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## SCHEDULES

### SCHEDULE 39

#### 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legislation made or other thing done, or having effect as if made or done, under or for the purposes of any provision repealed and re-enacted by this Act shall, if in force or effective immediately before the commencement of the corresponding provision of this Act, have effect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as including, in relation to times, circumstances or purposes in relation to which the corresponding provision repealed by this Act had effect, a reference—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- (a) to any provision repealed and re-enacted by this Act, or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>M1</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)**

**C1** 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**

**M1** 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.
- <sup>F1</sup>(3) . . . . .
- (4) In this paragraph “the pre-1993 Act enactments” means the enactments specified in Part I of Schedule 21 to the <sup>M2</sup>Education Act 1993 (repeals).

**Textual Amendments**

**F1** Sch. 39 Pt. I para. 2(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 189(f) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2, Sch. 1

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

**C2** 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))

**Marginal Citations**

**M2** 1993 c. 35.

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### *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>M3</sup>Education Act 1944 and any order made under the Ministers of the <sup>M4</sup>Crown Act 1975, it shall continue to do so despite the repeal of that provision by this Act.

#### **Marginal Citations**

**M3** 1944 c. 31.

**M4** 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>M5</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**

**M5** 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 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.

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- (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.

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