/06/2001

#### *Provision of additional information*

- <sup>F160</sup>2B (1) Sub-paragraph (2) applies when a local education authority serve on a parent—
- (a) a copy of a proposed statement under paragraph 2,
  - (b) a copy of a proposed amended statement under paragraph 2A, or
  - (c) an amendment notice under paragraph 2A.
- (2) The local education authority shall also serve on the parent a written notice explaining (to the extent that they are applicable)—

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- (a) the arrangements under paragraph 3,
  - (b) the effect of paragraph 4, and
  - (c) the right to appeal under section 326.
- (3) A notice under sub-paragraph (2) must contain such other information as may be prescribed.

#### Textual Amendments

**F160** Sch. 27 paras. 2-2B substituted for Sch. 27 para. 2 (15.6.2001 for E. for certain purposes and otherwise 1.1.2002 and 8.12.2001 for W. for certain purposes and otherwise 1.4.2002) by 2001 c. 10, s. 10, **Sch. 1 para. 3** (with s. 43(13)); S.I. 2001/2217, arts. 4, 5, Sch. Pts. I, II (as amended by S.I. 2001/2614, art. 4); S.I. 2001/3992, arts. 4, 5, Sch. Pts. I, II

#### *Choice of school*

- 3 (1) Every local education authority shall make arrangements for enabling a parent on whom a copy of a proposed statement has been served under paragraph 2 to express a preference as to the maintained, grant-maintained or grant-maintained special school at which he wishes education to be provided for his child and to give reasons for his preference.
- (2) Any such preference must be expressed or made within the period of 15 days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
  - (b) if a meeting has (or meetings have) been arranged under paragraph 4(1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).
- (3) Where a local education authority make a statement in a case where the parent of the child concerned has expressed a preference in pursuance of such arrangements as to the school at which he wishes education to be provided for his child, they shall specify the name of that school in the statement unless—
- (a) the school is unsuitable to the child's age, ability or aptitude or to his special educational needs, or
  - (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (4) A local education authority shall, before specifying the name of any maintained, grant-maintained or grant-maintained special school in a statement, consult the governing body of the school and, if the school is maintained by another local education authority, that authority.

VALID FROM 01/01/2002

#### *Consultation on specifying name of school in statement*

[<sup>F161</sup>3A(1) Sub-paragraph (2) applies if a local education authority are considering—



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- (a) specifying the name of a maintained school in a statement, or
  - (b) amending a statement—
    - (i) if no school was specified in the statement before the amendment, so that a maintained school will be specified in it,
    - (ii) if a school was specified in the statement before the amendment, so that a different school, which is a maintained school, will be specified in it.
- (2) The local education authority shall—
- (a) serve a copy of the proposed statement or amended statement, or of the existing statement and of the amendment notice, on each affected body, and
  - (b) consult each affected body.
- (3) “Affected body” means—
- (a) the governing body of any school which the local education authority are considering specifying; and
  - (b) if a school which the local education authority are considering specifying is maintained by another local education authority, that authority.]

#### Textual Amendments

**F161** Sch. 27 para. 3A inserted (1.1.2002 (E.) 1.4.2002 (W.)) by 2001 c. 10, s. 10 Sch. 1 para. 7 (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614 art. 4); S.I. 2001/3992, art. 5, Sch. Pt. II

#### Representations

- 4 (1) A parent on whom a copy of a proposed statement has been served under paragraph 2 may—
- (a) make representations (or further representations) to the local education authority about the content of the statement, and
  - (b) require the authority to arrange a meeting between him and an officer of the authority at which the statement can be discussed.
- (2) Where a parent, having attended a meeting arranged by a local education authority under sub-paragraph (1)(b), disagrees with any part of the assessment in question, he may require the authority to arrange such meeting or meetings as they consider will enable him to discuss the relevant advice with the appropriate person or persons.
- (3) In this paragraph—
- “relevant advice” means such of the advice given to the authority in connection with the assessment as they consider to be relevant to that part of the assessment with which the parent disagrees, and
  - “appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the authority, is the appropriate person to discuss it with the parent.
- (4) Any representations under sub-paragraph (1)(a) must be made within the period of 15 days beginning—

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- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
  - (b) if a meeting has (or meetings have) been arranged under sub-paragraph (1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).
- (5) A requirement under sub-paragraph (1)(b) must be made within the period of 15 days beginning with the date on which the written notice mentioned in paragraph 2(b) was served on the parent.
- (6) A requirement under sub-paragraph (2) must be made within the period of 15 days beginning with the date fixed for the meeting arranged under sub-paragraph (1)(b).

#### *Making the statement*

- 5 (1) Where representations are made to a local education authority under paragraph 4(1)(a), the authority shall not make the statement until they have considered the representations and the period or the last of the periods allowed by paragraph 4 for making requirements or further representations has expired.
- (2) The statement may be in the form originally proposed (except as to the matters required to be excluded from the copy of the proposed statement) or in a form modified in the light of the representations.
- (3) Regulations may provide that, where a local education authority are under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty, or any step required to be taken for performance of the duty, must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make a statement, or take any step, which has not been performed or taken within that period.

#### *Service of statement*

- 6 Where a local education authority make a statement they shall serve a copy of the statement on the parent of the child concerned and shall give notice in writing to him—
- (a) of his right under section 326(1) to appeal against—
    - (i) the description in the statement of the authority's assessment of the child's special educational needs,
    - (ii) the special educational provision specified in the statement, or
    - (iii) if no school is named in the statement, that fact, and
  - (b) of the name of the person to whom he may apply for information and advice about the child's special educational needs.

#### *Keeping, disclosure and transfer of statements*

- 7 (1) Regulations may make provision as to the keeping and disclosure of statements.
- (2) Regulations may make provision, where a local education authority become responsible for a child for whom a statement is maintained by another authority, for

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the transfer of the statement to them and for Part IV to have effect as if the duty to maintain the transferred statement were their duty.

#### *Change of named school*

- 8 (1) Sub-paragraph (2) applies where—
- (a) the parent of a child for whom a statement is maintained which specifies the name of a school or institution asks the local education authority to substitute for that name the name of a maintained, grant-maintained or grant-maintained special school specified by the parent, and
  - (b) the request is not made less than 12 months after—
    - (i) an earlier request under this paragraph,
    - (ii) the service of a copy of the statement under paragraph 6,
    - (iii) if the statement has been amended, the date when notice of the amendment is given under paragraph 10(3)(b), or
    - (iv) if the parent has appealed to the Tribunal under section 326 or this paragraph, the date when the appeal is concluded,whichever is the later.
- (2) The local education authority shall comply with the request unless—
- (a) the school is unsuitable to the child's age, ability or aptitude or to his special educational needs, or
  - (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (3) Where the local education authority determine not to comply with the request—
- (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
  - (b) the parent of the child may appeal to the Tribunal against the determination.
- (4) On the appeal the Tribunal may—
- (a) dismiss the appeal, or
  - (b) order the local education authority to substitute for the name of the school or other institution specified in the statement the name of the school specified by the parent.
- (5) Regulations may provide that, where a local education authority are under a duty to comply with a request under this paragraph, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (6) Such provision shall not relieve the authority of the duty to comply with such a request which has not been complied with within that period.

#### *Procedure for amending or ceasing to maintain a statement*

- 9 (1) A local education authority may not amend, or cease to maintain, a statement except in accordance with paragraph 10 or 11.
- (2) Sub-paragraph (1) does not apply where the local education authority—

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- (a) cease to maintain a statement for a child who has ceased to be a child for whom they are responsible,
  - (b) amend a statement in pursuance of paragraph 8,
  - (c) are ordered to cease to maintain a statement under section 326(3)(c), or
  - (d) amend a statement in pursuance of directions under section 442 (revocation of school attendance order).
- 10 (1) Before amending a statement, a local education authority shall serve on the parent of the child concerned a notice informing him—
- (a) of their proposal, and
  - (b) of his right to make representations under sub-paragraph (2).
- (2) A parent on whom a notice has been served under sub-paragraph (1) may, within the period of 15 days beginning with the date on which the notice is served, make representations to the local education authority about their proposal.
- (3) The local education authority—
- (a) shall consider any representations made to them under sub-paragraph (2), and
  - (b) on taking a decision on the proposal to which the representations relate, shall give notice in writing to the parent of their decision.
- (4) Where a local education authority make an amendment under this paragraph to the description in a statement of the authority's assessment of a child's special educational needs or to the special educational provision specified in a statement, they shall give notice in writing to the parent of his right under section 326(1) to appeal against—
- (a) the description in the statement of the authority's assessment of the child's special educational needs,
  - (b) the special educational provision specified in the statement, or
  - (c) if no school is named in the statement, that fact.
- (5) A local education authority may only amend a statement under this paragraph within the prescribed period beginning with the service of the notice under sub-paragraph (1).
- 11 (1) A local education authority may cease to maintain a statement only if it is no longer necessary to maintain it.
- (2) Where the local education authority determine to cease to maintain a statement—
- (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
  - (b) the parent of the child may appeal to the Tribunal against the determination.
- (3) On an appeal under this paragraph the Tribunal may—
- (a) dismiss the appeal, or
  - (b) order the local education authority to continue to maintain the statement in its existing form or with such amendments of—
    - (i) the description in the statement of the authority's assessment of the child's special educational needs, or

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- (ii) the special educational provision specified in the statement, and such other consequential amendments, as the Tribunal may determine.
- (4) Except where the parent of the child appeals to the Tribunal under this paragraph, a local education authority may only cease to maintain a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (2).

## SCHEDULE 28

Section 344(2).

### GOVERNMENT AND CONDUCT OF GRANT-MAINTAINED SPECIAL SCHOOLS

#### *Constitution of governing body and conduct of school*

- 1
- (1) For every governing body of a grant-maintained special school there shall be—
    - (a) an instrument (known as the instrument of government) providing for the constitution of the governing body, and
    - (b) an instrument (known as the articles of government) in accordance with which the school is to be conducted.
  - (2) The instrument and articles of government—
    - (a) shall comply with any requirements imposed by or under Part IV, and
    - (b) may make any provision authorised by or under Part IV to be made and such other provision as may be necessary or desirable.
  - (3) Subject to any express provision of the instrument or articles of government, the school shall be conducted in accordance with any trust deed relating to it.

#### *Initial instruments and articles of government*

- 2
- (1) The initial instrument of government for the governing body of a grant-maintained special school, and the initial articles of government for such a school, shall be such as are prescribed.
  - (2) The initial instrument of government shall have effect as from the incorporation date.
  - (3) The initial articles of government shall have effect as from the date of implementation of the proposals made under section 339(2)(a) or 345 but, in the case of a governing body incorporated in pursuance of proposals made under section 339(2)(a), such of the articles as may be prescribed shall have effect as from the incorporation date.

#### *Subsequent instruments of government*

- 3
- (1) The Secretary of State may—
    - (a) if the governing body of a grant-maintained special school submit a draft of an instrument of government to have effect in place of their existing

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instrument, by order make a new instrument of government in terms of the draft or in such terms as he thinks fit, and

- (b) if such a governing body submit draft modifications of an instrument made under paragraph (a) above, by order modify the instrument concerned in terms of the draft or in such terms as he thinks fit,

but shall not make a new instrument otherwise than in the terms of the draft, or modify the instrument otherwise than in terms of the draft, unless he has consulted the governing body.

- (2) The Secretary of State may by order modify the instrument of government for the governing body of any grant-maintained special school.
- (3) An order under sub-paragraph (2)—
  - (a) may relate to all grant-maintained special schools, to any category of such schools specified in the order or to any such school so specified, but
  - (b) shall not be made unless the Secretary of State has consulted the governing body of each grant-maintained special school to which the order relates.
- (4) Where, by reason of the making of a new instrument, or the modification of an instrument, under this paragraph, the number of governors of any category will (unless the required number of governors of that category resign) exceed the number provided for in the instrument, the new instrument or, as the case may be, the instrument as modified shall provide—
  - (a) for such number of governors of that category as is required to eliminate the excess to cease to hold office, and
  - (b) for the selection of those who are to cease to hold office.

*Subsequent articles of government*

- 4 (1) The governing body of a grant-maintained special school 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.
- (2) The Secretary of State may by a direction under this paragraph require—
  - (a) the governing bodies of grant-maintained special schools or any class of such schools specified in the direction, or
  - (b) the governing body of any particular grant-maintained special school so specified,
 to modify their articles of government in any manner so specified.
- (3) Before giving a direction under this paragraph, the Secretary of State shall consult the governing body or (as the case may be) each governing body to which the direction applies.

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### *Parent governors*

- 5
- (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include not less than three nor more than five parent governors.
  - (2) Subject to sub-paragraph (5), the parent governors—
    - (a) in the case of a school not established in a hospital, shall be elected by persons who are registered parents of registered pupils at the school, and
    - (b) in the case of a school so established, shall be appointed by the other members of the governing body.
  - (3) To qualify for such election a person must when he is elected be a registered parent of a registered pupil at the school; and to qualify for appointment under sub-paragraph (2)(b) a person must when he is appointed be such a parent or, if that is not reasonably practicable, a parent of one or more children of compulsory school age.
  - (4) The instrument shall provide for each parent governor to hold office for a term of four years.
  - (5) In the case of a school not established in a hospital, the instrument shall provide that if—
    - (a) one or more vacancies for parent governors are required to be filled by election, and
    - (b) the number of parents standing for election as parent governors is less than the number of vacancies,the required number of parent governors shall be made up by persons appointed by the other members of the governing body.
  - (6) The instrument shall require governors, in appointing a person under a provision made by virtue of sub-paragraph (5)—
    - (a) to appoint a person who is the registered parent of a registered pupil at the school, where it is reasonably practicable to do so, and
    - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age with special educational needs or, if that also is not reasonably practicable, a person who is the parent of a person of any age with special educational needs.

### *Teacher governors*

- 6
- (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include either one or two teacher governors.
  - (2) Each teacher governor shall be elected by persons who are teachers at the school.
  - (3) To qualify for such election, a person must when he is elected be a teacher at the school.
  - (4) The instrument shall provide for each teacher governor to hold office for a term of four years.

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### *Head teacher*

- 7 The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include (as a governor ex officio) the person who is for the time being the head teacher.

### *First governors*

- 8 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include first governors.
- (2) The instrument shall provide for such number of first governors as will secure that they outnumber the other governors.
- (3) The instrument—
- (a) shall require—
    - (i) that, where it is reasonably practicable, at least two of the first governors shall be (on the date or dates on which they respectively take office) parents of registered pupils at the school, and
    - (ii) that at least two of the first governors shall be persons with experience of education for those with special educational needs, but one person may satisfy both requirements, and
  - (b) shall require the governing body, in appointing first governors, to secure that those governors include a person appearing to them to be a member of the local business community (and such a person may also satisfy one or both of the requirements of paragraph (a)(i) and (ii) above).
- (4) The instrument shall provide for the first governors to be appointed by the governing body from among persons who appear to the governing body to be committed to the good government and continuing viability of the school.
- (5) The instrument shall provide for first governors to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
- (6) A person who is a member of the teaching or other staff at the school shall be disqualified for holding office as a first governor.
- (7) References in this paragraph to governors other than first governors do not include sponsor governors.

### *Power of Secretary of State to replace first governors*

- 9 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the Secretary of State to have power, where any of sub-paragraphs (2) to (4) apply, to replace all or any of the first governors.
- (2) This sub-paragraph applies where the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any requirement imposed by or under any enactment.
- (3) This sub-paragraph applies where—



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- (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 Part I of the <sup>M166</sup>School Inspections Act 1996, 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 received a statement prepared under section 17 of that Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired;

and expressions used in this sub-paragraph and in that Act have the same meaning as in that Act.

- (4) This sub-paragraph applies where in the opinion of the Secretary of State any action taken or proposed by the governing body of the school, or any failure of the governing body to act, is prejudicial to the provision of education by the school.
- (5) The instrument of government for a grant-maintained special school shall enable the Secretary of State to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.
- (6) Any provision made by the instrument of government in pursuance of paragraph 8(3) shall not apply for the purposes of the appointment by virtue of this paragraph of any first governor.

#### Marginal Citations

M166 1996 c. 57.

#### *Sponsor governors*

- 10 The instrument of government for the governing body of a grant-maintained special school which provides secondary education may—
  - (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the instrument.

#### *Additional governors*

- 11 (1) The instrument of government for the governing body of a grant-maintained special school shall enable the Secretary of State to appoint not more than two additional governors if it appears to him that the governing body are not adequately carrying out their responsibilities in respect of the conduct or management of the school.
- (2) The instrument shall enable the governing body, during any period when any additional governors appointed by the Secretary of State by virtue of sub-

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paragraph (1) are in office, to appoint a number of additional first governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.

- (3) Any additional first governor appointed in pursuance of such a provision is to hold office for such term (not being more than five years) as may be specified in the terms of his appointment.

#### *Powers*

- 12 Section 231 of this Act shall have effect in relation to the governing body of a grant-maintained special school with such modifications as may be prescribed.

#### *Transitory provisions*

- 13 Regulations may modify the provisions of paragraphs 5 to 12 in relation to—
- (a) the initial instrument of government, or
  - (b) governors holding office, elected or appointed, before the date of implementation of the proposals in pursuance of which the governing body are constituted.

#### *General application of enactments*

- 14 In relation to any governing body incorporated in pursuance of proposals under section 339(2)(a) or 345 or any school conducted or formerly conducted by such a governing body, regulations may [<sup>F162</sup>, subject to the following paragraphs of this Schedule,] provide for any provision of—
- (a) Schedules 22 and 23 (governing bodies; articles),
  - (b) Chapters VI, VII, VIII and X of Part III (funding; alteration; discontinuance, etc.), and
  - (c) any other enactment (not contained in Part III) relating to grant-maintained schools or maintained special schools (or schools including such schools),
- to have effect with or without modification.

#### **Textual Amendments**

**F162** Words in Sch. 28 para. 14 inserted (1.4.1998) by 1997 c. 44, s. 57(1), Sch. 7 para.50; S.I. 1998/386, art. 2(2), Sch. 1 Pt. II

- 15 [<sup>F163</sup>Each of sections 306A (responsibility for discipline) and] 307 (exclusion of pupils) applies to a grant-maintained special school as it applies to a grant-maintained school.

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### Textual Amendments

**F163** Words in Sch. 28 para. 15 substituted (1.4.1998) by 1997 c. 44, s. 3(2) (with s. 57(3)); S.I. 1998/386, art. 2(2), **Sch. 1 Pt.II** (with Sch. 2 Pt. I) (which s. 3(2) is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), **Sch.31** (with ss. 138(9), 144(6))); S.I. 1999/2323, art. 2(1), **Sch. 1**

[<sup>F164</sup>16 Section 307A and Schedule 25A (exclusion appeals) apply in relation to a grant-maintained special school as they apply in relation to a grant-maintained school, but as if any reference in those provisions to any provision of Schedule 23 were a reference to that provision as it applies in accordance with regulations under paragraph 14 above.]

### Textual Amendments

**F164** Sch. 28 para. 16 inserted (1.9.1998) by 1997 c. 44, s. 8(3) (with s. 57(3)); S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV**

## <sup>F165</sup>SCHEDULE 29

### Textual Amendments

**F165** Sch. 29 repealed (1.3.1998) by 1997 c. 44, s. 57(4), **Sch.8**; S.I. 1998/386, art. 2(1), **Sch. 1 Pt.I**

## <sup>F166</sup>SCHEDULE 30

### Textual Amendments

**F166** Sch. 30 repealed and replaced (1.10.1997) by 1997 c. 44, ss. 27(5), 57(4), **Schs. 5,8**; S.I. 1997/1468, art. 2(3), **Sch. 1 Pt. III**

## SCHEDULE 31

Section 375.

### AGREED SYLLABUSES OF RELIGIOUS EDUCATION

#### *Duty to convene conference to reconsider agreed syllabus*

- 1 (1) Where the agreed syllabus for the time being adopted by a local education authority was adopted by them on or after 29th September 1988 but before 1st April 1994, they

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shall, within the period of five years beginning with the date on which they adopted the syllabus, convene a conference for the purpose of reconsidering the syllabus.

- (2) Sub-paragraph (1) does not apply where the authority have already convened such a conference on or after 1st April 1994 in pursuance of paragraph 12(3) of Schedule 5 to the <sup>M169</sup>Education Act 1944.

#### **Marginal Citations**

**M169** 1944 c. 31.

- 2 (1) A local education authority shall from time to time cause further conferences to be convened for the purpose of reconsidering any agreed syllabus for the time being adopted by them (whether adopted before, on or after 1st April 1994).
- (2) No such conference shall be convened later than the end of the period of five years beginning with the date (falling after 31st March 1994) on which—
- (a) the authority adopted the syllabus, or
  - (b) the authority gave effect to a recommendation under paragraph 10(2) below (or under paragraph 13 of Schedule 5 to the Education Act 1944) that the syllabus should continue to be the agreed syllabus.
- 3 On receipt by a local education authority of written notification of any such requirement as is mentioned in section 391(3), the authority shall cause a conference to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.

#### *Constitution of conference*

- 4 (1) A conference convened under this Schedule shall consist of such groups of persons (“committees”) appointed by the local education authority which convenes the conference as are required by sub-paragraph (2).
- (2) Those committees are—
- (a) a committee of persons representing such Christian denominations and other religions and denominations of such religions as, in the opinion of the authority, will appropriately reflect the principal religious traditions in the area;
  - (b) except in the case of an area in Wales, a committee of persons representing the Church of England;
  - (c) a committee of persons representing such associations representing teachers as, in the opinion of the authority, ought to be represented, having regard to the circumstances of the area; and
  - (d) a committee of persons representing the authority.
- (3) Where a committee is required to be appointed by virtue of sub-paragraph (2)(b), the committee required to be appointed by virtue of sub-paragraph (2)(a) shall not include persons appointed to represent the Church of England.
- (4) The number of persons appointed under sub-paragraph (2)(a) to represent each denomination or religion required to be represented shall, so far as is consistent with the efficient discharge of the committee’s functions, reflect broadly the proportionate strength of that denomination or religion in the area.

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- 5 Any sub-committees appointed by the conference shall each include at least one member of each of the committees constituting the conference.
- 6 On any question to be decided by the conference or by any sub-committee of the conference, a single vote shall be given for each of the committees constituting the conference.
- 7 (1) Before appointing a person to represent any religion, denomination or associations as a member of a committee, the local education authority shall take all reasonable steps to assure themselves that he is representative of the religion, denomination or associations in question.
- (2) No proceedings under this Schedule shall be invalidated on the ground that a member of a committee did not represent the religion, denomination or associations which he was appointed to represent, unless it is shown that the authority failed to take the steps required by sub-paragraph (1).
- 8 A person appointed as a member of a committee—
- (a) may resign his membership, or
  - (b) may be withdrawn from membership by the local education authority if, in their opinion, he ceases to be representative of the religion, denomination or associations which he was appointed to represent or (as the case may be) of the authority.
- 9 Where a person resigns or is withdrawn from a committee, the local education authority shall appoint someone in his place in the same manner as that in which they made the original appointment.

#### *Reconsideration of agreed syllabus*

- 10 (1) This paragraph applies where a local education authority cause a conference to be convened for the purpose of reconsidering any agreed syllabus under any of paragraphs 1 to 3.
- (2) If—
- (a) the conference—
    - (i) unanimously recommend that the existing syllabus should continue to be the agreed syllabus, or
    - (ii) unanimously recommend a new syllabus to be adopted in substitution for the existing syllabus, and
  - (b) it appears to the local education authority that the syllabus or, as the case may be, the new syllabus, reflects the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Great Britain,
- the authority may give effect to the recommendation.
- (3) If—
- (a) the authority report to the Secretary of State that the conference are unable to reach unanimous agreement, or
  - (b) the conference unanimously recommend that the existing syllabus should continue to be the agreed syllabus but the local education authority consider that sub-paragraph (2)(b) prevents them from giving effect to the recommendation, or

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(c) it appears to the Secretary of State that the authority have failed to exercise their power under sub-paragraph (2) to give effect to the unanimous recommendation of the conference,  
the Secretary of State shall proceed in accordance with paragraph 12.

11 Where any agreed syllabus for the time being adopted by a local education authority which is in use at a grant-maintained school within the area of the authority (or for any pupils at such a school) falls to be reconsidered under this Schedule, the conference shall consult the governing body of the grant-maintained school before making any recommendation.

*Preparation of new syllabus by appointed body*

12 (1) Where required by paragraph 10 to proceed in accordance with this paragraph, the Secretary of State shall appoint a body of persons having experience in religious education to prepare a syllabus of religious education.

(2) The appointed body shall, so far as is practicable, be of a representative character which is the same as that required by paragraph 4 in the case of a conference.

13 (1) The appointed body shall—

- (a) give the local education authority, the conference and every committee constituting the conference an opportunity of making representations to it;
- (b) after considering any such representations made to it, prepare a syllabus of religious education; and
- (c) transmit a copy of that syllabus to the authority and to the Secretary of State.

(2) Subject to sub-paragraph (1)(a), the appointed body may conduct its proceedings in such manner as it thinks fit.

14 The syllabus prepared by the appointed body shall be deemed to be the agreed syllabus adopted for use in the schools for which, or for the class or description of pupils for which, it was prepared—

- (a) as from such date as the Secretary of State may direct, and
- (b) until a new syllabus is adopted for use in those schools, or for pupils of that class or description, in accordance with this Schedule.

*Special provisions applicable where order under section 27(1)(b) applies*

15 (1) This paragraph has effect in respect of the area of a local education authority if an order under section 27(1)(b) (allocation of responsibility for providing sufficient school places to funding authority) applies to the area.

(2) Within six months of the date of the first such order the authority shall reconvene any conference—

- (a) which they have convened under any of paragraphs 1 to 3 above (or for the purpose set out in paragraph 1 or 12 of Schedule 5 to the <sup>M170</sup>Education Act 1944 (preparation and reconsideration of agreed syllabuses) or section 11(8) of the <sup>M171</sup>Education Reform Act 1988 (standing advisory councils on religious education)), and

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- (b) which has not made a recommendation under paragraph 10(2)(a) above (or under paragraph 9 or 13(2) of that Schedule), and
  - (c) in respect of which the authority have not made a report under paragraph 10(3)(a) above (or under paragraph 10 or 13(4) of that Schedule).
- (3) Where a conference is convened (or reconvened) after the date of the order—
- (a) paragraph 4 shall have effect as if it required the appointment of a committee, in addition to those listed in sub-paragraph (2)(a) to (d) of that paragraph, consisting of persons representing relevant grant-maintained schools, and
  - (b) paragraph 11 shall have effect only in relation to grant-maintained schools, or pupils at such schools, at which the syllabus is in use in accordance with section 381(3);
- and paragraph 4(4) shall apply in relation to a conference reconvened by virtue of this paragraph (whether or not it applied when the conference was originally convened).
- (4) Before appointing a person to represent relevant grant-maintained schools in accordance with sub-paragraph (3)(a), the local education authority shall take all reasonable steps to assure themselves that he is acceptable as such to the governing bodies of the majority of such schools.
- (5) No proceedings under this Schedule shall be invalidated on the ground that any such person was not so acceptable unless it is shown that the local education authority failed to take those steps.
- (6) A person so appointed—
- (a) may resign his membership of the committee, or
  - (b) may be withdrawn from the committee by the local education authority if, in their opinion, he ceases to be acceptable as a representative of relevant grant-maintained schools to the governing bodies of the majority of such schools.
- (7) Where any such person resigns or is withdrawn from the committee, the local education authority shall appoint someone in his place in the same manner as that in which they made the original appointment.
- (8) For the purposes of this paragraph “relevant grant-maintained schools” means those grant-maintained schools within the area of the local education authority in relation to which section 379 or 380 applies.

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**Marginal Citations**

**M170** 1944 c. 31.

**M171** 1988 c. 40.

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## SCHEDULE 32

Section 420.

### REDUCTION OF STANDARD NUMBER FOR ADMISSION OF PUPILS

#### *Proposals for reduction of standard number*

- 1 Where the admission authority for a county or voluntary school intend to apply for an order under section 420(2) reducing any standard number applying to the school under sections 417 to 420 for any age group in any year, they shall—
- (a) publish their proposals relating to the reduction in such manner as may be required by regulations, and
  - (b) submit a copy of the published proposals to the Secretary of State together with their application.
- 2 The published proposals shall be accompanied by a statement explaining the effect of—
- (a) paragraph 3, where the local education authority are the admission authority, or
  - (b) paragraph 4, where the governing body are the admission authority.
- 3 (1) Where the local education authority are the admission authority, objections to the proposals may, within the period of two months beginning with the date of publication of the proposals, be submitted to the authority by any of the following—
- (a) any ten or more local government electors for the authority's area,
  - (b) the governing body of any school affected by the proposals, and
  - (c) any other local education authority concerned.
- (2) Within one month after the end of the period mentioned in sub-paragraph (1), the authority shall transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) within that period, together with their observations on them.
- 4 Where the governing body are the admission authority, objections to the proposals may, within the period of two months beginning with the date of publication of the proposals, be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the local education authority's area,
  - (b) the governing body of any school affected by the proposals, and
  - (c) any local education authority concerned.
- Order of Secretary of State*
- 5 (1) Subject to sub-paragraph (2), where an application is made to the Secretary of State for any such order reducing a standard number as is mentioned in paragraph 1, he may—



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- (a) make an order reducing the standard number to the number proposed;
  - (b) after consultation with both the local education authority and the governing body, make an order reducing the standard number to such number (greater than the number proposed) as he thinks desirable; or
  - (c) refuse to make any order reducing the standard number.
- (2) The Secretary of State shall not make an order reducing the standard number unless he is satisfied that the reduction is necessary, having regard to any reduction in the school's capacity to accommodate pupils as compared with its capacity at the beginning of the school year in which the current standard number first applied in relation to the age group in question (whether by virtue of section 15 of the <sup>M172</sup>Education Act 1980, section 27 of the <sup>M173</sup>Education Reform Act 1988 or sections 417 to 420 of this Act).
- (3) For the purposes of sub-paragraph (2) a school's capacity to accommodate pupils is changed if—
  - (a) as a result of changes in the availability or use of accommodation at the school, there is any change in the amount of accommodation available for use by pupils at the school; or
  - (b) as a result of changes in the requirements applicable to the school under regulations made under section 542 there is any change in the number of pupils for whom accommodation may lawfully be provided at the school;and a school's capacity to accommodate pupils is reduced if the result of the changes is, in a case within paragraph (a), less accommodation or, in a case within paragraph (b), a reduction in the number there mentioned.

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

**C108** Sch. 32 para. 5 modified (*temp.*)(1.9.1998) by S.I. 1998/1948, reg. 3(1)(2), Sch. para. 10(1)-(4)

**Marginal Citations**

**M172** 1980 c. 20.

**M173** 1988 c. 40.

*Consultation before making application*

- 6 (1) Where the local education authority are the admission authority for a county or voluntary school, they shall not make an application for an order under section 420(2) reducing any standard number applying to the school without first consulting the governing body.
- (2) Where the governing body are the admission authority for such a school, they shall not make such an application without first consulting the local education authority.

*References to date of publication of proposals*

- 7 (1) References in this Schedule, in relation to proposals under paragraph 1, to the date of publication of the proposals are references—

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- (a) to the date on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
  - (b) where different such requirements are satisfied on different dates, to the last of those dates.
- (2) Where any such requirement imposes a continuing obligation with respect to the publication of any such proposals, the requirement shall for the purposes of sub-paragraph (1) be taken to be satisfied on the first date in respect of which it is satisfied.

## SCHEDULE 33

Section 423.

