



# Education Act 1997

## 1997 CHAPTER 44

**E+W**

An Act to amend the law relating to education in schools and further education in England and Wales; to make provision for the supervision of the awarding of external academic and vocational qualifications in England, Wales and Northern Ireland; and for connected purposes. [21st March 1997]

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:—

### Extent Information

**E1** For the extent of this Act, see s. 58(5)-(7); amendments and repeals of enactments extending to S. and N.I. are co-extensive with those enactments.

### Modifications etc. (not altering text)

**C1** Act: functions transferred (1.7.1999) in relation to specified provisions by [S.I. 1999/672, art. 2, Sch.1](#) Act applied (E.W.) (1.6.2001) by [S.I. 2001/1507, reg. 2, Sch. 2 para. 2](#)

## PART I **E+W**

### ASSISTED PLACES SCHEME

**F1** ..... **E+W**

### Textual Amendments

**F1** [S. 1](#) repealed (1.9.1997) by [1997 c. 59, ss. 6\(3\), 7\(3\)\(a\), Sch. Pt.I](#) (with s. 1(3))

**Status:** Point in time view as at 02/09/2002. This version of this Act contains provisions that are not valid for this point in time.

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## PART II U.K.

### SCHOOL DISCIPLINE

#### *Responsibility for discipline*

F2 ..... E+W

#### Textual Amendments

**F2** Ss. 2-3 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

F3 ..... E+W

#### Textual Amendments

**F3** Ss. 2-3 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(a), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

#### *Power to restrain pupils*

### 4 Power of members of staff to restrain pupils. U.K.

After section 550 of the <sup>M1</sup>Education Act 1996 there shall be inserted—

“ *Power to restrain pupils*

#### **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;

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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—

“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.”

#### Marginal Citations

M1 1996 c. 56.

### *Detention*

## 5 **Detention outside school hours lawful despite absence of parental consent.** **U.K.**

After the section 550A inserted in the <sup>M2</sup>Education Act 1996 by section 4 of this Act there shall be inserted—

### *“ Detention*

#### **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,

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- 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
  - (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.”

**Commencement Information**

**II** S. 5 wholly in force at 1.9.1998 see s. 58(3) and S.I. 1998/386, arts. 2(4), 4, Sch. 1 Pt. IV, **Sch. 2 Pt. II** (subject to transitional provisions in **Sch. 2 Pt. II**)

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**Marginal Citations**

**M2** 1996 c. 56.

*Exclusion of pupils from school*

F46 ..... **E+W**

**Textual Amendments**

**F4** Ss. 6-8 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**

F57 ..... **E+W**

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**Textual Amendments**

**F5** Ss. 6-8 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**

**F6**

**E+W**

**Textual Amendments**

**F6** Ss. 6-8 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**

*LEA plans*

**9 LEA plans relating to children with behavioural difficulties. U.K.**

After section 527 of the Education Act 1996 there shall be inserted—

*“ Plans relating to children with behavioural difficulties*

**527A 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;
  - (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.

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- (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.”

**PART III U.K.**

SCHOOL ADMISSIONS

**CHAPTER I U.K.**

COUNTY AND VOLUNTARY SCHOOLS

*Partially-selective schools*

**F7**10 ..... **E+W**

**Textual Amendments**

**F7** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

*Children permanently excluded from two or more schools*

**F8**11 ..... **E+W**

**Textual Amendments**

**F8** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

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**F<sup>9</sup>12** ..... **E+W**

**Textual Amendments**

**F9** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

PROSPECTIVE

*Home-school partnership documents*

**F<sup>10</sup>13** ..... **E+W**

**Textual Amendments**

**F10** Pt. III (ss. 10-14) repealed (1.2.1999 to the extent that it relates to the repeal of s. 13 of the amended Act) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(3), **Sch.1 Pt. III**

**CHAPTER II** **U.K.**

GRANT-MAINTAINED SCHOOLS

**F<sup>11</sup>14** ..... **E+W**

**Textual Amendments**

**F11** Pt. III (ss. 10-14) repealed (1.9.1999) by 1998 c. 31, s.140(1)(3), Sch. 30 para. 208(c), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

**PART IV** **U.K.**

BASELINE ASSESSMENTS AND PUPILS’ PERFORMANCE

**F<sup>12</sup>F<sup>12</sup>** **CHAPTER I** **E+W**

**Textual Amendments**

**F12** Pt. IV Ch. I repealed (2.9.2002 except in relation to W.) by Education Act 2002 (c. 32), ss. 204, 215(2), 216, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**

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## CHAPTER II U.K.

### PUPILS' PERFORMANCE

#### 19 **School performance targets.** E+W

(1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for requiring the governing bodies of maintained schools to secure that annual targets are set in respect of the performance of pupils—

- (a) in public examinations or in assessments for the purposes of the National Curriculum, in the case of pupils of compulsory school age; or
- (b) in public examinations or in connection with the attainment of other external qualifications, in the case of pupils of any age over that age.

(2) Regulations under this section may require—

- (a) such targets, and
- (b) the past performance of pupils in the particular examinations or assessments, or in connection with the attainment of the particular qualifications, to which such targets relate,

to be published in such manner as is specified in the regulations.

[<sup>F19</sup>(3) In this section “maintained school” means—

- (a) a community, foundation or voluntary school, or
- (b) a community or foundation special school (other than one established in a hospital).]

#### **Textual Amendments**

**F19** S. 19(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.213** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

#### 20 **Provision of information about individual pupils' performance.** E+W

After section 537 of the <sup>M3</sup>Education Act 1996 there shall be inserted—

##### **“537A 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,



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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.
- (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.”

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**Marginal Citations**

M3 1996 c. 56.

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## PART V U.K.

### SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

#### CHAPTER I E+W+N.I.

##### THE QUALIFICATIONS AND CURRICULUM AUTHORITY

###### *Establishment of the Authority*

#### 21 **The Qualifications and Curriculum Authority.** E+W+N.I.

- (1) There shall be a body corporate known as the Qualifications and Curriculum Authority.
- (2) The Authority shall consist of not less than 8 nor more than 13 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
  - (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority—
  - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of education, or to have held, and to have shown capacity in, any position carrying responsibility for the provision of education;
  - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of training or to have held, and to have shown capacity in, any position carrying responsibility for the provision of training; and
  - (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.
- (5) Schedule 4 has effect in relation to the Authority.

###### *Functions of the Authority*

#### 22 **General function of Authority to advance education and training.** E+W+N.I.

- (1) The functions conferred on the Qualifications and Curriculum Authority by this Part shall be exercised by the Authority for the purpose of advancing education and training in England and (so far as such functions are exercisable there) in Wales and in Northern Ireland.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

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## 23 Functions of the Authority in relation to curriculum and assessment. **E+W**

- (1) The Qualifications and Curriculum Authority shall have the functions set out in subsection (2) with respect to pupils of compulsory school age at maintained schools in England.
- (2) The functions are—
  - (a) to keep under review all aspects of the curriculum for such schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; and
  - (f) so far as relevant to such schools, the functions conferred by section 24(2) (h) and (i).
- (3) The Authority shall have, in relation to England, the function of developing learning goals and related materials for children who are [<sup>F20</sup>under compulsory school age.]
- (4) The Authority shall have, in relation to England, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
  - (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
  - (b) any other function which may be conferred on the Authority by the Secretary of State.
- (5) In this section—
  - “assessment” includes examination and test; and
  - “maintained school” means—
    - (a) [<sup>F21</sup>any community, foundation or voluntary school, and
    - (b) any community or foundation special school.]

### Textual Amendments

**F20** Words in s. 23(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 214(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

**F21** S. 23(5): in definition of "maintained school" paras. (a)(b) substituted (1.9.1999) for paras. (a)-(c) by 1998 c. 31, s. 140(1), **Sch. 30 para. 214** (b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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## 24 **Functions of the Authority in relation to external vocational and academic qualifications.** **E+W+N.I.**

- (1) The Qualifications and Curriculum Authority shall have, in relation to England, the functions set out in subsection (2) with respect to external qualifications.
- (2) The functions are—
  - (a) to keep under review all aspects of such qualifications;
  - (b) to advise the Secretary of State on such matters concerned with such qualifications as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with such qualifications;
  - (d) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
  - (e) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
  - (f) to develop and publish criteria for the accreditation of such qualifications;
  - (g) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
  - [<sup>F22</sup>(gg) to make arrangements (whether or not with others) for the development, setting or administration of tests or tasks which fall to be undertaken with a view to obtaining such qualifications and which fall within a prescribed description.]
- (3) Except to the extent that, by virtue of an order under section 30(1), they are for the time being exercisable with respect to such qualifications solely by the Qualifications, Curriculum and Assessment Authority for Wales, the functions set out in subsection (2)(a) to [<sup>F23</sup>(gg)] shall be so exercisable in relation to Wales by the Qualifications and Curriculum Authority, and shall be so exercisable either—
  - (a) solely by the Authority, or
  - (b) if an order under section 30(1) so provides, by the Authority concurrently with the Qualifications, Curriculum and Assessment Authority for Wales.
- (4) The functions set out in subsection (2)(a) to (g) shall also be exercisable by the Qualifications and Curriculum Authority in relation to Northern Ireland but only with respect to National Vocational Qualifications.
- (5) Subsection (2)(a) to (e) do not apply to qualifications awarded or authenticated by institutions within the higher education sector other than those which have been submitted for accreditation under subsection (2)(g).
- (6) In this section “external qualification” means—
  - (a) any academic or vocational qualification authenticated or awarded by an outside person, except an academic qualification at first degree level or any comparable or higher level; or
  - (b) (whether within paragraph (a) or not) any National Vocational Qualification.
- (7) For the purposes of this section—
  - (a) a qualification is awarded by an outside person if the course of education or training leading to the qualification is provided by an institution or an

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employer and it is awarded by a person other than the institution or employer or a member of its or his staff; and

- (b) a qualification is authenticated by an outside person if it is awarded by an institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.

