



# Education Act 1996

## 1996 CHAPTER 56

### PART V

#### THE CURRICULUM

#### 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—

*Status: Point in time view as at 20/11/1998.*

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- (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
  - (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

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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—
  - (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>F1</sup> . . .

<sup>F1</sup> . . .

#### Textual Amendments

**F1** 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.1**

### 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.

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- (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 [<sup>F2</sup>as specified in the order] 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,
 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 [<sup>F2</sup>as specified in the order], 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.

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**Textual Amendments**

**F2** Words in s. 356(4)(8) substituted (1.10.1998) by 1998 c. 31, s. 140(1), **Sch. 30 para. 87(a)** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

**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.

<sup>F3</sup>(2) .....

**Textual Amendments**

**F3** S. 357(2) repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 88, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

*The School Curriculum and Assessment Authority*

<sup>F4</sup>**358** .....

**Textual Amendments**

**F4** 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>F5</sup>**359** .....

**Textual Amendments**

**F5** 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>F6</sup>**360** .....

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**Textual Amendments**

**F6** 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**

**F7** **361** .....

**Textual Amendments**

**F7** 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,
  - (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>F8</sup>the Qualifications and Curriculum Authority], and
  - (b) in relation to Wales, [<sup>F8</sup>the Qualifications, Curriculum and Assessment Authority for Wales].

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### Textual Amendments

- F8** 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.
- (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—

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- (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 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).



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- (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.

*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.

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- (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>M1</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).
- (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>F9</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

**F9** 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

**M1** 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.

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*General functions of LEA, governing body and head teacher in relation to curriculum*

<sup>F10</sup>**370** .....

**Textual Amendments**

**F10** S. 370 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 91, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

<sup>F11</sup>**371** .....

**Textual Amendments**

**F11** S. 371 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 91, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

<sup>F12</sup>**372** .....

**Textual Amendments**

**F12** S. 372 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 91, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

<sup>F13</sup>**373** .....

**Textual Amendments**

**F13** S. 373 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 91, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

**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).

**Status:**

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**Changes to legislation:**

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