### ADMISSION APPEALS

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

**C109** Sch. 33 modified (*temp.*) (1.9.1998) by S.I. 1998/1948, reg. 3(1)(2), Sch. para. 11(1)(3)

## PART I

### CONSTITUTION OF APPEAL COMMITTEES

#### *Appeal arrangements made by local education authorities*

- 1 (1) An appeal pursuant to arrangements made by a local education authority under section 423(1) shall be to an appeal committee constituted in accordance with this paragraph.
- (2) An appeal committee shall consist of—
- (a) one person nominated by the authority from among persons who are eligible to be lay members; and
  - (b) two, four or six other members nominated by the authority from among persons appointed by the authority under sub-paragraph (3).
- (3) The persons appointed by the authority under this sub-paragraph shall comprise—
- (a) members of the authority, and
  - (b) persons who are not members of the authority but who have experience in education, are acquainted with the educational conditions in the area of the authority or are parents of registered pupils at a school,
- but shall not include any person employed by the authority otherwise than as a teacher.
- (4) Sufficient persons may be appointed by the authority under sub-paragraph (3) to enable two or more appeal committees to sit at the same time.
- (5) The authority shall not nominate a person under sub-paragraph (2)(a) if he is a member of the authority or is employed by them.

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- (6) The members of an appeal committee who are members of the authority shall not outnumber the others.
- (7) A person who is a member of the authority or employed by the authority shall not be chairman of an appeal committee.
- (8) A person shall not be a member of an appeal committee for the consideration of an appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.
- (9) A person who is a teacher at a school shall not be a member of an appeal committee for the consideration of an appeal involving a question whether a child is to be admitted to that school.

*Appeal arrangements made by governing bodies*

- 2 (1) An appeal pursuant to arrangements made by the governing body of an aided or a special agreement school under section 423(2) shall be to an appeal committee constituted in accordance with this paragraph.
- (2) An appeal committee shall consist of—
  - (a) one person nominated by the governing body from among persons who are eligible to be lay members; and
  - (b) two, four or six other members nominated by the governing body from among persons appointed by them under sub-paragraph (3).
- (3) The persons appointed by the governing body under this sub-paragraph—
  - (a) may include one or more of the governors,
  - (b) shall include persons appointed from a list drawn up by the local education authority by whom the school is maintained, and
  - (c) shall not include any person employed by the authority otherwise than as a teacher.
- (4) Sufficient persons may be appointed by the governing body under sub-paragraph (3) to enable two or more appeal committees to sit at the same time.
- (5) Of the members of an appeal committee—
  - (a) three shall be nominated from among those mentioned in sub-paragraph (3)
  - (b) in the case of a committee consisting of seven members;
  - (b) two shall be so nominated in the case of a committee consisting of five members; and
  - (c) one shall be so nominated in the case of a committee consisting of three members.
- (6) The governing body shall not nominate under sub-paragraph (2)(a) a person who falls within sub-paragraph (3)(a) or (b) or is employed by the local education authority by whom the school is maintained.
- (7) None of the governors shall be chairman of an appeal committee.
- (8) A person shall not be a member of an appeal committee for the consideration of an appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.

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- (9) A person who is a teacher at a school shall not be a member of an appeal committee for the consideration of an appeal involving a question whether a child is to be admitted to that school.
- 3       Where (by virtue of section 423(3)) joint arrangements are made under section 423(2) by the governing bodies of two or more schools, paragraph 2 shall apply as if any reference to the governing body or to the governors were a reference to the governing bodies or (as the case may be) the governors of both or all the schools; and an appeal pursuant to such joint arrangements shall be to an appeal committee constituted in accordance with paragraph 2 as it so applies.
- 4       An appeal committee constituted in accordance with paragraph 2 (or in accordance with that paragraph as it applies by virtue of paragraph 3)—
- (a) shall be included in the bodies to which section 174 of the <sup>M174</sup>Local Government Act 1972 (travelling and subsistence allowances) applies; and
  - (b) for the purpose of the payment of financial loss allowance under section 173(4) of that Act to members of the committee, shall be included among the bodies to which section 173 applies.

**Marginal Citations**

M174 1972 c. 70.

*Lay members*

- 5       (1) A person is eligible to be a lay member for the purposes of paragraphs 1(2)(a) and 2(2)(a) if—
- (a) he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity), and
  - (b) he satisfies the conditions specified in sub-paragraph (2).
- (2) Those conditions are—
- (a) in the case of a person to be nominated as a lay member for the purposes of paragraph 1(2)(a), that he does not have, and has not at any time had, any connection with—
    - (i) the local education authority in question, or
    - (ii) any person who is a member of, or employed by, that authority, of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority, and
  - (b) in the case of a person to be nominated as a lay member for the purposes of paragraph 2(2)(a), that he does not have, and has not at any time had, any connection with—
    - (i) the school in question, or
    - (ii) any person who is a member of, or employed by, the governing body of that school,

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of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.

- 6 The Secretary of State may by regulations require any local education authority or governing body who are required by section 423(1) or (2) to make arrangements under that provision—
- (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal committee required to be constituted for the purposes of such arrangements to apply to the authority or body for appointment as such members, and
  - (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the authority or body in response to an advertisement placed in pursuance of sub-paragraph (a) above.

### *Indemnity*

- 7 Any local education authority or governing body required to make arrangements under section 423(1) or (2) shall indemnify the members of any appeal committee required to be constituted for the purposes of those arrangements against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that committee.

## **PART II**

### **PROCEDURE**

- 8 In this Part “appeal” means an appeal pursuant to any arrangements made under section 423.
- 9 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 10 An appeal committee shall give the appellant an opportunity of appearing and making oral representations, and may allow him to be accompanied by a friend or to be represented.
- 11 The matters to be taken into account by an appeal committee in considering an appeal shall include—
- (a) any preference expressed by the appellant in respect of the child as mentioned in section 411, and
  - (b) the arrangements for the admission of pupils published by the local education authority or the governing body under section 414.

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- 12 (1) Appeals shall be heard in private except when the local education authority or governing body (or bodies) by whom the arrangements under section 423 are made direct otherwise.
- (2) Without prejudice to any of the other provisions of this Schedule—
- (a) a member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal committee constituted in accordance with paragraph 1; and
  - (b) a member of the Council on Tribunals may attend as an observer any meeting of any appeal committee at which an appeal is considered.
- 13 In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.
- 14 The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to—
- (a) the appellant and the local education authority, and
  - (b) in the case of an appeal to an appeal committee constituted in accordance with paragraph 2 (or in accordance with that paragraph as it applies by virtue of paragraph 3), to the governing body by whom or on whose behalf the decision appealed against was made.
- 15 (1) Subject to paragraphs 9 to 14, all matters relating to the procedure on appeals, including the time within which they are to be brought, shall be determined by the local education authority or governing body (or bodies) by whom the arrangements under section 423 are made.
- (2) Neither section 106 of the <sup>M175</sup>Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee constituted in accordance with paragraph 1.

#### Marginal Citations

M175 1972 c. 70.

## [<sup>F167</sup>SCHEDULE 33A

### CHILDREN TO WHOM SECTION 411A(2) APPLIES: APPEALS BY GOVERNING BODIES]

#### Textual Amendments

**F167** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch. 2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

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### *F168 Duty to notify governing body of decision to admit child*

#### **Textual Amendments**

**F168** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), **Sch.2** (with s. 57(3)); S.I. 1997/1468, art. 2(2), **Sch. 1 Pt.II**

- F169**<sup>1</sup> Where any such decision as is mentioned in section 423A(2) is made by or on behalf of a local education authority, the authority shall give the governing body of the school notice in writing—
- (a) of that decision; and
  - (b) of the governing body's right to appeal against the decision in accordance with paragraph 2.

#### **Textual Amendments**

**F169** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), **Sch.2** (with s. 57(3)); S.I. 1997/1468, art. 2(2), **Sch. 1 Pt.II**

### *F170 Time limit on appealing*

#### **Textual Amendments**

**F170** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), **Sch.2** (with s. 57(3)); S.I. 1997/1468, art. 2(2), **Sch. 1 Pt. II**

- F171**<sup>2</sup> An appeal by the governing body against any such decision must be made not later than the 15th school day after the day on which they are given the notice under paragraph 1.

#### **Textual Amendments**

**F171** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), **Sch.2** (with s. 57(3)); S.I. 1997/1468, art. 2(2), **Sch. 1 Pt.II**

### *F172 Appeal committees*

#### **Textual Amendments**

**F172** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), **Sch.2** (with s. 57(3)); S.I. 1997/1468, art. 2(2), **Sch. 1 Pt.II**

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- <sup>F173</sup> (1) Subject to sub-paragraphs (2) and (3) below, paragraphs 1, 5, 6 and 7 of Schedule 33 (school admission appeals) shall have effect in relation to appeals under section 423A(2) as they have effect in relation to appeals under section 423(1).
- (2) A person shall not be a member of an appeal committee for the consideration of an appeal under section 423A(2) if he has to any extent been involved in any previous consideration of the question whether the child in question should or should not be reinstated at any school from which he has at any time been permanently excluded, or in any previous appeal relating to the child under section 423A(2).
- (3) A person shall not be eligible to be a lay member for the purposes of paragraph 1(2) (a) of Schedule 33 (as it applies in accordance with this paragraph) unless he satisfies the condition set out in paragraph (b) of paragraph 5(2) of that Schedule as well as that set out in paragraph (a) of that provision.
- (4) In this paragraph “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33, as it applies in accordance with this paragraph.

**Textual Amendments**

**F173** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

*<sup>F174</sup>Procedure on an appeal*

**Textual Amendments**

**F174** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt. II

- <sup>F175</sup> In the following provisions of this Schedule—
- “appeal” means an appeal under section 423A(2); and
- “appeal committee” means such an appeal committee as is mentioned in paragraph 3(4) above.

**Textual Amendments**

**F175** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- <sup>F176</sup> An appeal shall be by notice in writing setting out the grounds on which it is made.

**Textual Amendments**

**F176** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II



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- F177<sup>6</sup> The appeal committee shall meet to consider an appeal—
- (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or
  - (b) if the local education authority have determined a shorter period, within that period.

**Textual Amendments**

F177 Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F178<sup>7</sup> On an appeal the committee shall allow—
- (a) the local education authority and the governing body to make written representations;
  - (b) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations; and
  - (c) the governing body to be represented.

**Textual Amendments**

F178 Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F179<sup>8</sup> In considering an appeal the appeal committee shall have regard to—
- (a) the reasons for the local education authority's decision that the child in question should be admitted; and
  - (b) any reasons put forward by the governing body as to why the child's admission would be inappropriate.

**Textual Amendments**

F179 Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F180<sup>9</sup> Appeals shall be heard in private except when otherwise directed by the local education authority, but any member of the local education authority or of the Council on Tribunals may attend, as an observer, any meeting of an appeal committee at which an appeal is considered.

**Textual Amendments**

F180 Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

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- F181**<sup>10</sup> Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.

**Textual Amendments**

**F181** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F182**<sup>11</sup> In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.

**Textual Amendments**

**F182** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F183**<sup>12</sup> The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to—
- (a) the local education authority, and
  - (b) the governing body making the appeal,
- within the period ending with the 17th school day after the day on which the appeal is lodged.

**Textual Amendments**

**F183** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F184**<sup>13</sup> (1) Subject to paragraphs 5 to 12, all matters relating to the procedure on appeals shall be determined by the local education authority.
- (2) Neither section 106 of the <sup>M176</sup>Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee.

**Textual Amendments**

**F184** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

**Marginal Citations**

**M176** 1972 c. 70.

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### <sup>F185</sup>Power of Secretary of State to make amendments

#### Textual Amendments

**F185** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

<sup>F186</sup>14 The Secretary of State may by order amend the preceding provisions of this Schedule.

#### Textual Amendments

**F186** Sch. 33A inserted (1.9.1997) by 1997 c. 44, s. 12(2), Sch.2 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

## [<sup>F187</sup>SCHEDULE 33B

### RESTRICTIONS ON ADMISSIONS TO GRANT-MAINTAINED SCHOOLS]

#### Textual Amendments

**F187** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4 and otherwise prosp.) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

### <sup>F188</sup>Home-school partnership documents

#### Textual Amendments

**F188** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4 and otherwise prosp.) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

<sup>F189</sup>1 (1) The admission arrangements for a grant-maintained school may include provisions—

- (a) setting out the terms of a partnership document for the school and the parental declaration to be used in connection with the document;
- (b) making it a condition of the admission of every child to the school that his parent gives the governing body a signed parental declaration either—
  - (i) at the time of applying for a place at the school for the child, or
  - (ii) if the child is allocated a conditional place, within such period as is specified in the arrangements; and
- (c) authorising the governing body to dispense with that condition to any extent in the case of a particular child where they are satisfied that there are special reasons for doing so.

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- (2) For the purposes of this paragraph and paragraph 2 a “partnership document” is a statement specifying—
- (a) the school’s aims and values;
  - (b) the responsibilities which the school intends to discharge in connection with the education of children admitted to the school; and
  - (c) the parental responsibilities, that is the responsibilities which the parents of such children are expected to discharge in connection with the education of their children while they are registered pupils at the school;
- and “parental declaration” means a declaration to be signed by a parent seeking the admission of his child to the school by which he acknowledges and accepts the parental responsibilities specified in the partnership document.
- (3) In determining the provisions to be included in the admission arrangements for a school in pursuance of sub-paragraph (1), the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (4) The Secretary of State may by order provide that any form of words specified in the order, or having such effect as is so specified, is not to be used in a partnership document or (as the case may be) in a parental declaration.
- (5) An order under sub-paragraph (4) may apply to any school or description of school specified in the order.
- (6) In this paragraph and paragraph 2—
- “admission arrangements”, in relation to a school, means the arrangements for the admission of pupils to the school; and
- “conditional place”, in relation to a child, means a place which is conditional on the child’s parent giving the governing body a signed parental declaration.

#### Textual Amendments

**F189** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4 and otherwise prosp.) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468. art. 2(2), Sch. 1 Pt.II

#### *F190 Effect of home-school partnership document*

#### Textual Amendments

**F190** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4 and otherwise prosp.) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468. art. 2(2), Sch. 1 Pt.II

- <sup>F1912</sup> (1) This paragraph applies where the admission arrangements for a grant-maintained school include the provisions authorised by paragraph 1(1).
- (2) The governing body shall, in the case of each child on behalf of whom an application for admission is made, notify his parent of the following matters, namely—
- (a) the terms of the partnership document and the parental declaration, and

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- (b) the effect of the provisions of the admission arrangements authorised by paragraph 1(1)(b) and (c).
- (3) Where sub-paragraph (2) has been complied with in relation to a child's parent but—
  - (a) the parent has failed to comply with the condition referred to in paragraph 1(1)(b), and
  - (b) the governing body are not satisfied that there are special reasons for dispensing with that condition to the required extent in the case of that child, the governing body shall not be under any duty to admit the child to the school; and, if he has been allocated a conditional place, the allocation of that place may be cancelled.
- (4) In sub-paragraph (3) the reference to dispensing with the condition mentioned in that sub-paragraph “to the required extent”—
  - (a) is, where the parent gives the governing body a signed parental declaration in relation to some but not the remainder of the parental responsibilities, a reference to dispensing with that condition so far as the remainder of those responsibilities are concerned; but
  - (b) is otherwise a reference to wholly dispensing with that condition.
- (5) In performing any function under this paragraph the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (6) A partnership document shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.

#### Textual Amendments

**F191** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4 and otherwise prosp.) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

#### *F192* Restriction of right to refuse admission to partially-selective school

#### Textual Amendments

**F192** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- F193** (1) An application for the admission of a child to a grant-maintained school may not be refused on the grounds that his admission would be incompatible with the school's selective admission arrangements unless those arrangements—
- (a) are wholly based on selection by reference to ability or aptitude, and
  - (b) are so based with a view to admitting only pupils with high ability or with aptitude.
- (2) For the purposes of this paragraph a school has selective admission arrangements if the arrangements for the admission of pupils to the school are to any extent based on selection by reference to ability or aptitude.

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#### Textual Amendments

**F193** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

<sup>F194</sup> *No requirement to admit children permanently excluded from two or more schools*

#### Textual Amendments

**F194** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

- <sup>F195</sup>4 (1) The governing body of a grant-maintained school shall not be under any duty to admit to the school any child to whom sub-paragraph (3) applies.
- (2) The governing body of such a school shall not be under any duty to make arrangements for enabling any person to appeal against a decision refusing a child admission to the school in a case where, at the time when the decision is made, sub-paragraph (3) applies to the child.
- (3) Where a child has been permanently excluded from two or more schools, this sub-paragraph applies to him during the period of two years beginning with the date on which the latest of those exclusions took effect.
- (4) Sub-paragraph (3) applies to a child whatever the length of the period or periods elapsing between those exclusions and regardless of whether it has applied to him on a previous occasion.
- (5) However, a child shall not be regarded as permanently excluded from a school for the purposes of this paragraph if—
- (a) although so excluded he was reinstated as a pupil at the school following the giving of a direction to that effect to the head teacher of the school; or
  - (b) he was so excluded at a time when he had not attained compulsory school age.
- (6) In this paragraph “school” means—
- (a) a school maintained by a local education authority; or
  - (b) a grant-maintained or grant-maintained special school.
- (7) This paragraph does not apply in relation to a child unless at least one of the two or more exclusions mentioned in sub-paragraph (3) took effect on or after the date of the coming into force of section 14 of the Education Act 1997.
- (8) For the purposes of this paragraph the permanent exclusion of a child from a school shall be regarded as having taken effect on the school day as from which the head teacher decided that he should be permanently excluded.

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### Textual Amendments

**F195** Sch. 33B inserted (1.9.1997 so far as relating to paras. 3 and 4) by 1997 c. 44, ss. 14(2), 58(3), Sch. 3 (with s. 57(3)); S.I. 1997/1468, art. 2(2), Sch. 1 Pt.II

## SCHEDULE 34

Section 476.

### INDEPENDENT SCHOOLS TRIBUNALS

#### *Appointment of legal and educational panels*

- 1 (1) For the purpose of enabling Independent Schools Tribunals to be constituted as occasion may require there shall be two panels.
- (2) One of the panels (the “legal panel”) shall consist of persons who will be available to act when required as chairmen of such tribunals and shall be appointed by the Lord Chancellor.
- (3) The other panel (the “educational panel”) shall consist of persons who will be available to act when required as members of such tribunals and shall be appointed by the Lord President of the Council.

#### *Qualifications for appointment*

- 2 (1) A person is not qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable.
- (2) A person is not qualified to be appointed to the educational panel unless he has had such experience in teaching or in the conduct, management or administration of schools as the Lord President of the Council considers suitable.
- (3) A person who is—
- (a) an officer of a government department, or
  - (b) employed by a local education authority otherwise than as a teacher,
- is disqualified from being appointed to either panel.

#### *Terms and conditions of appointment*

- 3 (1) Subject (in the case of a member of the legal panel) to sub-paragraph (2), a person appointed to be a member of a panel shall hold office as such subject to such conditions as to the period of his membership and otherwise as may be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.
- (2) No appointment of a person to be a member of the legal panel shall be such as to extend beyond the day on which he attains the age of 70; but this sub-paragraph has effect subject to section 26(4) to (6) of the <sup>M177</sup>Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

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#### Marginal Citations

M177 1993 c. 8.

#### *Constitution of tribunal*

- 4 (1) Where an appeal is required to be determined by an Independent Schools Tribunal, the tribunal shall consist of—
- (a) a chairman who is a member of the legal panel, and
  - (b) two other members who are members of the educational panel.
- (2) The chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively.

#### *Remuneration*

- 5 The Secretary of State may pay to the members of an Independent Schools Tribunal such remuneration and allowances as he may determine with the consent of the Treasury.

#### <sup>F196</sup>SCHEDULE 35

#### Textual Amendments

**F196** Sch. 35 repealed (1.9.1997) by 1997 c. 59, ss. 1(1)(c), 6(3), 7(3)(a), **Sch. Pt. I** (with s. 1(3))

VALID FROM 26/07/2002

#### <sup>F197</sup>SCHEDULE 35A

#### ACADEMIES: LAND

#### Textual Amendments

**F197** Sch. 35A inserted (26.7.2002) by Education Act 2002 (c. 32), ss. 65(3), 216(2), **Sch. 7 para. 1** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 2**



**Status:** Point in time view as at 11/09/1998. This version of this Act contains provisions that are not valid for this point in time.

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## SCHEDULE 36

Section 557.

### UNIFORM STATUTORY TRUSTS FOR EDUCATIONAL ENDOWMENTS

- 1 The trustees may, after payment of any expenses incurred in connection with the administration of the trust, apply the capital and income of the relevant trust assets for any of the following purposes—
  - (a) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of any relevant school in the area,
  - (b) for the maintenance of any relevant school in the area;
  - (c) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of a teacher’s house for use in connection with any relevant school in the area; and
  - (d) for the maintenance of a teacher’s house for use in connection with any relevant school in the area.
- 2 The trustees may also, after payment of any expenses incurred in connection with the administration of the trust, apply the income of the relevant trust assets for any of the following purposes—
  - (a) in or towards the provision of advice, guidance and resources (including materials) in connection with any matter related to the management of, or education provided at, any relevant school in the area;
  - (b) the provision of services for the carrying out of any inspection of any relevant school in the area required by Part I of the <sup>M178</sup>School Inspections Act 1996; and
  - (c) to defray the cost of employing or engaging staff in connection with—
    - (i) the application of income of the relevant trust assets for either of the purposes referred to in sub-paragraphs (a) and (b) above, or
    - (ii) the application of capital or income of the relevant trust assets for any of the purposes referred to in paragraph 1 above.

#### Marginal Citations

<sup>M178</sup> 1996 c. 57.

## SCHEDULE 37

Section 582(1).

### CONSEQUENTIAL AMENDMENTS

#### PART I

##### AMENDMENTS COMING INTO FORCE ON 1ST NOVEMBER 1996

#### *Children and Young Persons Act 1933 (c. 12)*

- 1 Section 96 of the <sup>M179</sup>Children and Young Persons Act 1933 (provisions as to local authorities) shall continue to have effect with the following amendments (originally made by Schedule 8 to the Education Act 1944)—

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- (a) in subsection (3), for the words from “for elementary education” onwards there is substituted “ shall be defrayed as expenses under the enactments relating to education ”; and
- (b) in subsection (4), for the second “under” there is substituted “in accordance with”.

**Marginal Citations**

M179 1944 c. 31.

*Public Records Act 1958 (c. 51)*

- 2 In Schedule 1 to the Public Records Act 1958 (definition of public records) Part II of the Table at the end of paragraph 3 (organisations whose records are public records) shall continue to include the following entries (originally inserted by Schedule 19 to the <sup>M180</sup>Education Act 1993, taken with Schedule 15 to that Act)—

“Curriculum and Assessment Authority for Wales”,  
 “Funding Agency for Schools”,  
 “School Curriculum and Assessment Authority”, and  
 “Schools Funding Council for Wales”.

**Marginal Citations**

M180 1993 c. 35.

*Church Schools (Assistance by Church Commissioners) Measure 1958 (1958 No. 2)*

- 3 In section 2(1) of the Church Schools (Assistance by Church Commissioners) Measure 1958 (interpretation) for “the Education Acts, 1944 to 1993” there is substituted “ the Education Act 1996 ”.

*Education Act 1962 (c. 12)*

- 4 (1) Section 1 of the Education Act 1962 (local education authority awards for designated courses) shall continue to have effect with the following amendment (originally made by section 4 of the <sup>M181</sup>Education (Grants and Awards) Act 1984).
- (2) In subsection (3)(d), for the words from “for the higher diploma” onwards there is substituted “ or for the higher national diploma of the body corporate known at the passing of the Education (Grants and Awards) Act 1984 as the Business & Technician Education Council. ”

**Marginal Citations**

M181 1984 c. 11.

- 5 In section 3(c)(i) of that Act (awards by Secretary of State) for “section 100 of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”.

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6 For section 14(4) of that Act there is substituted—

“(4) This Act shall be construed as one with the Education Act 1996.”

7 In paragraph 2 of Schedule 1 to that Act (ordinary residence) for “section 31(3) of the Education Act 1980” there is substituted “ the Education Act 1996 in accordance with regulations made under section 579(4) of that Act. ”

*London Government Act 1963 (c. 33)*

8 In section 30(1) of the London Government Act 1963 (local education authorities) for “the Education Acts 1944 to 1962 or in any other Act” there is substituted “ any Act ”.

9 In section 31(5) of that Act (primary, secondary and further education in Greater London) for “except in accordance with the Education Acts 1944 to 1980” there is substituted “ except in accordance with the Education Act 1996 ”.

*Children and Young Persons Act 1963 (c. 37)*

10 In section 37(3) of the Children and Young Persons Act 1963 (exceptions to restriction on persons under 16 taking part in public performances etc.) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

11 In section 38 of that Act (restriction on licences for performances by children under 13)—

- (a) in subsection (1) for “thirteen” there is substituted “ fourteen ”;
- (b) subsection (2) is omitted; and
- (c) in the sidenote, for “13” there is substituted “ 14 ”.

*Veterinary Surgeons Act 1966 (c. 36)*

12 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions from restrictions on practice of veterinary surgery), in the definition of “recognised institution” following paragraph 5, for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

*Education Act 1967 (c. 3)*

13 In section 6(2) of the Education Act 1967 (construction as one) for “the Education Acts 1944 to 1965” there is substituted “ the Education Act 1996. ”

*Public Expenditure and Receipts Act 1968 (c. 14)*

14 In Schedule 3 to the Public Expenditure and Receipts Act 1968 (variation of fees, etc.) for “The Education Act 1944 (c.31) section 94” there is substituted “ The Education Act 1996 (c.56) section 564 ”.

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*Children and Young Persons Act 1969 (c. 54)*

15 In section 12C(3) of the Children and Young Persons Act 1969 (requirements as to education) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

16 In section 19(17) of that Act (facilities for the carrying out of supervisor’s directions etc.) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

*Local Authorities (Goods and Services) Act 1970 (c. 39)*

F198 17 .....

**Textual Amendments**  
**F198** Sch. 37 para. 17 repealed (1.3.1998 in so far as Sch. 37 relates to School Curriculum and Assessment Authority and otherwise 1.10.1997) by 1997 c. 44, ss. 57(4), 58(3), **Sch.8**; S.I. 1997/1468, art. 2(3), **Sch. 1 Pt. III**; S.I. 1998/386, art. 2(1), **Sch. 1 Pt.I**

*Local Authority Social Services Act 1970 (c. 42)*

18 In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committee) the entry relating to the Education Act 1993 is omitted and at the end there is added—

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“Education Act 1996. Section 322.....	Help for local education authority in exercising functions under Part IV of the Act.”
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*Chronically Sick and Disabled Persons Act 1970 (c. 44)*

19 In section 8(2) of the Chronically Sick and Disabled Persons Act 1970 (access to and facilities at university and school buildings) for the words from “and expressions used” onwards there is substituted “ and expressions used in paragraph (b) above and in the Education Act 1996 have the same meanings as in that Act. ”

*Pensions (Increase) Act 1971 (c. 56)*

20 In Part II of Schedule 2 to the Pensions (Increase) Act 1971 (official pensions payable out of local funds), in paragraph 57, for “the Education Act 1944” there is substituted “ the Education Act 1996. ”

*Superannuation Act 1972 (c. 11)*

21 (1) Schedule 1 to the Superannuation Act 1972 shall continue—

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(a) to include <sup>F199</sup> . . . and the entries relating to the Funding Agency for Schools and the Schools Funding Council for Wales (originally inserted by Schedule 19 to that Act); <sup>F200</sup> . . .

<sup>F200</sup>(b) . . . . .

<sup>F201</sup>(2) . . . . .

#### Textual Amendments

**F199** Words in [Sch. 37 para. 21\(1\)\(a\)](#) repealed (1.3.1998 in so far as relating to School Curriculum and Assessment Authority and otherwise 1.10.1997) by 1997 c. 44, ss. 57(4), 58(3), [Sch.8](#); S.I. 1997/1468, art. 2(3), [Sch. 1 Pt. III](#); S.I. 1998/386, art. 2(1), [Sch. 1 Pt.I](#)

**F200** [Sch. 37 para. 21\(1\)\(b\)](#) and the word immediately preceding it repealed (1.3.1998 in so far as relating to the School Curriculum and Assessment Authority and otherwise 1.10.1997) by 1997 c. 44, ss. 57(4), 58(3), [Sch.8](#); S.I. 1997/1468, art. 2(3), [Sch. 1 Pt. III](#); S.I. 1998/386, art. 2(1), [Sch. 1 Pt.I](#)

**F201** [Sch. 37 para. 21\(2\)](#) repealed (1.3.1998 in so far as relating to the School Curriculum and Assessment Authority and otherwise 1.10.1997) by 1997 c. 44, ss. 57(4), 58(3), [Sch. 8](#); S.I. 1997/1468, art. 2(3), [Sch. 1 Pt. III](#); S.I. 1998/386, art. 2(1), [Sch. 1 Pt.I](#)

#### Local Government Act 1972 (c. 70)

- 22 (1) Section 104(2)(a) of the Local Government Act 1972 (teachers not disqualified for being members of committees) shall continue to have effect with the following amendment (originally made by Schedule 19 to the <sup>M182</sup>Education Act 1993).
- (2) For “for the purposes of the enactments relating to education” there is substituted “ wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities ”.

#### Marginal Citations

**M182** 1993 c. 35.

- 23 In section 112(4)(b) of that Act (appointment of staff) for “section 88 of the Education Act 1944” there is substituted “ section 532 of the Education Act 1996 ”.
- 24 In section 139(4) of that Act (acceptance of gifts of property) for “the Education Acts 1944 to 1971” there is substituted “ the Education Act 1996 ”.
- 25 In section 177(1) of that Act (supplementary provisions as to allowances) for “paragraph 4 of Schedule 2 to the Education Act 1980” there is substituted “ paragraph 4 of Schedule 33 to the Education Act 1996 ”.

#### Fair Trading Act 1973 (c. 41)

- 26 In Schedule 4 to the Fair Trading Act 1973 (services excluded from sections 14 and 109), in paragraph 14, for “the Education Act 1944,” there is substituted “ the Education Act 1996, ”.

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*Local Government Act 1974 (c. 7)*

- 27 In section 25 of the Local Government Act 1974 (authorities subject to investigation by Local Commissioner) for subsection (5) there is substituted—
- “(5) Any reference to an authority to which this Part of this Act applies also includes a reference to any appeal committee constituted—
- (a) for the purposes of paragraph 6 of Schedule 23 to the Education Act 1996, or
- (b) in accordance with paragraph 1 or 2 of Schedule 33 to that Act.”
- 28 In section 31A(2) of that Act (consideration of adverse reports) for “paragraph 1 of Schedule 2 to the Education Act 1980” there is substituted “ paragraph 1 of Schedule 33 to the Education Act 1996 ”.
- 29 In paragraph 5(1) of Schedule 5 to that Act (matters not subject to investigation) for the words from “section 23” to “1986” there is substituted “ section 370 of the Education Act 1996 or section 17 of the Education (No.2) Act 1986 ”.

*House of Commons Disqualification Act 1975 (c. 24)*

- 30 (1) Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices)—
- (a) shall be amended as provided in sub-paragraphs (2) and (3); and
- (b) shall continue to include the entries set out in sub-paragraph (4) (originally inserted by Schedule 19 to the <sup>M183</sup>Education Act 1993).
- (2) For the entry relating to the Curriculum and Assessment Authority for Wales there is substituted—
- “Any member of the Curriculum and Assessment Authority for Wales constituted under section 360 of the Education Act 1996 in receipt of remuneration”.
- (3) For the entry relating to the School Curriculum and Assessment Authority there is substituted—
- “Any member of the School Curriculum and Assessment Authority constituted under section 358 of the Education Act 1996 in receipt of remuneration”.
- (4) The entries referred to in sub-paragraph (1)(b) are—
- “Any member of an education association in receipt of remuneration”,
- “Any member of the Funding Agency for Schools in receipt of remuneration”, and
- “Any member of the Schools Funding Council for Wales in receipt of remuneration”.