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#### Textual Amendments

- F22** S. 24(2)(gg) substituted (1.4.2001 for W. for specified purposes, 1.4.2002 for E. and otherwise prosp.) for s. 24(2)(h)(i) by 2000 c. 21, ss. 103(2), 154; S.I. 2001/1274, art. 2, Sch. Pt. I; S.I. 2002/279, art. 2(2)(a) (with art. 3)
- F23** Word in s. 24(3) substituted (1.4.2001 for W. for specified purposes, 1.4.2002 for E. and otherwise prosp.) by 2000 c. 21, ss. 103(3), 154; S.I. 2001/1274, art. 2, Sch. Pt. I; S.I. 2002/279, art. 2(2)(a) (with art. 3)

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

- C4** S. 24(2)(gg): transfer of functions (31.12.2001) by S.I. 2001/3907, art. 3(1)

## 25 Other functions of the Authority. **E+W**

- (1) The Qualifications and Curriculum Authority shall advise the Secretary of State on such matters connected with the provision of education or training in England as the Secretary of State may specify by order.
- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.
- [<sup>F24</sup>(5) The Authority may supply any person designated by the Secretary of State with such information as the Authority thinks fit about any matter in relation to which it has a function.]

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#### Textual Amendments

- F24** S. 25(5) inserted (28.7.2000 for specified purposes and 1.9.2000 insofar as it relates to England and otherwise prosp.) by 2000 c. 21, ss. 149, 154, Sch. 9 para. 69; S.I. 2000/2114, art. 2(3), Sch. Pt. III

## 26 Supplementary provisions relating to discharge by Authority of their functions. **E+W+N.I.**

- (1) In carrying out their functions under this Part the Qualifications and Curriculum Authority shall—
- (a) comply with any directions given by the Secretary of State; and
- (b) act in accordance with any plans approved by him; and

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**Changes to legislation:** Education Act 1997 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) so far as relevant, have regard to—
- (i) the requirements of section 351 of the <sup>M4</sup>Education Act 1996 (general duties in respect of curriculum),
  - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
  - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by Her Majesty’s Chief Inspector of Schools in England or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of their functions under this Part the Authority accredit or approve any qualification, they may do so on such terms (including terms as to payment) and subject to such conditions as they may determine.
- (4) Those conditions may in particular include conditions—
- (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
  - (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation or approval.
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” means—
- (a) children with special educational needs (as defined in section 312 of the <sup>M5</sup>Education Act 1996); or
  - (b) persons (other than children as so defined) who—
    - (i) have a significantly greater difficulty in learning than the majority of persons of their age, or
    - (ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

#### Marginal Citations

**M4** 1996 c. 56.

**M5** 1996 c. 56.

VALID FROM 01/10/2002

#### <sup>F25</sup>26A Power of Authority to give directions **E+W+N.I.**

- (1) If it appears to the Qualifications and Curriculum Authority—
- (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification

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- accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
- (b) that the failure—
- (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
  - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,
- the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of the Qualifications and Curriculum Authority—
- (a) in England and Wales, by a mandatory order, or
  - (b) in Northern Ireland, by an order of mandamus.]

#### Textual Amendments

**F25** S. 26A inserted (1.10.2002) by [Education Act 2002 \(c. 32\)](#), s. 189, [Sch. 17 para. 4](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 2](#)

## CHAPTER II **U.K.**

### THE QUALIFICATIONS, CURRICULUM AND ASSESSMENT AUTHORITY FOR WALES

#### *Renaming of the Authority*

#### 27 **The Qualifications, Curriculum and Assessment Authority for Wales.** **E+W**

- (1) The body corporate known as Awdurdod Cwricwlwm ac Asesu Cymru shall continue in existence but, as from the commencement of this section, shall be known as Awdurdod Cymwysterau, Cwricwlwm ac Asesu Cymru or the Qualifications, Curriculum and Assessment Authority for Wales.
- (2) The Authority shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
- (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State—
- (a) shall include among the members of the Authority—
    - (i) persons who appear to him to have relevant knowledge or experience in education, and

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- (ii) persons who appear to him to have relevant knowledge or experience in training; and
  - (b) may include among those members persons who appear to him to have experience of occupations, trades or professions having an interest in education or training.
- (5) Schedule 5 to this Act, which replaces Schedule 30 to the Education Act 1996, has effect in relation to the Authority.

### *Functions of the Authority*

## **28 General function of Authority to advance education and training. E+W**

- (1) The functions conferred on the Qualifications, Curriculum and Assessment Authority for Wales by this Part shall be exercised by the Authority for the purpose of advancing education and training in Wales.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

## **29 Functions of the Authority in relation to curriculum and assessment. E+W**

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall have the functions set out in subsection (2) with respect to pupils of compulsory school age at maintained schools in Wales.
- (2) The functions are—
  - (a) to keep under review all aspects of the curriculum for such schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; and
  - (f) so far as relevant to such schools, the functions conferred by section 30(3).
- (3) The Authority shall have, in relation to Wales, the function of developing learning goals and related materials for children who are [<sup>F26</sup>under compulsory school age.]
- (4) The Authority shall have, in relation to Wales, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
  - (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and



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- (b) any other function which may be conferred on the Authority by the Secretary of State.
- (5) In this section “assessment” and “maintained school” have the same meaning as in section 23.

#### Textual Amendments

**F26** Words in s. 29(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 215** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

### 30 Functions of the Authority in relation to external vocational and academic qualifications. **E+W**

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall have, in relation to Wales, such functions with respect to external qualifications as are for the time being conferred on the Authority by an order made by the Secretary of State under this subsection [<sup>F27</sup>or by subsection (3)].
- (2) The functions with respect to external qualifications which may be conferred on the Authority by an order under subsection (1) are functions falling within paragraphs (a) to [<sup>F28</sup>(gg)] of section 24(2), and the functions in question may be so conferred so as to be exercisable either—
- (a) solely by the Authority, or
- (b) by the Authority concurrently with the Qualifications and Curriculum Authority.
- [<sup>F29</sup>(3) The Authority shall have, in relation to Wales, the following functions with respect to external qualifications, namely—
- (a) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
- (b) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.]
- (4) Where an order under subsection (1) is made so as to come into force at any time after the day on which that subsection comes into force, the order may include provisions—
- (a) for the transfer of staff, and
- (b) for the transfer of property, rights and liabilities held, enjoyed or incurred in connection with any function which, as a result of the order, is to be exercisable by the Authority (whether solely or concurrently).
- (5) In this section “external qualification” has the same meaning as in section 24.

#### Textual Amendments

**F27** Words in s. 30(1) repealed (in force for specified purposes on 28.7.2000 and for W. on 1.4.2001 and otherwise *prosp.*) by 2000 c. 21, ss. 103(4)(a), 153, 154, **Sch. 11**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

**F28** Word in s. 30(2) substituted (1.4.2001 for W. and otherwise *prosp.*) by 2000 c. 21, ss. 103(4)(b), 154; S.I. 2001/1274, art. 2, **Sch. Pt. I**

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**F29** S. 30(3) repealed (1.4.2001 for W. and otherwise *prosp.*) by 2000 c. 21, ss. 103(4)(c), 153, 154, **Sch. 11**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

### 31 Other functions of the Authority. **E+W**

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall advise the Secretary of State on such matters connected with the provision of education or training in Wales as the Secretary of State may specify by order.
- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.
- [<sup>F30</sup>(5) The Authority may supply any person designated by the National Assembly for Wales with such information as the Authority thinks fit about any matter in relation to which it has a function.]

#### Textual Amendments

**F30** S. 31(5) inserted (in force for specified purposes on 28.7.2000 and 1.1.2001 for W. and 1.9.2001 for E.) by 2000 c. 21, s. 149, **Sch. 9 para. 70**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2, **Sch. Pt. III**

### 32 Supplementary provisions relating to discharge by Authority of their functions. **E+W**

- (1) In carrying out their functions under this Part the Qualifications, Curriculum and Assessment Authority for Wales shall—
  - (a) comply with any directions given by the Secretary of State; and
  - (b) act in accordance with any plans approved by him; and
  - (c) so far as relevant, have regard to—
    - (i) the requirements of section 351 of the <sup>M6</sup>Education Act 1996 (general duties in respect of curriculum),
    - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
    - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by [<sup>F31</sup>Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] or by any body designated by the Secretary of State for the purposes of this section.

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- (3) Where in carrying out any of their functions under this Part the Authority accredit or approve any qualification, they may do so on such terms (including terms as to payment) and subject to such conditions as they may determine.
- (4) Those conditions may in particular include conditions—
  - (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
  - (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation or approval.
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” has the same meaning as in section 26.

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**Textual Amendments**

**F31** Words in s. 32(2) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, Sch.

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**Marginal Citations**

**M6** 1996 c. 56.

VALID FROM 19/12/2002

**[<sup>F32</sup>32A Power of Authority to give directions E+W**

- (1) If it appears to the Qualifications, Curriculum and Assessment Authority for Wales—
  - (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
  - (b) that the failure—
    - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
    - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.

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- (3) Any direction under this section is enforceable, on the application of the Qualifications, Curriculum and Assessment Authority for Wales, by a mandatory order.]

#### Textual Amendments

- F32** S. 32A inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, Sch. 17 para. 8 (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

### CHAPTER III **E+W+N.I.**

#### PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

##### *Dissolution of existing bodies*

#### **33** **Dissolution of existing bodies.** **E+W**

The National Council for Vocational Qualifications and the School Curriculum and Assessment Authority are hereby dissolved.

