

*Status: Point in time view as at 31/03/2003.*

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## SCHEDULES

### SCHEDULE 1

Section 11.

#### PROVISIONS RELATING TO AN EDUCATION ACTION FORUM

##### *Powers*

- 1 (1) An Education Action Forum may, subject to sub-paragraph (2), do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions.
- (2) A Forum shall not have power to borrow money.

##### *Chairman*

- 2 The members of an Education Action Forum shall elect one of their number to be chairman of the Forum, who shall hold office for such period as is specified in the order by which the Forum is established under section 10(1).

##### *Committees*

- 3 An Education Action Forum may—
- (a) establish a committee for any purpose; and
  - (b) authorise any such committee to exercise such of its functions as it may determine.

##### *Proceedings*

- 4 The Secretary of State may by regulations make provision as to the meetings and proceedings of an Education Action Forum.
- 5 The validity of the proceedings of an Education Action Forum shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 6 Subject to the preceding provisions of this Schedule, an Education Action Forum may regulate its own procedure and that of any of its committees.

##### *Accounts*

- 7 (1) It shall be the duty of an Education Action Forum—
- (a) to keep proper accounts and proper records in relation to the accounts,
  - (b) to prepare in respect of each financial year of the Forum a statement of accounts, and
  - (c) to 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.

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- (2) The statement of accounts shall comply with any directions given by the Secretary of State 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.
- (4) In this paragraph “financial year” means the period beginning with the date on which the Forum is established and ending with the 31st March following that date, and each successive period of twelve months.

*Application of seal and proof of instruments*

- 8 The application of the seal of an Education Action Forum shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specially by the Forum to act for that purpose, and
  - (b) of one other member.
- 9 Every document purporting to be an instrument made or issued by or on behalf of an Education Action Forum and to be duly executed under the seal of the Forum, or to be signed or executed by a person authorised by the Forum 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.

*Charitable status*

- 10 An Education Action Forum shall be a charity which is an exempt charity for the purposes of the <sup>M1</sup>Charities Act 1993.

**Marginal Citations**

**M1** 1993 c. 10.

[<sup>F1</sup>SCHEDULE 1A

Section 19A

GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

**Textual Amendments**

**F1** Sch. 1A inserted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 59(2), 216, Sch. 6 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4

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### *Interpretation of Schedule*

1 (1) In this Schedule—

“the appropriate authority” means—

- (a) where this Schedule applies by virtue of a notice under section 16A(1), the local education authority who gave the notice, and
- (b) where this Schedule applies by virtue of a notice under section 18A(1), the Secretary of State;

“existing governors”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;

“the interim period”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule;

“a normally constituted governing body” means a governing body constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002 (governing bodies).

- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

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

- C1** Sch. 1A para. 1 modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), **regs. 1, 5(a)**

### *Governing body to consist of members appointed by appropriate authority*

- 2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002.

(2) In the following provisions of this Schedule—

- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and
- (b) the members of the governing body as so constituted are referred to as “interim executive members”.

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

- C2** Sch. 1A para. 2 modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), **regs. 1, 5(b)**

### *Effect of notice under section 16A(1) or 18A(1)*

- 3 (1) On the date specified in the notice under section 16A(1) or 18A(1), the existing governors shall vacate office.

- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.

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- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school shall have effect, in relation to the school, as a reference to an interim executive member.
- (4) During the interim period, section 83 (modification of provisions making governors of foundation or voluntary school ex officio trustees) shall have effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

*Interim executive members*

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members shall be made so as to take effect on the date specified in the notice under section 16A(1) or 18A(1).
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.
- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.
- (2) An interim executive member—
  - (a) shall hold office in accordance with the terms of his appointment and subject to paragraph 18, and
  - (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice.

*Duty of appropriate authority to inform other persons*

- 6 (1) The appropriate authority shall give a copy of the notice under section 16A(1) or 18A(1) and of every instrument of appointment of an interim executive member—
  - (a) to every interim executive member,
  - (b) to every existing governor of the school,
  - (c) where the local education authority are the appropriate authority, to the Secretary of State,
  - (d) where the Secretary of State is the appropriate authority, to the local education authority,
  - (e) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, to the appropriate diocesan authority, and
  - (f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed.
- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

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#### *Power to specify duration of interim period*

- 7 The appropriate authority may in the notice under section 16A(1) or 18A(1) specify the duration of the interim period.