**Marginal Citations**

M183 1993 c. 35.

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

- 31 In section 23(1) of the Sex Discrimination Act 1975 (other discrimination by local education authorities) for “the Education Acts 1944 to 1996” there is substituted “ the Education Acts ”.
- 32 In section 23A of that Act (discrimination by Further Education and Higher Education Funding Councils) for “the Education Acts 1944 to 1994” there is substituted “ the Education Acts ”.
- 33 For the section 23C inserted in that Act by Schedule 19 to the Education Act 1993 there is substituted—

#### **“23C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales.**

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions imposed by or under the Education Acts to do any act which constitutes sex discrimination.”

- 34 In section 24(2)(c) of that Act (designated establishments) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.
- 35 (1) Section 25 of that Act (general duty in public sector of education)—
- (a) shall be amended in accordance with sub-paragraphs (2)(a) to (c), (3)(b), and (4)(a); and
  - (b) shall continue to have effect with the amendments set out in sub-paragraphs (2)(d), (3)(a) and (4)(b) (originally made by Schedule 19 to the Education Act 1993 and subsequently amended by the <sup>M184</sup>Education Act 1994).
- (2) In subsection (2)—
- (a) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”;
  - (b) in paragraph (a), for “section 68” there is substituted “ section 496 ”;
  - (c) in paragraph (b), for “section 99” there is substituted “ section 497 ”; and
  - (d) for “and 23” there is substituted “ 23, 23A, 23C and 23D ”.
- (3) In subsection (4)—
- (a) for “and 23” there is substituted “ 23, 23A, 23C and 23D ”; and
  - (b) for “either” there is substituted “ any ”.
- (4) In subsection (6)—
- (a) in paragraph (c)(iii), for “section 100 of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”; and
  - (b) after paragraph (d) there is added—
    - “(e) the Funding Agency for Schools and the Schools Funding Council for Wales.”

#### **Marginal Citations**

M184 1994 c. 30.

- 36 In section 82 of that Act (general interpretation), in subsection (1)—

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- (a) after the definition of “education” there is inserted—  
     “the Education Acts” has the meaning given by section 578 of the Education Act 1996;”;
- (b) in the definition of “further education”, for “section 41(3) of the Education Act 1944 as read with section 14 of the Further and Higher Education Act 1992” there is substituted “ section 2 of the Education Act 1996 ”;
- (c) in the definition of “independent school”, for “section 114(1) of the Education Act 1944” there is substituted “ section 463 of the Education Act 1996 ”;
- (d) in the definition of “proprietor”, for “section 114(1) of the Education Act 1944” there is substituted “ section 579 of the Education Act 1996 ”; and
- (e) in the definition of “school”, for “section 114(1) of the Education Act 1944” there is substituted “ section 4 of the Education Act 1996 ”.

37 In Schedule 2 to that Act (transitional exemption orders for educational admissions)

- (a) in paragraph 1, for the words from “under the provisions” to “that section,” there is substituted “ under section 35, 41 or 259 of the Education Act 1996 a responsible body submits to the Secretary of State ”; and
- (b) in paragraph 3—
  - (i) for “section 100 of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”; and
  - (ii) for “subsection (1)(b) of the said section 100” there is substituted “ the said section 485 ”.

*Restrictive Trade Practices Act 1976 (c. 34)*

38 In Schedule 1 to the Restrictive Trade Practices Act 1976 (services excluded from section 13), in paragraph 14, for “the Education Act 1944,” there is substituted “ the Education Act 1996, ”.

*Race Relations Act 1976 (c. 74)*

39 In section 18(1) of the Race Relations Act 1976 (other discrimination by local education authorities) for “the Education Acts 1944 to 1996” there is substituted “ the Education Acts ”.

40 In section 18A of that Act (discrimination by Further Education and Higher Education Funding Councils) for “the Education Acts 1944 to 1994” there is substituted “ the Education Acts ”.

41 For the section 18C inserted in that Act by Schedule 19 to the <sup>M185</sup>Education Act 1993 there is substituted—



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### **“18C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales.**

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions imposed by or under the Education Acts to do any act which constitutes racial discrimination.”

#### **Marginal Citations**

M185 1993 c. 35.

- 42 (1) Section 19 of that Act (general duty in public sector of education)—
- (a) shall be amended in accordance with sub-paragraphs (2)(a) to (c), (3)(b) and (4)(a); and
  - (b) shall continue to have effect with the amendments set out in sub-paragraphs (2)(d), (3)(a) and (4)(b) (originally made by Schedule 19 to the Education Act 1993 and subsequently amended by the <sup>M186</sup>Education Act 1994).
- (2) In subsection (2)—
- (a) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”;
  - (b) in paragraph (a), for “section 68” there is substituted “ section 496 ”;
  - (c) in paragraph (b), for “section 99” there is substituted “ section 497 ”; and
  - (d) for “and 18” there is substituted “ 18, 18A, 18C and 18D ”.
- (3) In subsection (4)—
- (a) for “and 18” there is substituted “ 18, 18A, 18C and 18D ”; and
  - (b) for “either” there is substituted “ any ”.
- (4) In subsection (6)—
- (a) in paragraph (c)(iii), for “section 100 of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”; and
  - (b) after paragraph (d) there is added—
    - “(e) the Funding Agency for Schools and the Schools Funding Council for Wales.”

#### **Marginal Citations**

M186 1994 c. 30.

- 43 In section 78 of that Act (general interpretation), in subsection (1)—
- (a) after the definition of “education” there is inserted—
    - ““the Education Acts” has the meaning given by section 578 of the Education Act 1996;”;
  - (b) in the definition of “independent school”, for “section 114(1) of the Education Act 1944” there is substituted “ section 463 of the Education Act 1996 ”;
  - (c) in the definition of “proprietor”, for “section 114(1) of the Education Act 1944” there is substituted “ section 579 of the Education Act 1996 ”; and

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- (d) in the definition of “school”, for “section 114(1) of the Education Act 1944” there is substituted “ section 4 of the Education Act 1996 ”.

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

- 44 In section 28A(2)(c) of the National Health Service Act 1977 (power to make payments to local education authority)—
- (a) for “the Education Acts 1944 to 1996” there is substituted “ the Education Act 1996 ”; and
- (b) for “those Acts” there is substituted “ the Education Acts (within the meaning of that Act) ”.
- 45 In section 128(1) of that Act (interpretation), in the definition of “local education authority”, for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.
- 46 In Schedule 1 to that Act (medical and dental inspection and treatment of pupils etc.)—
- (a) in paragraph 1(a)(ii), for “section 163 or 298 of the Education Act 1993” there is substituted “ section 19 or 319 of the Education Act 1996 ”; and
- (b) in paragraph 4, for “by section 114(1) of the Education Act 1944” there is substituted “ for the purposes of the Education Act 1996 ”.

*Education Act 1980 (c.20)*

- 47 (1) Section 38 of the Education Act 1980 (citation etc.) shall be amended as follows.
- (2) Subsections (2) and (4) to (6) are omitted.
- (3) For subsection (3) there is substituted—
- “(3) This Act shall, in its application to England and Wales, be construed as one with the Education Act 1996.”
- (4) In subsection (7), for the words from the beginning to “Northern Ireland;” there is substituted “ In this Act section 20 and this section extend to Northern Ireland, ”.

*Education (Scotland) Act 1980 (c. 44)*

- 48 (1) Section 48A of the Education (Scotland) Act 1980 (corporal punishment) shall continue to have effect with the following amendments (originally made by section 294 of the <sup>M187</sup>Education Act 1993).
- (2) In subsection (1), after “pupil” there is inserted “ to whom this subsection applies ”, and after that subsection there is inserted—
- “(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.
- (1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.”

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(3) In subsection (5) for the words preceding paragraph (a) there is substituted “In this section “pupil” means a person for whom education is provided at a school or for whom school education is provided by an education authority otherwise than at a school.

(5A) Subsection (1) above applies to a pupil”.

(4) In subsection (8)(a) for “(5)(a)(iii)” there is substituted “ (5A)(a)(iii) ”.

**Marginal Citations**

M187 1993 c. 35.

*Local Government, Planning and Land Act 1980 (c.65)*

49 In paragraph 10 of Schedule 10 to the Local Government, Planning and Land Act 1980 (adjustment of block grant in connection with education etc.: interpretation) for “Section 38(5) of the Education Act 1980” there is substituted “ Section 579(4) of the Education Act 1996 ”.

*Acquisition of Land Act 1981 (c. 67)*

50 In section 1(2) of the Acquisition of Land Act 1981 (application of Act) for “section 90(1) of the Education Act 1944” there is substituted “ section 530(1) of the Education Act 1996 ”.

51 (1) Section 17(4) of that Act (statutory undertakers) shall have effect with the following amendment instead of that made by section 11 of the <sup>M188</sup>Education Act 1993.

(2) After paragraph (aa) of the definition of “statutory undertakers” there is inserted—  
“(ab) the Funding Agency for Schools,  
(ac) the Schools Funding Council for Wales,”.

**Marginal Citations**

M188 1993 c. 35.

*Greater London Council (General Powers) Act 1981 (c. xvii)*

52 In section 16 of the Greater London Council (General Powers) Act 1981 (exemptions from Part IV)—

(a) in paragraph (b) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”; and

(b) in paragraph (k) for “section 100(1)(b) of the said Act of 1944” there is substituted “ section 485 of the Education Act 1996 ”.

*Agricultural Training Board Act 1982 (c. 9)*

53 In section 4(5) of the Agricultural Training Board Act 1982 (meaning of “post-school education”), for paragraph (a) there is substituted—

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- “(a) in England and Wales, “higher education” as defined by section 120(1) of the Education Reform Act 1988 or “further education” as defined by section 2(3) to (5) of the Education Act 1996; and”.

*Industrial Training Act 1982 (c. 10)*

54 In section 5 of the Industrial Training Act 1982 (functions of boards) for the subsection (7) inserted by the<sup>M189</sup>Education Reform Act 1988 there is substituted—

- “(8) In this section “post-school education” means—
- (a) in England and Wales, “higher education” as defined by section 120(1) of the Education Reform Act 1988 or “further education” as defined by section 2(3) to (5) of the Education Act 1996; and
  - (b) in Scotland, “further education” within the meaning of the Education (Scotland) Act 1980.”

**Marginal Citations**

**M189** 1988 c. 40.

*Local Government (Miscellaneous Provisions) Act 1982 (c. 30)*

55 In section 40 of the Local Government (Miscellaneous Provisions) Act 1982 (nuisance and disturbance on educational premises) for subsections (2) to (10) there is substituted—

- “(2) This section applies to premises, including playing fields and other premises for outdoor recreation, of an institution (other than a school) which—
- (a) is maintained by a local education authority; and
  - (b) provides further education or higher education (or both).
- (3) If—
- (a) a police constable; or
  - (b) a person whom a local education authority have authorised to exercise the power conferred by this subsection,
- has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.
- (4) No proceedings under this section shall be brought by any person other than—
- (a) a police constable; or
  - (b) a local education authority.
- (5) Expressions used in this section and in the Education Act 1996 have the same meaning as in that Act.”

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*Representation of the People Act 1983 (c. 2)*

- 56 (1) Paragraph 22 of Schedule 1 to the Representation of the People Act 1983 (use of schools for the purpose of taking a poll) shall continue to have effect with the following amendment (originally made by Schedule 19 to the <sup>M190</sup>Education Act 1993).
- (2) In sub-paragraph (1)(i), after “authority” there is inserted “ a grant-maintained school ”.

**Marginal Citations**

M190 1993 c. 35.

*Education (Fees and Awards) Act 1983 (c. 40)*

- 57 In section 1(4) of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments)—
- (a) for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”; and
- (b) for “the Education Act 1944” there is substituted “ the 1996 Act ”.

*Registered Homes Act 1984 (c. 23)*

- 58 (1) Section 1 of the Registered Homes Act 1984 (requirement of registration: independent schools) shall be amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (f), for “section 114 of the Education Act 1944” there is substituted “ section 4 of the Education Act 1996 ”; and
- (b) in paragraph (g), for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”.
- (3) In subsection (6)—
- (a) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”; and
- (b) for “section 189(1) of the Education Act 1993” there is substituted “ section 347 of the Education Act 1996 ”.
- (4) In subsection (7), for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”.

*Building Act 1984 (c. 55)*

- 59 In section 4(1)(a) of the Building Act 1984 (exemption of educational buildings etc) for sub-paragraphs (i) to (iv) substitute—
- “(i) plans that have been approved by the Secretary of State,
- (ii) particulars submitted and approved under section 39 or 44 of the Education Act 1996 or under regulations made under section 544 of that Act or section 218(7) of the Education Reform Act 1988,

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- (iii) particulars approved or adopted under section 214, 262 or 341 of the Education Act 1996, or
- (iv) particulars given in a direction under section 428 of that Act.”

*Greater London Council (General Powers) Act 1984 (c. xxvii)*

- 60 In section 10(2)(g) of the Greater London Council (General Powers) Act 1984 (buildings excepted from Part IV) for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”.

*Further Education Act 1985 (c. 47)*

- 61 In section 8(3) (short title etc.) for “the Education Act 1944” there is substituted “ the Education Act 1996. ”

*Housing Act 1985 (c. 68)*

- 62 In Schedule 1 (tenancies which are not secure tenancies), in paragraph 10(4), for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

*Local Government Act 1986 (c. 10)*

- 63 In section 2A(4)(a) of the Local Government Act 1986 (prohibition on promoting homosexuality) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

*Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 64 (1) Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) shall be amended as follows.
- (2) In subsection (1)(a) for “or 168 of the Education Act 1993” there is substituted “ section 168 of the Education Act 1993 or section 324 of the Education Act 1996 ”.
- (3) In subsection (8)—
- (a) for “paragraph 7 of Schedule 10 to the Education Act 1993” there is substituted “ paragraph 7 of Schedule 27chedul to the Education Act 1996 ”, and
  - (b) for “maintained under section 168” there is substituted “ maintained under section 324 ”.
- (4) In subsection (9)—
- (a) for “Part III of the Education Act 1993” there is substituted “ Part IV of the Education Act 1996 ”; and
  - (b) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

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*Education (No. 2) Act 1986 (c. 61)*

- 65 (1) Section 50 of the Education (No. 2) Act 1986 (grants for teacher training etc.) shall continue to have effect with the following amendments (originally made by section 278 of and Schedule 19 to the <sup>M191</sup>Education Act 1993).
- (2) In subsection (1)—
- (a) for “local authorities and other persons” there is substituted “ persons other than local education authorities ”; and
- (b) for the words from the end of paragraph (a) onwards there is substituted—
- “and
- (b) such other classes of persons as may be prescribed.”
- (3) In subsection (2)(b), for “capacity as an employee of the kind in question” there is substituted “ employment ”.

**Marginal Citations**

**M191** 1993 c. 35.

- 66 (1) Section 67 of that Act (short title etc.) shall be amended as follows.
- (2) Subsections (2), (5) and (6) are omitted.
- (3) In subsection (3), for “the 1944 Act” there is substituted “ the Education Act 1996. ”
- (4) In subsection (7), for the words from the beginning to “Northern Ireland;” there is substituted “ In this Act section 48 and this section extend to Scotland, ”.

*Reverter of Sites Act 1987 (c. 15)*

- 67 (1) The Reverter of Sites Act 1987 shall be amended as follows.
- (2) In section 1(5) (right of reverter replaced by trust for sale) for “section 2 of the Education Act 1973” there is substituted “ section 554 of the Education Act 1996 ”.
- (2) In section 5 (orders under Education Act 1973)—
- (a) in subsection (1), for “section 2 of the Education Act 1973” there is substituted “ section 554 of the Education Act 1996 ”; and
- (b) for “section 2 of the said Act of 1973”, wherever occurring, there is substituted “ section 554 of the 1996 Act ”.

*Local Government Act 1988 (c. 9)*

- 68 In paragraph 8(3)(a) of Schedule 1 to the Local Government Act 1988 (competition) for “section 53 of the Education Act 1944 (whether or not also provided under section 41 of that Act)” there is substituted “ section 508 of the Education Act 1996 (whether or not also provided under section 15 of that Act) ”.

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*Criminal Justice Act 1988 (c. 33)*

- 69 In section 139A(6) and (7) of the Criminal Justice Act 1988 (as amended by the Offensive Weapons Act 1996), for “section 14(5) of the Further and Higher Education Act 1992” there is substituted “ section 4 of the Education Act 1996 ”.

*Education Reform Act 1988 (c. 40)*

- 70 In section 124(2)(b) of the Education Reform Act 1988 (powers of a higher education corporation) for “within the meaning of section 41(9) of the Education Act 1944” there is substituted “ , as defined by section 15(6) and (7) of the Education Act 1996 ”.
- 71 In section 161(1)(b)(i) of that Act (interpretation of Part II) for “section 41 of the 1944 Act” there is substituted “ section 15 of the Education Act 1996 ”.
- 72 In section 163(1) of that Act (new education authorities for London) for “the Education Acts 1944 to 1996” there is substituted “ the Education Act 1996 ”.
- 73 In section 166(5) of that Act (responsibility for schools) for “the Education Acts 1944 to 1993” there is substituted “ the Education Act 1996 ”.
- 74 (1) Section 197 of that Act (Education Assets Board) shall be amended as follows.
- (2) In subsection (6), for “the Education Acts 1944 to 1993” there is substituted “ the Education Acts ”.
- (3) Subsection (7) shall continue to have effect with the insertion of the words “and any governing body of a maintained or grant-maintained school” (originally inserted by section 47(5) of the <sup>M192</sup>Education Act 1993); and in that subsection for “the Education Acts 1944 to 1993” there is substituted “ the Education Acts ”.
- (4) In subsection (7B), for “the Education Acts 1944 to 1992” there is substituted “ the Education Acts ”.
- (5) At the end of the section there is added—
- “(10) In this section “the Education Acts” has the meaning given by section 578 of the Education Act 1996.”

**Marginal Citations**

M192 1993 c. 35.

- 75 In section 198 of that Act (transfers under Parts I and II)—
- (a) in subsection (1), for “or section 38 of the Education Act 1993” there is substituted “ or section 201 of the Education Act 1996 ”; and
- (b) in subsection (4), for “or under the Education Act 1993”, in both places, there is substituted “ or under the Education Act 1996 ”.
- 76 (1) Section 218 of that Act (school and further and higher regulations)—
- (a) shall be amended as provided in sub-paragraphs (2) to (5); and



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- (b) shall continue to have effect with the amendments set out in sub-paragraph (6) (originally made by section 290 of the Education Act 1993).
- (2) In subsection (1) the following are omitted—
- (a) in paragraphs (e) and (f), the words “schools and”; and
  - (b) paragraph (g).
- (3) For subsection (2B) (renumbered by paragraph 8(4) of Schedule 2 to the <sup>M193</sup>Education Act 1994) there is substituted—
- “(2B) Regulations under subsection (2) above may impose requirements on persons carrying on city technology colleges or city colleges for the technology of the arts as to the training and teaching experience of persons employed as teachers at such colleges who seek to become (in relation to schools) qualified teachers.”
- (4) In subsection (7), the following are omitted—
- (a) the words from “or, in such cases” to “the funding authority”; and
  - (b) the words “school or” (where first occurring) and “any school or”.
- (5) Subsections (8) and (13) are omitted.
- (6) The amendments referred to in sub-paragraph (1)(b) are—
- (a) after subsection (6)(c) there is added “or
  - (d) by the proprietors of independent schools or at such schools as teachers or in any such work,”; and
  - (b) in subsection (12) after “section” there is inserted “ other than in subsection (6)(d) above ”.

#### Marginal Citations

M193 1994 c. 40.

77 For section 219 of that Act there is substituted—

#### **“219 Powers of the Secretary of State in relation to certain educational institutions.**

- (1) This section applies to any institution which is maintained by a local education authority and provides higher education or further education (or both).
- (2) Section 495(1) of the Education Act 1996 (determination of disputes by the Secretary of State) shall apply in relation to the governing body of an institution to which this section applies as it applies in relation to the governing body of a school.
- (3) Each of sections 496 and 497 of that Act (power of Secretary of State to prevent unreasonable exercise of functions and Secretary of State’s general default powers) shall have effect as if any reference to a body to which that section applies included a reference to the governing body of an institution to which this section applies.

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- (4) Section 498 of that Act (powers of Secretary of State where there is no properly constituted governing body) shall have effect as if any reference to a school to which that section applies included a reference to an institution to which this section applies.”

F20278 .....

#### Textual Amendments

**F202** Sch. 37 para. 78 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch.5

- 79 In section 228 of that Act (transfer of property to grant-aided institutions in Wales), in subsection (2)(a), for “section 100(1)(b) of the 1944 Act” there is substituted “section 485 of the Education Act 1996”.
- 80 In section 232 of that Act (orders and regulations)—
- (a) in subsection (2), for the words from “sections” to “Schedule 5” there is substituted “section 157”;
  - (b) subsection (3) is omitted; and
  - (c) in subsection (4), “3(4)(a), 4(2)(c), 24,” is omitted.
- 81 (1) Section 235 of that Act (general interpretation) shall be amended as follows.
- (2) In subsection (1) the definition of “the 1980 Act” is omitted.
  - (3) In subsection (2)(c), after “1944 Act” there is inserted “or section 485 of the Education Act 1996”.
  - (4) In subsections (7) and (8), for “the 1944 Act” in each place there is substituted “the Education Act 1996”.
- 82 (1) Schedule 10 to that Act (supplementary provisions with respect to transfers)—
- (a) shall continue to have effect with the amendments set out in sub-paragraph (2) (originally made by section 47 of the <sup>M194</sup>Education Act 1993); and
  - (b) shall be amended as provided in sub-paragraph (3).
- (2) The amendments mentioned in sub-paragraph (1)(a) are as follows—
- (a) in paragraph 1(1) of the Schedule, after “held” there is inserted “or used”;
  - (b) in paragraph 4(1) of the Schedule, for “by virtue of section 126 or 130” there is substituted “to which this Schedule applies”; and
  - (c) for “local education authority”, wherever occurring in the Schedule, there is substituted “local authority”.
- (3) In the Schedule—
- (a) in paragraph 1(4)(a)(i), for “or under the Education Act 1993” there is substituted “or under the Education Act 1996”;
  - (b) in paragraph 2(1)(b), for “or of the Education Act 1993” there is substituted “or of the Education Act 1996”;
  - (c) in paragraph 5, for “or of the Education Act 1993” there is substituted “or of the Education Act 1996”;

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- (d) in paragraph 7, for “or of the Education Act 1993” there is substituted “ or of the Education Act 1996 ”; and
- (e) in paragraph 9(6)(b), for “or of the Education Act 1993” there is substituted “ or of the Education Act 1996 ”.

**Marginal Citations**

M194 1993 c. 35.

*Copyright, Designs and Patents Act 1988 (c. 48)*

- 83 In section 174(3) of the Copyright, Patents and Designs Act 1988 (meaning of “school”) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

*Children Act 1989 (c. 41)*

- 84 In section 28(4) of the Children Act 1989 (local authority support for children and families: consultation with local education authorities) for “Part III of the Education Act 1993” there is substituted “ Part IV of the Education Act 1996 ”.

- 85 In section 36(5) of that Act (education supervision orders: presumption that child is not being properly educated)—

- (a) for “section 37 of the Education Act 1944” there is substituted “ section 437 of the Education Act 1996 ”; and
- (b) for “section 39” there is substituted “ section 444 ”.

- 86 (1) Section 63 of that Act (children not to be cared for and accommodated in unregistered children’s homes) shall be amended as follows.

- (2) For subsection (6) there is substituted—

“(6) An independent school is a children’s home at any time if at that time accommodation is provided for children at the school and either—

- (a) in each year that fell within the period of two years ending at that time accommodation was provided for more than three of the children at the school, or under arrangements made by the proprietor of the school, for more than 295 days in that year, or
- (b) it is intended to provide accommodation for more than three of the children at the school, or under arrangements made by the proprietor of the school, for more than 295 days in any year,

unless the school is approved by the Secretary of State under section 347(1) of the Education Act 1996 (approval of independent schools for children with statements); and in this subsection “year” means a period of twelve months and “proprietor” has the same meaning as in that Act.”

- 87 In section 87(10) of that Act (welfare of children accommodated in independent schools) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

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- 88 In section 87A(6) of that Act (inspection of independent schools), in paragraph (a), for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.
- 89 In section 87B(4) of that Act (duties of inspectors of independent schools), in paragraph (a), for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.
- 90 In section 91(5) of that Act (effect and duration of orders: school attendance orders) for “section 37 of the Education Act 1944” there is substituted “ section 437 of the Education Act 1996 ”.
- 91 In section 105(1) of that Act (interpretation) for “the Education Act 1944” in each place where it occurs, and for “the Education Act 1993”, there is substituted “ the Education Act 1996 ”.
- 92 In paragraph 3(b) of Schedule 2 to that Act (local authority support for children and families: assessment of children’s needs) for “Part III of the Education Act 1993” there is substituted “ Part IV of the Education Act 1996 ”.
- 93 (1) Part III of Schedule 3 to that Act (education supervision orders) shall be amended as follows.
- (2) In paragraph 13—
- (a) in sub-paragraph (1) for “section 36 of the Education Act 1944 (duty to secure education of children) and section 199 of the Education Act 1993 (duty” there is substituted “ sections 7 and 444 of the Education Act 1996 (duties to secure education of children and ”; and
- (b) in sub-paragraph (2)—
- (i) in paragraph (a)(i) for “section 192 of that Act” there is substituted “ section 437 of the Education Act 1996 ”,
- (ii) in paragraph (b)(i) for “section 192” there is substituted “ section 437 ”,
- (iii) in paragraph (b)(ii) for “section 76 of the Education Act 1944” there is substituted “ section 9 of that Act ”, and
- (iv) in paragraph (b)(iii) for “sections 6 and 7 of the Education Act 1980” there is substituted “ sections 411 and 423 of that Act ”.
- (3) In paragraph 21 for “the Education Act 1944 (as amended by Schedule 13)” there is substituted “ the Education Act 1996. ”
- 94 (1) Paragraph 3 of Schedule 9 to that Act (child minding and day care: exemption of certain schools) shall be amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “section 100 of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”, and
- (b) for “section 53 of the Act of 1944” there is substituted “ section 508 of that Act ”.
- (3) In sub-paragraph (3)—
- (a) for “the Education Act 1944” there is substituted “ the Education Act 1996 ”, and
- (b) for “the Education Act 1993” there is substituted “ that Act ”.

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*Local Government and Housing Act 1989 (c. 42)*

- 95 In section 2(6)(a) of the Local Government and Housing Act 1989 (politically restricted posts) for “section 88 of the Education Act 1944” there is substituted “section 532 of the Education Act 1996”.
- 96 (1) Section 13 of that Act (voting rights of members of committees)—
- (a) shall be amended as provided in sub-paragraphs (2), (3) and (5); and
  - (b) shall continue to have effect with the amendment set out in sub-paragraph (4) (originally made by Schedule 19 to the <sup>M195</sup>Education Act 1993).
- (2) In subsection (4)(f) for “Part I of Schedule 2 to the Education Act 1980 (appeal committees for hearing school admissions appeals)” there is substituted “Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)”.
- (3) For subsection (5) there is substituted—
- “(5) Nothing in this section shall prevent the appointment of a person who is not a member of a local education authority as a voting member of—
- (a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority,
  - (b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities, or
  - (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee’s functions with respect to education,
- where that appointment is required by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees).”
- (4) In subsection (7) for “education committee or sub-committee of an education committee” there is substituted “committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection”.
- (5) In subsection (9) the definition of “foundation governors” and the “and” immediately following it are omitted.

**Marginal Citations**

M195 1993 c. 35.

- 97 In section 18(5)(c) of that Act (schemes for allowances for local authority members) for “paragraph 2 or 3 of Schedule 2 to the Education Act 1980” there is substituted “paragraph 2 or 3 of Schedule 33 to the Education Act 1996”.

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*Education (Student Loans) Act 1990 (c. 6)*

- 98 In section 1(3)(a) of the Education (Student Loans) Act 1990 (meaning of “institutions receiving support from public funds”) for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”.

*Town and Country Planning Act 1990 (c. 8)*

- 99 In section 76 of the Town and Country Planning Act 1990 (duty to draw attention to certain provisions for benefit of disabled) for subsection (3) there is substituted—  
“(3) Expressions used in subsection (1)(e) and in the Education Act 1996 have the same meanings as in that Act.”

*Environmental Protection Act 1990 (c. 43)*

- 100 In section 98(2) of the Environmental Protection Act 1990 (definitions)—  
(a) in paragraph (c)(i) for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”; and  
(b) in paragraph (e) for “section 105 of the Education Reform Act 1988” there is substituted “ section 482 of the Education Act 1996 ) ”.

*School Teachers’ Pay and Conditions Act 1991 (c. 49)*

- 101 (1) The School Teachers’ Pay and Conditions Act 1991—  
(a) shall continue to have effect with the amendment set out in sub-paragraph (2) (originally made by Schedule 19 to the <sup>M196</sup>Education Act 1993); and  
(b) shall be amended as provided in sub-paragraphs (3) and (4).  
(2) In section 2 (orders relating to statutory conditions of employment), in subsections (6) and (7) for “section 3” there is substituted “ sections 3 and 3A ”.  
(3) For the section 3A inserted by section 289 of the Education Act 1993 there is substituted—

**“3A Special provisions for teachers on transfer of employment.**

- (1) This section applies where a school teacher employed to teach at an independent school—  
(a) which becomes a county or voluntary school in pursuance of proposals published under section 35(1)(b) or, as the case may be, 41(1) of the Education Act 1996, or  
(b) in place of which a grant-maintained school is established in pursuance of proposals published under section 212 of that Act,  
becomes employed (in the case of a county or voluntary school) by the local education authority or the governing body or (in the case of a grant-maintained school) by the governing body in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981.  
(2) A pay and conditions order shall not apply to the statutory conditions of employment of such a teacher unless he gives notice in writing to the new employer that the order is to so apply.

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- (3) Where the governing body of an aided school receive notice given under subsection (2) above, they shall inform the local education authority.”
- (4) In section 5 (interpretation etc.)—
- (a) in subsection (1)—
- (i) in the definition of “school which has a delegated budget” for “Chapter III of Part I of the Education Reform Act 1988” there is substituted “ Part II of the Education Act 1996 ”, and
- (ii) for “the Education Act 1944” there is substituted “ that Act ”; and
- (b) in subsection (5), for “sections 68 and 99(1) of the Education Act 1944” there is substituted “ sections 496 and 497 of the Education Act 1996 ”.

**Marginal Citations**

M196 1993 c. 35.