##### *Transfer of property and staff*

#### **34** **Transfer of property.** **E+W+N.I.**

- (1) The Secretary of State may by order provide for the transfer to the Qualifications and Curriculum Authority, or (as the case may be) to the Qualifications, Curriculum and Assessment Authority for Wales, of—
  - (a) such of the land or other property of the National Council for Vocational Qualifications or the School Curriculum and Assessment Authority, and
  - (b) such of the rights and liabilities of either of those bodies (other than rights and liabilities arising under contracts of employment),
 as, in his opinion, need to be transferred to enable the transferee Authority to carry out their functions properly.
- (2) No order under subsection (1) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (3) Any order under subsection (1) made before the day on which section 21 comes into force shall come into force on that day.
- (4) Where, immediately after the end of the period within which an order under subsection (1) may be made, any property, rights or liabilities remain vested in the National Council for Vocational Qualifications or the School Curriculum and Assessment Authority, they shall forthwith vest in the Secretary of State.
- (5) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (2) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

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### 35 **Transfer of staff.** **E+W+N.I.**

- (1) This section applies to any person who—
  - (a) is employed by the National Council for Vocational Qualifications (“the NCVQ”) or the School Curriculum and Assessment Authority (“the SCAA”) immediately before section 21 comes into force, and
  - (b) is designated as respects the Qualifications and Curriculum Authority, or (as the case may be) the Qualifications, Curriculum and Assessment Authority for Wales, by order of the Secretary of State;and in this section “the relevant Authority” means, in relation to any such person, the Authority as respects which he is designated by the order.
- (2) A contract of employment between a person to whom this section applies and the NCVQ or the SCAA shall have effect, from the day on which the order under subsection (1)(b) comes into force, as if originally made between him and the relevant Authority.
- (3) Without prejudice to subsection (2)—
  - (a) all the rights, powers, duties and liabilities of the NCVQ or the SCAA under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the relevant Authority on the day on which the order under subsection (1)(b) comes into force, and
  - (b) anything done before that day by or in relation to the NCVQ or the SCAA in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the relevant Authority.
- (4) Subsections (2) and (3) are without prejudice to any right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change shall not be taken to have occurred by reason only of the change in employer effected by subsection (2).
- (5) In subsection (4) the reference to an employee’s working conditions includes a reference to any rights (whether accrued or contingent) under any pension or superannuation scheme of which he was a member by virtue of his employment with the NCVQ or the SCAA (as the case may be).
- (6) An order under subsection (1)(b) may designate a person either individually or as falling within a class or description of employee.
- (7) No order under subsection (1)(b) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (8) Any order under subsection (1)(b) made before the day on which section 21 comes into force shall come into force on that day.
- (9) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (7) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

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### *Levy on bodies awarding accredited qualifications*

#### **36 Levy on bodies awarding qualifications accredited by relevant Authority.** E+W +N.I.

- (1) The Secretary of State may by regulations provide for a levy to be payable to the relevant Authority by persons who award vocational qualifications accredited by that Authority.
- (2) Regulations under this section shall—
  - (a) specify the rate of the levy or the method by which it is to be calculated (and, without prejudice to the generality of section 54(3), may make different provision in relation to different cases);
  - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy;
  - (c) provide for the relevant Authority to withdraw their accreditation of a qualification in cases of non-payment of the levy.
- (3) Any sums received by the relevant Authority in respect of the levy shall be applied by them in giving such financial assistance to other bodies as the Secretary of State may specify with a view to assisting that Authority to secure the development and improvement of standards in relation to vocational qualifications.
- (4) In this section “the relevant Authority” means—
  - (a) the Qualifications and Curriculum Authority in the case of a qualification accredited by that Authority; and
  - (b) the Qualifications, Curriculum and Assessment Authority for Wales in the case of a qualification accredited by that Authority.

## **CHAPTER IV** U.K.

### CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

#### **37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.** E+W

- <sup>F33</sup>(1) .....
- <sup>F33</sup>(2) .....
- <sup>F33</sup>(3) .....
- <sup>F33</sup>(4) .....

- (5) Sections 400 and 401 of the <sup>M7</sup>Education Act 1996 (courses leading to external qualifications provided at schools and further education institutions) <sup>F34</sup>... shall cease to have effect.

#### **Textual Amendments**

**F33** S. 37(1)-(4) repealed (in force for specified purposes on 28.7.2000 and 1.9.2001 for E. and W.) by 2000 c. 21, ss. 103(5), 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. III**; S.I. 2001/1274, art. 2, **Sch. Pt. II**

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**F34** Words in s. 37(5) repealed (in force for specified purposes on 28.7.2000 and 1.9.2001 for E. and W.) by 2000 c. 21, ss. 103(5), 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. III**; S.I. 2001/1274, art. 2, **Sch. Pt. II**

**Commencement Information**

**I4** S. 37 wholly in force; s. 37 not in force at Royal Assent see s. 58(3); s. 37(1)-(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, **Sch. 1**; s. 37(5) in force at 1.9.2001 by S.I. 2001/1215, art. 2

**Marginal Citations**

**M7** 1996 c. 56.

**PART VI U.K.**

INSPECTION OF LOCAL EDUCATION AUTHORITIES AND SCHOOL INSPECTIONS

**CHAPTER I U.K.**

INSPECTION OF LOCAL EDUCATION AUTHORITIES

**38 Inspection of LEAs. E+W**

- (1) The Chief Inspector—
  - (a) may, and
  - (b) if requested to do so by the Secretary of State, shall, arrange for any local education authority to be inspected under this section.
- (2) An inspection of a local education authority under this section shall consist of a review of the way in which the authority are performing any function of theirs (of whatever nature) which relates to the provision of education—
  - (a) for persons of compulsory school age (whether at school or otherwise), or
  - (b) for persons of any age above or below that age who are registered as pupils at schools maintained by the authority.
- (3) A request by the Secretary of State under this section may relate to one or more local education authorities, and shall specify both—
  - (a) the local education authority or authorities concerned, and
  - (b) the functions of theirs to which the inspection is to relate.
- (4) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (3).
- (5) Any inspection under this section shall be conducted—
  - (a) by one of Her Majesty’s Inspectors of Schools in England or (as the case may require) Wales, or
  - (b) by any additional inspector authorised under paragraph 2 of Schedule 1 to the <sup>M8</sup>School Inspections Act 1996;but he may be assisted by such other persons (whether or not members of the Chief Inspector’s staff) as the Chief Inspector thinks fit.

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- (6) For the purposes of this section a local education authority shall provide the Chief Inspector with such information as may be prescribed, and shall do so in such form and—
- (a) within such period following a request made by the Chief Inspector in any prescribed circumstances, or
  - (b) at such other times,
- as regulations may provide.
- (7) In this section and sections 39 to 41 “the Chief Inspector” means—
- (a) in relation to a local education authority in England, Her Majesty’s Chief Inspector of Schools in England; and
  - (b) in relation to a local education authority in Wales, [<sup>F35</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru];
- and in those sections references to “the inspector” in relation to an inspection under this section are references to the person conducting the inspection.

#### Textual Amendments

**F35** Words in s. 38(7)(a) substituted (1.1.2001) by 2000 c. 21, s. 73(a); S.I. 2000/3230, art. 2, Sch.

#### Marginal Citations

**M8** 1996 c. 57.

### 39 Reports of inspections under s. 38 and action plan by LEA. **E+W**

- (1) Where an inspection under section 38 has been completed, the inspector shall make a written report on the matters reviewed in the course of the inspection, and shall send copies of the report to—
- (a) any local education authority to which the inspection relates; and
  - (b) the Secretary of State.
- (2) Where a local education authority receive a copy of a report under this section, they shall prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (3) The authority shall publish—
- (a) the report, and
  - (b) the statement prepared under subsection (2),
- within such period, and in such manner, as may be prescribed.
- (4) The Chief Inspector may arrange for any report under this section to be published in such manner as he considers appropriate [<sup>F36</sup>; and section 42A(2) to (4) of the School Inspections Act 1996 shall apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in section 42A(2).]



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#### Textual Amendments

**F36** Words in s. 39(4) inserted (1.10.1998) by 1998 c. 31, s. 134(3) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch.1 Pt. I

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

**C5** S. 39: 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. 3(j)

### 40 Inspector’s rights of entry etc. **E+W**

- (1) The inspector in the case of any inspection under section 38, and any person assisting him, shall have at all reasonable times—
  - (a) a right of entry to the premises of any local education authority to which the inspection relates, and
  - (b) a right to inspect, and take copies of, any records kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the exercise of his functions;and section 42 of the <sup>M9</sup>School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.
- (2) Without prejudice to subsection (1) above, a local education authority to which an inspection under section 38 relates shall give the inspector, and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give.
- (3) In the case of any inspection under section 38, subsection (1) above shall apply in relation to any school maintained by any local education authority to which the inspection relates 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 inspector, and any person assisting him, 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.
- (4) In this section “document” and “records” each include information recorded in any form.

#### Marginal Citations

**M9** 1996 c. 57.

### 41 Inspections involving collaboration of Audit Commission. **E+W**

- (1) If requested to do so by the Chief Inspector, the Audit Commission may assist with any inspection under section 38; and subsections (2) to (5) below have effect where the Commission assist with any such inspection.

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- (2) Section 40 shall apply to the Commission and to any authorised person as it applies to the inspector.
- (3) Any information obtained by virtue of section 40 by a person falling within one of the categories mentioned in subsection (4) may be disclosed for the purposes of the inspection, or the preparation or making of the report under section 39(1), to a person falling within the other category.
- (4) Those categories are—
- (a) the Commission and any authorised person; and
  - (b) the inspector and any person assisting him.
- (5) Any report prepared under section 39(1) shall be prepared by the inspector acting in conjunction with the Commission.
- (6) The Commission shall not provide assistance under this section unless, before it does so, the Chief Inspector has agreed to pay the Commission an amount equal to the full costs incurred by the Commission in providing the assistance.
- (7) In this section—
- “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales; and
- “authorised person” means a person authorised by the Audit Commission for the purposes of this section.

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

C6 S. 41 restricted (11.9.1998) by 1998 c. 18, ss. 1(5), 55(2), Sch. 1 para. 8(2)(e)

**CHAPTER II** U.K.

SCHOOL INSPECTIONS

**42** **Miscellaneous amendments relating to school inspections.** E+W

Schedule 6 (which contains amendments relating to inspections under the <sup>M10</sup>School Inspections Act 1996 <sup>F37</sup>. . .) shall have effect.

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**Textual Amendments**

F37 Words in s. 42 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.216, Sch. 31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch.1 Pt. I

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**Marginal Citations**

M10 1996 c. 57.

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## PART VII U.K.