#### *Chairman*

- 8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

#### *Remuneration and allowances*

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

#### *Duty of interim executive board*

- 10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

#### *Proceedings of interim executive board*

- 11 (1) The interim executive board may determine their own procedure.
- (2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person.

#### *Effect on suspension of delegated budget*

- 12 (1) If immediately before the date specified in a notice under section 16A(1) or 18A(1) the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 (suspension of delegated budget for mismanagement etc.) has been given to the governing body before the date specified in a notice under section 16A(1) or 18A(1) but has not yet taken effect, the notice shall cease to have effect on that date.
- (3) During the interim period, the local education authority may not exercise the power conferred by section 17 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7).

#### *Exclusion of certain statutory provisions*

- 13 (1) Regulations made by virtue of subsection (2) or (3) of section 19 of the Education Act 2002 (governing bodies) shall not apply in relation to the interim executive board.

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- (2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board.

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

- C3** Sch. 1A para. 13 modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [regs. 1, 5\(c\)](#)

- 14 During the interim period—
- (a) the local education authority may not exercise any power conferred by section 16 (power to appoint additional governors), and
  - (b) the Secretary of State may not exercise any power conferred by section 18 (power to appoint additional governors).

*Closure of school*

- 15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the Secretary of State recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
- (a) publish under section 29(2) proposals to discontinue the school, or
  - (b) serve notice under section 30(2).
- 16 (1) Where during the interim period—
- (a) the Secretary of State gives a direction under section 19(1) or 32(1) in relation to the school, or
  - (b) the local education authority determine to discontinue the school,
- the interim period shall continue until the discontinuance date, even where it would otherwise end before that date.
- (2) In this paragraph “the discontinuance date” means—
- (a) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6,
  - (b) the date on which the school is discontinued under section 30, or
  - (c) the date specified in the direction under section 19(1) or 32(1),
- as the case may be.

*Notice of resumption of government by normally constituted governing body*

- 17 (1) Where—
- (a) the notice under section 16A(1) or 18A(1) did not specify the duration of the interim period, and
  - (b) paragraph 16 does not apply,
- the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body.
- (2) The persons referred to in sub-paragraph (1) are—

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- (a) every interim executive member,
- (b) where the local education authority are the appropriate authority, the Secretary of State,
- (c) where the Secretary of State is the appropriate authority, the local education authority,
- (d) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
- (e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

*Time when interim executive members cease to hold office*

- 18 (1) The interim executive members shall vacate office—
- (a) in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
  - (b) in a case where that paragraph does not apply and the notice under section 16A(1) or 18A(1) specified the duration of the interim period, at the end of the specified period, and
  - (c) in any other case, on the date specified under paragraph 17 (1).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.

*Establishment of normally constituted governing body*

- 19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18(1)(b) or (c), the local education authority shall make arrangements providing for the constitution of the governing body on and after that date.
- (2) Regulations may make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- (a) modify any provision made under any of sections 19, 20 and 23 of the Education Act 2002 or by Schedule 1 to that Act,
  - (b) apply any such provision with or without modifications, and
  - (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.]

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## SCHEDULE 2

Section 20.

### ALLOCATION OF EXISTING SCHOOLS TO NEW CATEGORIES

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

**C4** Sch. 2 excluded (7.9.1998) (*temp.*) by S.I. 1998/1969, reg.18

#### *Allocation of LEA-maintained schools*

- 1 A school which immediately before the appointed day is (within the meaning of the <sup>M2</sup>Education Act 1996)—
- (a) a county school,
  - (b) a controlled, aided or special agreement school, or
  - (c) a maintained special school,
- shall become on that day a school of the category to which it is allocated by the following table.