*Diocesan Boards of Education Measure 1991 (1991 No. 2)*

- 102 (1) Section 3 of the Diocesan Boards of Education Measure 1991 (transactions for which advice or consent of Diocesan Board required)—
- (a) shall continue to have effect with the amendment set out in sub-paragraph (2) (originally made by Schedule 19 to the <sup>M197</sup>Education Act 1993); and
- (b) shall be amended as provided in sub-paragraph (3).
- (2) In subsection (4) for the words from “by a resolution” to the end there is substituted “to hold a meeting to consider whether to hold a ballot of parents on the question of whether grant-maintained status should be sought for the school, it shall—
- (a) give to the secretary of the Board for the diocese in which the school is situated at least seven days’ notice that such a meeting is to be held at such time and place as is specified in the notice, and
- (b) have regard to any relevant advice given by the Board, when considering at the meeting whether to hold a ballot of parents on that question,
- and in paragraph (b) above “relevant advice” means advice given in connection with the acquisition of grant-maintained status for the school whether given for the purposes of that school or for Church of England voluntary schools generally ”.
- (3) In subsection (5) for “section 96 of the Education Act 1993” there is substituted “ section 259 of the Education Act 1996 ”.

**Marginal Citations**

M197 1993 c. 35.

- 103 (1) Section 5 of that Measure (proposals for acquisition of grant-maintained status)—
- (a) shall be amended as provided in sub-paragraph (2); and

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- (b) shall continue to have effect with the amendment set out in sub-paragraph (3) (originally made by Schedule 19 to the <sup>M198</sup>Education Act 1993).
- (2) For “paragraph 2 of Schedule 3 to the Education Act 1993” there is substituted “ paragraph 2 of Schedule 20 to the Education Act 1996 ”.
- (3) For “the advice given by the Board under section 3(4) above” there is substituted “ any relevant advice (defined in section 3(4) above) given by the Board ”.

#### Marginal Citations

M198 1993 c. 35.

- 104 (1) Section 6 of that Measure (Board to be consulted in certain cases) shall be amended as follows.
- (2) In subsection (1)—
    - (a) for “section 13(1) of the 1988 Act” there is substituted “ section 392(2) of the Education Act 1996 ”; and
    - (b) for “section 11” there is substituted “ section 390 ”.
  - (3) In subsection (2), for “section 136 of the Education Act 1993” there is substituted “ section 302 of the Education Act 1996 ”.
- 105 In section 7(3) of that Measure (powers of Board to give directions to governing bodies of aided church schools)—
- (a) for “section 15(4) of the Education Act 1944” there is substituted “ section 57(1) of the Education Act 1996 ”;
  - (b) for “section 13(1)(b) of the Education Act 1980” there is substituted “ section 41(2) of that Act ”; and
  - (c) for “the Education Acts 1944 to 1993” there is substituted “ that Act ”.
- 106 In section 9 of that Measure (attendance of diocesan director of education at governing bodies’ proceedings) for “section 45(6) of the 1988 Act” there is substituted “ section 138(2) of the Education Act 1996 ”.
- 107 In section 10 (interpretation)—
- (a) in subsection (1) the definition of “the 1988 Act” is omitted;
  - (b) for the definition of “church school” in that subsection there is substituted—
    - ““church school” means—
    - (a) a Church of England voluntary school,
    - (b) a grant-maintained school which was such a voluntary school immediately before it became grant-maintained,
    - (c) a grant-maintained school established in pursuance of proposals published under section 212 of the Education Act 1996 where either any trust deed relating to the school or the



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statement required by paragraph 8 of Schedule 20 to that Act provides for religious education at the school to accord with the faith and practice of the Church of England, or

- (d) a grant-maintained school in respect of which proposals for the required provision for religious education to be provision for religious education in accordance with the faith and practice of the Church of England are approved under section 261 of that Act”; and
- (c) in subsection (3)—
  - (i) for “the 1988 Act or the Education Act 1993” there is substituted “ the Education Act 1996 ”, and
  - (ii) for “those Acts” there is substituted “ that Act ”.

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

108 In section 21(3) of the Further and Higher Education Act 1992 (initial instruments and articles) for “Chapter IV of Part I of the Education Reform Act 1988” there is substituted “ Chapter V of Part III of the Education Act 1996 (or any corresponding earlier enactment) ”.

109 In section 28(3)(a) of that Act (institutions which are grant-aided or eligible to receive aid by way of grant) for “section 100(1)(b) of the Education Act 1944” there is substituted “ section 485 of the Education Act 1996 ”.

110 (1) Section 37 of that Act (attribution of surpluses and deficits) shall be amended as follows.

(2) In subsection (1), for the words from “section 33” to “higher education)” there is substituted “ section 103 of the Education Act 1996 (schemes for financing schools) ”.

(3) In subsection (7)—

(a) in the definition of “budget share”, for “Chapter III of Part I or Chapter III of Part II of the Education Reform Act 1988” there is substituted “ Part II of the Education Act 1996 ”; and

(b) in the definition of “financial year”, for “the Education Reform Act 1988” there is substituted “ the Education Act 1996 ”.

111 In section 54(2) of that Act (duty to give information) for the words from “section 51” to “section 52 of that Act” there is substituted “ regulations under section 492 or 493 of the Education Act 1996 ”.

112 At the end of section 56 of that Act (directions) there is added—

“(3) Section 496 of the Education Act 1996 (power to prevent unreasonable exercise of functions) applies in relation to a council as it applies in relation to a body falling within subsection (2) of that section.”

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- 113 For section 57(6) of that Act (intervention in event of mismanagement etc.) there is substituted—
- “(6) In the Education Act 1996—
- (a) section 496 (power to prevent unreasonable exercise of functions) applies in relation to the governing body of an institution within the further education sector as it applies in relation to a body falling within subsection (2) of that section; and
  - (b) section 507 (power to direct local inquiries) applies for the purposes of the Secretary of State’s functions under this section as it applies for the purposes of his functions under that Act.”
- 114 In section 89(5) of that Act (orders, regulations and directions) for “Section 111 of the Education Act 1944” there is substituted “ Section 570 of the Education Act 1996 ”.
- 115 (1) Section 90 of that Act (interpretation) shall be amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “the Education Acts”, for “means the Education Acts 1944 to 1996” there is substituted “ has the meaning given by section 578 of the Education Act 1996 ”; and
  - (b) after that definition there is inserted—
 

““further education” has the meaning given by section 2(3) to (5) of that Act;”.
- (3) In subsection (5), for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.
- 116 In section 92 of that Act (Index)—
- (a) in the entry for “further education”, for “section 14(1) to (4)” there is substituted “ section 90(1) ”; and
  - (b) the entries for “pupil”, “secondary education” and “school” are omitted.
- 117 (1) Schedule 8 to that Act—
- (a) shall continue to have effect with the amendment set out in sub-paragraph (2) (originally made by section 47(6) of the <sup>M199</sup>Education Act 1993); and
  - (b) shall be amended as provided in sub-paragraphs (3) and (4).
- (2) In paragraph 61, for “by virtue of section 126 or 130 and in such a case” there is substituted “ and ”.
- (3) In paragraph 62(3), for “or (as the case may be) the Education Act 1993” there is substituted “ or (as the case may be) the Education Act 1996 ”.
- (4) In—
- (a) paragraph 79(2) (which provides that, in relation to a further education corporation or a Further Education Funding Council, the reference in section 25(2) of the <sup>M200</sup>Sex Discrimination Act 1975 to section 99 of the <sup>M201</sup>Education Act 1944 is to be read as a reference to section 57(3) of the 1992 Act), and

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- (b) paragraph 88(2) (which makes similar provision in relation to section 19(2) of the <sup>M202</sup>Race Relations Act 1976),  
for “section 99 of the Education Act 1944” there is substituted “ section 497 of the Education Act 1996 ”.

#### Marginal Citations

M199 1993 c. 35.

M200 1975 c. 65.

M201 1994 c. 31.

M202 1976 c. 74.

#### *Tribunals and Inquiries Act 1992 (c. 53)*

- 118 (1) The Tribunals and Inquiries Act 1992 shall be amended as follows.
- (2) Section 11(1) (appeals from certain tribunals) shall continue to have effect with the substitution for “15(a) or (d)” of “15(a), (d) or (e)” (originally made by section 181 of the Education Act 1993).
- (3) In paragraph 15 of Schedule 1 (tribunals under general supervision of Council on Tribunals)—
- (a) in sub-paragraph (a), for “section 72 of, and Schedule 6 to, the Education Act 1944 (c. 31)” there is substituted “ section 476 of, and Schedule 34 to, the Education Act 1996 (c. 56) ”;
- (b) in sub-paragraph (b), for “Part I of Schedule 2 to the Education Act 1980 (c. 20)” there is substituted “ Part I of Schedule 33 to that Act ”;
- (c) in sub-paragraph (c), for “paragraph 5(1) of Schedule 6 to the Education Act 1993” there is substituted “ paragraph 6(1) of Schedule 23 to that Act ”; and
- (d) for sub-paragraph (e) there is substituted—
- “(e) the Special Educational Needs Tribunal constituted under section 333 of that Act”.

#### *Charities Act 1993 (c. 10)*

- 119 For section 79(9) of the Charities Act 1993 (parochial charities) there is substituted—
- “(9) This section shall not affect the trusteeship, control or management of any voluntary or grant-maintained school within the meaning of the Education Act 1996.”
- 120 (1) Schedule 2 to that Act (exempt charities) shall continue to have effect with the following amendments (originally made by Schedules 15 and 19 to the <sup>M203</sup>Education Act 1993).
- (2) After paragraph (d) there is inserted—
- “(da) the School Curriculum and Assessment Authority;”.
- (3) For paragraph (f) there is substituted—
- “(f) the Curriculum and Assessment Authority for Wales;”.

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### Marginal Citations

M203 1993 c. 35.

- 121 At the end of paragraph 1(b) of Schedule 4 to that Act (charities over which the court has jurisdiction) there is added “ or section 554 of the Education Act 1996 ”.

### *Welsh Language Act 1993 (c. 38)*

- 122 In section 6(1)(l) of the Welsh Language Act 1993 (meaning of “public body”) for “the Education Acts 1944 to 1992” there is substituted “ the Education Act 1996 ”.

### *Local Government (Wales) Act 1994 (c. 19)*

- 123 (1) Section 30 of the Local Government (Wales) Act 1994 (area committees) shall be amended as follows.

(2) In subsection (7) for “section 297 of the Education Act 1993” there is substituted “ section 499 of the Education Act 1996 ”.

(3) In subsections (9) and (14) for “section 297 of the Act of 1993” there is substituted “ section 499 of the Act of 1996 ”.

- 124 (1) Section 31 of that Act (sub-committees of area committees) shall be amended as follows.

(2) In subsection (6) for “section 297 of the Education Act 1993” there is substituted “ section 499 of the Education Act 1996 ”.

(3) In subsections (8) and (12) for “section 297 of the Act of 1993” there is substituted “ section 499 of the Act of 1996 ”.

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

- 125 In Schedule 9 to the Value Added Tax Act 1994 (exemptions), in paragraph (a) of Note (1) to Group 6 (education)—

(a) for “the Education Acts 1944 to 1996” there is substituted “ the Education Act 1996 ”;

(b) in sub-paragraph (iii), for “a maintained school within the meaning of the Education Act 1993 or” there is substituted “ a county school, voluntary school or maintained special school (other than one established in a hospital) within the meaning of the Education Act 1996 or a maintained school within the meaning of ”;

(c) in sub-paragraph (v), for “section 22 of the Education Act 1993” there is substituted “ the Education Act 1996 ”; and

(d) in sub-paragraph (vii), for “section 182(3) of the Education Act 1993” there is substituted “ the Education Act 1996 ”.

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*Education Act 1994 (c. 30)*

126 After section 11 of the Education Act 1994 there is inserted—

“ *General duty of Secretary of State*

**11A General duty of Secretary of State with respect to teacher training.**

In carrying out his duties under sections 10 and 11 of the Education Act 1996 the Secretary of State shall, in particular, make such arrangements as he considers expedient for securing that sufficient facilities are available for the training of teachers to serve in schools maintained by local education authorities, grant-maintained schools, institutions within the further education sector and institutions which are maintained by such authorities and provide higher education or further education (or both).”

127 (1) Section 12 of that Act (power of schools to provide courses of initial teacher training) shall be amended as follows.

(2) In subsection (5), for “section 12 or 13 of the Education Act 1980 or section 96 of the Education Act 1993” there is substituted “ section 35, 41 or 259 of the Education Act 1996 ”.

(3) In subsection (6)—

(a) for “sections 33 to 43 of the Education Reform Act 1988” there is substituted “ sections 101 to 123 of the Education Act 1996 ”, and

(b) for “Chapter VI of Part II of the Education Act 1993” there is substituted “ Chapter VI of Part III of that Act ”.

128 In section 19 of that Act (interpretation)—

(a) in subsection (3), for “section 156 of the Education Act 1993” there is substituted “ section 312 of the Education Act 1996 ”; and

(b) in subsection (5), for “the Education Act 1944” there is substituted “ the Education Act 1996 ”.

*Disability Discrimination Act 1995 (c. 50)*

129 In section 19(5)(a)(ii) of the Disability Discrimination Act 1995 (discrimination in relation to goods, facilities and services) for “section 14(5) of the Further and Higher Education Act 1992” there is substituted “ section 4(1) and (2) of the Education Act 1996 ”.

*Employment Rights Act 1996 (c. 18)*

130 In section 134(1) of the Employment Rights Act 1996 (dismissal of teachers in aided schools) for “paragraph (a) of the proviso to section 24(2) of the Education Act 1944” there is substituted “ section 134(3) of the Education Act 1996 ”.

*Nursery Education and Grant-Maintained Schools Act 1996 (c. 57)*

131 (1) Section 4 of the Nursery Education and Grant-Maintained Schools Act 1996 (children with special educational needs) shall be amended as follows.

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- (2) In subsection (1)—
- (a) for “section 157 of the Education Act 1993” there is substituted “section 313 of the Education Act 1996”; and
  - (b) for “Part III” there is substituted “ Part IV ”.
- (3) In each of subsections (2) and (3), for “Part III of the Education Act 1993” there is substituted “ Part IV of the Education Act 1996 ”.
- 132 In section 11 of that Act (citation etc.) for subsection (2) there is substituted—
- “(2) This Act shall be construed as one with the Education Act 1996.”

## PART II

### AMENDMENTS COMING INTO FORCE ON APPOINTED DAY

#### *Children and Young Persons Act 1933 (c. 12)*

- 133 In section 30(1)(a) of the Children and Young Persons Act 1933 (interpretation) for the words from “for the purposes” to the end of paragraph (a) there is substituted “ over compulsory school age (construed in accordance with section 8 of the Education Act 1996) ”.

#### *Agriculture (Safety, Health and Welfare Provisions) Act 1956 (c. 49)*

- 134 In section 24(1) of the Agriculture (Safety, Health and Welfare Provisions) Act 1956 (interpretation) in the definition of “young person”, for “for the purposes of the Education Act 1944” there is substituted “ (construed in accordance with section 8 of the Education Act 1996) ”.

#### *Factories Act 1961 (c. 34)*

- 135 In section 176(1) of the Factories Act 1961 (general interpretation) for the definition of “child” there is substituted—
- ““child” means any person who is not over—
- (a) compulsory school age (construed in accordance with section 8 of the Education Act 1996), or
  - (b) school age (construed in accordance with section 31 of the Education (Scotland) Act 1980);”.

#### *Matrimonial Causes Act 1973 (c. 18)*

- 136 In section 29(2)(a) of the Matrimonial Causes Act 1973 (age limit on making certain orders in favour of children) for the words from “(that is to say” to “that section)” there is substituted “ (construed in accordance with section 8 of the Education Act 1996) ”.

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*Sex Discrimination Act 1975 (c. 65)*

- 137 In section 24(2)(d) of the Sex Discrimination Act 1975 (designated establishments) after “school age” there is inserted “ (construed in accordance with section 8 of the Education Act 1996) ”.

*Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22)*

- 138 In section 5(2)(a) of the Domestic Proceedings and Magistrates’ Courts Act 1978 (age limit on making certain orders in favour of children) for the words from “(that is to say” to “that section)” there is substituted “ (construed in accordance with section 8 of the Education Act 1996) ”.

*Employment Act 1989 (c. 38)*

- 139 In section 10 of the Employment Act 1989 (removal of restrictions relating to employment of young persons), in subsection (6), for “for the purposes of the Education Act 1944” there is substituted “ (construed in accordance with section 8 of the Education Act 1996) ”.

SCHEDULE 38

Section 582(2).

REPEALS AND REVOCATIONS

**PART I**

REPEALS COMING INTO FORCE ON 1ST NOVEMBER 1996

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1944 c.31.	Education Act 1944.	The whole Act.
1946 c.49.	Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entry relating to the Education Act 1944.
1946 c.50.	Education Act 1946.	The whole Act.
1948 c.40.	Education (Miscellaneous Provisions) Act 1948.	The whole Act.
1953 c.33.	Education (Miscellaneous Provisions) Act 1953.	The whole Act.
1959 c.53.	Town and Country Planning Act 1959.	In Schedule 4, paragraph 4.
1959 c.60.	Education Act 1959.	The whole Act.
1961 c.45.	Rating and Valuation Act 1961.	The whole Act.
1962 c.12.	Education Act 1962.	Section 9. Section 13(4).

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		Section 14(2).
1963 c.37.	Children and Young Persons Act 1963.	Section 38(2).
1964 c.82.	Education Act 1964.	The whole Act.
1967 c.3.	Education Act 1967.	Section 2.  In section 6(1), the words from “and this Act” onwards.
1967 c.80.	Criminal Justice Act 1967.	In Part I of Schedule 3, the entry relating to the Education Act 1944.
1968 c.17.	Education Act 1968.	The whole Act.
1968 c.xxxix	Greater London Council (General Powers) Act 1968.	Section 56.
1970 c.42.	Local Authority Social Services Act 1970.	In Schedule 1, the entry relating to the Education Act 1993.
1970 c.52.	Education (Handicapped Children) Act 1970.	The whole Act.
1972 c.70.	Local Government Act 1972.	Section 192.
1973 c.16.	Education Act 1973.	Section 1(2). Section 2.  In section 5(1), the words from “, and the Education Acts” onwards.  In Schedule 1, paragraph 3.
1973 c.23.	Education (Work Experience) Act 1973.	The whole Act.
1975 c.2.	Education Act 1975.	The whole Act.
1976 c.5.	Education (School-leaving Dates) Act 1976.	The whole Act.
1976 c.81.	Education Act 1976.	The whole Act.
1977 c.49.	National Health Service Act 1977.	In Schedule 14, in paragraph 13(1)(b) “7 to 9”.  In Schedule 15, paragraphs 2 and 3.
1979 c.49.	Education Act 1979.	The whole Act.
1980 c.20.	Education Act 1980.	Sections 1 to 18.  Sections 21 and 22.  Section 24.  Section 26.



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		Sections 28 to 30.
		Section 33(3).
		Sections 34 and 35.
		Section 37.
		In section 38, subsections (2) and (4) to (6).
		Schedules 1 to 4.
		Schedule 7.
1980 c.65.	Local Government, Planning and Land Act 1980.	Section 2(3).
1981 c.60.	Education Act 1981.	The whole Act.
1982 c.48.	Criminal Justice Act 1982.	In Schedule 3, the entries relating to the Education Act 1944.
1984 c.11.	Education (Grants and Awards) Act 1984.	The whole Act.
1985 c.47.	Further Education Act 1985.	Section 8(2).
1986 c.50.	Social Security Act 1986.	Section 77 so far as relating to section 22 of the Education Act 1980.
1986 c.61.	Education (No.2) Act 1986.	Sections 1 to 42. Sections 44 to 47. Sections 51 to 60. In section 62(1), paragraph (a) and the “(b)” immediately following it. In section 63, in subsection (1) the words “(other than under section 2(7), 9(6) or 54)”, in subsection (2) “51 or”, and subsection (2A). In section 65(1), all the definitions except that of “establishment of higher or further education”. In section 66, in subsection (1) “60 and” and “to (3)”, and in subsection (2) “and 59”. In section 67, subsections (2), (5) and (6).

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		Schedules 1 to 3.
		In Schedule 4, paragraphs 1, 2 and 5.
		Schedules 5 and 6.
1987 c.15.	Reverter of Sites Act 1987.	Section 8(1).
1988 c.40.	Education Reform Act 1988.	Part I.
		Section 120(5) and (9).
		In section 210, in each of subsections (1) and (3)(d) the words “local education authorities or”.
		In section 211, paragraphs (a) and (b) and the words “the school or”.
		Sections 212 and 213.
		In section 218, in subsection (1) in each of paragraphs (e) and (f) the words “schools and” and paragraph (g), in subsection (7) the words from “or, in such cases” to “the funding authority” and the words “school or” (where first occurring) and “any school or”, and subsections (8) and (13).
		Section 222.
		Sections 225 and 227.
		Section 229(1).
		In section 230(1), “section 15(2)”.
		In section 232, subsection (3) and, in subsection (4)(b), “3(4)(a), 4(2)(c), 24”.
		Section 234.
		In section 235, in subsection (1) the definition of “the 1980 Act”.
		In section 236, in subsection (1) the words from “section 1” to “section 119” and “sections 212 and 213”, and subsections (2) and (3).

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		Section 238(2).
		Schedules 1 to 4.
		In Schedule 12, paragraphs 1 to 8, 14, 17, 24, 25, 34, 35, 37, 54 to 62, 69(4), 76, 77, 81, 82, 87(3), 99, 102, 103 and 106.
1989 c.41.	Children Act 1989.	In Schedule 13, paragraphs 9 and 10.
1989 c.42.	Local Government and Housing Act 1989.	In section 13(9), the definition of “foundation governors” and the “and” immediately following it.
		Section 188.
1990 c.6.	Education (Student Loans) Act 1990.	Section 4(2).
1990 c.19.	National Health Service and Community Care Act 1990.	In Schedule 9, paragraph 31.
1990 c.38.	Employment Act 1990.	Section 14.
		In section 18(2), the words from “section 14” to “experience”.
1991 c.21.	Disability Living Allowance and Disability Working Allowance Act 1991.	In Schedule 3, paragraph 12.
1991 c.49.	School Teachers’ Pay and Conditions Act 1991.	Section 6(2).
1991 No.2.	Diocesan Boards of Education Measure 1991.	In section 10(1), the definition of “the 1988 Act”.
1992 c.13.	Further and Higher Education Act 1992.	Sections 10 to 14.
		Section 59.
		In section 92, the entries for “pupil”, “secondary education” and “school”.
		Section 94(2).
		In Schedule 8, paragraphs 1 to 17, 24 to 26, 28, 43(b), 50, 53, 54, 56, 57 and 82.
1992 c.38.	Education (Schools) Act 1992.	Section 16.
		In Schedule 4, paragraphs 1 and 4 to 6.

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1993 c.8.	Judicial Pensions and Retirement Act 1993.	In Schedule 6, paragraph 51.
1993 c.10.	Charities Act 1993.	In Schedule 2, paragraphs (e) and (g).
1993 c.35.	Education Act 1993.	The whole Act.
1994 c.19.	Local Government (Wales) Act 1994.	Section 21.
		In Schedule 16, paragraphs 8 and 105.
1994 c.30.	Education Act 1994.	Section 27(2).
		In Schedule 2, paragraphs 5(2) and (4)(a), 6(2) and (4)(a) and 8(2) to (4).
1995 c.17.	Health Authorities Act 1995.	In Schedule 1, paragraphs 112 and 124.
1995 c.18.	Jobseekers Act 1995.	In Schedule 2, paragraphs 3 and 17.
1995 c.21.	Merchant Shipping Act 1995.	In Schedule 13, paragraph 48.
1995 c.50.	Disability Discrimination Act 1995.	Section 29(1) and (2).
		Section 30(7) to (9).
1996 c.9.	Education (Student Loans) Act 1996.	Section 4(2).
1996 c.18.	Employment Rights Act 1996.	In Schedule 1, paragraph 59.
1996 c.23.	Arbitration Act 1996.	In Schedule 3, paragraphs 4 and 59.
1996 c.50.	Nursery Education and Grant-Maintained Schools Act 1996.	Section 7.
		In Schedule 3, paragraphs 1 to 8 and 10 to 15.

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## PART II

### REPEALS COMING INTO FORCE ON APPOINTED DAY

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Chapter	Short title	Extent of repeal
1975 c.65.	Sex Discrimination Act 1975.	In section 82(1), the definition of “upper limit of compulsory school age”.

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1976 c.74.	Race Relations Act 1976.	In section 78(1), the definition of “upper limit of compulsory school age”.
1995 c.36.	Children (Scotland) Act 1995.	In Schedule 4, paragraph 10(a).

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### PART III

#### REVOCATIONS

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<b>S.I. Number</b>	<b>Title</b>	<b>Extent of revocation</b>
S.I. 1977/293.	Local Authorities etc. (Miscellaneous Provision) Order 1977.	Article 4(1) and (5).
S.I. 1991/1890.	Education (Financial Delegation for Primary Schools) Regulations 1991.	The whole Regulations.
S.I. 1992/110.	Education (Financial Delegation for Primary Schools) (Amendment) Regulations 1992.	The whole Regulations.
S.I. 1992/1548.	Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1992.	The whole Order.
S.I. 1993/2709.	Education (No. 2) Act 1986 (Amendment) Order 1993.	The whole Order.
S.I. 1993/2827.	Education (No. 2) Act 1986 (Amendment) (No. 2) Order 1993.	The whole Order.
S.I. 1994/692.	Education (No. 2) Act 1986 (Amendment) Order 1994.	The whole Order.
S.I. 1994/1814.	Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1994.	The whole Order.
S.I. 1994/2092.	Education (No. 2) Act 1986 (Amendment) (No. 2) Order 1994.	The whole Order.
S.I. 1994/2732.	Education (No. 2) Act 1986 (Amendment) (No. 3) Order 1994.	The whole Order.
S.I. 1996/710.	Local Government Changes for England (Education)	Regulation 19.

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	(Miscellaneous Provisions) Regulations 1996.	
S.I. 1996/951.	Deregulation (Length of the School Day) Order 1996.	The whole Order.

## SCHEDULE 39

Section 582(3).

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

#### GENERAL

##### *General transitional provisions*

- 1 (1) The repeal and re-enactment of provisions by this Act does not affect the continuity of the law.
- (2) Any subordinate legislation made or other thing done, or having effect as if made or done, under or for the purposes of any provision repealed and re-enacted by this Act shall, if in force or effective immediately before the commencement of the corresponding provision of this Act, have effect thereafter as if made or done under or for the purposes of that corresponding provision.
- (3) Any reference (express or implied) in this Act or any other enactment or in any instrument or document—
- (a) to any provision of this Act, or
  - (b) to things done or falling to be done under or for the purposes of any provision of this Act,
- shall (so far as the context permits) be construed as including, in relation to times, circumstances or purposes in relation to which the corresponding provision repealed by this Act had effect, a reference—
- (i) to that corresponding provision, or
  - (ii) to things done or falling to be done under or for the purposes of that corresponding provision,
- as the case may be.
- (4) Any reference (express or implied) in any enactment or in any instrument or document—
- (a) to any provision repealed and re-enacted by this Act, or
  - (b) to things done or falling to be done under or for the purposes of any such provision,
- shall (so far as the context permits) be construed as including, in relation to times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference—
- (i) to that corresponding provision, or
  - (ii) to things done or falling to be done under or for the purposes of that corresponding provision,

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as the case may be.

- (5) Without prejudice to the generality of sub-paragraph (4), where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act which reproduce such enactments.
- (6) Sub-paragraphs (1) to (5) have effect instead of section 17(2) of the <sup>M204</sup>Interpretation Act 1978 (but are without prejudice to any other provision of that Act); and sub-paragraph (1) has effect subject to any amendments of the law which give effect to recommendations of the Law Commission.
- (7) Sub-paragraph (2) does not apply to any subordinate legislation in so far as it is reproduced in this Act.

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

C110 Sch. 39 Pt. I para. 1 applied (24.7.1998) by 1998 c. 31, ss. 142(8)(9), 145(4) (with ss. 138(9), 144(6))

**Marginal Citations**

M204 1978 c. 30.

*Extension of references to provisions repealed by Education Act 1993*

- 2 (1) Paragraph 1(3) above shall have effect, for the purpose of extending references so as to include references to (or to things done or falling to be done under) the pre-1993 Act enactments, as if any reference in paragraph 1(3) to the corresponding provision repealed by this Act were a reference to the corresponding provision of those enactments.
- (2) Paragraph 1(4) above shall have effect, for the purpose of extending references to (or to things done or falling to be done under) the pre-1993 Act enactments, as if any reference in paragraph 1(4) to any provision repealed and re-enacted by this Act were a reference to a provision of those enactments.
- (3) Any reference in any provision of the Education Acts to a funding authority, in relation to any function which, under a corresponding provision of the pre-1993 Act enactments, was exercisable by the Secretary of State shall (so far as the context permits) be construed, in relation to times, circumstances or purposes in relation to which the corresponding provision of those enactments had effect, as a reference to the Secretary of State.
- (4) In this paragraph “the pre-1993 Act enactments” means the enactments specified in Part I of Schedule 21 to the <sup>M205</sup>Education Act 1993 (repeals).

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

C111 Sch. 39 Pt. I para. 2 applied (24.7.1998) by 1998 c. 31, ss. 142(8)(9), 145(4) (with ss. 138(9), 144(6))

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**Marginal Citations**

M205 1993 c. 35.

*Construction of pre-1944 Act references*

- 3 Where immediately before the commencement of this Act any reference in any enactment, instrument or document had effect as if it were a reference to the Secretary of State or the Department for Education and Employment by virtue of the operation of section 2(1) of the <sup>M206</sup>Education Act 1944 and any order made under the Ministers of the <sup>M207</sup>Crown Act 1975, it shall continue to do so despite the repeal of that provision by this Act.

**Marginal Citations**

M206 1944 c. 31.

M207 1975 c. 26.

- 4 (1) This paragraph applies to enactments passed before 1st April 1945.
- (2) Unless the context otherwise requires any such enactment shall be construed as if—
- (a) any reference to an elementary school or to a public elementary school (whether or not any reference is made there to the payment of parliamentary grants in respect of the school) were a reference to a county school or voluntary school, as the context may require;
  - (b) any reference to a school certified by the Board of Education, in accordance with the provisions of Part V of the <sup>M208</sup>Education Act 1921, as suitable for providing education for blind, deaf, defective or epileptic children were a reference to a special school;
  - (c) any reference to the managers of a school, in relation to a county school or voluntary school, were a reference to the governors (or, if the context so requires, the governing body) of the school;
  - (d) any reference to elementary education or to higher education were a reference to such education as may be provided by a local education authority in the exercise of their functions under sections 13 to 15 of this Act; and
  - (e) any reference to a local education authority, to a local education authority for elementary education or to a local education authority for higher education were a reference to a local education authority within the meaning of this Act.

**Marginal Citations**

M208 1921 c. 51.

*Effect of old transitional provisions and savings*

- 5 The repeals made by this Act shall not affect the operation of any transitional provision or saving relating to the coming into force of a provision reproduced in this Act in so far as the transitional provision or saving is not specifically reproduced



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in this Act but remains capable of having effect in relation to the corresponding provision of this Act or otherwise.

- 6 (1) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (2) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the saving so far as it is not specifically reproduced in this Act but remains capable of having effect.

*Use of existing forms etc.*

- 7 Any reference to an enactment repealed by this Act which is contained in a document made, served or issued after the commencement of that repeal shall be construed, except so far as a contrary intention appears, as a reference or (as the context may require) including a reference to the corresponding provision of this Act.