### CAREERS EDUCATION AND GUIDANCE

#### 43 Provision of careers education in schools. E+W

- (1) All registered pupils at a school to which this section applies must be provided, during the relevant phase of their education, with a programme of careers education.
- (2) This section applies to—
  - <sup>F38</sup>(a) community, foundation and voluntary schools;]
  - <sup>F39</sup>(b) .....
  - <sup>F40</sup>(c) community or foundation special schools (other than those established in hospitals);]
  - (d) city technology colleges <sup>F41</sup>, city colleges for the technology of the arts and <sup>F42</sup>Academies]; and
  - (e) pupil referral units.
- (3) It is the duty of each of the following to secure that subsection (1) is complied with, namely—
  - (a) in the case of a school falling within subsection (2)(a) to (c), the governing body of the school and its head teacher,
  - (b) in the case of a school falling within subsection (2)(d), the proprietors of the school and its head teacher, and
  - (c) in the case of a pupil referral unit, the local education authority maintaining the unit and the teacher in charge of it.
- (4) Each of sections 496 and 497 of the <sup>M11</sup>Education Act 1996 (default powers of Secretary of State) shall, in relation to the duty imposed by subsection (3) above, have effect as if any reference to a body to which that section applies included a reference to the proprietors of a school falling within subsection (2)(d) above.
- (5) For the purposes of this section the relevant phase of a pupil's education is the period—
  - (a) beginning at the same time as the school year in which the majority of pupils in his class attain the age of 14; and
  - (b) ending with the expiry of the school year in which the majority of pupils in his class attain the age of 16.
- (6) In this section—

“career” includes the undertaking of any training, employment or occupation or any course of education;

“careers education” means education designed to prepare persons for taking decisions about their careers and to help them implement such decisions;

“class”, in relation to a particular pupil, means—
  - (a) the teaching group in which he is regularly taught, or
  - (b) if he is taught in different groups for different subjects, such one of those groups as is designated by the head teacher of the school or, in the case of a pupil at a pupil referral unit, by the teacher in charge of the unit.

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#### Textual Amendments

- F38** S. 43(2)(a) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 217(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F39** S. 43(2)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 217(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F40** S. 43(2)(c) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 217(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F41** Words in s. 43(2)(d) substituted (28.7.2000 and 1.9.2001 for E. for specified purposes and otherwise prosp.) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 71**; S.I. 2001/654, art. 2, **Sch. Pt. III**
- F42** Words in s. 43(2)(d) substituted (26.7.2002) by Education Act 2002 (c. 32), s. 65(3), **Sch. 7 Pt. 2 para. 8** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 2**

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

- C7** Ss. 43, 44 modified (1.8.2001) by S.I. 2001/1987, **reg. 2**
- C8** S. 43: 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. 3(k)}

#### Marginal Citations

- M11** 1996 c. 56.

## 44 Schools and other institutions to co-operate with careers advisers. **E+W**

- (1) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be provided with—
- (a) the name and address of every relevant pupil or student at the institution; and
  - (b) any information in the institution's possession about any such pupil or student which the careers adviser needs in order to be able to provide him with advice and guidance on decisions about his career or with other information relevant to such decisions.
- (2) If the registered address of a parent of any such pupil is different from the pupil's registered address, subsection (1)(a) requires the parent's address to be provided as well.
- (3) Paragraph (a) or (as the case may be) paragraph (b) of subsection (1) does not, however, apply to any pupil or student to the extent that—
- (a) (where he is under [<sup>F43</sup>the age of 16]) a parent of his, or
  - (b) (where he has attained that age) he himself,
- has indicated that any information falling within that paragraph should not be provided to the careers adviser.
- (4) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any relevant pupil or student specified by him, access to that person—
- (a) on the institution's premises, and
  - (b) at a reasonable time agreed by or on behalf of the head teacher, principal or other head of the institution,

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for the purpose of enabling him to provide that person with advice and guidance on decisions about his career and with any other information relevant to such decisions.

- (5) Such access shall include an opportunity for the careers adviser to interview that person about his career, if he agrees to be so interviewed.
- (6) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any group of relevant pupils or students specified by him, access—
- (a) to that group of persons in the manner specified in subsection (4)(a) and (b), and
  - (b) to such of the institution’s facilities as can conveniently be made available for his use,

for the purpose of enabling him to provide those persons with group sessions on any matters relating to careers or to advice or guidance about careers.

- (7) Any request made for the purposes of subsection (1), (4) or (6) must be made in writing to the head teacher, principal or other head of the institution in question.
- (8) This section applies to—
- (a) the schools listed in section 43(2)(a) to (d); and
  - (b) institutions within the further education sector.
- (9) It is the duty of each of the following to secure that subsections (1), (4) and (6) are complied with, namely—
- (a) in the case of a school falling within section 43(2)(a) to (c) or an institution within the further education sector, the governing body of the school or institution and its head teacher, principal or other head, and
  - (b) in the case of a school falling within section 43(2)(d), the proprietors of the school and its head teacher;

and section 43(4) shall apply in relation to that duty as it applies in relation to the duty imposed by section 43(3).

- (10) For the purposes of this section—
- (a) a pupil at a school is a relevant pupil—
    - (i) at any time during the period which is the relevant phase of his education for the purposes of section 43, or
    - (ii) if he is over compulsory school age and receiving secondary education; and
  - (b) a person is a relevant student at an institution within the further education sector if he is receiving at the institution either—
    - (i) full-time education, or
    - (ii) part-time education of a description commonly undergone by persons in order to fit them for employment.

- (11) For the purposes of this section—
- (a) “careers adviser” means a person who is employed by a body providing services in pursuance of arrangements made or directions given under section 10 of the <sup>M12</sup>Employment and Training Act 1973 and who is acting, in the course of his employment by that body, for the purposes of the provision of any such services; and

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- (b) a careers adviser has responsibilities for any persons if his employment by that body includes the provision of any such services for them.

(12) In this section “career” has the same meaning as in section 43.

#### Textual Amendments

**F43** Words in s. 43(3)(a) substituted (in force for specified purposes on 28.7.2000 and 1.4.2001 for E. and W.) by 2000 c. 21, s. 149, **Sch. 9 para. 72**; S.I. 2001/654, art. 2, **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

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

**C9** Ss. 43, 44 modified (1.8.2001) by S.I. 2001/1987, **reg. 2**

#### Marginal Citations

**M12** 1973 c. 35.

## 45 Provision of careers information at schools and other institutions. **E+W**

- (1) Persons attending an educational institution to which this section applies must be provided with access to both—
- (a) guidance materials, and
  - (b) a wide range of up-to-date reference materials, relating to careers education and career opportunities.
- (2) This section applies to—
- (a) the schools listed in section 43(2)(a) to (d); and
  - (b) institutions within the further education sector.
- (3) It is the duty of each of the following to secure that subsection (1) is complied with, namely—
- (a) in the case of a school falling within section 43(2)(a) to (c) or an institution within the further education sector, the governing body of the school or institution and its head teacher, principal or other head, and
  - (b) in the case of a school falling within section 43(2)(d), the proprietors of the school and its head teacher;
- and section 43(4) shall apply in relation to that duty as it applies in relation to the duty imposed by section 43(3).
- (4) The persons who under subsection (3) above are responsible for discharging that duty in relation to an institution shall seek assistance with discharging it from a body providing services in pursuance of arrangements made or directions given under section 10 of the <sup>M13</sup>Employment and Training Act 1973.
- (5) In this section “career” and “careers education” have the same meaning as in section 43.
- (6) Nothing in this section applies to any primary school.

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#### Marginal Citations

M13 1973 c. 35.

#### 46 Extension or modification of provisions of ss. 43 to 45. **E+W**

- (1) The Secretary of State may by regulations extend the scope of operation of section 43 or section 44 by substituting for the period specified in section 43(5) or section 44(10)(a)(i) such other period as is specified.
- (2) The Secretary of State may by regulations make provision for extending the scope of operation of section 43, 44 or 45 to primary schools or to any specified description of such schools.
- (3) The Secretary of State may by regulations make provision for requiring—
  - (a) the governing bodies of institutions within the further education sector, and
  - (b) the principals or other heads of such institutions,to secure that a programme of careers education is provided for any specified description of persons attending such institutions.
- (4) The Secretary of State may by regulations amend the definition of “careers adviser” set out in section 44(11)(a).
- (5) In this section—
  - “careers education” has the same meaning as in section 43;
  - “specified” means specified in the regulations in question.

### PART VIII **U.K.**

#### MISCELLANEOUS AND GENERAL

##### *Exceptional educational provision*

#### 47 Functions of LEAs as regards exceptional educational provision. **E+W**

- (1) Section 19 of the <sup>M14</sup>Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere) shall be amended as follows.
- (2) In subsection (1) (duty of local education authority to make arrangements for provision of suitable full-time or part-time education, at school or otherwise, for excluded children etc.), the words “full-time or part-time” shall be omitted.
- (3) In subsection (4) (power of local education authority to make arrangements for provision of suitable full-time or part-time education, otherwise than at school, for excluded young persons etc.), the words “full-time or part-time” shall be omitted.
- (4) After that subsection there shall be inserted—
  - “(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.”

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#### Marginal Citations

M14 1996 c. 56.

### *Management committees for pupil referral units*

#### 48 Management committees for pupil referral units. **E+W**

At the end of Schedule 1 to the Education Act 1996 (pupil referral units) there shall be added—

##### **Management committees**

“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.”