<i>Existing school</i>	<i>Allocated new category</i>
A county school.	Community school.
A controlled school.	Voluntary controlled school.
(1) An aided school.	Voluntary aided school.
(2) A special agreement school.	
A maintained special school.	Community special school.

**Marginal Citations**

**M2** 1996 c. 56.

#### *Allocation of grant-maintained and grant-maintained special schools*

- 2 A school which immediately before the appointed day is (within the meaning of the <sup>M3</sup>Education Act 1996)—
- (a) a grant-maintained school, or
  - (b) a grant-maintained special school,
- shall become on that day a school of the category to which it is to be allocated in accordance with the following paragraphs of this Schedule.

**Marginal Citations**

**M3** 1996 c. 56.

#### *Indicative allocation of schools within paragraph 2*

- 3 For the purposes of this Schedule the indicative allocation of a school within paragraph 2 is shown in the following table.



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Any reference in the first column to a school of a particular description is a reference to a school of that description within the meaning of the Education Act 1996.

***Existing school***

***Indicative new category***

(1) A grant-maintained school formerly a county or controlled school. (2) A grant-maintained school established by the Funding Agency for Schools.	Foundation school.
(1) A grant-maintained school formerly an aided or special agreement school. (2) A grant-maintained school established by promoters (within the meaning of Part III of the Education Act 1996).	Voluntary aided school.
A grant-maintained special school.	Foundation special school.

*Preliminary decision by governing body as to new category*

- 4 (1) The governing body of a school within paragraph 2 shall in the first instance take a decision (their “preliminary decision”) on the question whether—
- (a) to accept the school’s allocation to a particular category in accordance with its indicative allocation, or
  - (b) to opt for it to be allocated to a different category.
- (2) Regulations may make provision as to the procedure to be followed in connection with the taking by governing bodies of their preliminary decisions under sub-paragraph (1).
- (3) Regulations under sub-paragraph (2) may, in particular, make provision—
- (a) as to the consultation to be carried out by governing bodies before taking their preliminary decisions;
  - (b) as to the time by which governing bodies are to take such decisions;
  - (c) as to the notification of such decisions to prescribed persons;
  - (d) as to the provision of prescribed information to prescribed persons;
  - (e) authorising governing bodies to charge a fee (not exceeding the cost of supply) for prescribed documents supplied by them in pursuance of regulations made by virtue of paragraph (d);
  - (f) requiring the holding of ballots of registered parents in prescribed cases;
  - (g) enabling the Secretary of State, in any prescribed circumstances, to declare a previous ballot void and require the holding of a fresh ballot;
  - (h) as to the conduct of ballots held under the regulations;
  - (i) specifying criteria for determining, for the purposes of the regulations and this Schedule, the result of any such ballot.

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

C5 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

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*Final decision by governing body as to new category*

- 5 (1) Where—
- (a) the governing body of a school within paragraph 2 have taken their preliminary decision under sub-paragraph (1) of paragraph 4, and
  - (b) the result of a ballot held by virtue of that paragraph does not accord with that decision,
- the governing body shall reconsider the question set out in that sub-paragraph, having regard to the result of the ballot, and shall then take a further decision on that question.
- (2) Where—
- (a) the governing body of a school within paragraph 2 have taken their preliminary decision under sub-paragraph (1) of paragraph 4, and
  - (b) either—
    - (i) a ballot was held by virtue of that paragraph whose result (if any) was not to disagree with that decision, or
    - (ii) no such ballot was required to be held,
- the governing body shall take a further decision confirming their preliminary decision.
- (3) Regulations may make provision as to the procedure to be followed in connection with the taking by governing bodies of their final decisions (including, in particular, provision as to the time by which governing bodies are to take such decisions).
- (4) In this Schedule any reference to a governing body’s “final decision” is a reference to any such further decision as is required by sub-paragraph (1) or (2).

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

C6 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Notification of final decision*

- 6 (1) Once the governing body of a school within paragraph 2 have taken their final decision, they shall give written notification of that decision to the Secretary of State.
- (2) Regulations may make provision—
- (a) requiring governing bodies—
    - (i) when giving such notifications, to certify such matters as may be specified in the regulations, and
    - (ii) to provide such information to such persons as may be so specified;
  - (b) as to the time by which such notifications are to be given or such information is to be provided.