*Pre-commencement offences*

- 8 Nothing in this Act affects the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

## PART II

### SPECIFIC PROVISIONS

*Governing bodies of LEA-maintained schools*

- 9 (1) Any governing body which immediately before the commencement of this Act was incorporated by virtue of section 238 of the <sup>M209</sup>Education Act 1993 (incorporation of governing bodies of county, voluntary and maintained special schools) shall continue in existence as a body corporate despite the repeal of that section by this Act.
- (2) In Schedule 7 to this Act any reference to a governing body incorporated under section 88(1) of this Act includes a reference to a governing body falling within subparagraph (1).
- (3) Despite the repeal by this Act of Schedule 13 to the Education Act 1993 (incorporated governing bodies for county, voluntary and maintained special schools)—
- (a) paragraph 3 of that Schedule (contracts of employment) shall continue to apply to, or in relation to, any contract of employment to which it applied immediately before the commencement of this Act; and
  - (b) to the extent that any provision of paragraphs 13 to 15 (general provisions about transfers) applied in relation to any transfer immediately before the commencement of this Act, it shall continue so to apply.

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**Marginal Citations**

M209 1993 c. 35.

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- 10 (1) The reproduction by this Act of any reference, in an enactment repealed by this Act, to the governors of a school of any description as a reference to the governing body of a school of that description shall not be taken to affect the construction or operation of that enactment in relation to any times, circumstances or purposes in relation to which it had effect.
- (2) Where by virtue of section 1(4) of the <sup>M210</sup>Education Act 1980 any enactment or document referred immediately before the commencement of this Act to the governors, foundation governors, instrument of government or articles of government of a primary school to which section 1(2) and (3) of that Act applied, it shall continue to do so despite the repeal of section 1(4) by this Act.

**Marginal Citations**

[M210 1980 c. 20.](#)

- 11 Where any instrument under which the governing body of an aided or special agreement school is constituted was in force immediately before the commencement of this Act by virtue of paragraph 1 of Schedule 5 to the <sup>M211</sup>Education (No. 2) Act 1986, the instrument shall have effect thereafter as if made by order under section 76 of this Act; but this paragraph shall cease to apply to any such school if it is grouped with any other school or schools under section 89 of this Act.

**Marginal Citations**

[M211 1986 c. 61.](#)

*Special agreement schools*

- 12 (1) Any order under section 15(2) of the <sup>M212</sup>Education Act 1944 directing that a school is to be a special agreement school shall, if in force immediately before the commencement of this Act, continue in force despite the repeal by this Act of section 15(2) of that Act.
- (2) Sub-paragraph (1) does not prejudice the operation of paragraph 1(2) above in relation to other orders in force under section 15(2) of that Act immediately before the commencement of this Act.

**Marginal Citations**

[M212 1944 c. 31.](#)

*Proposals to establish etc. maintained or grant-maintained schools*

- 13 (1) Nothing in sections 35 to 45 or in sections 259 to 263 of this Act applies in relation to any proposals published before the commencement of this Act; and the corresponding provisions of the <sup>M213</sup>Education Act 1980 and the <sup>M214</sup>Education Act 1993 shall continue to apply in relation to any proposals duly published under section 12(1)(a) to (d) or 13 of the 1980 Act or section 96 or 97 of the 1993 Act as if this Act had not been passed.

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- (2) Sub-paragraph (1) does not prevent references in other provisions of this Act to proposals published or implemented under any of those sections of this Act from applying, by virtue of paragraph 1(3) above, to any proposals falling within sub-paragraph (1).

**Marginal Citations**

M213 1980 c. 20.

M214 1993 c. 35.

*Review of constitution of governing bodies*

- 14 (1) Subject to sub-paragraph (2), nothing in section 82 of this Act applies in relation to the implementation of any proposal made before the commencement of this Act, and section 11 of the <sup>M215</sup>Education (No. 2) Act 1986 shall continue to apply in relation to the implementation of any such proposal falling within subsection (2)(a) of that section as if this Act had not been passed.

- (2) In section 82(2) of this Act—

- (a) in paragraph (b), the reference to proposals falling within subsection (3) of that section includes a reference to proposals falling within section 11(2) of the 1986 Act; and
- (b) in paragraph (c) the reference to a relevant event for the purposes of section 82 includes a reference to a relevant event for the purposes of section 11 of the 1986 Act;

and any date determined by the local authority under section 11(6) of the 1986 Act shall be taken, for the purposes of section 82(2) of this Act, to be the date on which the proposals in question were implemented.

**Marginal Citations**

M215 1986 c. 61.

*Confirmation of certain decisions of governing body*

- 15 Paragraph 16(1) of Schedule 8 to this Act does not apply to any decision taken before the commencement of this Act, and section 8(11) of the <sup>M216</sup>Education (No. 2) Act 1986 shall continue to apply to any such decision falling within section 8(12) as if this Act had not been passed.

**Marginal Citations**

M216 1986 c. 31.

*Review of grouping*

- 16 The reference in section 94(2)(c) of this Act to an order under section 50 or 51 or 58(1) of this Act does not, by virtue of paragraph 1(3) above, include a reference

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to an order made before the commencement of this Act under section 2 of the <sup>M217</sup>Education Act 1946 or section 15(5) of the <sup>M218</sup>Education Act 1944.

**Marginal Citations**

**M217** 1946 c. 50.

**M218** 1944 c. 31.

*Financial delegation*

- 17 (1) Without prejudice to paragraph 1(3) above—
- (a) the reference in section 101(1) of this Act to a scheme made by a local education authority under section 103 of this Act includes a reference to a scheme in force immediately before the commencement of this Act which was made under section 33 of the <sup>M219</sup>Education Reform Act 1988 (including one made by way of variation or replacement of such a scheme under section 35 of that Act); and
  - (b) the reference in section 104(6) of this Act to section 104(5) includes a reference to section 34(6) of that Act.
- (2) In relation to any such scheme made (or treated as if made) under section 33 of that Act, the reference in section 110(2) of this Act to the date of the coming into force of the scheme is (subject to sub-paragraph (3) below) a reference to the date of its coming into force as first made under section 33 (or 34(6)) of that Act.
- (3) Where the initial period of any such scheme made before 1st January 1994 (the date on which section 274 of the <sup>M220</sup>Education Act 1993 came into force) was before 1st January 1994 determined by reference to a date later than that referred to in sub-paragraph (2) above, section 110(2) of this Act shall have effect in relation to the scheme as if it instead referred to that later date.

**Marginal Citations**

**M219** 1988 c. 40.

**M220** 1993 c. 35.

- 18 Nothing in section 141 of this Act requires a local education authority to amend the articles of government of a school if, before the commencement of this Act, they have already amended those articles in accordance with section 44(4) of the <sup>M221</sup>Education Reform Act 1988.

**Marginal Citations**

**M221** 1988 c. 40.

*School sessions*

- 19 For the purposes of section 147(1)(b) of this Act as it applies to a county, controlled or maintained special school, any determination as to the times of the school sessions (within the meaning of section 147) which had effect immediately before the commencement of this Act, whether made—

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- (a) by the governing body, or
  - (b) by the local education authority before 1st May 1989 (the date on which section 115 of the Education Reform Act 1988 came into force),
- shall continue to have effect, as if made for those purposes, subject to any new determination under section 148 of this Act.

*Exclusion of pupils*

- 20 Nothing in section 157 of this Act applies in relation to any pupil excluded from a school before the commencement of this Act, and section 23 of the <sup>M222</sup>Education (No. 2) Act 1986 shall continue to apply to any such pupil as if this Act had not been passed.

**Marginal Citations**

[M222 1986 c. 61.](#)

*School premises: pre-1993 Act transfer of control agreements*

- 21 (1) This paragraph applies to any agreement to which paragraph 6 or 7 of Schedule 13 to the Education Act 1993 (pre-existing transfer of control agreements) applied immediately before the commencement of this Act.
- (2) The provisions of paragraph 6 or (as the case may be) paragraph 7 shall continue to apply in relation to any such agreement as if this Act had not been passed.

*Variation of trust deeds etc.*

- 22 In section 179(1) of this Act—
- (a) paragraph (b) does not apply to a transfer made before the commencement of this Act unless it was made in pursuance of proposals that fell to be implemented under section 12 or 13 of the <sup>M223</sup>Education Act 1980; but
  - (b) in paragraph (d) the reference to any order made by the Secretary of State under section 47 of this Act includes a reference to any order made under section 16(1) of the <sup>M224</sup>Education Act 1944 (whether made in relation to a county school or a voluntary school).

**Marginal Citations**

[M223 1980 c. 20.](#)

[M224 1944 c. 31.](#)

*Ballots relating to acquisition of grant-maintained status*

- 23 Section 190(2)(b) of this Act applies where after the commencement of this Act the Secretary of State has given his consent for the purposes of section 186(3) or section 187(5) of this Act.

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*Instruments and articles for grant-maintained schools incorporated under pre-1993 Act law*

- 24 (1) This paragraph applies in relation to a grant-maintained school where—
- (a) the governing body of the school were incorporated under Chapter IV of Part I of the <sup>M225</sup>Education Reform Act 1988;
  - (b) an instrument and articles of government were made for the school under that Chapter before 1st January 1994; and
  - (c) immediately before the commencement of this Act those instruments had effect (in accordance with paragraph 1(2) of Schedule 20 to the <sup>M226</sup>Education Act 1993 (transitional provisions and savings)) subject to the modifications specified in either or both of paragraphs 8 and 9 of the <sup>M227</sup>Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993.
- (2) The instrument and articles of government for the school shall continue to have effect, subject to those modifications, as if made under section 220 of this Act and in accordance with Part III of this Act.

**Marginal Citations**

**M225** 1988 c. 40.

**M226** 1993 c. 35.

**M227** S.I. 1993/3106.

- 25 (1) This paragraph applies in relation to a grant-maintained school where—
- (a) the governing body of the school were incorporated under Chapter IV of Part I of the Education Reform Act 1988;
  - (b) paragraph 24(1)(b) above does not apply; and
  - (c) immediately before the commencement of this Act the instrument and articles of government prescribed by virtue of section 56 of the Education Act 1993 had effect in relation to the school (in accordance with paragraph 1(3) of Schedule 20 to that Act).
- (2) The instrument and articles of government for the school shall continue to have effect as if made under section 219 of this Act; and while they remain in force Schedule 24 to this Act shall apply in relation to the school with the following modifications.
- (3) In paragraph 10(1) there shall be inserted at the end of paragraph (d) “or
- (e) in the case of a governing body incorporated under Chapter IV of Part I of the Education Reform Act 1988, became a member of the governing body on the incorporation date in relation to the school (as defined by section 104(3) of that Act) and—
    - (i) immediately before that date, was a parent governor (within the meaning of the Education (No. 2) Act 1986) in relation to the school, or
    - (ii) was elected under section 66, or elected or nominated under section 68, of the Education Reform Act 1988 to hold office as a parent governor on the governing body.”
- (4) In paragraph 11(1) there shall be inserted at the end of paragraph (c) “or
- (d) in the case of a governing body incorporated under Chapter IV of Part I of the Education Reform Act 1988, became a member of the

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governing body on the incorporation date in relation to the school (as defined by section 104(3) of that Act) and—

- (i) immediately before that date, was a teacher governor (within the meaning of the Education (No. 2) Act 1986) in relation to the school, or
- (ii) was elected under section 66, or elected or nominated under section 68, of the Education Reform Act 1988 to hold office as a teacher governor on the governing body.”

(5) In paragraph 12(1) there shall be inserted at the end of paragraph (c) “or

(d) in the case of a governing body incorporated under Chapter IV of Part I of the Education Reform Act 1988—

- (i) became a member of the governing body on the incorporation date in relation to the school (as defined by section 104(3) of that Act), and
- (ii) was selected under section 66, or nominated under section 68, of that Act as being a person appearing to be a member of the local community committed to the good government and continuing viability of the school.”

26 (1) This paragraph applies in relation to a grant-maintained school where—

- (a) the governing body of the school were incorporated under Chapter IV of Part I of the <sup>M228</sup>Education Reform Act 1988; and
- (b) the school was a voluntary school before it became grant-maintained.

(2) Schedule 24 to this Act shall apply in relation to the school with the substitution of the following paragraph for paragraph 13—

“13 “Foundation governor” means—

- (a) a person appointed otherwise than by a local education authority for the purpose of securing, so far as is practicable, that the established character of the school at the time when it became grant-maintained is preserved and developed and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it; or
- (b) a person selected under section 66, or nominated under section 68, of the Education Reform Act 1988 for the purpose referred to in subparagraph (a) above.”

#### Marginal Citations

M228 1988 c. 40.

#### *Appeal committees*

27 Nothing in—

- (a) section 308(3) of this Act, or
- (b) paragraph 7 of Schedule 33 to this Act,

applies in relation to any decision or action taken by the members of an appeal committee before 1st January 1994.

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- 28 Paragraph 13(4) of Schedule 22 to this Act does not apply to any appeal committee constituted before 1st January 1994 in accordance with the instrument of government for any grant-maintained school for the purposes referred to in section 58(5)(d) of the Education Reform Act 1988 (articles of government admission appeal committees) while all the members of the committee are persons who were nominated before that date.
- 29 Where immediately before the commencement of this Act an appeal committee was constituted in accordance with the provisions of Part I of Schedule 2 to the <sup>M229</sup>Education (No. 2) Act 1986 as they had effect by virtue of paragraph 6 of Schedule 20 to the <sup>M230</sup>Education Act 1993 (namely without the amendments made by Schedule 16 to that Act), those provisions shall continue to apply to the committee (in place of the corresponding provisions of Part I of Schedule 33 to this Act) while all the members of the committee are persons nominated before 1st January 1994.

**Marginal Citations**

**M229** 1986 c. 61.

**M230** 1993 c. 35.

- 30 Nothing in this Act affects the restriction imposed by paragraph 4(2) of Schedule 2 to the <sup>M231</sup>Education Act 1993 (Commencement No.1 and Transitional Provisions) Order 1993 on the jurisdiction exercisable by a Local Commissioner, by virtue of section 25(5) of the <sup>M232</sup>Local Government Act 1974, in relation to cases where notice of appeal was served before 1st October 1993.

**Marginal Citations**

**M231** S.I. 1993/1975.

**M232** 1974 c. 7.

*Maintenance etc. grants*

- 31 (1) The former grants code shall continue to have effect in relation to—
- (a) any payments of maintenance grant under section 79(1) of the <sup>M233</sup>Education Reform Act 1988 in respect of any financial year ending before 1st April 1994; and
  - (b) any payments of capital and special purpose grants under section 79(3) of that Act made before that date.
- (2) The functions conferred on the Secretary of State by or under the former grants code (as it has effect by virtue of sub-paragraph (1) above) shall, so far as relating to any amounts which—
- (a) fall or may fall to be paid in any financial year beginning on or after 1st April 1994 in respect of any grant under that code, or
  - (b) have been paid by the Secretary of State before that date in respect of any such grant,
- be exercisable by the funding authority.



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- (3) In this paragraph “the former grants code” means sections 79 and 80 of the Education Reform Act 1988 (maintenance, special purpose and capital grants) in their application to England.

**Marginal Citations**

M233 1988 c. 40.

- 32 Section 81 of the Education Reform Act 1988 (recovery from local funds of sums in respect of maintenance grant) shall continue to have effect in relation to any sums recoverable by the Secretary of State under section 81(1) of that Act for any financial year ending before 1st April 1994.
- 33 The <sup>M234</sup>Education (Grant-maintained Schools) (Finance) Regulations 1990, so far as in force immediately before the commencement of this Act, shall continue in force despite the repeals made by this Act.

**Marginal Citations**

M234 S.I. 1990/549.

*Assessments and statements of special educational needs*

- 34 Any assessment or statement of special educational needs which—
- (a) was made pursuant to a notice or copy of a proposed statement served before 1st September 1994, and
  - (b) immediately before the commencement of this Act was treated, by virtue of paragraph 2(7) or 4(3) of Schedule 4 to the <sup>M235</sup>Education Act 1993 (Commencement No.5 and Transitional Provisions) Order 1994, as if it had been made under section 167 or 168 of the <sup>M236</sup>Education Act 1993,
- shall have effect as if made under section 323 or 324 of this Act (as the case may be).

**Marginal Citations**

M235 S.I. 1994/2038.

M236 1993 c. 35.

*Applications relating to special schools*

- 35 Any application which—
- (a) was made to the Secretary of State before 1st April 1994, and
  - (b) immediately before the commencement of this Act was treated, by virtue of paragraph 5 of Schedule 3 to the <sup>M237</sup>Education Act 1993 (Commencement No. 3 and Transitional Provisions) Order 1994, as if it had been made in accordance with—
    - (i) paragraph (a) or paragraph (b) of subsection (2), and subsection (6), of section 183 of the <sup>M238</sup>Education Act 1993, and
    - (ii) section 184(1) to (3) of that Act,

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shall have effect as if made in accordance with paragraph (a) or (as the case may be) paragraph (b) of subsection (1), and subsection (5), of section 339 of this Act and section 340(1) to (3) of this Act.

**Marginal Citations**

M237 S.I. 1994/507.

M238 1993 c. 35.

*Contracts of staff transferred to School Curriculum and Assessment  
Authority or Curriculum and Assessment Authority for Wales*

- 36 (1) The repeal by this Act of—
- (a) section 15 of the <sup>M239</sup>Education Reform Act 1988 (transfer of staff of School Curriculum Development Committee or Secondary Examinations Council), or
  - (b) section 248 of the Education Act 1993 (transfer of staff of National Curriculum Council and School Examinations and Assessment Council),
- shall not affect the continued operation of section 15(3) to (5) or (as the case may be) section 248(2) and (3) in relation to any contract of employment in relation to which those provisions applied immediately before the commencement of this Act.
- (2) Nothing in this Act shall affect the continued operation of Article 4 of the <sup>M240</sup>Education (School Curriculum and Assessment Authority) (Transfer of Functions) Order 1995 in relation to the person mentioned in that Article.

**Marginal Citations**

M239 1988 c. 40.

M240 S.I. 1995/903.

*Information about directions under section 365*

- 37 Nothing in section 366 of this Act applies, by virtue of paragraph 1 above, to any direction given before the commencement of this Act under regulations made under section 19 of the Education Reform Act 1988, and that section shall continue to apply in relation to any such direction as if this Act had not been passed.

*Review of conclusions about policy relating to curriculum*

- 38 Any articles of government of a county, controlled or maintained special school made under section 18(7) of the <sup>M241</sup>Education (No. 2) Act 1986 shall, in their operation after the commencement of this Act in accordance with paragraph 1 above, have effect as if the events requiring the governing body to review their conclusions about the matters mentioned in section 371(2) and (3) of this Act included the implementation of any proposals made after that time which—
- (a) would fall to be published by virtue of section 35 of this Act but for subsection (2)(b) of that section, and
  - (b) materially affect the school.

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**Marginal Citations**

M241 1986 c. 61.

*Agreed syllabuses of religious education*

- 39 (1) Nothing in this Act affects the constitution of, or the operation of Schedule 5 to the <sup>M242</sup>Education Act 1944 in relation to, any conference convened (or reconvened) before the commencement of this Act.
- (2) Any regulations made under section 258(2) of the <sup>M243</sup>Education Act 1993 and having effect immediately before the commencement of this Act in relation to any conference or other body falling within section 258(1) or (3) shall continue to have effect in relation to any such conference or body, subject to the provisions of any regulations made under section 397(2) of this Act.

**Marginal Citations**

M242 1944 c. 31.

M243 1993 c. 35.

*Arrangements for collective worship*

- 40 In section 385 of this Act—
- (a) subsection (4)(b) does not affect any arrangements for collective worship in the case of a grant-maintained school that was formerly a voluntary school which were made before the commencement of this Act for the purposes of section 6 of the <sup>M244</sup>Education Reform Act 1988; and
- (b) subsection (6) does not affect any arrangements made for the purposes of section 6(5) of that Act before the commencement of this Act.

**Marginal Citations**

M244 1988 c. 40.

*Disqualification for purposes of Part VII*

- 41 Sections 472 and 473 of this Act shall apply to a person who is disqualified—
- (a) from being the proprietor of an independent school, or
- (b) from being a teacher in any school,
- by virtue of an order under Part III of the Education Act 1944 made before 1st January 1994 as if the words “or other employee” were omitted, wherever occurring.

*Chairmen of Independent Schools Tribunals*

- 42 In its application to a person who, immediately before 31st March 1995, was a member of the legal panel appointed under paragraph 1 of Schedule 6 to the Education Act 1944, paragraph 3(2) of Schedule 34 to this Act has effect subject

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to Schedule 7 to the Judicial Pensions and <sup>M245</sup>Retirement Act 1993 (transitional provisions), as well as to section 26(4) to (6) of that Act.

**Marginal Citations**

<sup>M245</sup> 1993 c. 8.

*Training grants*

- 43 The <sup>M246</sup>Education (Training Grants) Regulations 1993 shall continue to have effect in so far as they relate to the payment of grant on and after 1st April 1994, or to grant paid before that date, in respect of expenditure incurred before that date.

**Marginal Citations**

<sup>M246</sup> S.I. 1993/72.

*Education committees etc. and members of those committees*

- 44 (1) Sub-paragraph (2) below applies to—
- (a) any education committee established in accordance with paragraph 1 of Part II of Schedule 1 to the Education Act 1944, and
  - (b) any sub-committee of any such committee appointed in accordance with paragraph 10 of that Part,
- which was in existence immediately before 1st April 1994.
- (2) Any committee or sub-committee to which this sub-paragraph applies shall, for the purposes of any enactment, be treated as if it had been—
- (a) appointed on that date—
    - (i) in the case of a committee, by the local authority, or
    - (ii) in the case of a sub-committee, by the committee appointed by the authority,

in accordance with section 102(1) of the <sup>M247</sup>Local Government Act 1972, and
  - (b) so appointed wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority or, as the case may be, the committee's functions with respect to education.
- (3) Sub-paragraph (4) below applies to any person who was immediately before 1st April 1994 a member of an education committee or sub-committee of such a committee appointed for a term of office.
- (4) Any person to whom this sub-paragraph applies shall, for the purposes of any enactment, be treated—
- (a) as if he had been appointed on that date as a member of a committee or sub-committee appointed as mentioned in sub-paragraph (2) above for the residue of that term, and
  - (b) if he was a member of an education committee or sub-committee by virtue of directions given by the Secretary of State under paragraph 5A of Part II of

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Schedule 1 to the <sup>M248</sup>Education Act 1944, as if he had been appointed on that date as a member of a committee or sub-committee appointed as mentioned in sub-paragraph (2) above by virtue of directions given by the Secretary of State under section 297 of the <sup>M249</sup>Education Act 1993 or, in relation to any time after the commencement of this Act, under section 499 of this Act.

**Marginal Citations**

**M247** 1972 c. 70.

**M248** 1944 c. 31.

**M249** 1993 c. 35.

*Documents issued by divisional executives*

- 45 Section 566(1) of this Act applies to a document purporting—
- (a) to be a document issued by a divisional executive (within the meaning of Part III of Schedule 1 to the Education Act 1944), and
  - (b) to be signed by the person authorised by the executive to sign it,
- as it applies to a document falling within paragraph (a) of that provision.

**PART III**

MISCELLANEOUS SAVINGS ETC.

*Handicapped children*

- 46 The repeal by this Act of the <sup>M250</sup>Education (Handicapped Children) Act 1970 shall not affect the operation of any order made under section 1 of that Act so far as in force immediately before the commencement of this Act or of any statement of terms and conditions of employment given in connection with any such order.

**Marginal Citations**

**M250** 1970 c. 52.

*Byelaws under Children and Young Persons Act 1933*

- 47 Despite the repeal by this Act of section 120(5) of the Education Act 1944—
- (a) references to a “child” in any byelaws made under Part II of the <sup>M251</sup>Children and Young Persons Act 1933 (employment of children) shall continue to be construed as references to a child within the meaning of that Part of that Act; and
  - (b) any such byelaws made before 1st April 1945 which were continued in force by section 120(5) shall, if in force immediately before the commencement of this Act, continue in force as if made by the local education authority for the area in question and may be varied or revoked accordingly.

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**Marginal Citations**

M251 1933 c. 12.

*Disputes as to property transferred by virtue of 1944 Act*

- 48 Any question which, if it had arisen before the commencement of this Act, would have fallen to be determined by the Secretary of State in accordance with section 96(2) of the <sup>M252</sup>Education Act 1944 (questions relating to property etc. transferred to LEAs) shall be determined by him despite the repeal of that provision by this Act.

**Marginal Citations**

M252 1944 c. 31.

*Modifications of deeds made prior to Education Act 1973*

- 49 Without prejudice to the generality of paragraph 6(2) above, any order to which paragraph 3 of Schedule 1 to the <sup>M253</sup>Education Act 1973 (saving on repeals made by that Act) applied immediately before the commencement of this Act shall continue in force despite the repeal by this Act of that paragraph; and section 570 of this Act shall apply to any such order as if it had been made under this Act.

**Marginal Citations**

M253 1973 c. 16.

*Instruments made prior to Local Government Act 1972*

- 50 The repeal by this Act of section 192(5) and (6) of the <sup>M254</sup>Local Government Act 1972 (transitional provisions about instruments made by old LEAs) shall not affect the continued operation of those provisions in relation to any instrument in relation to which they applied or were applicable immediately before the commencement of this Act.

**Marginal Citations**

M254 1972 c. 70.

**PART IV**

INTERPRETATION

- 51 In this Schedule “repeal” includes (so far as the context permits) revoke or revocation.

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## SCHEDULE 40

Section 582(4).

### TRANSITORY PROVISIONS

#### *Compulsory school age: general*

- 1 (1) Until the day appointed under section 583(3) for the coming into force of section 8—
- (a) this paragraph shall have effect for defining “compulsory school age” for the purposes of this Act; and
  - (b) in the enactments to which Part II of Schedule 37 relates or any other enactment, or in any instrument or document—
    - (i) any reference (however expressed) to compulsory school age within the meaning of the Education Act 1944 shall be construed as a reference to compulsory school age as defined by this paragraph, and
    - (ii) any reference to section 9 of the <sup>M255</sup>Education Act 1962 shall be construed as reference to sub-paragraphs (3) to (7) of this paragraph.
- (2) “Compulsory school age” means any age between five and 16, so that—
- (a) a person is of compulsory school age if he has attained the age of five and is under the age of 16, and
  - (b) a person is over compulsory school age if he has attained the age of 16.
- (3) The following provisions apply in relation to a person who attains the age of 16 on a day when either—
- (a) he is a registered pupil at a school, or
  - (b) not being such a pupil, he has been a registered pupil at a school within the preceding period of 12 months.
- (4) If he attains that age within the period from the beginning of September to the end of January, he shall be treated for the purposes of this paragraph as not having attained it until the end of the following spring term at his school (that is, the last term at his school to end before the following May).
- (5) If he attains that age after the end of January but before the May school-leaving date (that is, the Friday before the last Monday in May), he shall be treated for the purposes of this paragraph as not having attained it until the May school-leaving date.
- (6) If he attains that age after the May school-leaving date but before the beginning of September, he shall be treated for the purposes of this paragraph as having attained it on the May school-leaving date.
- (7) In sub-paragraph (4) the references to a person’s school are to the last school at which he is a registered pupil for a term ending before the May referred to in that sub-paragraph or for part of such a term.

#### **Marginal Citations**

M255 1962 c. 12.

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*Section 231: powers of governing body of grant-maintained school*

- 2 (1) If section 7 of the <sup>M256</sup>Nursery Education and Grant-Maintained Schools Act 1996 has not come into force before the commencement of this Act, this Act shall have effect with the following modifications until the relevant commencement date.
- (2) Section 231 shall have effect as if—
- (a) subsection (5)(c) were omitted; and
- (b) the following subsections were substituted for subsections (6) and (7)—
- “(6) Subsection (4) does not confer power to borrow money, except money lent under section 255.
- (7) The power to dispose of land mentioned in subsection (5)(d) above—
- (a) does not include power to grant any mortgage, charge or other security in respect of any land, and
- (b) may only be exercised with the written consent of the Secretary of State.”
- (3) Section 296(2) shall have effect as if “section 231(7)(b)” were substituted for “section 231(7) ”.
- (4) Paragraph 1 of Schedule 3 shall have effect as if sub-paragraph (2)(b) were omitted.

**Marginal Citations**

[M256 1996 c. 50.](#)

*Section 318: provision by LEAs of goods and services*

- 3 If paragraph 12 of Schedule 3 to the Nursery Education and Grant-Maintained Schools Act 1996 has not come into force before the commencement of this Act, section 318 shall have effect until the relevant commencement date as if subsection (3) were omitted.

*Sections 336 and 476: disapplication of arbitration legislation*

- 4 If paragraphs 4 and 59 of Schedule 3 to the <sup>M257</sup>Arbitration Act 1996 have not come into force before the commencement of this Act, sections 336(4) and 476(4) shall have effect until the relevant commencement date as if in each case “The Arbitration Act 1950” were substituted for “ Part I of the Arbitration Act 1996 ”.

**Marginal Citations**

[M257 1996 c. 23.](#)



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*Section 355: the “key stages”*

- 5           Until the day appointed under section 583(3) for the coming into force of section 8, section 355(1)(d) shall have effect as if for the words from “the expiry of” to the end there were substituted “ the majority of pupils in his class ceasing to be of compulsory school age. ”

*Section 357: implementation of National Curriculum*

- 6           Until the relevant commencement date, section 357(2) shall not apply, in relation to pupils in the fourth key stage, to any of the foundation subjects other than the core subjects.

*Section 433: time for admission of pupils*

- 7           If paragraph 2 of Schedule 3 to the Nursery Education and Grant-Maintained Schools Act 1996 has not come into force before the commencement of this Act, section 433 shall have effect until the relevant commencement date as if subsection (4) were omitted.

*Sections 457, 512 and 534: jobseeker’s allowances*

- 8           (1) If paragraph 17 of Schedule 2 to the <sup>M258</sup>Jobseekers Act 1995 has not come into force before the commencement of this Act, section 457(4)(b) shall have effect until the relevant commencement date with the omission of sub-paragraph (iii).
- (2) If paragraph 3 of Schedule 2 to that Act has not come into force before the commencement of this Act, sections 512(3) and 534(3) shall each have effect until the relevant commencement date with the omission of “or of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995)”.

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**Marginal Citations**

M258 1995 c. 18.

*Section 560: work experience*

- 9           Until the day appointed under section 583(3) for the coming into force of section 8, section 560(2) shall have effect as if “by virtue of paragraph 1 of Schedule 40 he would be entitled to leave school” were substituted for “ he would cease to be of compulsory school age ”.

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*Section 578 and Schedule 37: “the Education Acts”; consequential amendments*

- 10 If the provisions of Schedule 3 to the Nursery Education and Grant-Maintained Schools Act 1996 (other than paragraph 2 and paragraphs 9 to 12) have not come into force before the commencement of this Act—
- (a) section 578 shall have effect until the relevant commencement date as if the following Acts were omitted—
- the <sup>M259</sup>Education Act 1994;
- the <sup>M260</sup>Education (Student Loans) Act 1996; and
- the <sup>M261</sup>Nursery Education and Grant-Maintained Schools Act 1996;
- and
- (b) the amendments made by Schedule 37 to this Act in such of the enactments amended by those provisions of Schedule 3 to that Act as are not reproduced in this Act shall be construed as operating instead on the statutory references in those enactments as they have effect without the amendments made by those provisions.

**Marginal Citations**

**M259** 1994 c. 30.

**M260** 1996 c. 9.

**M261** 1996 c. 50.

*Meaning of “the relevant commencement date”*

- 11 (1) Subject to sub-paragraph (2), in any of the preceding paragraphs “the relevant commencement date” means such day as the Secretary of State may by order appoint in relation to that paragraph; and different days may be so appointed for different purposes.
- (2) If, in the case of any provision or provisions referred to in any of paragraphs 2, 3, 4, 7, 8 and 10 above which has or have not come into force before the commencement of this Act, an order under the Act in question has been made before that time appointing a day for the coming into force of that provision or those provisions, “the relevant commencement date”, in relation to that provision or those provisions, means the day so appointed.