*Teachers not under contract of employment and persons having access to those under 19*

**49 Power to make regulations: teachers not under contract of employment and persons having access to those under 19. E+W**

- (1) Section 218 of the <sup>M15</sup>Education Reform Act 1988 (power of Secretary of State to make regulations in respect of schools and further and higher education institutions) shall be amended as follows.
- (2) After subsection (6) there shall be inserted—
  - “(6A) The Secretary of State may by regulations impose requirements on—
    - (a) local education authorities,
    - (b) the governing bodies of schools or institutions falling within subsection (10) below, or
    - (c) the proprietors of independent schools,for the purpose of prohibiting or restricting, on medical grounds or in cases of misconduct, access to persons who have not attained the age of nineteen years by persons (not falling within subsection (6) above) who provide services falling within subsection (6B).
  - (6B) Those services are services provided in relation to the school or institution or persons attending it which—
    - (a) are provided by whatever means and whether under contract or otherwise, and
    - (b) bring the persons providing them regularly into contact with persons who have not attained the age of nineteen years.”
- (3) In subsection (12) (definition of “school”), after “(6)(d)” there shall be inserted “ or (6A) ”.
- (4) After subsection (12) there shall be inserted—
  - “(13) For the purposes of this section—
    - (a) any reference to persons employed as teachers includes a reference to persons engaged to provide their services as teachers otherwise than under contracts of employment; and
    - (b) any reference to teachers or other persons employed by local education authorities or by any description of governing bodies or proprietors includes a reference to teachers or other persons engaged to provide their services for such authorities, governing bodies or proprietors (as the case may be) otherwise than under contracts of employment;and any reference to employment (or further employment) shall be construed accordingly.”

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#### Commencement Information

- I5** S. 49 partly in force; s. 49 not in force at Royal Assent see s. 58(3); s. 49(1) in force for certain purposes at 1.10.1997 and s. 49(2)(3) in force at 1.10.1997 by [S.I. 1997/1468, art. 2, Sch. 1 Pt. I](#); s. 49(1) in force for all other purposes at 1.3.1998 and s. 49(4) in force at 1.3.1998 by [S.I. 1998/386, art. 2 Sch. 1 Pt. I](#)

#### Marginal Citations

- M15** 1988 c. 40.

### *Costs of teachers' premature retirement*

<sup>F44</sup>**50** ..... **E+W**

#### Textual Amendments

- F44** S. 50 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.218, [Sch. 31](#) (with [ss. 138\(9\), 144\(6\)](#)); [S.I. 1999/1016, art. 2\(1\), Sch.1](#)

### *Definition of "school"*

#### **51** Definition of "school". **E+W**

In section 4 of the Education Act 1996 (definition of "school"), for subsection (1) there shall be substituted—

“(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.”

### *Compulsory school age*

#### **52** Commencement of compulsory school age. **E+W**

(1) Section 8 of the <sup>M16</sup>Education Act 1996 (compulsory school age) shall be amended in accordance with subsections (2) and (3).

(2) For subsection (2) there shall be substituted—

“(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

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(b) otherwise at the beginning of the prescribed day next following his attaining that age.”

(3) For subsection (4) there shall be substituted—

“(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.”

F45(4) .....

F45(5) .....

**Textual Amendments**

**F45** S. 52(4)(5) repealed (1.10.1998) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para.218, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch.1**, Pt. I

**Commencement Information**

**I6** S. 52, as partially repealed, wholly in force at 1.10.1998; s. 52 not in force at Royal Assent see s. 58(3); s. 52(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**; s. 52(1)-(3) in force at 1.8.1998 by S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

**Marginal Citations**

**M16** 1996 c. 56.

*General provisions*

**53 Stamp duty. E+W+N.I.**

- (1) Subject to subsection (2), stamp duty shall not be chargeable in respect of any transfer effected by virtue of section 30 or 34.
- (2) No instrument (other than a statutory instrument) made or executed in pursuance of either of the provisions mentioned in subsection (1) 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>M17</sup>Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the <sup>M18</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.

**Marginal Citations**

**M17** 1982 c. 39.  
**M18** 1891 c. 39.

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## 54 Orders and regulations. **E+W+N.I.**

- (1) Any power of the Secretary of State to make orders or regulations under this Act, except an order under section 25 or 31, shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulations under this Act, except an order under section 58, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any order or 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.
- (4) Without prejudice to the generality of subsection (3), any order or regulations under this Act may make in relation to Wales provision different from that made in relation to England.

### Subordinate Legislation Made

- P1** S. 54(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)
- s. 54(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)
- S. 54(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)

## 55 Financial provisions. **E+W**

There shall be paid out of money provided by Parliament—

- (a) any sums required for the payment by the Secretary of State of grants under this Act;
- (b) any administrative expenses incurred by the Secretary of State in consequence of this Act; and
- (c) any increase attributable to this Act in the sums so payable under any other Act.

## 56 Construction. **E+W**

- (1) In this Act—
  - “prescribed” means prescribed by regulations; and
  - “regulations” means regulations made by the Secretary of State under this Act.
- (2) This Act shall be construed as one with the <sup>M19</sup>Education Act 1996.
- (3) Where, however, an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of that Act, the meaning given for the purposes of that provision shall apply instead of the one given for the purposes of that Act.

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**Status:** Point in time view as at 02/09/2002. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Education Act 1997 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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**Marginal Citations**

M19 1996 c. 56.

**57 Minor and consequential amendments, repeals etc. E+W**

(1) The minor and consequential amendments set out in Schedule 7 shall have effect.

<sup>F46</sup>(2) .....

<sup>F47</sup>(3) .....

(4) The enactments specified in Schedule 8 are repealed to the extent specified.

**Textual Amendments**

**F46** S. 57(2) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.220, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), **Sch.3**

**F47** S. 57(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.220, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(3), **Sch.3**

**Commencement Information**

**I7** S. 57 partly in force; S. 57(1) partly in force at Royal Assent see s. 58(4); s. 57(4) in force for certain purposes at 4.4.1997 by S.I. 1997/1153, **art. 2**; s. 57(1)(4) in force for certain purposes at 14.6.1997, 1.9.1997 and 1.10.1997 and s. 57(2)(3) in force at 1.9.1997 by S.I. 1997/1468, **art. 2, Sch. 1, Pts. I, II, III**; s. 57(1)(4) in force for certain purposes at 1.9.2001 by S.I. 2001/1215, **art. 2**

**58 Short title, commencement and extent etc. E+W+N.I.**

(1) This Act may be cited as the Education Act 1997.

(2) This Act shall be included in the list of Education Acts set out in section 578 of the <sup>M20</sup>Education Act 1996.

(3) Subject to subsection (4), this Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions and for different purposes.

(4) The following provisions come into force on the day on which this Act is passed—

<sup>F48</sup>  
...

section 54,

paragraph 48(2) of Schedule 7 and section 57(1) so far as relating thereto, and this section.

(5) Subject to subsections (6) and (7), this Act extends to England and Wales only.

(6) The following provisions extend to Northern Ireland—

sections 21 and 22,

section 24(4),

section 26,

sections 34 to 36,

section 53,

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section 54,  
 this section, and  
 Schedule 4.

(7) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

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**Subordinate Legislation Made**

- P2** S. 58(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)  
 S. 58(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)  
 S. 58(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)
- P3** S. 58(3) power partly exercised (26.3.2001): 1.9.2001 appointed for specified provisions by [S.I. 2001/1215](#), [art. 2](#)

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**Textual Amendments**

- F48** Words in s. 58(4) repealed (1.9.1999) by [1998 c. 31, s. 140\(1\)\(3\)](#), [Sch. 30 para.221](#), [Sch. 31](#) (with [ss. 138\(9\)](#), [144\(6\)](#)); [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch.1](#)

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**Marginal Citations**

- M20** [1996 c. 56](#).

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## SCHEDULES

### <sup>F49</sup>SCHEDULE 1 E+W

#### Textual Amendments

**F49** Sch. 1 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>F50</sup>SCHEDULE 2 E+W

#### Textual Amendments

**F50** Sch. 2 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>F51</sup>SCHEDULE 3 E+W

#### Textual Amendments

**F51** Sch. 3 repealed (1.2.1999 to the extent that it relates to the repeal of paragraphs 1 and 2 of the Schedule inserted as Schedule 33B to the 1996 Act set out in Sch. 3, and wholly 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. 1998/2212, art. 2, **Sch.1 Pt. III** and S.I. 1999/2323, art. 2(1), **Sch.1**

### SCHEDULE 4 E+W+N.I.

Section 21.

#### THE QUALIFICATIONS AND CURRICULUM AUTHORITY

##### *Status*

- 1 The Authority shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

**Status:** Point in time view as at 02/09/2002. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Education Act 1997 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### *Powers*

- 2 (1) The Authority may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Authority may—
- (a) acquire or dispose of land or other property,
  - (b) enter into contracts,
  - (c) form bodies corporate or associated or other bodies which are not bodies corporate,
  - (d) enter into joint ventures with other persons,
  - (e) subscribe for shares or stock,
  - (f) invest any sums not immediately required for the purpose of carrying out their functions,
  - (g) accept gifts of money, land or other property, and
  - (h) borrow money.
- (3) The Authority may authorise the Qualifications, Curriculum and Assessment Authority for Wales to act as agent for the Authority in connection with the exercise of any of the Authority's functions in relation to Wales.
- (4) The consent of the Secretary of State is required for the exercise of any power conferred by sub-paragraph (2)(c) or (d) or sub-paragraph (3).
- 3 (1) The Authority may give to any person or body (whether or not in the United Kingdom) such assistance as they may determine.
- (2) Assistance may be provided on such terms and subject to such conditions (if any) as the Authority may determine.
- (3) In particular, assistance may be provided free of charge or on such terms as to payment as the Authority may determine.
- (4) The power conferred by this paragraph does not extend to the giving of financial assistance; and the consent of the Secretary of State is required for any exercise of that power.

### *Chief officer*

- 4 (1) The Authority shall have a chief officer.
- (2) The first chief officer shall be appointed by the Secretary of State on such terms and conditions as the Secretary of State may determine.
- (3) Each subsequent chief officer shall be appointed by the Authority with the approval of the Secretary of State on such terms and conditions as the Authority may with the approval of the Secretary of State determine.
- (4) The chief officer shall be an ex officio member of the Authority.

### *Chairman and chief officer: division of functions*

- 5 (1) The Secretary of State may, on appointing a person to be the chairman of the Authority, confer on him such additional functions in relation to the Authority as may be specified in the appointment.



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- (2) The functions for the time being conferred by virtue of appointment as chief officer of the Authority shall not include any function for the time being conferred under sub-paragraph (1) on the chairman of the Authority.

