



Education Act 1996

1996 CHAPTER 56

PART II **E+W**

SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

CHAPTER VII **E+W**

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. **E+W**

- (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

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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.
- (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.** E+W

- (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 ^{M1}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

M1 1992 c. 13.

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169 **Approval or rejection by Secretary of State of proposals under section 167.** **E**
+W

- (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.
- (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.** **E**
+W

- (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.

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171 Duty to implement proposals. E+W

- (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.
- (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. E+W

- (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. E+W

- (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 ^{M2}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);

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- (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 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

M2 1944 c. 31.

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

- (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. **E+W**

- (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—

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- (i) a further education funding council, or
- (ii) the Secretary of State,

for the establishment under section 16 of the ^{M3}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—
- (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

M3 1992 c. 13.

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