TABLE OF DERIVATIONS

*Notes:*

- 1 This Table shows the derivation of the provisions of the Bill.
- 2 The following abbreviations are used in the Table:—

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### *Acts of Parliament*

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1944	= Education Act 1944 (c.31)
1946	= Education Act 1946 (c.50)
1948	= Education (Miscellaneous Provisions) Act 1948 (c.40)
1953	= Education (Miscellaneous Provisions) Act 1953 (c.33)
1962	= Education Act 1962 (c.12)
1964	= Education Act 1964 (c.82)
1967	= Education Act 1967 (c.3)
1968	= Education Act 1968 (c.17)
1972LG	= Local Government Act 1972 (c.70)
1973EWE	= Education (Work Experience) Act 1973 (c.23)
1973NHSR	= National Health Service Reorganisation Act 1973 (c.32)
1976	= Education Act 1976 (c.81)
1978IA	= Interpretation Act 1978 (c.30)
1980	= Education Act 1980 (c.20)
1981	= Education Act 1981 (c.60)
1982LG(MP)	= Local Government (Miscellaneous Provisions) Act 1982 (c.30)
1984	= Education (Grants and Awards) Act 1984 (c.11)
1986	= Education (No.2) Act 1986 (c.61)
1988	= Education Reform Act 1988 (c.40)
1992FHE	= Further and Higher Education Act 1992 (c.13)
1992(S)	= Education (Schools) Act 1992 (c.38)
1993	= Education Act 1993 (c.35)
1994LG(W)	= Local Government (Wales) Act 1994 (c. 19)
1994	= Education Act 1994 (c.30)
1995HA	= Health Authorities Act 1995 (c.17)
1996ER	= Employment Rights Act 1996 (c.18)
1996N	= Nursery Education and Grant-Maintained Schools Act 1996 (c.50)

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### *Subordinate legislation*

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S.I. 1968/1699	= Secretary of State for Social Services Order 1968
S.I. 1977/293	= Local Authorities etc. (Miscellaneous Provision) Order 1977
S.I. 1991/1890	= Education (Financial Delegation for Primary Schools) Regulations 1991
S.I. 1992/110	= Education (Financial Delegation for Primary Schools) (Amendment) Regulations 1992
S.I. 1992/1548	= Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1992
S.I. 1993/1975	= Education Act 1993 (Commencement No. 1 and Transitional Provisions) Order 1993
S.I. 1993/3106	= Education Act 1993 (Commencement No. 2 and Transitional Provisions) 1993
S.I. 1994/507	= Education Act 1993 (Commencement No. 3 and Transitional Provisions) Order 1994
S.I. 1994/1814	= Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1994
S.I. 1994/2038	= Education Act 1993 (Commencement No. 5 and Transitional Provisions) Order 1994
S.I. 1994/2092	= Education (No.2) Act 1986 (Amendment) (No.2) Order 1994
S.I. 1996/951	= Deregulation (Length of the School Day) Order 1996

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3 The abbreviation “Law Com. Rec. No.” followed by a number refers to a recommendation set out in the paragraph of that number in Appendix 1 to the Report of the Law Commission (Cm.3251).

4 By virtue of the Secretary of State for Education and Science Order 1964 (S.I. 1964/490) all the functions of the Minister of Education were transferred to the Secretary of State for Education and Science. By virtue of further Transfer of Functions Orders (S.Is.1970/1536, 1978/274 and 1995/2986) all the functions so transferred are now exercisable by the Secretary of State at large. The effect of these Orders is not separately acknowledged in the Table against each of the provisions affected.

5 The Table also does not separately acknowledge the provisions of general effect contained in the Criminal Law Act 1977 and the Criminal Justice Act 1982 which secure that, where the maximum fine that may be imposed on the commission of a

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summary offence was originally expressed as a particular amount (or one particular amount on a first conviction and another on subsequent convictions), the amount of the maximum fine is now a particular level on the standard scale.

<b>Provision</b>	<b>Derivation</b>
1(1)	1944 s.7.
(2) to (4)	Drafting.
2(1)	1944 ss.8(1)(a), 114(1) (“primary education”); 1948 s.3(2).
(2)	1944 ss.8(1)(b), 114(1) (“secondary education”); 1992FHE ss.10(1), 14(2), Sch.8 para.13(2).
(3)	1944 ss.41(3), (4), 114(1) (“further education”); 1992FHE s.11, Sch.8 para.13(2).
(4)	1992FHE s.14(1).
(5)	1992FHE s.14(3).
(6)	1944 s.41(5); 1992FHE s.11.
(7)	1992FHE s.14(4).
3(1)	1944 s.114(1) (“pupil”); 1992FHE s.14(6), Sch.8 para.13(2).
(2)	1944 s.114(1) (“junior pupil”; “senior pupil”).
(3)	1992FHE s.14(6).
4(1)	1944 s.114(1) (“school”); 1992FHE s.14(5); 1993 s.304(1).
(2)	Law Com. Rec. No. 2.
(3)	1992FHE s.91(3).
(4)	1992FHE s.91(5).
5(1)	1944 s.114(1) (“primary school”); 1992FHE Sch.8 para.13(2); 1993 s.304(2).
(2)	1944 s.114(1) (“secondary school”); 1992FHE Sch.8 para.13(2); 1993 Sch.19 para.24(1).
(3)	Drafting.
(4)	1964 s.1(2); 1980 Sch.3 para.12.
(5)	1964 s.1(3); 1993 Sch.19 para.38(3).
6(1)	1944 s.9(4).
(2)	1993 s.182(1).

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7	1944 s.36; 1981 s.17.
8	1993 s.277.
9	1944 s.76; 1993 Sch.19 para.20; 1996N Sch.3 para.1.
10	1993 s.1.
11	1993 s.2.
12(1)	1944 ss.6(1), 114(1) (“county”; “local education authority”); 1972LG ss.179(2), 192(1); S.I. 1977/293; 1994LG(W) s.21(2).
(2)	1944 s.114(1) (“local education authority”); 1972LG s.192(1); S.I. 1977/293 art.4; Local Government Changes for England Regulations 1994 (S.I. 1994/867) reg.5(6); Local Government Changes for England (Amendment) Regulations 1996 (S.I. 1996/611) reg.2.
(3)	London Government Act 1963 (c.33) s.30(1)(a); 1988 s.163.
(4)	1988 ss.163, 235(4).
(5)	1944 ss.6(1), 114(1) (“local education authority”); 1972LG s.192(1); S.I. 1977/293; 1994LG(W) s.21(1), (2).
(6)	Drafting.
13(1)	1944 s.7.
(2)	1992FHE s.91(2), (4), Sch.8 para.2.
14(1)	1944 s.8(1); 1992FHE s.10(1).
(2), (3)	1944 s.8(1).
(4)	1980 s.24(2).
(5)	1944 s.8(1A); 1992FHE s.10(2).
(6)	1944 s.8(2); 1981 s.2(1); 1992FHE s.10(3).
(7)	1944 s.8(2) proviso; 1964 s.1(3).
15(1) to (3)	1944 s.41(1), (2); 1992FHE s.11.
(4)	1944 s.41(6); 1992FHE s.11.
(5)	1944 s.41(7), (8); 1992FHE s.11.
(6), (7)	1944 s.41(9), (10); 1992FHE s.11.
(8)	1944 s.41(2), (11); 1992FHE s.11.
16(1)	1944 s.9(1); 1992FHE Sch.8 para.4.

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(2)	1944 s.9(6).
(3)	1944 s.9(7); 1992FHE s.12(1).
17(1)	1980 s.24(1).
(2)	1980 s.24(2).
18	1953 s.6(1).
19(1) to (4)	1993 s.298(1) to (4).
(5) to (7)	1993 s.298(6) to (8).
20	1993 s.3.
21	1993 s.4.
22	Drafting.
23	1993 s.8.
24	1993 s.9.
25	1993 s.6.
26	1993 s.5.
27	1993 s.12.
28	1993 s.20.
29(1)	1944 s.92.
(2)	1993 s.7(3).
(3), (4)	1993 s.21(2), (3).
(5)	1980 s.8(5B), (7); 1992(S) Sch.4 para.4.
(6)	1980 s.9(1).
30(1), (2)	1993 s.7(1), (2).
(3)	1993 s.7(4).
(4)	1993 s.21(1).
(5)	1993 s.21(3).
31(1), (2)	1944 s.9(2).
(3)	1944 s.9(2); 1993 s.298(5).
32(1)	1944 s.15(1).
(2)	1944 s.15(2); 1986 Sch.4 para.1.
(3), (4)	Drafting.
(5)	1944 s.114(1), Sch.3 para.11.
(6)	Drafting.
33	Drafting.
34(1)	1944 s.114(1) (“maintain”), (2); 1993 s.305(1) (“local education authority”); drafting.

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(2)	1944 s.114(2).
(3)	1944 s.114(2); 1946 Sch.1 para.1.
(4)	1944 s.114(2); 1946 Sch.1 para.1.
(5)	Rating and Valuation Act 1961 (c.45) s.12(6).
35(1)	1980 s.12(1); 1993 s.229(1).
(2)	1980 s.16(1A); 1993 Sch.19 para.78; Law Com. Rec. No. 3.
(3)	1980 s.12(2).
(4)	1980 s.12(2A); 1988 s.31(4).
(5)	1980 s.12(1A); 1993 s.229(1).
(6)	1992FHE s.59(3), (4).
(7)	1993 ss.272(6), 273(1).
(8)	1993 s.273(2).
36(1)	1980 s.12(3); 1993 s.229(2).
(2)	1980 s.12(3).
(3)	1993 s.229(3).
(4)	1980 s.12(3).
(5), (6)	1980 s.16(3A), (3B); 1988 Sch.12 para.81.
37(1)	1980 s.12(4), (5); 1993 s.273(4).
(2)	1980 s.12(4).
(3)	1980 s.12(5).
(4)	1993 s.273(3).
(5)	1980 s.12(6).
(6)	1980 s.12(4).
(7)	1993 s.273(4).
(8)	1993 s.273(5).
(9)	1993 s.273(6).
38(1), (2)	1980 s.12(7).
(3)	1980 s.12(8).
39(1), (2)	1980 s.14(1).
(3)	Drafting.
40(1)	1980 s.12(9).
(2)	1980 s.14(3).
(3)	1980 s.12(9).



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(4), (5)	1980 s.16(1).
41(1)	1980 s.13(1).
(2)	1980 s.13(1); 1993 s.230(1).
(3)	1980 s.16(1A); 1993 Sch.19 para.78; Law Com. Rec. No. 3.
(4)	1980 s.13(1A); 1992FHE s.12(2).
(5), (6)	1980 s.13(2); 1988 s.31(5).
(7)	1980 s.13(1B); 1993 s.230(1).
(8)	1992FHE s.59(3), (4).
(9)	1993 s.273(2).
42(1)	1980 s.13(3); 1993 s.230(2).
(2)	1980 s.13(3).
(3)	1980 s.13(3A); 1993 s.230(3).
(4)	1993 s.230(6).
(5), (6)	1980 s.16(3A), (3B); 1988 Sch.12 para.81.
43(1), (2)	1980 s.13(4).
(3) to (6)	1993 s.273(3) to (6).
(7)	Law Com. Rec. No. 4.
44(1)	1980 s.14(1); 1993 Sch.19 para.77.
(2)	1980 s.14(1).
(3), (4)	1980 s.14(2); Law Com. Rec. No. 4.
45(1)	1980 s.13(5); Law Com. Rec. No. 4.
(2)	1980 s.13(6); 1993 s.230(4).
(3)	1980 s.14(3).
(4)	1980 s.13(7).
(5), (6)	1980 s.16(1).
(7)	1980 s.13(8); 1993 s.230(5).
46(1)	1944 s.16(2); 1980 Sch.3 para.1.
(2)	1944 s.16(2).
(3)	1944 s.16(2).
(4)	1944 s.16(3).
(5)	1944 s.16(3).
47(1)	1944 s.16(1).
(2)	1946 Sch.1 para.2(1); Law Com. Rec. No. 5.

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(3), (4)	1944 s.16(3).
48(1)	1944 s.15(2); 1986 Sch.4 para.1.
(2)	1944 s.15(2); 1993 Sch.19 para.7.
(3)	1944 s.105(3).
(4)	1944 s.105(3); 1993 Sch.19 para.23(b).
49	1964 s.1(1); 1968 s.2; 1980 Sch.3 para.11.
50(1)	1946 s.2(1).
(2)	1946 s.2(1), (7).
(3)	1946 s.2(7).
(4)	1946 s.2(2); 1980 Sch.3 para.7.
(5)	1946 s.16(1) (“department”).
51(1)	1946 ss.2(1).
(2), (3)	1946 s.2(3), (4).
(4)	1946 s.2(1), (7).
(5)	1946 s.2(7).
(6)	1946 s.2(2); 1980 Sch.3 para.7.
(7)	1946 s.2(8).
(8)	1946 s.16(1) (“department”).
52(1)	1986 s.54(3).
(2)	1986 s.54(4).
(3)	1986 s.54(3).
53(1), (2)	1986 s.54(5).
(3), (4)	1986 s.54(13), (14); 1988 Sch.12 para.102.
54(1)	1986 s.54(1).
(2)	1986 s.54(2); Law Com. Rec. No. 6.
(3)	1986 s.54(7).
(4)	1986 s.54(6).
(5), (6)	1986 s.54(12).
55	1986 s.54(8) to (11).
56(1)	1986 s.55(1), (2).
(2)	1986 s.55(2).
(3)	1986 s.55(1).
(4), (5)	1986 s.55(3), (4).

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57(1)	1944 s.15(4); 1946 s.2(5), Sch.1 para.2(1).
(2)	1944 s.15(4); 1946 Sch.1 para.2(1).
(3)	1944 s.15(4A); 1946 Sch.1 para.2(2); 1993 s.282(2), (4).
(4)	1944 s.15(4); 1946 s.2(5), Sch.1 para.2(1); drafting.
58(1)	1944 s.15(5).
(2)	1944 s.15(5); 1993 Sch.19 para.7.
(3)	Drafting.
59(1)	1944 s.15(3).
(2)	1944 s.15(3); 1946 Sch.2 Pt.II.
(3)	1944 s.15(3); 1946 Sch.2 Pt.II.
(4)	1944 s.15(3); 1946 Sch.2 Pt.II.
(5)	1946 Sch.1 para.2(1).
60(1)	1946 Sch.1 para.1; 1980 Sch.3 para.8.
(2), (3)	1946 Sch.1 para.6.
(4) to (6)	1946 Sch.1 para.7.
(7)	Reverter of Sites Act 1987 (c.15) s.8(1).
61(1)	1946 Sch.1 para.1; 1980 Sch.3 para.8.
(2), (3)	1946 Sch.1 para.6.
(4)	1946 Sch.1 para.3.
(5)	1946 Sch.1 para.4.
(6)	1946 Sch.1 para.5.
62(1)	1946 s.16(1) (“site”).
(2), (3)	1946 Sch.1 para.8.
(4)	1946 Sch.1 para.9; 1992FHE Sch.8 para.14.
63(1)	1953 s.2; 1980 Sch.3 para.9.
(2)	1953 s.2.
(3)	1953 s.2; 1988 s.114, Sch.12 para.8.
64(1)	1946 s.1(1); 1953 s.3; 1968 Sch.1 para.6; 1980 Sch.3 para.6.
(2)	1946 s.1(1).
(3)	1946 s.1(1); 1953 s.3; 1967 s.2.
65	1993 s.281.
66	1988 s.212.

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67(1), (2)	1944 s.105(1).
(3)	1944 s.105(2); 1968 Sch.1 para.4(2); 1993 Sch.19 para.23(a).
(4)	1944 s.105(2); 1993 Sch.19 para.23(a).
68	1993 s.282(1).
69	1993 s.283.
70	1993 s.284.
71	1944 s.99(3).
72	1944 s.65.
73	1946 s.4(1).
74	1946 s.6.
75	1993 s.285.
76(1)	1986 s.1(1).
(2)	1986 s.1(2).
(3), (4)	1986 s.1(3), (5).
(5)	1986 s.1(6).
77(1) to (7)	1986 s.2.
(8)	Drafting.
78(1)	1986 s.65(1) (“co-opted governor”).
(2)	1944 s.114(1) (“foundation governors”); 1980 Sch.1 para.13(a).
(3)	1986 s.65(1) (“parent governor”).
(4)	1986 s.65(1) (“teacher governor”).
(5)	1986 s.65(1) (“parent governor”; “teacher governor”).
79(1), (2)	1986 s.3(1) to (5).
(3), (4)	1986 s.3(6), (7).
80(1)	1986 s.7(1).
(2)	1986 s.7(2); National Health Service and Community Care Act 1990 (c.19) Sch.9 para.31; 1995HA Sch.1 para.112.
(3) to (5)	1986 s.7(3) to (5).
(6)	1986 s.7(6).
(7)	1986 s.7(6).
(8)	1986 s.7(6).
(9)	1986 s.7(7).
81(1)	1986 s.5(1).

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(2)	1986 s.5(3).
(3)	1986 s.5(2).
(4), (5)	1986 s.5(4).
82(1)	1986 s.11(1).
(2)	1986 s.11(2).
(3)	1986 s.11(2); 1993 Sch.19 para.91(a); Law Com. Rec. No. 3.
(4)	1986 s.11(3); 1993 Sch.19 para.91(d); Law Com. Rec. No. 7.
(5), (6)	1986 s.11(4), (5).
(7)	1986 s.11(6); 1993 Sch.19 para.91(d); Law Com. Rec. No. 7.
83	1986 s.14.
84(1)	1986 s.4(1), (2).
(2)	1986 s.4(3).
(3)	1986 s.4(2).
(4) to (6)	1986 s.4(4) to (6).
85	1986 s.4A; 1993 s.271(1).
86	1986 s.13(1) to (3).
87(1)	1986 s.13(4).
(2)	1986 s.13(7), (9).
(3)	1986 s.13(8).
(4)	1986 s.13(5).
(5)	1986 s.13(6), (9).
88(1)	1993 s.238(1), (8); drafting.
(2)	Drafting.
89(1)	1986 s.9(1).
(2)	1986 s.9(1A); 1993 s.271(3)(a).
(3)	1986 s.9(2).
(4)	1986 s.9(3).
(5), (6)	1986 Sch.1 para.1(1), (2).
90(1), (2)	1986 s.10(1).
(3)	1986 s.10(3).
(4)	1986 s.10(2).
(5)	1986 s.10(4).
(6)	1986 s.10(7).

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91(1)	1986 s.10(5).
(2)	1986 s.10(6).
92(1)	1986 Sch.1 para.2(1).
(2)	1986 Sch.1 para.2(1).
(3)	1986 Sch.1 para.2(2).
(4)	1986 Sch.1 para.2(3).
93	1986 Sch.1 para.3.
94(1)	1986 s.9(4).
(2)	1986 s.9(5); 1993 Sch.19 para.90; Law Com. Rec. No. 8.
(3)	1986 s.9(4).
95(1)	1986 s.9(6).
(2)	1986 s.9(7).
(3)	1986 s.9(7); 1993 s.271(3)(b).
(4)	1986 s.9(8).
96(1)	1986 s.12(1); 1993 Sch.19 para.92(a).
(2)	1986 s.12(2); 1993 Sch.19 para.92(b).
(3)	1986 s.12(4); 1993 Sch.19 para.92(d).
(4)	1986 Sch.2 para.5(2); 1993 Sch.19 para.109(c).
(5)	1986 Sch.2 para.5(1).
97(1)	1986 s.12(1), (2), (9).
(2)	1986 s.12(4).
(3)	1986 ss.12(5), (9), 65(1) (“promoters”); Law Com. Rec. No. 9.
(4)	1986 ss.12(6), (9), 65(1) (“promoters”); Law Com. Rec. No. 9.
(5)	1986 ss.12(7), 65(1) (“promoters”); Law Com. Rec. No. 9.
(6)	1986 s.12(8).
(7)	1986 Sch.2 para.5(2).
(8)	1986 Sch.2 para.5(1).
98	Drafting.
99(1)	1986 Sch.2 para.3(1).
(2)	1986 Sch.2 para.3(7).
(3)	Drafting.
100(1), (2)	Law Com. Rec. No. 10.

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(3)	1986 Sch.2 para.3(6).
(4)	1986 Sch.2 para.3(6); drafting.
101(1)	1988 s.51(2)(a)(i); 1993 s.274(4).
(2)	1988 s.51(2)(a)(ii).
(3)	1988 s.33(2), (4); 1992FHE s.12(5).
(4)	1988 s.33(4); 1992FHE s.12(5).
(5)	1988 s.33(5).
(6)	1988 s.51(2)(b).
102	1988 s.33(3).
103	1988 s.33(1), (2).
104(1), (2)	1988 s.34(1), (2).
(3)	1988 s.34(4); 1993 s.274(1).
(4) to (6)	1988 s.34(5) to (7)
105(1)	1988 s.33(4).
(2)	1988 s.33(5).
(3)	1988 ss.33(4), 38(4), 51(1) ("expenditure of a capital nature").
106(1)	1988 s.38(1).
(2)	1988 s.38(1), (2).
(3)	1988 s.38(2).
(4)	1988 s.38(3).
(5)	1988 s.38(3A); 1992FHE s.12(7).
(6)	1988 s.33(5).
107(1)	1988 s.39(1); S.I. 1991/1890; S.I. 1992/110.
(2)	1988 s.39(4); S.I. 1991/1890; S.I. 1992/110.
108	1988 s.39(10).
109(1)	1988 s.39(11).
(2)	1988 s.39(12).
(3)	1988 s.39(11).
110(1)	1988 s.40(1).
(2)	1988 s.40(2); 1993 s.274(3).
(3) to (5)	1988 s.40(3) to (5).
111	1988 s.35(1), (2); 1993 s.274(2).
112(1) to (3)	1988 s.35(3); 1993 s.274(2).

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(4)	1988 s.35(4); 1993 s.274(2).
113(1), (2)	1988 s.35(5); 1993 s.274(2).
(3), (4)	1988 s.35(6); 1993 s.274(2).
(5)	1988 s.35(4); 1993 s.274(2).
114	1988 s.35(7), (8); 1993 s.274(2).
115	1988 s.33(6)(a), (b).
116(1) to (3)	1988 s.36(1) to (3).
(4)	1988 s.36(4); 1993 Sch.19 para.125(a).
(5)	1988 s.36(5).
(6)	1988 s.36(5A); 1992FHE s.12(6).
(7)	1988 s.36(5B); 1993 Sch.19 para.125(b).
(8)	1988 s.36(6).
117(1)	1988 s.37(1).
(2), (3)	1988 s.37(2).
(4), (5)	1988 s.37(3).
(6)	1988 s.37(4).
118(1) to (3)	1988 s.37(5).
(4), (5)	1988 s.37(6), (7).
119	1988 s.37(8), (9).
120	1988 s.43; 1993 s.276.
121	1988 s.42(1).
122(1), (2)	1988 s.42(2), (3).
(3)	Drafting.
(4)	1988 s.42(4); 1993 s.275(1)(c).
(5)	1988 s.42(7).
(6)	1988 s.42(8); 1993 s.275(1)(d).
(7)	1988 s.42(9).
123	1988 s.42A; 1993 s.275(2).
124(1)	1988 s.50(2), (5).
(2)	1988 s.50(3)
(3)	Drafting.
(4)	1988 s.50(6).
(5)	1988 s.50(10).
(6) to (8)	1988 s.50(7) to (9).



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125(1)	1988 s.49(1).
(2), (3)	1988 s.49(2).
(4)	1988 s.49(3).
126	Drafting.
127(1), (2)	1986 s.1(1), (2).
(3), (4)	1986 s.1(4), (5).
128(1) to (3)	1986 s.2(1) to (3).
(4) to (6)	1986 s.2(5) to (7).
(7)	Drafting.
129(1)	1988 s.51(3).
(2), (3)	1988 s.51(4), (5).
(4)	1988 s.51(4).
(5)	1988 s.51(6).
130	1986 s.16(1).
131	1986 s.16(2).
132	1986 s.16(3); Law Com. Rec. No. 11.
133(1) to (3)	1986 s.34.
(4)	Drafting.
(5)	1986 s.35(1).
(6)	Drafting.
134(1)	1944 s.24(2).
(2), (3)	1944 s.24(2), proviso (a).
(4)	1944 s.24(2), proviso (b).
(5)	1944 s.22(4); 1986 Sch.4 para.2; 1993 Sch.13 para.4(6).
(6)	1944 s.22(5); 1993 Sch.13 para.4(4).
(7)	Drafting.
135(1) to (4)	1986 s.40(1) to (4).
(5), (6)	1986 s.40(6), (7).
(7)	Drafting.
(8)	1986 s.40(5).
136(1), (2)	1988 s.44(1), (2); Law Com. Rec. No. 12.
(3)	1988 s.44(3), (5).
137(1), (2)	1988 s.45(1), (2).
(3), (4)	1988 s.45(3).

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(5)	1988 s.45(9).
(6)	1988 s.45(10).
138(1)	1988 s.45(1), (4).
(2)	1988 s.45(6).
(3)	1988 s.45(5).
(4)	1988 s.45(7).
(5)	1988 s.45(8).
139(1), (2)	1988 s.46(2).
(3) to (6)	1988 s.46(3) to (6).
(7)	1988 s.235(2)(f); 1996ER Sch.1 para.37(5).
140	1988 s.47.
141(1)	1988 ss.44(4), 45(11).
(2)	1988 s.44(4); Law Com. Rec. No. 12.
(3)	1988 s.45(11).
(4)	1988 s.51(6).
142	Drafting.
143(1), (2)	1944 s.27(2).
(3)	1944 s.27(2) proviso.
(4) to (6)	1944 s.27(3) to (5); 1988 Sch.1 para.2(1).
(7)	Drafting.
144(1), (2)	1944 s.28(3), Sch.3 para.7; 1988 Sch.1 para.3(2).
(3)	1944 s.28(4); 1988 Sch.1 para.3(2).
(4)	Drafting.
145	1944 s.28(2); 1988 Sch.1 para.3(2).
146(1)	1944 s.30.
(2) to (4)	1944 s.30; 1988 Sch.1 para.4(b).
147(1)	1986 s.21(1); 1988 s.115; S.I. 1996/951 art.3(1).
(2)	1986 s.21(4); 1988 s.115.
(3)	1986 s.21(4); 1988 s.115; S.I. 1996/951 art.3(1).
148(1) to (4)	S.I. 1996/951 art.3(2) to (5).
(5)	Drafting.
149(1), (2)	1986 s.42(1), (2); 1993 Sch.13 para.5.

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(3), (4)	1986 s.42(3); 1993 Sch.13 para.5.
(5)	1986 s.42(4); 1993 Sch.13 para.5; S.I. 1996/951 art.5.
150(1)	1944 s.22(3); 1993 Sch.13 para.4(2), (6).
(2)	1944 s.22(1).
(3)	1944 s.22(5); 1993 Sch.13 para.4(4).
151(1) to (3)	1944 s.22(3A) to (3C); 1993 Sch.13 para.4(3).
(4), (5)	1944 s.22(3D); 1993 Sch.13 para.4(3).
(6)	1944 s.22(3E); 1993 Sch.13 para.4(3).
(7)	1944 s.22(6); 1978IA s.17(2)(a); 1993 Sch.13 para.4(5).
(8)	Drafting.
152(1), (2)	1944 s.22(1); 1993 Sch.13 para.4(6).
(3), (4)	1944 s.22(2); 1993 Sch.13 para.4(6).
(5)	Drafting.
153	1986 s.21(5); 1988 s.115.
154(1)	1986 s.22.
(2)	1986 s.22(d).
(3)	1986 s.22(a); 1993 Sch.19 para.95.
(4)	1986 s.22(b).
(5)	1986 s.22(c).
(6)	1986 s.22(e).
155	1986 s.28.
156(1)	1986 s.22(f).
(2), (3)	1993 s.261(1), (2).
157(1)	Law Com. Rec. No. 13.
(2)	1986 s.23(a); Law Com. Rec. No. 13.
(3)	1986 s.23(b).
(4)	1986 s.23(a), (b); Law Com. Rec. No. 13.
(5)	1986 s.23(a); Law Com. Rec. No. 13.
158	Drafting.
159(1) to (4)	1986 s.26(1) to (4).
(5), (6)	1986 s.26(5).
(7)	1986 s.26(1), (2).

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160	1986 s.27.
161(1)	1986 s.30(1).
(2)	Drafting.
(3)	1986 s.30(3).
(4)	1986 s.30(4).
162(1), (2)	1986 s.31(1), (2).
(3)	Drafting.
163	1986 s.31(7), (8).
164(1)	1986 Sch.1 paras.4, 5.
(2)	1986 Sch.1 para.4(1).
(3)	1986 Sch.1 para.4(2).
(4) to (7)	1986 Sch.1 para.5.
165	1986 s.32.
166	Drafting.
167(1)	1980 s.12(1).
(2)	1980 s.12(2).
(3)	1993 s.273(1).
(4)	1980 s.12(1A); 1993 s.229(1).
(5)	1992FHE s.59(3), (4).
(6)	1993 s.273(2).
168(1)	1980 s.12(3); 1993 s.229(2).
(2)	1980 s.12(3).
(3)	1993 s.229(3).
(4)	1980 s.12(3).
(5), (6)	1980 s.16(3A), (3B); 1988 Sch.12 para.81.
169(1)	1980 s.12(4), (5); 1993 s.273(4).
(2)	1980 s.12(4).
(3)	1980 s.12(5).
(4)	1993 s.273(3).
(5)	1980 s.12(6).
(6)	1993 s.273(4), (5)(a).
170(1), (2)	1980 s.12(7).
(3)	1980 s.12(8).
171	1980 s.12(9).

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172	1980 s.16(1).
173(1)	1944 s.14(1).
(2)	1944 s.14(1), 114(1) (“former authority”); 1946 Sch.2 Pt.II.
(3)	1944 s.14(1); 1946 Sch.2 Pt.II.
(4)	1992FHE s.59(3), (4).
(5)	1993 s.273(2).
(6)	1944 s.14(2).
(7)	1944 s.14(5).
(8)	Drafting.
174(1)	1944 s.14(3).
(2), (3)	1944 s.14(4).
175	1992FHE s.59(1), (2).
176	1986 s.16A; FHE 1992 s.12(3).
177	Drafting.
178	1988 s.222.
179(1)	1973 s.1(2); 1980 Sch.3 para.17; Law Com. Rec. No. 3.
(2)	1973 s.1(2).
180	1980 s.5.
181(1)	1986 Sch.2 para.1 (“new school”); 1988 s.48(2).
(2)	1986 Sch.2 para.1 (“relevant proposal”); 1988 s.48(2).
(3)	1988 s.48(2) (“temporary governing body”); drafting.
182	1986 s.65(2).
183	1993 s.22.
184	1993 s.23.
185	1993 s.24.
186	1993 s.25.
187	1993 s.26.
188	1993 s.27.
189	1993 s.28.
190(1)	1993 s.29(1).
(2)	1993 s.29(2); Law Com. Rec. No. 14.
(3)	1993 s.29(3).