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

C7 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Final determination of new category*

- 7 (1) If—

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- (a) the final decision of the governing body of a school within paragraph 2 accorded with the school's indicative allocation, and
  - (b) either—
    - (i) a ballot was held by virtue of paragraph 4 whose result (if any) was not to disagree with that allocation, or
    - (ii) no such ballot was required to be held,the school shall be allocated to the category provided for by its indicative allocation.
- (2) If in the case of a school within paragraph 2—
- (a) the final decision of the governing body, or
  - (b) the result of a ballot held by virtue of paragraph 4,
- did not accord with the school's indicative allocation, the school shall be allocated to such category (whether or not that provided for by its indicative allocation) as the Secretary of State may determine in conformity with regulations under paragraph 8.
- (3) The Secretary of State shall notify the governing body of each school within paragraph 2 of the category to which it is allocated in accordance with this paragraph.

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

**C8** Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Restrictions on decisions as to categories*

- 8 Regulations may make provision for prohibiting a school of any description specified in the regulations—
- (a) from being allocated under paragraph 7 to a category so specified; or
  - (b) from being so allocated unless such conditions are satisfied as are so specified.

**Subordinate Legislation Made**

**P1** Power conferred by Sch. 2, para.8 exercised; 7.9.1998 appointed by S.I. 1998/1969, reg. 1

*Transitional arrangements: schools within paragraph 2*

- 9 (1) Where the category to which a school within paragraph 2 is to be allocated has not been finally determined, in accordance with the preceding paragraphs of this Schedule, by the appointed day, the school shall be taken to be allocated on that day to the category provided for by its indicative allocation.
- (2) Sub-paragraph (1) does not prevent such a school from being subsequently allocated to a different category in accordance with paragraph 7.
- (3) Where such a school is subsequently so allocated, section 20(2)(a) shall apply to it as if it had been allocated to the category in question on the appointed day.

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*Transitional arrangements: general*

- 10 (1) Regulations may make such provision as the Secretary of State considers appropriate in connection with the allocation to the new categories of maintained schools of schools—
- (a) to which paragraph 9(1) applies; or
  - (b) whose school opening date falls on or after the date of the passing of this Act; or
  - (c) in relation to which a duty to implement proposals to discontinue the school has arisen, or a notice to discontinue the school has been given; or
  - (d) in relation to which a notice has been given under section 272 of the <sup>M4</sup>Education Act 1996 (school unsuitable to continue as grant-maintained school) which contains such a statement as is mentioned in subsection (3) or (5)(b) of that section.
- (2) Regulations under sub-paragraph (1) may provide that any provision of the Education Acts shall apply to any such school with such modifications as are specified in the regulations.

**Subordinate Legislation Made**

**P2** Power conferred by Sch. 2, para. 10 exercised; 7.9.1998 appointed by [S.I. 1998/1969, reg. 1](#)

**Marginal Citations**

**M4** [1996 c. 56.](#)

*Effect of allocation*

- 11 The allocation of a school to a particular category under this Schedule shall not be taken as authorising or requiring any change as from the appointed day in the character of the school conducted by its governing body (including, in particular, any religious character of the school).

SCHEDULE 3

Section 22.

FUNDING OF FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS

**PART I**

FOUNDATION, VOLUNTARY CONTROLLED AND FOUNDATION SPECIAL SCHOOLS

*Obligations of governing bodies*

- 1 (1) The governing body of a foundation, voluntary controlled or foundation special school are (in accordance with section 22(4)) not responsible for any of the expenses of maintaining the school.
- (2) Sub-paragraph (1) does not apply to the repayment of the principal of, or interest on, a loan made to the governing body.