#### *Tenure of office*

- 6 (1) A person shall hold and vacate office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or deputy chairman of the Authority.
- 7 The Secretary of State may, if satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for a continuous period of more than six months without the permission of the Authority, or
- (b) is unable or unfit to discharge the functions of a member,
- remove him from office by giving him notice in writing and thereupon the office shall become vacant.
- 8 If the chairman or deputy chairman of the Authority ceases to be a member of the Authority, he shall also cease to be chairman or deputy chairman.

#### *Payments to members*

- 9 (1) The Authority shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine.
- (2) The Authority 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.
- (3) If a person ceases to be a member of the 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.

#### *Staff*

- 10 Subject to the approval of the Secretary of State, the Authority—
- (a) may appoint such number of employees, on such terms and conditions, as they may determine; and
- (b) shall pay to their employees such remuneration and allowances as they may determine.
- 11 (1) Employment with the Authority shall be included among the kinds of employment to which a scheme under section 1 of the <sup>M21</sup>Superannuation Act 1972 can apply.
- (2) The Authority shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

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- (3) Where an employee of the Authority is (by reference to that employment) a participant in a scheme under section 1 of that Act and is also a member of the Authority, the Secretary of State may determine that his service as such 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 or in respect of him by virtue of paragraph 9).

**Marginal Citations**

**M21** 1972 c. 11.

*Finance*

- 12 (1) The Secretary of State may make grants to the Authority of such amount as he thinks fit in respect of expenses incurred or to be incurred by the Authority in carrying out their functions.
- (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.
- (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.

*Committees*

- 13 (1) The Authority—
- (a) may establish a committee for any purpose; and
- (b) if so directed by the Secretary of State, shall establish a committee for such purpose as is specified in the direction.
- (2) The Authority shall determine the number of members which a committee established under this paragraph shall have, and the terms on which they are to hold and vacate office.
- (3) Subject to such conditions as the Secretary of State may determine, a committee may include persons who are not members of the Authority.
- (4) The Authority shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

*Delegation of functions*

- 14 (1) The Authority may authorise the chairman, the deputy chairman, the chief officer or any committee established under paragraph 13 to carry out such of the Authority's functions as the Authority may determine.
- (2) The Secretary of State may authorise any committee established under paragraph 13(1)(b) to carry out such of the Authority's functions as are specified in the direction given under that provision.
- (3) Sub-paragraph (1) has effect without prejudice to any power to authorise an employee of the Authority to carry out any of the Authority's activities on behalf of the Authority.

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### *Proceedings*

- 15 (1) The following persons, namely—
- (a) a representative of the Secretary of State,
  - (b) the chairman of the Qualifications, Curriculum and Assessment Authority for Wales, or a representative of his,
  - (c) a representative of such other body as the Secretary of State may designate, and
  - (d) Her Majesty’s Chief Inspector of Schools in England, or a representative of his,
- shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the Secretary of State, the chairman of the Qualifications, Curriculum and Assessment Authority for Wales, any person falling within subparagraph (1)(c) and Her Majesty’s Chief Inspector of Schools in England with such copies of any documents distributed to members of the Authority or of any such committee as each of those persons may require.
- 16 The validity of the Authority’s proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 17 Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure and that of any of their committees.

### *Accounts*

- 18 (1) The 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
  - (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.
- (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.

### *Documents*

- 19 The application of the seal of the Authority shall be authenticated by the signature—
- (a) of the chairman or some other person authorised either generally or specially by the Authority to act for that purpose, and
  - (b) of one other member.

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- 20 Any document purporting to be an instrument made or issued by or on behalf of the Authority, and to be duly executed by a person authorised by the Authority 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 5 E+W

Section 27.

### THE QUALIFICATIONS, CURRICULUM AND ASSESSMENT AUTHORITY FOR WALES

#### *Status*

- 1 The Authority shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

#### *Powers*

- 2 (1) The Authority may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Authority may—
- (a) acquire or dispose of land or other property,
  - (b) enter into contracts,
  - (c) form bodies corporate or associated or other bodies which are not bodies corporate,
  - (d) enter into joint ventures with other persons,
  - (e) subscribe for shares or stock,
  - (f) invest any sums not immediately required for the purpose of carrying out their functions,
  - (g) accept gifts of money, land or other property, and
  - (h) borrow money.
- (3) Where authorised to do so under paragraph 2(3) of Schedule 4, the Authority may act as agent for the Qualifications and Curriculum Authority in connection with the exercise of any of that Authority's functions in relation to Wales.
- (4) The consent of the Secretary of State is required for the exercise of any power conferred by sub-paragraph (2)(c) or (d).
- 3 (1) The Authority may give to any person or body (whether or not in the United Kingdom) such assistance as they may determine.
- (2) Assistance may be provided on such terms and subject to such conditions (if any) as the Authority may determine.
- (3) In particular, assistance may be provided free of charge or on such terms as to payment as the Authority may determine.
- (4) The power conferred by this paragraph does not extend to the giving of financial assistance; and the consent of the Secretary of State is required for any exercise of that power.

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### *Chief officer*

- 4 (1) The Authority shall have a chief officer who shall be appointed—
- (a) in the case of a person who is also chairman of the Authority, by the Secretary of State, and
  - (b) in any other case, by the Authority with the approval of the Secretary of State.
- (2) The appointment of the chief officer shall be on such terms and conditions as the Secretary of State, or (as the case may be) the Authority with the approval of the Secretary of State, may determine.
- (3) The Secretary of State may appoint the chief officer (if appointed under subparagraph (1)(b)) to be a member of the Authority.

### *Tenure of office*

- 5 (1) A person shall hold and vacate office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or deputy chairman of the Authority.
- 6 The Secretary of State may, if satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for a continuous period of more than six months without the permission of the Authority, or
  - (b) is unable or unfit to discharge the functions of a member,
- remove him from office by giving him notice in writing and thereupon the office shall become vacant.
- 7 If the chairman or deputy chairman of the Authority ceases to be a member of the Authority, he shall also cease to be chairman or deputy chairman.

### *Payments to members*

- 8 (1) The Authority shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine.
- (2) The Authority 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.
- (3) If a person ceases to be a member of the 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.

### *Staff*

- 9 Subject to the approval of the Secretary of State, the Authority—
- (a) may appoint such number of employees, on such terms and conditions, as they may determine; and
  - (b) shall pay to their employees such remuneration and allowances as they may determine.

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- 10 (1) Employment with the Authority shall continue to be included among the kinds of employment to which a scheme under section 1 of the <sup>M22</sup>Superannuation Act 1972 can apply.
- (2) The Authority shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (3) Where an employee of the Authority is (by reference to that employment) a participant in a scheme under section 1 of that Act and is also a member of the Authority, the Secretary of State may determine that his service as such 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 or in respect of him by virtue of paragraph 8).

**Marginal Citations**

M22 1972 c. 11.

*Finance*

- 11 (1) The Secretary of State may make grants to the Authority of such amount as he thinks fit in respect of expenses incurred or to be incurred by the Authority in carrying out their functions.
- (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.
- (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.

*Committees*

- 12 (1) The Authority—
- (a) may establish a committee for any purpose; and
  - (b) if so directed by the Secretary of State, shall establish a committee for such purpose as is specified in the direction.
- (2) The Authority shall determine the number of members which a committee established under this paragraph shall have, and the terms on which they are to hold and vacate office.
- (3) Subject to such conditions as the Secretary of State may determine, a committee may include persons who are not members of the Authority.
- (4) The Authority shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

*Delegation of functions*

- 13 (1) The Authority may authorise the chairman, the deputy chairman, the chief officer or any committee established under paragraph 12 to carry out such of the Authority's functions as the Authority may determine.

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- (2) The Secretary of State may authorise any committee established under paragraph 12(1)(b) to carry out such of the Authority's functions as are specified in the direction given under that provision.
- (3) Sub-paragraph (1) has effect without prejudice to any power to authorise an employee of the Authority to carry out any of the Authority's activities on behalf of the Authority.

### *Proceedings*

- 14 (1) The following persons, namely—
  - (a) a representative of the Secretary of State,
  - (b) the chairman of the Qualifications and Curriculum Authority, or a representative of his, and
  - (c) [<sup>F52</sup>Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru], or a representative of his,shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the Secretary of State, the chairman of the Qualifications and Curriculum Authority and [<sup>F52</sup>Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] with such copies of any documents distributed to members of the Authority or of any such committee as each of those persons may require.

#### **Textual Amendments**

**F52** Words in [Sch. 5 para. 14\(1\)\(c\)\(2\)](#) substituted (1.1.2001) by [2000 c. 21, s. 73\(a\)](#); [S.I. 2000/3230, art. 2, Sch.](#)

- 15 The validity of the Authority's proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 16 Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure and that of any of their committees.

### *Accounts*

- 17 (1) The 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
  - (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

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- (c) the methods and principles according to which the statement is to be prepared.
- (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.

#### Documents

- 18 The application of the Authority’s seal shall be authenticated by the signature of the chairman or deputy chairman and that of one other member.
- 19 Any document purporting to be an instrument made or issued by or on behalf of the Authority and to be—
- (a) duly executed under the Authority’s 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 6 E+W

Section 42.

### SCHOOL INSPECTIONS

#### Introductory

- 1 In this Schedule “the 1996 Act” means the <sup>M23</sup>School Inspections Act 1996.

#### Marginal Citations

M23 1996 c. 57.

#### Rights of entry etc. for Chief Inspectors

- 2 For subsections (8) and (9) of section 2 of the 1996 Act (functions of Chief Inspector for England) there shall be substituted—
- “(8) For the purposes of the exercise of any function conferred by or under this section the Chief Inspector for England shall have at all reasonable times, in relation to any school in England—
- (a) a right of entry to the premises of the school; and
  - (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for those purposes.
- (9) It shall be an offence wilfully to obstruct the Chief Inspector for England—
- (a) in the exercise of his functions in relation to the inspection of a school for the purposes of subsection (2)(b); or
  - (b) in the exercise of any right under subsection (8) for the purposes of the exercise of any other function.”