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191	1993 s.30.
192	1993 s.31.
193	1993 s.32.
194	1993 s.33.
195	1993 s.34.
196	1993 s.35.
197	1993 s.36.
198(1) to (5)	1993 s.272(1) to (5).
(6)	1964 s.1(1); 1993 Sch.19 para.38.
199(1) to (3)	1993 s.273(3) to (5).
(4)	1993 s.273(7).
200	1993 s.37.
201(1) to (8)	1993 s.38(1) to (8).
(9)	1993 s.155(8).
(10)	1993 s.38(9).
202	1993 s.39.
203	1993 s.40.
204	1993 s.41.
205	1993 s.42.
206	1993 s.43.
207	1993 s.44.
208	1993 s.45.
209	1993 s.46.
210	1993 s.47(1) to (4).
211	1993 s.48.
212	1993 s.49(1) to (3).
213	1993 s.50.
214	1993 s.51.
215	1993 s.52.
216	1993 s.53.
217	1993 s.54.
218	1993 s.55.
219(1) to (3)	1993 s.56.
(4)	1993 s.301(5).
220	1993 s.57.

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221	1993 s.58.
222	1993 s.59.
223	1993 s.60.
224	1993 s.61.
225	1993 s.62.
226	1993 s.63.
227	1993 s.64.
228	1993 s.65.
229	1993 s.66.
230	1993 s.67.
231(1) to (4)	1993 s.68(1) to (4)
(5) to (7)	1993 s.68(5) to (7); 1996N s.7(2) to (4).
(8)	1993 s.68(8).
232	1993 s.69.
233	1993 s.70.
234	1993 s.71.
235	1993 s.72.
236	1993 s.73.
237	1993 s.74.
238	1993 s.75.
239	1993 s.76.
240	1993 s.77.
241	1993 s.78.
242	1993 s.79.
243	1993 s.80.
244	1993 s.81.
245	1993 s.82.
246	1993 s.83.
247	1993 s.84.
248	1993 s.85.
249	1993 s.86.
250	1993 s.87.
251	1993 s.88.
252	1993 s.89.
253	1993 s.90.

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254	1993 s.91.
255	1993 s.92.
256	1993 s.93(1) to (6).
257	1993 s.94.
258	1993 s.95.
259	1993 s.96; Law Com. Rec. No. 3.
260	1993 s.97; Law Com. Rec. No. 3.
261	1993 s.98.
262	1993 s.99.
263	1993 s.100; Law Com. Rec. No. 3.
264	1993 s.101.
265	1993 s.102.
266	1993 s.103(2), (3).
267	1993 s.104.
268	1993 s.105.
269	1993 s.106.
270	1993 s.107.
271	1993 s.108.
272	1993 s.109.
273	1993 s.110.
274	1993 s.111.
275	1993 s.112.
276	1993 s.113.
277	1993 s.114.
278	1993 s.115.
279	1993 s.116.
280	1993 s.117.
281	1993 s.118.
282	1993 s.119.
283	1993 s.120.
284	1993 s.121.
285	1993 s.122.
286	1993 s.123.
287	1993 s.124.
288	1993 s.125.



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289	1993 s.126.
290(1) to (7)	1993 s.127(1) to (7).
(8), (9)	1993 s.127(8).
(10), (11)	1993 s.127(9), (10).
(12)	1993 s.305(1).
(13)	1993 s.127(11).
291	1964 s.1(1); 1993 Sch.19 para.38.
292(1)	1993 s.231(1); drafting.
(2)	1993 s.232(2).
293	1993 s.128.
294	Drafting.
295	1993 s.129.
296(1)	1993 s.130(1).
(2)	1993 s.130(2); 1996N Sch.3 para.11.
297	1993 s.131.
298	1993 s.132.
299	1993 s.133.
300	1993 s.134.
301	1993 s.135.
302	1993 s.136.
303	1993 s.137.
304	1993 s.143.
305	1993 s.144.
306	1993 s.145.
307(1), (2)	1993 s.261(1), (2).
308(1)	1993 ss.267(1), 268(1).
(2)	1993 s.267(2).
(3)	1993 s.268(2).
309	1993 s.152.
310	1993 s.154.
311(1)	1993 ss.155(1) (“premises”), 305(1) (“Church in Wales school”; “Church of England school”; “Roman Catholic Church school”).
(2)	1993 s.305(4).
(3)	1993 s.155(2).

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(4)	1993 s.155(3).
(5)	1993 s.155(6).
(6)	1993 s.155(7)
(7)	Drafting.
(8)	1993 s.155(11).
312(1) to (4)	1993 s.156(1) to (4).
(5)	1993 ss.156(5), 305(1) (“maintained school”).
313(1) to (4)	1993 s.157.
(5)	Drafting.
314	1993 s.158.
315	1993 s.159.
316	1993 s.160.
317(1) to (5)	1993 s.161(1) to (5).
(6), (7)	1993 s.161(6), (7); Disability Discrimination Act 1995 (c.50) s.29(2).
318(1), (2)	1993 s.162(1), (2)
(3)	1993 s.162(2A); 1996N Sch.3 para.12.
(4)	1993 s.162(3).
319	1993 s.163.
320	1993 s.164.
321	1993 s.165.
322(1)	1993 s.166(1); 1995HA Sch.1 para.124(2).
(2)	1993 s.166(2)
(3)	1993 s.166(3); 1995HA Sch.1 para.124(2).
(4)	1993 s.166(4).
(5)	1993 s.166(5); 1994LG(W) Sch.16 para.105(1); Local Government Changes for England Regulations 1994 (S.I. 1994/867) reg.5(6); Local Government Changes for England (Amendment) Regulations 1996 (S.I. 1996/611) reg.2.
323	1993 s.167.
324	1993 s.168.
325	1993 s.169.

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326	1993 s.170.
327	1993 s.171.
328	1993 s.172.
329	1993 s.173.
330	1993 s.174.
331	1993 s.175.
332	1993 s.176; 1995HA Sch.1 para.124(3).
333	1993 s.177.
334	1993 s.178.
335	1993 s.179.
336	1993 s.180; Arbitration Act 1996 (c.23) Sch.3 para.59.
337(1)	1993 s.182(1).
(2)	Drafting.
(3), (4)	1993 s.182(2), (3).
338(1)	1993 s.183(1).
(2)	Drafting.
339	1993 s.183(2) to (10).
340	1993 s.184.
341	1993 s.185.
342	1993 s.188.
343	1993 s.231.
344(1)	Drafting.
(2)	1993 s.182(4).
345	1993 s.186.
346	1993 s.187.
347	1993 s.189.
348	1993 s.190.
349	1993 s.191.
350(1)	1988 s.25(1) (“maintained school”); 1993 s.245(5).
(2)	1988 s.25(1) (“assess”).
351(1)	1988 s.1(2).
(2) to (5)	1988 s.1(1).
352(1)	1988 ss.2(1), 8(2); 1993 s.241(1), Sch.19 para.114.

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(2)	1988 s.2(3).
(3)	1944 s.114(1) (“sex education”); 1993 s.241(2).
353	1988 s.2(2); 1993 ss.240(1), 245(5).
354(1)	1988 s.3(1).
(2)	1988 s.3(2); S.I. 1992/1548 art.2; S.I. 1994/1814 art.2(2) to (4).
(3) to (5)	1988 s.3(2A), (2B); S.I. 1994/1814 art.2(5).
(6)	1988 s.3(4).
(7)	1988 s.3(6) (“school”).
(8)	1988 s.3(7).
355(1)	1988 s.3(3); 1993 Sch.19 para.113.
(2)	1988 s.3(4).
(3)	1988 s.3(5).
(4)	1988 s.3(5A); 1993 s.240(2).
(5)	1988 s.3(6) (“class”; “school year”); 1993 s.240(3).
356(1) to (4)	1988 s.4(1) to (4).
(5) to (8)	1988 s.4(5) to (8); 1993 s.240(4).
(9)	1993 s.241(4).
357(1)	1988 s.10(2).
(2)	1988 s.10(3).
358	1993 s.244.
359(1)	1993 s.245(1).
(2)	1993 s.245(4).
(3)	1993 s.245(3).
(4)	1993 s.245(2).
(5)	1993 s.245(5).
360(1)	1988 s.14(1); 1993 s.253(1).
(2) to (4)	1988 s.14(2); 1993 Sch.15 para.4(3), Sch.19 para.118(a).
(5)	1988 s.14(7).
361(1)	1988 s.14(3); 1993 Sch.15 para.4(3), Sch.19 para.118(b); Education (School Curriculum and Assessment Authority) (Transfer of Functions) Order 1994 (S.I. 1994/645); Education (School Curriculum and Assessment Authority)

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	(Transfer of Functions) Order 1995 (S.I. 1995/903).
(2)	1988 s.14(5); 1993 Sch.15 para.4(3), Sch.19 para.118(c).
(3), (4)	1988 s.14(6); 1993 Sch.15 para.4(3), Sch.19 para.118(d).
(5)	Drafting.
362(1), (2)	1988 s.16(1), (2).
(3), (4)	1988 s.16(3); 1993 Sch.19 para.119(a).
(5), (6)	1988 s.16(4), (5).
(7)	1988 s.16(6); 1993 Sch.15 para.4(4), Sch.19 para.119(b).
363	1988 s.17.
364	1988 s.18; 1993 Sch.19 para.120.
365(1)	1988 s.19(1).
(2) to (4)	1988 s.19(2).
(5)	1988 s.19(1).
(6)	1988 s.19(10).
366(1)	1988 s.19(3).
(2)	1988 s.19(4).
(3)	1988 s.19(4); 1993 Sch.19 para.121(a); Law Com. Rec. No. 15.
(4)	Law Com. Rec. No. 15.
(5)	1988 s.19(5); Law Com. Rec. No. 15.
(6)	1988 s.19(6); 1993 Sch.19 para.121(b); Law Com. Rec. No. 15.
(7)	Law Com. Rec. No. 15.
367(1)	1988 s.19(7).
(2), (3)	1988 s.19(8).
(4)	1988 s.19(9).
368(1)	1988 ss.20(1), 21(1).
(2)	1988 ss.20(2), 21(2); 1993 s.243.
(3)	1988 ss.20(3), 21(3); 1993 s.243.
(4), (5)	1988 ss.20(4), 21(3A); 1993 s.243.
(6), (7)	1988 ss.20(5), 21(3B); 1993 s.243.
(8)	1988 ss.20(6), 21(4).
(9)	1993 s.242(1), (3).

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(10)	1988 ss.20(2), 21(2); 1993 Sch.15 para.4(5), Sch.19 para.122; drafting.
369	1988 s.227(1).
370(1)	1986 s.17(1)
(2), (3)	1986 s.17(2), (3).
371(1), (2)	1986 s.18(1).
(3)	1986 s.18(2).
(4)	1986 s.18(3).
(5)	1986 s.18(7); 1993 Sch.19 para.94.
(6)	1986 s.18(8).
(7)	1986 s.18(7); Law Com. Rec. No. 3.
(8)	Drafting.
372(1)	1986 s.18(5).
(2) to (4)	1986 s.18(6).
(5)	Drafting.
373(1), (2)	1986 s.19.
374	Drafting.
375(1)	Drafting.
(2)	1944 s.114(1) (“agreed syllabus”); 1988 Sch.1 para.6.
(3)	1988 s.8(3).
(4)	1944 s.114(1) (“agreed syllabus”), Sch.5 para.11; 1988 Sch.1 para.6.
(5)	1988 s.8(3).
376(1)	1944 s.26(1); 1988 Sch.1 para.1.
(2)	1944 s.26(2); 1988 Sch.1 para.1.
(3)	1944 s.26(3), (4); 1988 Sch.1 para.1; 1993 Sch.19 para.9.
377(1)	1944 s.27(6); 1988 Sch.1 para.2(2).
(2)	1944 s.27(1); 1988 Sch.1 para.2(1).
378(1)	1944 s.28(1); 1988 Sch.1 para.3(1).
(2), (3)	1944 s.28(1B); 1988 Sch.1 para.3(1).
(4)	1944 s.28(1C); 1988 Sch.1 para.3(1).
(5)	1944 s.28(1A); 1988 Sch.1 para.3(1).
379(1)	1993 s.138(1).
(2) to (4)	1993 s.138(9) to (11).

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380	1993 s.139.
381	1993 s.140.
382	1993 s.142.
383	1993 s.141.
384	1988 s.10(1).
385(1)	1988 s.6(1), (7).
(2)	1988 s.6(2).
(3)	1988 s.6(7).
(4)	1988 s.6(3); 1993 s.138(8); Law Com. Rec. No. 16.
(5)	1988 s.6(4).
(6)	1988 s.6(5); Law Com. Rec. No. 16.
(7)	1988 s.6(6).
386(1)	1988 s.7(1); 1993 s.138(1).
(2)	1988 s.7(1); 1993 s.138(2).
(3)	1988 s.7(2); 1993 s.138(3).
(4)	1988 s.7(3); 1993 s.138(4).
(5)	1988 s.7(4); 1993 s.138(5).
(6)	1988 s.7(5); 1993 s.138(6).
(7)	1993 s.138(12).
387	1988 s.7(6); 1993 s.138(7).
388	1988 s.10(1).
389(1)	1988 s.9(3).
(2)	1988 s.9(9).
(3)	1988 s.9(4).
(4)	1988 s.9(6).
(5)	1988 s.9(7); 1993 Sch.19 para.115.
(6)	1988 s.9(8).
(7)	1988 s.9(2), (5).
390(1)	1988 s.11(1).
(2)	1988 s.11(3), (4); 1993 s.147(1).
(3)	1988 ss.11(3), 13(4).
(4)	1988 s.11(4); 1993 Sch.19 para.116(a).
(5)	1988 s.11(5).
(6)	1988 s.11(5); 1993 s.255(2).

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(7)	1988 s.11(6).
391(1)	1988 s.11(1).
(2)	1988 s.11(2).
(3)	1988 s.11(7).
(4)	1988 s.11(7).
(5)	1988 s.11(8).
(6)	1988 s.11(9).
(7)	1988 s.11(10).
(8), (9)	1988 s.11(11), (12); 1993 s.147(2).
(10)	1988 s.11(13); 1993 Sch.15 para.4(2), Sch.19 para.116(b).
392(1)	1988 s.11(1).
(2)	1988 s.13(1); 1993 Sch.19 para.117.
(3)	1988 s.13(2); 1993 Sch.19 para.117.
(4)	1988 s.13(3).
(5)	1988 s.13(4).
(6)	1988 s.13(5).
(7)	1988 s.13(6).
(8)	1988 s.13(7); 1993 Sch.19 para.117.
393	1993 s.16.
394(1)	1988 ss.11(1), 12(1); 1993 s.148(a).
(2), (3)	1988 s.12(2), (3).
(4)	1988 s.12(4); 1993 s.148(b).
(5)	1988 s.12(1).
(6)	1988 s.12(9); 1993 s.148(c).
(7)	1988 s.12(10).
(8)	1988 s.12(11); 1993 s.148(d).
395(1)	1988 s.12(5).
(2)	1988 s.12(6).
(3), (4)	1988 s.12(7).
(5)	1988 s.12(8).
(6)	1988 s.12(5), (6).
(7)	1988 s.12(9); 1993 s.148(c).
(8)	1988 s.12(10).
396(1)	1988 s.12A(1), (3); 1993 s.257.



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(2)	1988 s.12A(2); 1993 s.257.
397	1993 s.258.
398	1988 s.9(1), 9(1A); 1992FHE s.12(4); 1994 Sch.2 para.8(2).
399	1944 s.67(3); 1988 Sch.1 para.4, Sch.12 para.4.
400(1), (2)	1988 s.5(1).
(3)	1988 s.5(2).
(4)	1988 s.10(2).
(5)	1988 s.5(3).
401(1)	1988 s.24(1); 1992FHE Sch.8 para.28.
(2)	1988 s.24(2); 1993 Sch.19 para.124.
(3), (4)	1988 s.24(3), (4).
(5)	1988 s.235(2)(c).
402(1)	1988 s.117(1).
(2)	1988 s.117(2); 1993 s.240(5).
(3) to (5)	1988 s.117(3) to (5).
(6)	1988 s.118(7), (8).
403(1)	1986 ss.46, 46A; 1988 Sch.12 para.34.
(2)	1986 s.46.
404(1), (2)	1993 s.241(5)
(3)	1993 s.241(6)
405	1988 s.17A; 1993 s.241(3).
406(1), (2)	1986 ss.44(1), (2), 46A; 1988 Sch.12 para.34.
(3)	1986 s.44(1).
407(1)	1986 ss.45, 46A; 1988 Sch.12 para.34.
(2)	1986 s.45.
408(1)	1988 s.22(1).
(2)	1988 s.22(2); 1992(S) Sch.4 para.6(2).
(3)	1988 s.22(3); 1993 Sch.19 para.123.
(4)	1988 s.22(1); Law Com. Rec. No. 17.
(5)	1988 s.22(4).
(6)	1988 s.22(5); 1992(S) Sch.4 para.6(3), (4).
(7), (8)	1988 s.22(6), (7).

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409(1) to (3)	1988 s.23(1).
(4)	1988 s.23(2).
410	1988 s.25(2); Law Com. Rec. No. 17.
411(1), (2)	1980 s.6(1), (2).
(3)	1980 s.6(3); 1988 s.30(2).
(4)	1980 s.6(4).
(5)	1980 s.6(5); 1978IA s.17(2)(a).
(6)	1988 s.26(9).
(7)	1988 s.26(10).
(8)	1980 s.38(4).
412	1986 s.33.
413(1)	1980 s.6(6); 1988 s.30(3).
(2) to (4)	1980 s.6(7) to (9); 1993 s.270.
414(1), (2)	1980 s.8(1), (2).
(3), (4)	1980 s.8(3); 1988 s.31(2).
(5)	1980 s.8(4).
(6) to (8)	1980 s.8(5), (5A), (6); 1992(S) Sch.4 para.4(1).
(9)	1980 s.8(7).
415	Drafting.
416(1)	1988 s.26(1).
(2) to (7)	1988 s.26(3) to (8).
(8)	1988 s.26(1), (3), (4).
417(1)	1988 ss.27(1), (2), 32(4).
(2), (3)	1988 s.27(3).
(4), (5)	1988 s.27(9).
418(1)	1988 ss.27(1), (2), 32(4); Education Reform Act 1988 (Commencement No.9) Order 1991 (S.I. 1991/409).
(2)	1988 s.27(3).
(3)	1988 s.27(3), (9).
419(1)	1988 s.29(7).
(2) to (5)	1988 s.29(1) to (4).
420(1) to (3)	1988 s.27(4) to (6).
(4), (5)	1988 s.27(7).
421(1)	1988 s.27(8).

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(2)	1988 s.32(1).
422(1) to (6)	1986 Sch.2 para.19.
(7)	1986 s.65(1) (“promoters”), Sch.2 para.1; drafting; Law Com. Rec. No. 9.
423(1)	1980 s.7(1); 1993 Sch.19 para.73.
(2), (3)	1980 s.7(2), (3).
(4)	1980 s.7(4).
(5)	1980 s.7(5).
(6)	1980 s.38(4).
424(1)	1980 s.9(1); 1988 s.31(3).
(2)	1980 s.9(1A); 1988 s.31(3).
(3)	1980 s.9(2); 1981 Sch.3 para.14; 1992(S) Sch.4 para.4(2); 1993 Sch.19 para.74.
425	Drafting.
426	1993 s.149(1) to (4).
427	1993 s.150.
428	1993 s.151.
429	Drafting.
430(1) to (8)	1993 s.260.
(9)	1993 s.305(1) (“maintained school”).
431(1) to (6)	1993 s.13(1) to (6).
(7), (8)	1993 ss.13(7), (8), 305(1) (“maintained school”).
432	1993 s.14.
433(1), (2)	1948 s.4(2).
(3)	1948 s.4(3).
(4)	1948 s.4(3A); 1996N Sch.3 para.2.
(5)	1948 s.4(2).
434(1)	1944 s.80(1).
(2)	1944 s.80(1A); 1988 Sch.12 para.58.
(3)	1948 s.4(6).
(4)	1944 s.80(1); 1993 Sch.19 para.21.
(5)	1944 s.114(1); 1993 s.155(1), Sch.19 para.24(a)(ii).
(6)	1944 s.80(2).
435	1948 s.4(1).

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436(1)	1980 s.9(1A); 1988 ss.29(5), 31(3); 1993 s.155(6).
(2)	1988 s.29(5), (6); 1993 s.149(5).
437(1) to (7)	1993 s.192(1) to (7).
(8)	1993 ss.192(8), 197(6), 198(4), 305(1) ("maintained school").
438	1993 s.193.
439	1993 s.194.
440	1993 s.195.
441	1993 s.196.
442	1993 s.197(1) to (5).
443(1) to (3)	1993 s.198(1) to (3).
(4)	1993 s.201(2).
444(1) to (4)	1993 s.199(1) to (4).
(5)	1993 s.199(5); Units of Measurement Regulations 1995 (S.I. 1995/1804) Reg.3.
(6), (7)	1993 s.199(6), (7).
(8)	1993 s.201(2).
(9)	1993 s.199(8).
445	1993 s.200.
446	1993 s.201(1).
447	1993 s.202.
448	1993 s.203.
449	1988 s.118(7).
450(1)	1988 s.106(1).
(2)	1988 s.106(1A); 1992FHE s.12(9); 1994 Sch.2 para.8(3).
451(1), (2)	1988 s.106(2).
(3)	1988 s.106(3), (4); 1993 s.280.
(4)	1988 s.106(4).
(5)	1988 s.106(3), (4); 1993 Sch.19 para.127.
452(1) to (4)	1988 s.107(1) to (4).
(5)	1988 s.107(5), (6).
(6)	1988 s.106(9).
453(1)	1988 s.106(5).

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(2), (3)	1988 s.108.
454(1)	1988 s.106(6).
(2)	1988 s.118(3).
(3), (4)	1988 s.106(7), (8).
455(1)	1988 s.109(1).
(2)	1988 s.109(2).
(3)	1988 ss.109(2), 110(5).
456(1)	1988 s.109(3); 1978IA s.17(2)(a).
(2) to (8)	1988 s.109(4) to (10).
457(1)	1988 s.110(1); 1993 Sch.19 para.128.
(2), (3)	1988 s.110(2).
(4)	1988 s.110(3); Disability Living Allowance and Disability Working Allowance Act 1991 (c.21) Sch.3 para.12; Jobseekers Act 1995 (c.18) Sch.2 para.17.
(5)	1988 s.110(4).
458(1) to (4)	1988 s.111(1) to (3) and (5); 1993 Sch.19 para.129.
(5)	1988 s.111(6).
459	1988 s.118(5).
460(1), (2)	1988 s.118(1), (2).
(3)	1988 s.118(4).
461	1988 s.118(6).
462(1)	1988 s.118(7)(a), (e).
(2)	1988 s.106(10).
(3)	1988 s.106(11).
(4)	1988 s.118(7)(d).
(5)	1988 s.118(7)(d), (8).
463	1944 s.114(1) (“independent school”); 1980 s.34(1); 1988 Sch.12 para.7.
464(1) to (3)	1944 s.70(1); Transfer of Functions (Education and Employment) Order 1995 (S.I 1995/2986) art.11(2).
(4)	Drafting.
465(1)	1944 s.70(1).
(2)	1944 s.70(1) proviso (a).
(3)	1944 s.70(1) proviso (b).

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(4)	1944 s.114(1) (“provisionally registered school”; “registered school”).
466(1)	1944 s.70(3).
(2)	1944 s.70(3A); 1980 s.34(6).
(3)	1944 s.70(3).
467(1)	1944 s.70(4); 1980 s.34(7).
(2)	1944 s.70(4A); 1993 s.292(2).
(3)	1944 s.70(4); 1980 s.34 (7).
(4)	Drafting.
468	1944 s.71(4); 1993 s.290(1).
469(1)	1944 s.71(1); Children Act 1989 (c.41) Sch.13 para.9; 1993 s.290(2).
(2), (3)	1944 s.71(1).
(4)	1944 s.71(2); 1993 s.290(2).
(5)	1944 s.71(3).
(6)	1944 s.71(5); 1993 s.290(1).
470(1)	1944 s.72(1).
(2)	1944 s.72(2); 1993 s.290(2).
471(1)	1944 s.72(3).
(2)	1944 s.72(3) proviso; 1993 s.290(2).
472	1944 s.72(4); 1993 s.290(2).
473(1)	1944 s.73(2).
(2)	1944 s.73(3); 1993 s.290(2).
474	1944 s.74.
475	1944 s.73(1).
476(1)	Drafting.
(2), (3)	1944 s.75(1).
(4)	1944 s.75(2); Arbitration Act 1996 (c.23) Sch.3 para.4.
(5)	1944 s.75(3).
477	1944 s.73(5); 1946 Sch.2 Pt.I; 1978IA s.17(2)(a).
478(1)	1944 s.73(4).
(2)	1944 ss.70(3), 73(2), (3); Criminal Justice Act 1982 (c.48) Sch.3.
479(1) to (3)	1980 s.17(1) to (3).
(4)	1980 s.17(2).

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(5)	1980 s.17(4), (5).
(6), (7)	1980 s.17(10).
480(1), (2)	1980 s.17(6), (7).
(3)	1980 s.17(9).
(4)	1980 s.17(8), (9).
481	1980 s.18.
482(1)	1988 s.105(1).
(2)	1988 s.105(2).
(3)	1988 s.105(1), (2).
(4)	1988 s.105(3).
(5)	1988 s.218(2B); 1993 s.291; 1994 Sch.2 para.8(4).
483(1), (2)	1988 s.105(4).
(3), (4)	1988 s.105(5), (6).
484(1)	1984 s.1(1), (2); 1993 s.278(2).
(2)	1984 s.1(2), (6).
(3), (4)	1984 s.1(3), (4); 1993 s.278(2).
(5)	1984 s.1(5).
(6)	1984 s.1(7).
(7)	Drafting.
485	1944 s.100(1)(b); 1988 s.213(3).
486	1988 s.213(1); Transfer of Functions (Science) Order 1995 (S.I. 1995/2985) Sch. para.5.
487	1980 s.21(1).
488	1988 s.210.
489(1)	1944 s.100(3); 1980 s.21(2); 1984 s.1(4); 1988 ss.210(3), 213(2).
(2)	1984 s.1(4A); 1993 s.278(4).
(3), (4)	1973 s.1(2).
490	1988 s.211; 1978IA s.17(2)(a).
491(1)	1944 s.100(1)(c).
(2)	1944 s.100(3).
492(1) to (4)	1986 s.51(1) to (4); 1993 s.279(1).
(5)	1986 s.51(11); 1993 Sch.19 para.103(d).

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(6)	1986 s.51(7), (8); 1993 Sch.19 para.103(a).
493(1)	1986 s.52(1); 1992FHE Sch.8 para.25.
(2)	1986 s.52(2); 1993 Sch.19 para.104.
(3)	1986 s.52(3); 1992FHE Sch.8 para.25.
(4)	1986 s.52(4).
494	1993 s.262.
495(1), (2)	1944 s.67(1).
(3)	1944 s.67(2).
496(1)	1944 s.68.
(2)	1944 s.68; 1988 s.219(2).
497(1)	1944 s.99(1).
(2)	1944 s.99(1); 1988 s.219(3).
(3)	1944 s.99(1).
498(1)	1944 s.99(2).
(2)	1944 s.99(2); 1988 s.219(3).
499	1993 s.297.
500	1993 s.232.
501	1993 s.233.
502	1993 s.234.
503(1) to (6)	1993 s.235(1) to (6).
(7)	1993 s.235(8).
504	1993 s.236.
505(1) to (7)	1993 s.237(1) to (7).
(8)	1993 ss.237(8), 305(1) (“maintained school”)
506	1944 s.69(2); Criminal Justice Act 1967 (c.80) Sch.3; 1978IA s.17(2)(a); Medical Act 1983 (c.54) Sch. 6 para.11.
507(1)	1944 s.93.
(2)	1944 s.93; 1972LG s.272(2); 1993 s.235(7).
508(1)	1944 s.53(1).
(2)	1944 s.53(1); 1948 Sch.1 Pt.I; 1988 Sch.12 para.54.
(3)	1944 s.53(2).
509(1), (2)	1944 s.55(1); 1992FHE Sch.8 para.5.



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| (3)      | 1944 s.55(2); 1948 Sch.1 Pt.I; 1988 Sch.12 para.55; 1992FHE Sch.8 para.5.                       |
| (4)      | 1944 s.55(3); 1986 s.53; 1992FHE Sch.8 para.5; 1993 Sch.19 para.15.                             |
| (5)      | 1944 s.55(4); 1992FHE Sch.8 para.5.   |
| (6)      | 1944 s.55(5); 1992FHE Sch.8 para.5.   |
| 510(1)   | 1948 s.5(1); 1988 s.100(4).   |
| (2)      | 1948 s.5(1); 1953 Sch.1; 1981 Sch.3 para.7.   |
| (3)      | 1948 s.5(2); 1988 s.100(4).   |
| (4)      | 1948 s.5(3); 1980 s.29(1); 1988 s.100(4), Sch.12 para.61; 1992FHE Sch.8 para.16.                |
| (5)      | 1948 s.5(4); 1988 s.100(4).   |
| (6)      | 1948 s.5(4).  |
| 511(1)   | 1948 s.5(5).  |
| (2), (3) | 1948 s.5(6).  |
| (4)      | 1948 s.5(6A); 1980 s.29(2).   |
| 512(1)   | 1980 s.22(1); Social Security Act 1986 (c.50) s.77(1).  |
| (2)      | 1980 s.22(2); Social Security Act 1986 (c.50) s.77(2).  |
| (3)      | 1980 s.22(3); Social Security Act 1986 (c.50) s.77(2); Jobseekers Act 1995 (c.18) Sch.2 para.3. |
| (4)      | 1980 s.22(1).   |
| (5)      | 1980 s.22(3B); 1992FHE Sch.8 para.17.   |
| 513      | 1944 s.78(2).   |
| 514(1)   | 1944 s.50(1); 1946 Sch.2 Pt.I; 1981 Sch.3 para.3; 1988 s.100(2).                                |
| (2)      | 1944 s.50(1); 1948 Sch.1 Pt.I; 1981 Sch.3 para.3.   |
| (3)      | 1944 s.50(2); 1946 Sch.2 Pt.I; 1993 Sch.19 para.12.   |
| (4)      | 1944 s.52(1).   |
| (5)      | 1944 s.52(1) proviso; 1981 Sch.3 para.4.  |
| (6)      | 1944 s.52(2).   |
| (7)      | 1944 s.52(3).   |

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515(1)	1980 s.26(1).
(2)	1980 s.26(3).
(3)	1980 s.26(4).
(4)	1980 s.26(5); 1978IA s.17(2)(a).
(5)	1980 s.26(6).
516	1993 s.295.
517(1)	1953 s.6(2); 1993 Sch.19 para.31(a).
(2)	1953 s.6(2)(a)(i).
(3)	1953 s.6(2)(a)(ii); 1981 Sch.3 para.8.
(4)	1953 s.6(2)(a)(iii).
(5)	1953 s.6(2)(b); 1981 Sch.3 para.8.
(6)	1993 Sch.19 para.31(b) to (f).
(7)	1993 s.308(3).
518	1944 s.81; 1988 Sch.12 para.6; 1992FHE Sch.8 para.11.
519(1)	1986 s.58(1); 1988 Sch.12 para.103; 1993 Sch.19 para.106.
(2)	1986 s.58(2).
(3)	1986 s.58(5); 1988 Sch.12 para.103.
(4), (5)	1986 s.58(6).
(6)	1986 s.58(7).
520(1), (2)	1944 s.48(4); 1973NHSR Sch.4 para.7; National Health Service Act 1977 (c.49) Sch.15 para.2; 1978IA s.17(2)(a).
(3)	Drafting.
521(1), (2)	1944 s.54(1).
(3)	1944 s.54(2), (8); Medical Act 1983 (c.54) Sch.6 para.11.
(4)	1944 s.54(1); 1993 Sch.19 para.14(a).
522(1)	1944 s.54(2).
(2) to (4)	1944 s.54(3).
(5)	1944 s.54(5).
523(1), (2)	1944 s.54(4); S.I. 1968/1699 art.5; 1972LG s.179(3).
(3)	1944 s.54(9); 1994LG(W) Sch.16 para.8.
(4)	1944 s.54(8); Medical Act 1983 (c.54) Sch.6 para.11.