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*Obligations of LEAs as regards provision of sites and buildings  
(otherwise than in connection with statutory proposals)*

- 2 (1) In the case of a foundation, voluntary controlled or foundation special school, the local education authority shall provide—
- (a) any new site which is to be provided in addition to, or instead of, the school's existing site (or part of its existing site), and
  - (b) any buildings which are to form part of the school premises.
- (2) Sub-paragraph (1) does not—
- (a) apply in relation to the provision of any site or buildings which the authority or promoters are required to provide by virtue of Part III of Schedule 6 (provision of premises in connection with statutory proposals); or
  - (b) require the local education authority to finance the acquisition by the governing body of any site or buildings provided otherwise than by the authority.
- (3) Where a site is provided for a school under this paragraph, the local education authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school's foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (4) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (5) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (6) Where—
- (a) a transfer is made under this paragraph, and
  - (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons shall notify the local education authority that paragraph (b) applies to them and they or their successors shall pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Secretary of State.
- (7) In sub-paragraph (6)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent; and
  - (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (6) regard shall be had to any guidance given from time to time by the Secretary of State.

*Status: Point in time view as at 31/03/2003.*

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- (8) Any sum paid under sub-paragraph (6) shall be treated for the purposes of section 14 of the <sup>M5</sup>Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (9) A determination may be made under sub-paragraph (6) in respect of any property subject to a trust which has arisen under section 1 of the <sup>M6</sup>Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) if (and only if)—
- (a) the determination is made by the Secretary of State, and
  - (b) he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (10) Sub-paragraph (6) shall apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (6)(b) (if any) as remains after the application of paragraphs 1 to 3 of Schedule 22 to that sum.
- (11) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, and
  - (b) in relation to a transfer to a school’s governing body, the purposes of the school;
- “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

**Marginal Citations**

**M5** 1841 c. 38.

**M6** 1987 c. 15.

## PART II

### VOLUNTARY AIDED SCHOOLS

#### *Obligations of governing bodies*

- [<sup>F23</sup> (1) In the case of a voluntary aided school, the governing body of the school are responsible for meeting all capital expenditure in relation to the school premises subject to sub-paragraph (2) below.
- (2) The duty in sub-paragraph (1) does not extend—
- (a) to capital expenditure in relation to playing fields or any building or other structure erected thereon in connection with the use of playing fields, but does extend to capital expenditure in relation to boundary walls and fences;
  - (b) to capital expenditure necessary in consequence of the use of the school premises, in pursuance of a direction or requirement of the local education authority, for purposes other than those of the school;
  - (c) to capital expenditure on the provision of any new site which the local education authority is to provide by virtue of paragraph 4 of this Schedule.

*Status: Point in time view as at 31/03/2003.*

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- (3) For the purposes of this Schedule “capital expenditure” has the meaning given by Article 13 of The Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002, as it has effect from time to time.]

*Obligations of LEAs as regards provision of sites  
(otherwise than in connection with statutory proposals)*

- 4 (1) In the case of a voluntary aided school, the local education authority shall provide any new site which is to be provided in addition to, or instead of, the school’s existing site (or part of its existing site).
- (2) Sub-paragraph (1) does not—
- (a) apply in relation to the provision of any site which persons other than the authority are required to provide by virtue of [<sup>F3</sup>any enactment] ; or
  - (b) require the local education authority to finance the acquisition by the governing body of any site or buildings provided otherwise than by the authority.
- (3) Where a site is provided for a school under this paragraph, the local education authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school’s foundation body to be held by that body for the relevant purposes.
- (4) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (5) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (6) Where—
- (a) a site is provided for a school under this paragraph, and
  - (b) work is required to be done to the site for the purpose of clearing it or making it suitable for building purposes,
- the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as will secure that the cost of the work is borne by the authority.
- (7) Where—
- (a) a site is provided for a school under this paragraph, and
  - (b) there are buildings on the site which are of value for the purposes of the school,
- the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as appear to be desirable having regard to the governing body’s duties under paragraph 3 with respect to the [<sup>F4</sup>school premises] .

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(8) Where it appears to the Secretary of State that provision for any payment or other adjustment ought to have been made under sub-paragraph (6) or (7) but has not been made, he may give directions providing for the making of such payment or other adjustment as he thinks proper.