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3 For subsections (8) and (9) of section 5 of the 1996 Act (functions of Chief Inspector for Wales) there shall be substituted—

“(8) For the purposes of the exercise of any function conferred by or under this section the Chief Inspector for Wales shall have at all reasonable times, in relation to any school in Wales—

- (a) a right of entry to the premises of the school; and
- (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for those purposes.

(9) It shall be an offence wilfully to obstruct the Chief Inspector for Wales—

- (a) in the exercise of his functions in relation to the inspection of a school for the purposes of subsection (2)(b); or
- (b) in the exercise of any right under subsection (8) for the purposes of the exercise of any other function.”

*Removal of inspectors from register*

4 In subsection (2)(d) of section 8 of the 1996 Act (removal from register and imposition or variation of conditions to be satisfied by registered inspector) for “knowingly or recklessly” there shall be substituted “, without reasonable explanation,”.

**Commencement Information**

**I8** Sch. 6 para. 4 wholly in force at 1.9.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. II, Sch. 2 Pt. I (subject to transitional provisions in Sch. 2 Pt. I)

F535 .....

**Textual Amendments**

**F53** Sch. 6 para. 5 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 222(b), Sch. 31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, Sch.1 Pt. I

*Inspections of closing schools*

6 (1) Section 10 of the 1996 Act (inspections by registered inspectors) shall be amended as follows.

(2) In subsection (3) (schools to which the section applies) after “subsection (4)” there shall be inserted “ or (4A) ”.

(3) After subsection (4) there shall be inserted—

“(4A) This section does not apply to any school—

- (a) which is a closing school (as defined by subsection (4B)), and
- (b) in respect of which the Chief Inspector has decided, having regard to the date on which the closure is to take effect, that no useful purpose would be served by the school being inspected under this section.

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(4B) In subsection (4A) a “closing school” means—

- (a) a county, voluntary or maintained nursery school in respect of which the Secretary of State has under section 169 of the <sup>M24</sup>Education Act 1996 approved proposals by the local education authority to cease to maintain the school;
- (b) a voluntary school in respect of which the governing body have given notice of their intention to discontinue the school under section 173 of that Act;
- (c) a grant-maintained school in respect of which—
  - (i) the Secretary of State has under section 269 of that Act approved proposals for the discontinuance of the school, or
  - (ii) the funding authority have made a determination under that section to adopt proposals for the discontinuance of the school;
- (d) a maintained or grant-maintained special school in respect of which the Secretary of State has under section 340 of that Act approved proposals for the discontinuance of the school;
- (e) a city technology college or city college for the technology of the arts in respect of which notice of termination of an agreement made under section 482 of that Act has been given; or
- (f) an independent school falling within subsection (3)(e) which the proprietor has decided to close.”

#### Marginal Citations

M24 1996 c. 56.

#### *Publication of inspection reports*

- 7 In each of sections 16(4)(c) and 20(4)(c) of the 1996 Act (appropriate authority to take steps to secure that registered parents receive copies of the summary of the inspection report) for “as soon as is reasonably practicable” there shall be substituted “ within such period following receipt of the report by the authority as may be prescribed ”.

#### Commencement Information

19 Sch. 6 para. 7 wholly in force at 1.9.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. II, Sch. 2 Pt. I (subject to transitional provisions in Sch. 2 Pt. I)

#### *Computer records*

- 8 In section 42 of the 1996 Act (inspection of computer records for the purposes of Part I)—
- (a) after “records” (in both places) there shall be inserted “ or other documents ”; and
  - (b) at the end there shall be added “ (including, in particular, the making of information available for inspection or copying in a legible form) ”.

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#### *Delegation of functions of Chief Inspectors*

- 9 In paragraph 5(3) of Schedule 1 to the 1996 Act (performance of functions of Chief Inspectors), for “in conducting an inspection under section 2(2)(b) or section 5(2)(b)” there shall be substituted “ under sub-paragraph (1) or (2) ”.

#### *Tenders and consultation*

- 10 For paragraph 2 of Schedule 3 to the 1996 Act (selection of registered inspectors) there shall be substituted—
- “2 (1) Before entering into any arrangement for an inspection, the Chief Inspector shall invite tenders from at least two persons who can reasonably be expected to tender for the proposed inspection and to do so at arm’s length from each other, and each of whom is either—
- (a) a registered inspector, or
  - (b) a person who the Chief Inspector is satisfied would, if his tender were successful, arrange with a registered inspector for the inspection to be carried out.
- (2) Before an inspection takes place the Chief Inspector shall consult the appropriate authority about the inspection.”

#### *Inspection teams*

- 11 For paragraph 3(1) of Schedule 3 to the 1996 Act (inspection teams) there shall be substituted—
- “(1) Every inspection shall be conducted by a registered inspector with the assistance of a team (an “inspection team”) consisting of persons who—
- (a) are fit and proper persons for carrying out the inspection; and
  - (b) will be capable of assisting in the inspection competently and effectively.”

#### *Rights of entry etc. for registered inspectors*

- 12 (1) The existing provisions of paragraph 7 of Schedule 3 to the 1996 Act (rights of entry) shall become sub-paragraph (1) of that paragraph.
- (2) After that sub-paragraph there shall be inserted—
- “(2) Where—
- (a) pupils registered at the school concerned are, by arrangement with another school, receiving part of their education at the other school, and
  - (b) the inspector is satisfied that he cannot properly discharge his duty under section 10(5) in relation to the school concerned without inspecting the provision made for those pupils at that other school,
- sub-paragraph (1) shall apply in relation to that other school as it applies in relation to the school concerned.”

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SCHEDULE 7 **U.K.**

Section 57(1).

## MINOR AND CONSEQUENTIAL AMENDMENTS

*Public Records Act 1958 (c. 51)*

- 1 In Part II of the Table at the end of paragraph 3 of Schedule 1 to the Public Records Act 1958 (organisations whose records are public records), insert at the appropriate places—

“Qualifications, Curriculum and Assessment Authority for Wales”,

“Qualifications and Curriculum Authority”.

*Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 2 (1) Subject to sub-paragraph (2), in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies), “public body”—
- (a) shall include the Qualifications and Curriculum Authority and the Qualifications, Curriculum and Assessment Authority for Wales; and
  - (b) shall cease to include the School Curriculum and Assessment Authority and the Curriculum and Assessment Authority for Wales.
- (2) The provision in sub-paragraph (1) shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person shall be a public body for the purposes of the Act).

**Commencement Information**

**I10** Sch 7 para. 2 wholly in force at 1.3.1998; Sch. 7 para. 2 not in force at Royal Assent see s. 58(3); Sch. 7 para. 2 in force at 1.10.1997 except so far as sub-paragraph (1) provides that the definition of “public body” shall cease to include SCAA by [S.I. 1997/1468](#), [art. 2 Sch. 1 Pt. III](#); Sch. 7 para. 2(1) in force at 1.3.1998 insofar as not already in force by [S.I. 1998/386](#), [art. 2, Sch. 1 Pt. I](#)

*Superannuation Act 1972 (c. 11)*

- 3 (1) In Schedule 1 to the Superannuation Act 1972, in the list of Other Bodies (bodies in respect of which there are superannuation schemes)—
- (a) omit the entries relating to the Curriculum and Assessment Authority for Wales and the School Curriculum and Assessment Authority; and
  - (b) insert at the appropriate places—
 

“the Qualifications, Curriculum and Assessment Authority for Wales”,

“the Qualifications and Curriculum Authority”.
- (2) Section 1 of that Act (persons to or in respect of whom benefits may be provided by schemes under that section) shall apply to persons who at any time before the coming into force of section 21 of this Act have ceased to serve in employment with the National Council for Vocational Qualifications.

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#### Commencement Information

- I11** Sch 7 para. 3 wholly in force at 1.3.1998; Sch. 7 para. 3 not in force at Royal Assent see s. 58(3); Sch. 7 para. 3(1) in force at 1.10.1997 except so far as it omits the entry relating to SCAA by [S.I. 1997/1468, art. 2 Sch. 1 Pt. III](#); Sch. 7 para. 3(1) in force at 1.3.1998 insofar as not already in force and Sch. 7 para. 3(2) in force at 1.3.1998 by [S.I. 1998/386, art. 2, Sch. 1 Pt. I](#)

#### *House of Commons Disqualification Act 1975 (c. 24)*

- 4 (1) Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) shall be amended as follows.
- (2) Omit the entries relating to the Curriculum and Assessment Authority for Wales and the School Curriculum and Assessment Authority.
- (3) Insert at the appropriate places—
- “Any member of the Qualifications, Curriculum and Assessment Authority for Wales constituted under section 27 of the Education Act 1997 in receipt of remuneration.”
- “Any member of the Qualifications and Curriculum Authority constituted under section 21 of the Education Act 1997 in receipt of remuneration.”
- (4) Omit the entry relating to the National Council for Vocational Qualifications.

#### Commencement Information

- I12** Sch 7 para. 4 wholly in force at 1.3.1998; Sch. 7 para. 4 not in force at Royal Assent see s. 58(3); Sch. 7 para. 4 in force at 1.10.1997 except so far as it omits the entry relating to SCAA by [S.I. 1997/1468, art. 2 Sch. 1 Pt. III](#); Sch. 7 para. 4 in force at 1.3.1998 insofar as not already in force by [S.I. 1998/386, art. 2, Sch. 1 Pt. I](#)

#### *Local Government Finance Act 1982 (c. 32)*

F54<sup>5</sup> .....

#### Textual Amendments

- F54** Sch. 7 para. 5 repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), [Sch.5](#)

#### *Finance Act 1991 (c. 31)*

F55<sup>6</sup> .....

#### Textual Amendments

- F55** Sch. 7 para. 6 repealed (27.7.1999 with effect as mentioned in s. 59(3)(b) of the repealing Act) by 1999 c. 16, s. 139, [Sch. 20 Pt. III\(15\)](#)

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*Charities Act 1993 (c. 10)*

- 7 In Schedule 2 to the Charities Act 1993 (exempt charities)—
- (a) for paragraph (da) substitute—
- “(da) the Qualifications and Curriculum Authority;”; and
- (b) for paragraph (f) substitute—
- “(f) the Qualifications, Curriculum and Assessment Authority for Wales;”.