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524(1), (2)	1944 s.54(7).
(3)	1944 s.54(7); 1993 Sch.19 para.14(c).
525(1)	1944 s.54(6).
(2)	1944 s.54(6).
(3)	1944 s.54(6); 1993 Sch.19 para.14(b).
526	1944 s.82.
527	1944 s.83.
528	1944 s.41(2A), (2B); Disability Discrimination Act 1995 (c.50) s.30(8).
529(1)	1944 s.85(1).
(2), (3)	1944 s.85(2), (3); 1980 Sch.3 para.3.
530(1)	1944 s.90(1); Acquisition of Land (Authorisation Procedure) Act 1946 (c.49) Sch.4; 1948 s.10(1); 1988 Sch.12 para.59.
(2)	1944 s.90(1) proviso; Acquisition of Land (Authorisation Procedure) Act 1946 (c.49) Sch.4.
(3)	1944 s.90(1A); 1993 s.282(3).
531(1)	1948 s.10(2); 1972LG s.272(2); 1988 Sch.12 para.62.
(2)	1948 s.10(3).
532	1944 s.88; 1978IA s.17(2)(a).
533(1), (2)	1980 s.22(4).
(3)	1980 s.22(4A); 1993 Sch.19 para.79.
534(1) to (4)	1980 s.22(3A); 1988 Sch.12 para.24.
(5)	1980 s.22(3B); 1992FHE Sch.8 para.17.
535(1)	1980 s.26(2).
(2)	1980 s.26(3).
(3)	1980 s.26(4).
(4)	1980 s.26(5); 1978IA s.17(2)(a).
(5)	1980 s.26(6).
536(1), (2)	1944 s.48(4); 1973NHSR Sch.4 para.7; National Health Service Act 1977 (c.49) Sch.15 para.2; 1978IA s.17(2)(a); 1988 Sch.12 para.2.
537(1) to (6)	1992(S) s.16(1) to (6).
(7)	1992(S) s.16(7); 1993 s.263.

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(8) to (10)	1992(S) s.16(8) to (10).
(11)	1992(S) s.19(2)
(12), (13)	1992(S) s.16(11), (12).
538	1986 s.56, Sch.2 para.13(2).
539	1993 s.153.
540(1)	1993 s.264(1).
(2)	1993 ss.264(2), 305(1) (“maintained school”).
541(1) to (3)	1993 s.265.
(4)	1993 ss. 265(1), 305(1) (“maintained school”).
542(1)	1944 s.10(1); 1988 Sch.12 para.1.
(2) to (4)	1944 s.10(2); 1988 Sch.12 para.1.
543	1944 s.10(2) proviso; 1948 s.7(1); 1968 s.3(3).
544(1)	1988 s.218(7); 1992FHE Sch.8 para.49; 1993 Sch.19 para.136.
(2)	1988 s.218(7).
(3)	1988 s.218(12).
545(1)	1944 s.63(2); 1993 Sch.19 para.18.
(2)	1988 s.218(8); 1993 Sch.19 para.19.
546(1)	1988 s.218(1)(e).
(2)	1988 s.218(12).
547(1)	1982LG(MP) s.40(1).
(2)	1982LG(MP) s.40(2); 1988 Sch.12 para.29.
(3)	1982LG(MP) s.40(3).
(4), (5)	1982LG(MP) s.40(4), (5); 1988 Sch.12 para.29.
(6)	1982LG(MP) s.40(6).
(7), (8)	1982LG(MP) s.40(7), (8); 1988 Sch.12 para.29.
548(1)	1986 s.47(1); 1993 s.293(2).
(2)	1986 s.47(1A); 1993 s.293(2).
(3)	1986 s.47(5); 1988 Sch.12 para.35; 1993 s.293(3), Sch.19 para.101(a).
(4)	1986 s.47(6); 1993 Sch.19 para.101(b).
(5)	1986 s.47(7).

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(6)	1986 s.47(4).
549(1), (2)	1986 s.47(2), (3).
(3)	1986 s.47(1B); 1993 s.293(2).
(4)	1986 s.47(10).
(5)	1986 s.47(5); 1993 s.293(3).
550	1986 s.47(8).
551(1).	1988 s.218(1)(g).
(2)	1988 s.218(12).
552(1)	1993 Sch.19 para.62(5).
(2), (3)	1993 Sch.19 para.62(2), (3).
(4)	1993 Sch.19 para.62(1).
(5)	1993 Sch.19 para.62(4)
(6)	1993 Sch.19 para.62(6).
553	1988 s.113.
554(1)	1973 s.2(1); 1988 s.112(2).
(2)	1973 s.2(1); 1988 s.112(2); 1993 Sch.19 para.52(a).
(3)	1973 s.2(1A); 1988 s.112(2); 1993 Sch.19 para.52(b).
(4)	1973 s.2(1C); 1988 s.112(2); 1993 Sch.19 para.52(c).
(5)	1973 s.2(1B); 1988 s.112(2).
(6)	1973 s.2(8).
555(1)	1973 s.2(2); 1993 Sch.19 para.52(c).
(2) to (4)	1973 s.2(2).
(5)	1973 s.2(1B); 1988 s.112(2).
556(1)	1973 s.2(3); 1993 s.288(3)
(2)	1973 s.2(4); 1988 s.112(3); 1993 Sch.19 para.52(c).
(3)	1973 s.2(4); 1993 s.288(2), Sch.19 para.52(c).
(4)	1973 s.2(5).
(5)	1973 s.2(5A); 1993 s.288(4).
(6), (7)	1973 s.2(6), (7).
(8)	1973 s.2(1B); 1988 s.112(2).
557	1993 s.287.
558	1944 s.58.

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559(1), (2)	1944 s.59(1), (2).
(3), (4)	1944 s.59(3).
(5)	1944 s.59(4).
(6)	Employment of Children Act 1973 (c.24) s.3(4).
560(1)	1973EWE s.1(1); 1988 Sch.12 para.14.
(2)	1973EWE s.1(4); Employment Act 1990 (c.38) s.14.
(3)	1973EWE s.1(2); Merchant Shipping Act 1995 (c.21) Sch.13 para.48.
(4), (5)	1973EWE s.1(3).
(6)	Drafting.
(7)	1973EWE s.1(4).
561	1944 s.115.
562	1944 s.116; 1948 Sch.1 Pt.I; 1993 Sch.19 para.25.
563(1)	1988 s.218(1)(f); 1992FHE Sch.8 para.49.
(2)	1988 s.218(4).
(3)	1988 s.218(12).
564(1)	1944 s.94(1); S.I. 1968/1699 art.5; Registration of Births, Deaths and Marriages (Fees) Order 1995 (S.I. 1995/3162) Sch.
(2)	1944 s.94(1).
(3)	1944 s.94(2); S.I. 1968/1699 art.5.
(4)	1944 s.94(3); 1978IA s.17(2)(a).
565(1)	1944 s.95(1).
(2)	1993 s.200(3).
566	1944 s.95(2).
567(1), (2)	1993 s.299(1), (2).
(3)	1993 ss.299(3), 305(1) (“maintained school”)
(4), (5)	1993 s.299(4), (5).
568(1)	1973 s.2(1); 1986 s.63(1); 1988 s.232(1); 1993 s.301(1); Law Com. Rec. No. 19.
(2)	1986 ss.4A(8), 63(1); 1988 s.232(2); 1993 ss.271(1), 301(2).

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| (3)         | 1986 s.63(2); 1988 s.232(4); 1993 s.301(3).  |
| (4)         | 1988 s.232(3).   |
| (5)         | 1986 s.63(3); 1988 s.232(5); 1993 s.301(6); Law Com. Rec. No. 18.  |
| (6)         | 1988 s.232(6); Law Com. Rec. No. 18.   |
| 569(1)      | Statutory Instruments Act 1946 (c.36) s.1(2); 1948 s.12; 1980 s.35(1); 1984 s.3(1); 1986 s.63(1); 1988 s.232(1); 1992(S) s.19(1); 1993 s.301(1); Law Com. Rec. No. 18.   |
| (2)         | 1944 s.112; Statutory Instruments Act 1946 (c.36) s.5(2); 1948 s.12; 1980 s.35(3); 1984 s.3(3); 1986 s.63(2); 1988 s.232(4); 1992(S) s.19(2); 1993 ss.279(2)(a), 301(3). |
| (3)         | 1980 s.35(2); 1986 s.63(2A); 1993 ss.279(2)(b), 301(4).  |
| (4)         | 1980 s.35(4); 1984 s.3(4); 1986 s.63(3); 1988 s.232(5); 1992(S) s.19(3); 1993 s.301(6), Sch.19 para.107(a); Law Com. Rec. No. 18.  |
| (5)         | 1944 s.111A; 1980 s.35(5); 1988 ss.229(1), 232(6); Law Com. Rec. No. 18.   |
| (6)         | 1980 s.35(5).  |
| 570(1), (2) | 1944 s.111; S.I. 1968/1699 art.5; 1993 s.301(7).   |
| (3)         | 1944 s.111 proviso.  |
| 571         | 1980 ss.12(1B), 13(1C); 1988 s.34(3); 1993 ss.229(1), 230(1), 300.   |
| 572         | 1944 s.113; 1946 Sch.2 Pt.I.   |
| 573(1)      | Drafting.  |
| (2)         | 1944 s.114(1) (“alterations”); 1968 Sch.1 para.5(a); 1993 s.305(1).  |
| (3)         | 1944 s.114(1) (“enlargement”); 1968 Sch.1 para.5(b).   |
| (4)         | 1980 s.16(2); 1993 s.103(1).   |
| (5)         | 1944 s.114(1) (“significant”); 1968 Sch.1 para.5(c).   |
| (6)         | 1944 s.67(4); 1968 Sch.1 para.3; 1988 Sch.12 para.4.   |

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574	1968 s.1(1); 1980 Sch.3 para.15; 1993 Sch.19 para.41.
575(1), (2)	1988 s.235(1); 1993 s.305(1); 1996ER Sch.1 paras.37(5), 59.
(3)	1988 s.235(3); 1933 s.155(9), (10).
(4)	1988 s.235(1); 1993 s.305(1) 1996ER Sch.1 paras.37(5), 59.
576(1)	1944 s.114(1D); Children Act 1989 (c.41) Sch.13 para.10.
(2)	1944 s.114(1E); Children Act 1989 (c.41) Sch.13 para.10; 1993 Sch.19 para.24(b).
(3), (4)	1944 s.114(1F); Children Act 1989 (c.41) Sch.13 para.10.
577	1944 s.114 (“minor authority”); 1972LG s.192(4); Local Government Changes for England (Education) (Miscellaneous Provisions) Regulations 1996 (S.I. 1996/710) reg.19.
578	1992FHE s.90(1) (“the Education Acts”); 1993 s.305(1)(“the Education Acts”); 1996N Sch.3 para.8.
579(1)	“boarder”: 1986 s.65(1). “child”: 1944 s.114(1). “clothing”: 1944 s.114(1). “exclude”: 1986 s.65(1). “financial year”: 1984 s.1(6); 1988 s.235(1), Sch.2 para.18; 1993 s.305(1), Sch.14 para.20. “functions”: 1988 s.235(1); 1993 s.305(1). “governing body”: “governor”: 1944 s.114(1); 1980 Sch.1 para.13. “higher education”: 1944 s.114(1); 1988 s.120(9). “land”: 1988 s.235(1); 1993 s.306(1). “liability”: 1988 s.235(1); 1993 s.305(1). “local authority”: 1988 s.235; 1993 s.305(1); 1994LG(W) Sch.16 paras.83, 105(2). “the local education authority”: 1944 s.114(1); 1988 s.118(7)(b); 1993 s.305(1). “local government elector”: 1944 s.114(1); 1972LG s.272(2). “medical officer”: 1944 s.114(1); 1973NHSR Sch.4 para.8; Medical Act 1983 (c.54) Sch.6 para.11. “modifications”: 1988 s.235(1); 1993 s.305(1). “premises”: 1944 s.114(1). “prescribed”: 1944 s.114(1); 1993 s.305(1). “proprietor”: 1944 ss.80(1), 114(1); 1988 Sch.12 para.5. “reception



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	class”: 1980 s.38(5A)(b); 1988 ss.31(6), 119(1)(b); 1993 s.155(1). “relevant age group”: 1980 s.16(3); 1988 s.32(2); 1993 s.155(4). “school buildings”: 1946 s.4(2); 1973NHSR Sch.4 para.9; National Health Service Act 1977 (c.49) Sch.15 para.3; 1978IA s.17(2) (a). “school day”: 1986 s.65(1). “trust deed”: 1944 s.114(1). “young person”: 1944 s.114(1).
(2)	1988 s.235(3)(g); 1993 s.305(2).
(3)	1980 s.38(5A); 1988 ss.31(6), 119(1) (a); 1993 s.155(5).
(4)	1980 s.38(5); 1986 s.51(10); 1993 Sch.19 para.103.
(5)	1944 s.114(2)(b).
(6)	1944 s.114(2)(b); 1988 s.234(2)(a), (3) (a).
(7)	1944 s.114(2A); 1988 s.234(2)(b); 1992FHE Sch.8 para.13(4).
580	
581	1944 s.118; S.I. 1977/293 art.4; Law Com. Rec. No. 19.
582	
583	
Sch. 1	1993 Sch.18.
Sch. 2	
para.1	1993 Sch.1 para.16
paras.2 to 8	1993 Sch.1 paras.1 to 7.
para.9	1993 Sch.19 paras.46 to 48.
paras.10 to 14	1993 Sch.1 paras.8 to 12.
para.15	1993 Sch.1 para.15.
paras.16, 17	1993 Sch.1 paras.13, 14.
Sch. 3	
para.1	1993 s.17; 1996N Sch.3 para.10.
para.2	1993 s.18.
para.3	1993 s.19.
Sch. 4	
para.1	1993 Sch.2 para.1, s.305(1) (“maintained school”)

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paras.2 to 23	1993 Sch.2 paras.2 to 23.
Sch. 5	
para.1	
para.2	1944 Sch.3 para.8.
para.3	1944 Sch.3 paras.4, 5; 1948 Sch.1,Pt.I; 1980 Sch.3 para.5.
para.4	1944 Sch.3 para.7; drafting.
para.5	1944 Sch.3 para.9.
para.6	1944 Sch.3 para.10.
Sch. 6	1944 Sch.2.
Sch. 7	
para.1	1993 s.238(5) to (7).
para.2	1993 s.239.
para.3	1993 Sch.13 para.2
para.4	1993 Sch.13 para.1
para.5	1993 Sch.13 para.3
paras.6 to 10	1993 Sch.3 paras.8 to 12.
paras.11, 12	1993 Sch.13 paras.14, 15
Sch. 8	
para.1	Drafting.
para.2	1986 ss.6, 15(12), (13); drafting.
para.3	1986 s.15(11).
para.4	1986 s.15(7).
para.5	1986 s.15(1).
para.6	1986 s.15(8).
para.7	Drafting; 1986 s.15(2) to (6), (15).
para.8	1986 s.15(14).
para.9	1986 s.15(10).
para.10	1986 ss.8(6), (9), 15(9).
para.11	1986 s.8(2), (3); 1993 s.271(2).
para.12	1986 s.8(4).
para.13	1986 s.8(5).
para.14	1986 s.8(1).
para.15	1986 s.8(6), (7), (9); 1988 s.116; drafting.

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para.16	1986 s.8(11), (12); Law Com. Rec. Nos. 3, 20.
para.17	1986 s.8(8).
para.18	1986 s.62.
para.19	Drafting.
para.20	1986 s.57.
para.21	1986 s.8(10).
Sch. 9	
para.1	1986 s.65(1) (“promoters”), Sch.2 para.1; Law Com. Rec. No. 9.
para.2	1986 Sch.2 para.2(1), (2); 1993 Sch.19 para.109(a), (b)(i).
para.3	1986 Sch.2 para.6.
para.4	1986 Sch.2 para.7(1).
para.5	1986 Sch.2 para.8(1).
para.6	1986 Sch.2 para.7(2) to (5).
para.7	1986 Sch.2 paras.7(6), (7), 8(2).
para.8	1986 Sch.2 para.9(1), (2); 1993 Sch.19 para.109(e).
para.9	1986 Sch.2 paras.2(3), 11(4), (5).
para.10	1986 Sch.2 para.11(3).
para.11	1986 Sch.2 para.11(6).
para.12	1986 Sch.2 para.11(1), (2).
para.13	1986 Sch.2 para.10(4).
para.14	1986 Sch.2 para.10(2).
para.15	1986 Sch.2 paras.10(1), 26(3).
para.16	1986 Sch.2 para.10(4).
para.17	1986 Sch.2 para.2(4).
para.18	1986 Sch.2 para.10(3).
para.19	1986 Sch.2 para.27.
para.20	1986 Sch.2 para.28.
para.21	1986 Sch.2 para.30(1).
para.22	1986 Sch.2 para.29.
Sch. 10	
para.1	1986 Sch.2 para.3(4).
para.2	1986 Sch.2 para.3(5).

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para.3	1986 Sch.2 para.4.
para.4	1986 Sch.2 para.13(3), (4).
para.5	1986 Sch.2 paras.2(2), 3(2), (3); 1993 Sch.19 para.109(b)(i).
para.6	1986 Sch.2 para.13(3), (5).
Sch. 11	
para.1	Drafting.
para.2	1988 ss.33(6), 42(4)(a) to (d).
para.3	1988 s.42(4)(e), (5)(a).
para.4	1988 s.42(4)(j).
paras.5 to 7	1988 s.50(5); 51(1) (“expenditure of a capital nature”).
para.8	1988 s.50(10).
Sch. 12	
para.1	1988 s.48(2) (“temporary governing body”).
para.2	1988 Sch.4 para.1(2)(a), (b).
para.3	1988 Sch.4 paras.1(1), 2(1).
para.4	1988 Sch.4 para.2(2) to (5).
para.5	1988 Sch.4 para.2(6); S.I. 1991/1890; S.I. 1992/110.
para.6	1988 Sch.4 para.2(8).
para.7	1988 Sch.4 para.2(9).
para.8	1988 Sch.4 para.3.
para.9	1988 Sch.4 para.6.
para.10	1988 Sch.4 para.5.
Sch. 13	
para.1	1986 s.36(1).
para.2	1986 s.36(2).
para.3	1986 s.37.
para.4	1986 s.39.
para.5	1986 s.38(1), (2).
para.6	1986 s.38(3).
para.7	1986 s.38(4).
para.8	1986 s.38(6).
para.9	1986 s.38(5).

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para.10	1986 s.35(2).
para.11(1), (2)	1986 s.41(1)(a).
(3)	1986 s.41(3).
(4) to (7)	1986 s.41(1)(b) to (e).
(8)	1986 s.41(3).
Sch. 14	
para.1	1988 Sch.3 paras.1(1), (2), (6), 2(1), 4(1), 5(1), 6(1), 7(1), 8(1), 10(1), 11(3); 1978IA s.17(2)(a).
para.2	1988 Sch.3 para.1(1).
para.3	1988 Sch.3 para.1(3).
para.4	1988 Sch.3 para.1(4), (5), (12).
para.5	1988 Sch.3 para.1(7).
para.6	1988 Sch.3 para.1(8) to (10).
para.7	1988 Sch.3 para.1(11), (13).
para.8	1988 Sch.3 para.2(1).
para.9	1988 Sch.3 para.2(2), (3).
para.10	1988 Sch.3 para.2(4).
para.11	1988 Sch.3 para.2(5).
para.12	1988 Sch.3 para.2(6), (7).
para.13	1988 Sch.3 para.2(8), (9).
para.14	1988 Sch.3 para.2(10), (11).
para.15	1988 Sch.3 para.2(12).
para.16	1988 Sch.3 para.3(1) to (3).
para.17	1988 Sch.3 para.3(4).
para.18	1988 Sch.3 para.4(1) to (3), (5).
para.19	1988 Sch.3 para.4(4).
para.20	1988 Sch.3 para.5.
para.21	1988 Sch.3 para.6.
para.22	1988 Sch.3 para.7.
para.23	1988 Sch.3 para.8(1) to (3), (6).
para.24	1988 Sch.3 para.8(4), (5).
para.25	1988 Sch.3 para.8(7), (8).
para.26	1988 Sch.3 para.8(9).
para.27	1988 Sch.3 para.9; 1978IA s.17(2)(a).

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para.28	1988 Sch.3 para.10; 1993 Sch.19 para.142.
Sch. 15	
para.1	1986 s.24.
para.2	1986 s.24(a), (h); 1993 Sch.13 para.97.
para.3	1986 s.24(b), (f), (g).
para.4	1986 s.24(h).
para.5	1986 s.24(b), (g).
para.6	1986 s.24(d), (h).
para.7	1986 s.24(h).
para.8	1986 s.25.
para.9	1986 s.25(a), (h).
para.10	1986 s.25(b).
para.11	1986 s.25(b), (g).
para.12	1986 s.25(c), (h); 1993 Sch.19 para.98.
para.13	1986 s.25(h).
para.14	1993 Sch.19 para.99.
para.15	Drafting.
Sch. 16	
para.1	1986 Sch.3 paras.1, 2; S.I. 1994/2092.
para.2	1986 Sch.3 para.3; S.I. 1994/2092.
para.3	1986 Sch.3 para.3A; S.I. 1994/2092.
para.4	1986 Sch.3 para.4; drafting.
para.5	1986 Sch.3 para.16.
para.6	1986 Sch.3 para.6.
para.7	1986 Sch.3 para.6A; S.I. 1994/2092.
para.8	1986 Sch.3 para.7; Education (No.2) Act 1986 (Amendment) (No.2) Order 1993 (S.I. 1993/2827) art.2.
para.9	1986 Sch.3 para.8; Education (No.2) Act 1986 (Amendment) Order 1993 (S.I. 1993/2709) art.2.
para.10	1986 Sch.3 para.9; S.I. 1994/2092 art.8.
para.11	1986 Sch.3 para.13.
para.12	1986 Sch.3 para.14.
para.13	1986 Sch.3 para.11.

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para.14	1986 Sch.3 para.12; S.I. 1994/2092 art.9.
para.15	1986 Sch.3 para.15.
para.16	1986 Sch.3 para.17; S.I. 1994/2092 art.10.
para.17	Drafting.
para.18	1986 Sch.3 para.5.
Sch. 17	
para.1	1986 s.30(2).
para.2	1986 s.30(2)(a).
para.3	1986 s.30(2)(b).
para.4	1986 s.30(2)(c) to (e).
para.5	1986 s.30(2)(g).
para.6	1986 s.30(2)(h); 1988 s.51(9); Education (No.2) Act 1986 (Amendment) Order 1994 (S.I. 1994/692) art.2.
para.7	1986 s.30(2)(i); Education (No.2) Act 1986 (Amendment) (No.3) Order 1994 (S.I. 1994/2732).
para.8	1986 s.30(2)(j).
para.9	1986 s.30(2)(k); 1978IA s.17(2)(a).
para.10	1986 s.30(5); 1992(S) Sch.4 para.5.
Sch. 18	
para.1	1986 s.31(4)(a).
para.2	1986 s.31(4)(b), (9).
para.3	1986 s.31(3).
para.4	1986 s.31(4)(c), (d).
para.5	1986 s.31(5), (6).
Sch. 19	
para.1	1986 Sch.2 paras.4, 12(1).
para.2	1988 Sch.4 para.7.
para.3	1986 Sch.2 para.12(2).
para.4	1986 Sch.2 para.12(3).
para.5	1986 Sch.2 para.20(5).
para.6	1986 Sch.2 para.21.
para.7	1986 Sch.2 para.22.

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para.8	1986 Sch.2 para.23.
para.9	1986 Sch.2 para.25.
para.10	1986 Sch.2 para.24.
para.11	1986 Sch.2 para.26(1), (2).
para.12	1986 Sch.2 para.30(2).
para.13	Drafting.
para.14	1986 Sch.2 para.20(1).
para.15	1986 Sch.2 para.20(2), (3); Law Com. Rec. No. 9.
para.16	1986 Sch.2 paras.20(4), 30(3).
para.17	1986 Sch.2 para.28.
para.18	1988 Sch.4 para.1.
para.19	1988 Sch.4 para.4(1), (4), (5).
para.20	1988 Sch.4 para.4(2).
para.21	1988 Sch.4 para.4(3); Education (Application of Financing Schemes to Special Schools) Regulations 1992 (S.I. 1992/164).
para.22	1988 Sch.4 para.4(7).
para.23	1988 Sch.4 para.4(8).
para.24	1988 Sch.4 para.4(6).
para.25	1986 Sch.2 para.15.
para.26	1986 Sch.2 para.16; 1988 Sch.12 para.106.
para.27	1986 Sch.2 para.17.
para.28	1986 Sch.2 paras.13(1), 14.
para.29	1986 Sch.2 para.18; 1988 Sch.4 para.2(10).
Sch. 20	
para.1	1993 Sch.3 para.1(1) to (4); drafting.
paras.2 to 12	1993 Sch.3 paras.2 to 12.
Sch. 21	1993 Sch.4.
Sch. 22	
paras.1 to 13	1993 Sch.5 paras.1 to 13.
para.14	1986 s.62; 1988 Sch.12 para.37.
paras.15, 16	1993 Sch.5 paras.14, 15.
Sch. 23	



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paras.1 to 3	1993 Sch.6 paras.1 to 3.
para.4	1993 Sch.6 para.7
para.5	1993 Sch.6 paras.4, 6.
para.6	1993 Sch.6 paras.5, 6.
paras.7, 8	1993 Sch.6 paras.8, 9.
Sch. 24	1993 Sch.7.
Sch. 25	1993 Sch.8.
Sch. 26	1993 Sch.9.
Sch. 27	1993 Sch.10.
Sch. 28	
paras.1 to 14	1993 Sch.11, paras.1 to 14.
para.15	1993 s.261(1), (2), (5).
Sch. 29	
paras.1 to 16	1993 Sch.14 paras.1 to 16.
para.17	1993 Sch.14 para.17; 1993 Sch.15 para.6(2).
paras.18 to 22	1993 Sch.14 paras.18 to 22.
Sch. 30	
paras.1 to 5	1988 Sch.2 paras.2 to 6; 1993 Sch.15 para.4(6).
paras.6, 7	1988 Sch.2 para.7; 1993 Sch.15 para.4(6).
para.8	1988 Sch.2 para.8; 1993 Sch.15 para.4(6), Sch.19 para.141.
paras.9, 10	1988 Sch.2 para.10; 1993 Sch.15 para.4(6).
para.11	1988 Sch.2 para.11; 1993 s.249, Sch.15 para.4(6).
paras.12, 13	1988 Sch.2 paras.12, 13; 1993 Sch.15 para.4(6).
para.14	1988 Sch.2 para.13A; 1993 s.250, Sch.15 para.4(6).
paras.15, 16	1988 Sch.2 paras.14, 15; 1993 Sch.15 para.4(6).
para.17	1988 Sch.2 para.18; 1993 s.251(3), Sch.15 para.4(6).
paras.18, 19	1988 Sch.2 paras.16, 17; 1993 Sch.15 para.4(6).
Sch. 31	

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para.1	1944 Sch.5 para.12(1), (3); 1993 s.256(1).
para.2	1944 Sch.5 para.12(4); 1993 s.256(1).
para.3	1988 s.11(8).
para.4	1944 Sch.5 paras.2, 5; 1988 Sch.1 para.7; 1993 s.254(3), Sch.19 para.27.
paras.5, 6	1944 Sch.5 paras.7, 8.
para.7	1944 Sch.5 para.3; 1988 Sch.1 para.7; 1993 Sch.19 para.27.
paras.8, 9	1944 Sch.5 para.4; 1993 Sch.19 para.27.
para.10	1944 Sch.5 para.13; 1988 Sch.1 para.7; 1993 s.256(2).
para.11	1993 s.146.
para.12	1944 Sch.5 paras.10, 13(4); 1988 Sch.1 para.7.
para.13	1944 Sch.5 para.11; 1988 Sch.1 para.7.
para.14	1944 Sch.5 para.11.
para.15	1993 s.15.
Sch. 32	
para.1	1988 s.28(1).
para.2	1988 s.28(2).
para.3	1988 s.28(3), (4).
para.4	1988 s.28(5).
para.5	1988 ss.28(6), (7), 32(1).
para.6	1988 s.28(8).
para.7	1988 s.119(2), (3).
Sch. 33	
para.1	1980 Sch.2 para.1; 1993 Sch.16 para.2.
para.2	1980 Sch.2 para.2; 1993 Sch.16 para.3.
para.3	1980 Sch.2 para.3.
para.4	1980 Sch.2 para.4; Local Government and Housing Act 1989 (Commencement No.11 and Savings) Order 1991 (S.I. 1991/344) Sch. para.1.
para.5	1980 Sch.2 para.4A; 1993 Sch.16 para.4.
para.6	1993 s.267.

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para.7	1993 s.268.
para.8	Drafting.
paras.9 to 11	1980 Sch.2 paras.5 to 7.
para.12	1980 Sch.2 para.10.
para.13	1980 Sch.2 para.8.
para.14	1980 Sch.2 para.9
para.15	1980 Sch.2 para.11.
Sch. 34	
para.1	1944 Sch.6 para.1.
para.2	1944 Sch.6 para.2.
para.3	1944 Sch.6 paras.3, 3A; Judicial Pensions and Retirement Act 1993 (c.8) Sch.6 para.51.
para.4	1944 Sch.6 para.4.
para.5	1976 s.6(1).
Sch. 35	
paras.1 to 3	1980 Sch.4 paras.1 to 3.
para.4	1980 Sch.4 para.4; 1986 s.47(9).
paras.5, 6	1980 Sch.4 paras.5, 6.
Sch. 36	1993 Sch.17.
Schs. 37, 38	
Sch. 39	
para.1	
para.2	1993 s.303.
para.3	1944 s.2(1).
para.4	1944 s.120(1).
paras.5 to 9	
para.10(1)	
(2)	1980 s.1(4).
para.11	1986 Sch.5 para.1.
paras.12 to 16	
para.17(1)	
(2)	1993 s.274(3).
(3)	1993 s.274(5).
para.18	Law Com. Rec. No.12.
para.19	S.I. 1996/951 art.4.

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paras.20 to 23	
para.24	1993 Sch.20 para.1; S.I. 1993/3106 Sch.2 paras.8, 9.
para.25	1993 Sch.20 para.1; S.I. 1993/3106 Sch.2 para.10.
para.26	S.I. 1993/3106 para.11.
para.27	S.I. 1993/3106 Sch.2 para.14.
para.28	1993 Sch.20 para.5.
para.29	1993 Sch.20 para.6.
para.30	S.I. 1993/1975 Sch.2 para.4(2).
para.31	1993 Sch.20 para.2; S.I. 1994/507 Sch.3 para.10.
para.32	S.I. 1994/507 Sch.3 para.11.
para.33	S.I. 1994/507 Sch.3 para.12.
para.34	S.I. 1994/2038 Sch.4 paras.2(7), 4(3).
para.35	S.I. 1994/507 Sch.3 para.5.
paras.36 to 42	
para.43	S.I. 1993/507 Sch.3 para.7.
para.44	1993 Sch.20 para.4.
para.45	1946 s.13(1).
para.46	
para.47	1944 s.120(5).
para.48	
para.49	1973 Sch.1 para.3.
para.50	
Sch. 40	

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