(9) In this paragraph—  
“the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts;  
“site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

*Grants by Secretary of State in respect of expenditure on premises or equipment*

5 (1) The Secretary of State may make grants—  
(a) to the governing body of a voluntary aided school in respect of [<sup>F5</sup>capital expenditure incurred or to be incurred] by them; or  
(b) to a relevant body in the case of such a school, in respect of [<sup>F6</sup>capital expenditure incurred or to be incurred] by that body on behalf of the governing body.

(2) <sup>F7</sup>.....

(3) The amount of any grant paid under this paragraph in respect of any such expenditure—  
[<sup>F8</sup>(a) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, and]  
(b) in the case of any prescribed class or description of such expenditure, shall be such as may be determined in accordance with regulations.

(4) The times at which, and the manner in which, payments are made in respect of a grant under this paragraph shall be such as may be determined from time to time by the Secretary of State.

[<sup>F9</sup>(5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this paragraph to make grants in respect of expenditure on school premises, give priority to paying grants in respect of expenditure which is necessary to make such alterations as may be required by the local education authority for the purpose of securing that the school premises conform to the standards prescribed under section 542 of the Education Act 1996 <sup>M7</sup> or as may be required for the purpose of securing that the school premises conform to standards specified by or under any other enactment relating to health and safety; and the amount of any grant paid in the exercise of that power in respect of such expenditure on school premises shall be at least 90 per cent of the expenditure.]

(6) Any body to whom any payment is made in respect of a grant under this paragraph shall comply with such requirements determined by the Secretary of State as he may from time to time impose.

(7) Such requirements—  
(a) may be imposed on, or at any time after, the making of any payment by reference to which they are imposed, and



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- (b) may at any time be waived, removed or varied by the Secretary of State; but such requirements may be imposed after the making of any such payment only if the Secretary of State is satisfied that in all the circumstances it is reasonable for them to be so imposed.
- (8) Such requirements may, in particular, if any conditions specified in the requirements are satisfied—
  - (a) require the application for purposes connected with the provision of education in appropriate schools of—
    - (i) any premises or equipment in respect of which the grant has been paid under this paragraph, or
    - (ii) an amount equal to so much of the value of any such premises or equipment as is determined in accordance with the requirements to be properly attributable to the payment of the grant; and
  - (b) in the event that that requirement is not complied with, require the payment to the Secretary of State of the whole or any part of the following amount.
- (9) That amount is—
  - (a) the amount of the payments made in respect of the grant under this paragraph, or
  - (b) the amount mentioned in sub-paragraph (8)(a)(ii),whichever the Secretary of State determines to be just.
- (10) When deciding whether to make any grant to a body under this paragraph in circumstances where he considers that it would be appropriate to impose requirements falling within sub-paragraph (8), the Secretary of State may have regard to whether, if such requirements were imposed, that body would have an enforceable right against some other person to be given by that person such financial assistance as would be necessary to enable them to pay to the Secretary of State the amount mentioned in sub-paragraph (9).
- (11) No grant may be paid under this paragraph in respect of any expenses incurred in the provision of any premises which it is the duty of the local education authority to provide.
- (12) In this paragraph—
  - “appropriate schools”—
    - (a) in relation to a voluntary aided school having a religious character, means schools which are either foundation or voluntary schools and whose specified religion or religious denomination under section 69(4) is the same as that school’s, and
    - (b) in relation to any other voluntary aided school, means maintained schools;
  - “relevant body”, in relation to a voluntary aided school, means the appropriate diocesan authority or the school’s trustees;

F10  
.....

*Grants by Secretary of State in respect of preliminary expenditure*

- 6 (1) The Secretary of State may pay grants—
  - (a) to the governing body of a voluntary aided school in respect of preliminary expenditure incurred [F11 or to be incurred] by them for the purposes of any