**Commencement Information**

**I13** Sch. 7 para. 7 wholly in force at 1.10.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. III, Sch. 2 Pts. I, II (subject to transitional provisions in Sch. 2 Pts. I, II)

*Nursery Education and Grant-Maintained Schools Act 1996 (c. 50)*

- 8 In section 1(2) of the Nursery Education and Grant-Maintained Schools Act 1996 (arrangements for making grants in respect of nursery education), for paragraph (a) substitute—
- “(a) before they begin to be of compulsory school age; but”.

*Education Act 1996 (c. 56)*

- 9 (1) Section 3 of the Education Act 1996 (definition of pupil etc.) shall be amended as follows.
- (2) At the end of subsection (1) insert—
- “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.”
- (3) In subsection (3), for “The definition of “pupil” in subsection” substitute “Subsection ”.
- 10 In section 4(2) of that Act (schools: general)—
- (a) for “For” substitute “ 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 ”; and
- (b) omit “(pupil referral units)”.
- 11 In section 6(1) of that Act (nursery schools), for “the age of five” substitute “ compulsory school age ”.
- 12 In section 14(4) of that Act (functions of LEA in respect of provision of primary and secondary schools), for “the age of five” substitute “ compulsory school age ”.
- 13 In section 17(2) of that Act (powers of LEA in respect of nursery education), for “the age of five”, in both places, substitute “ compulsory school age ”.

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14 In section 29(6)(b) of that Act (requirement of LEA to publish information as to their policy and arrangements for primary or secondary education not to apply in relation to nursery schools, etc.), for “the age of five” substitute “ compulsory school age ”.

F56 15 .....

**Textual Amendments**

**F56** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F57 16 .....

**Textual Amendments**

**F57** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F58 17 .....

**Textual Amendments**

**F58** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F59 18 .....

**Textual Amendments**

**F59** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F60 19 .....

**Textual Amendments**

**F60** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F61 20 .....

**Textual Amendments**

**F61** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F62 21 .....

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**Textual Amendments**  
**F62** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

<sup>F63</sup>22 .....

**Textual Amendments**  
**F63** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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 In section 312(2)(c) of that Act (meaning of “learning difficulty” for the purposes of the Act)—  
(a) for “the age of five” substitute “ compulsory school age ”, and  
(b) omit “or over”.

24 In section 332(1) of that Act (duty of Health Authority or National Health Service Trust to notify parent where child has special educational needs), for “the age of five” substitute “ compulsory school age ”.

<sup>F64</sup>25 .....

**Textual Amendments**  
**F64** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

26 Omit sections 358 to 361 of that Act (provisions about Curriculum Authorities).

**Commencement Information**  
**I14** Sch. 7 para. 26 wholly in force at 11.3.1998; Sch.7 para. 26 not in force at Royal Assent see s. 58(3); Sch. 7 para. 26 in force at 1.10.1997 insofar as it omits ss. 360, 361 by S.I. 1997/1468, art.2, Sch. 1 Pt. III and in force at 1.3.1998 insofar as not already in force by S.I. 1998/386, art. 2, Sch. 1 Pt. I

27 In section 362(7) of that Act (development work and experiments)—  
(a) for “the School Curriculum and Assessment Authority” substitute “ the Qualifications and Curriculum Authority ”; and  
(b) for “the Curriculum and Assessment Authority for Wales” substitute “ the Qualifications, Curriculum and Assessment Authority for Wales ”.

**Commencement Information**  
**I15** Sch. 7 paras. 27, 28 wholly in force at 1.10.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. III, Sch. 2 Pt. II (subject to transitional provisions in Sch. 2 Pt. II)



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- 28 In section 368(10) of that Act (procedure for making certain orders and regulations)—
- (a) for “the School Curriculum and Assessment Authority” substitute “ the Qualifications and Curriculum Authority ”; and
  - (b) for “the Curriculum and Assessment Authority for Wales” substitute “ the Qualifications, Curriculum and Assessment Authority for Wales ”.

**Commencement Information**

**I16** Sch. 7 paras. 27, 28 wholly in force at 1.10.1997 see s. 58(3) and S.I. 1997/1468, arts. 2, 4, Sch. 1 Pt. III, **Sch. 2 Pt. II** (subject to transitional provisions in Sch. 2 Pt. II)

- 29 In section 391(10) of that Act (functions of advisory councils)—
- (a) for “the School Curriculum and Assessment Authority” substitute “ the Qualifications and Curriculum Authority ”; and
  - (b) for “the Curriculum and Assessment Authority for Wales” substitute “ the Qualifications, Curriculum and Assessment Authority for Wales ”.
- 30 In section 408 of that Act (provision of information)—
- (a) in subsection (1)(a), after “this Part” insert “ or Part V of the Education Act 1997 ”; and
  - (b) in subsection (4)(f), omit “, 400, 401”.

**Commencement Information**

**I17** Sch. 7 para. 30 wholly in force; Sch. 7 para. 30 not in force at Royal Assent see s. 58(3); Sch. 7 para. 30(a) in force at 1.10.1997 by S.I. 1997/1468, art. 2, **Sch. 1 Pt. III**; Sch. 7 para. 30(b) in force at 1.9.2001 by S.I. 2001/1215, **art. 2**

<sup>F65</sup>31 .....

**Textual Amendments**

**F65** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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**

<sup>F66</sup>32 .....

**Textual Amendments**

**F66** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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**

<sup>F67</sup>33 .....

**Textual Amendments**

**F67** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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**

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F68 34 .....

**Textual Amendments**  
F68 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F69 35 .....

**Textual Amendments**  
F69 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

36 In section 492(2) of that Act (adjustment of amounts eligible for recoupment as between local education authorities), for “the age of five” substitute “ compulsory school age ”.

37 In section 537(4) of that Act (power of Secretary of State to require information from governing bodies etc.), at the end add “ ; 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. ”

38 For the cross-heading “CORPORAL PUNISHMENT” preceding section 548 of that Act substitute—

“ PUNISHMENT AND RESTRAINT OF PUPILS

*Corporal punishment”.*

39 In section 551 of that Act (regulations as to the duration of the school day, etc.), after subsection (1) insert—

“(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.”

F70 40 .....

**Textual Amendments**  
F70 Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

41 In section 571 of that Act (publication of guidance)—  
(a) in subsection (1) for “of the provisions mentioned in subsection (2) below” substitute “ provision of this Act ”; and  
(b) omit subsection (2).

42 At the end of section 578 of that Act (“the Education Acts”) add—

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“the Education Act 1997.”

43 In section 579(1) of that Act (general interpretation), after the definition of “school day” insert—

““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;”.

44 In section 580 of that Act (the index) at the appropriate places insert—  
(in the entry relating to “child”)

“(in Chapter I of Part VI except sections section 411(8)”  
431 to 433)

“school year section 579(1)”.

“wholly based on selection by reference section 411(9)”  
to ability or aptitude (in Chapter I of  
Part VI)

#### Commencement Information

**I18** Sch. 7 para. 44 wholly in force at 1.9.1997; Sch. 7 para. 44 not in force at Royal Assent see s. 58(3); Sch. 7 para. 44 in force at 14.6.1997 to the extent that it inserts the reference to “school year” into section 580 of the 1996 Act and in force at 1.9.1997 insofar as not already in force by S.I. 1997/1468, art. 2, Sch.1 Pts. I, II

F71 45 .....

#### Textual Amendments

**F71** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F72 46 .....

#### Textual Amendments

**F72** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F73 47 .....

#### Textual Amendments

**F73** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

F74 48 .....

**Status:** Point in time view as at 02/09/2002. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Education Act 1997 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**  
**F74** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

<sup>F75</sup>49 .....

**Textual Amendments**  
**F75** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

<sup>F76</sup>50 .....

**Textual Amendments**  
**F76** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

*School Inspections Act 1996 (c. 57)*

<sup>F77</sup>51 .....

**Textual Amendments**  
**F77** Sch. 7 paras. 15-22, 25, 31-35, 40, 45-51 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

SCHEDULE 8 **U.K.**

Section 57(4).

REPEALS

**Commencement Information**  
**I19** Sch. 8 in force for specified repeals; at 4.4.1997 by S.I. 1997/1153, art. 2 ; at 14.6.1997, 1.9.1997 and 1.10.1997 by S.I. 1997/1468, art. 2, Sch. 1 Pts. I, II ; at 1.3.1998, 1.8.1998 and 1.9.1998 by S.I. 1998/386, art. 2, Sch. 1 Pts. I, III, IV; at 1.9.2001 by S.I. 2001/1215, art. 2

Chapter	Short title	Extent of repeal
1972 c.11.	Superannuation Act 1972.	In Schedule 1, in the list of Other Bodies, the entries relating to the Curriculum and Assessment Authority for Wales and the School Curriculum and Assessment Authority.

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1975 c.24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entries relating to the Curriculum and Assessment Authority for Wales, the National Council for Vocational Qualifications and the School Curriculum and Assessment Authority.
1996 c.56.	Education Act 1996.	<p>In section 4(2), the words “(pupil referral units)”.</p> <p>In section 19(1) and (4), the words “full-time or part-time”.</p> <p>In section 312(2)(c), the words “or over”.</p> <p>In section 355(5), the definition of “school year” and the “and” preceding it.</p> <p>Sections 358 to 361.</p> <p>Sections 400 and 401.</p> <p>In section 408(4)(f), “, 400, 401”.</p> <p>Section 423(6).</p> <p>In section 479(2), the words “providing secondary education”.</p> <p>Section 571(2).</p> <p>In Schedule 16, in paragraph 15(1), the words from “,including” to “brought,”.</p> <p>In Schedule 23, in paragraph 4(1) “, 400”.</p> <p>Schedules 29 and 30.</p> <p>In Schedule 37, paragraph 17, in paragraph 21 the words in sub-paragraph (1)(a) from “the entry” to “1993) and” and sub-paragraph (1)(b) and the “and” preceding it and sub-paragraph (2), in paragraph 30 sub-paragraphs (1)(a), (2) and (3), and paragraph 120.</p>

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