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- scheme for the transfer of the school to a new site or the enlargement or alteration of the school premises, or
- (b) to a relevant body in the case of such a school, in respect of any preliminary expenditure incurred [<sup>F11</sup>or to be incurred] by them, on behalf of the governing body, for the purposes of any such scheme.
- (2) Where any persons propose or are considering whether to propose the establishment of a voluntary aided school, the Secretary of State may pay grants to them in respect of any preliminary expenditure incurred [<sup>F12</sup>or to be incurred] by them for the purposes of a scheme for the provision of a site for the school or of any buildings which would be [<sup>F13</sup>used for the purposes of the school] .
- (3) Grants under sub-paragraph (1) or (2) may be paid in respect of a scheme such as is mentioned in that sub-paragraph whether or not—
- (a) the details of such a scheme had been formulated at the time when the expenditure was incurred,
- (b) where such details were not formulated at that time, they are subsequently formulated,
- (c) the governing body or persons in question had determined to proceed with such a scheme at that time, or
- (d) where they had not determined to proceed with such a scheme at that time, they subsequently determine to proceed with such a scheme.
- (4) Expenditure in respect of which such grants are payable includes, in particular, costs incurred in connection with—
- (a) the preparation of plans and specifications for any proposed construction, enlargement or alteration of buildings which are or would be [<sup>F14</sup>used for the purposes of the school] , and
- (b) estimating the sums which would be expended if any such works were carried out,
- but does not include any sums expended in carrying out any such works.
- [<sup>F15</sup>(5) A grant under sub-paragraph (1) or (2) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, in respect of which it is paid.]
- (6) Where—
- (a) a grant is paid under sub-paragraph (1) in the case of any voluntary aided school, or
- (b) a grant is paid under sub-paragraph (2) in the case of any school which is established as a voluntary aided school,
- the grant shall for the purposes of section 30(2) be treated as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the school premises.
- (7) In this paragraph “relevant body”, in relation to a voluntary aided school, means the appropriate diocesan authority or the school’s trustees.

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*Loans by Secretary of State in respect of initial [F16 expenses][F16 expenditure]*

**Textual Amendments**

**F16** Cross-heading preceding Sch. 3 para. 7: "expenditure" substituted for "expenses" (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), [art. 9](#)

- 7 (1) Where, on the application of the governing body of a voluntary aided school and after consulting persons representing the governing body, the Secretary of State—
- (a) is satisfied that the governing body's share of any [F17 initial expenditure] required in connection with the school premises will involve capital expenditure, and
  - (b) having regard to all the circumstances of the case, considers that that [F18 capital expenditure] ought properly to be met by borrowing,
- he may make a loan to the governing body for the purpose of helping them meet that expenditure.
- (2) The amount, rate of interest and other terms and conditions applicable to the loan shall be such as may be specified in an agreement made between the Secretary of State and the governing body with the consent of the Treasury.
- (3) For the purposes of this paragraph [F19 "initial expenditure" is expenditure] to be incurred in providing—
- (a) a site or [F20 . . . buildings for a voluntary aided school in connection with—
    - (i) the implementation of any proposals for a prescribed alteration to the school published under section 28, or
    - (ii) the transfer of the school to a new site, or
  - (b) a site or [F21 . . . buildings for a new voluntary aided school,
- being [F22 expenditure] in respect of which grants may be paid under paragraph 5.
- (4) For the purposes of this paragraph the governing body's share of any [F23 initial expenditure] shall be taken to be so much of the [F24 expenditure] as remains to be borne by the governing body after taking into account the amount of any grant under paragraph 5 that may be paid or payable in respect of them.
- (5) The preceding provisions of this paragraph shall apply for the purpose of enabling loans to be made to a relevant body (within the meaning of paragraph 5) in respect of [F25 expenditure] incurred by that body on behalf of the governing body as it applies to [F25 expenditure] incurred by the governing body; and in those provisions, as they apply in relation to a new voluntary aided school, references to the governing body are to the promoters.
- (6) Paragraph 3(3) of Schedule 10 (consent to borrowing) does not apply to any borrowing by a governing body under this paragraph.

*Assistance by LEAs in respect of maintenance and other obligations of governing bodies*

- 8 A local education authority may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation under paragraph 3.

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*Duty to transfer interest in premises provided under paragraph 8*

- 9 (1) Where assistance under paragraph 8 consists of the provision of any premises for use for the purposes of a school, the local education authority shall transfer their interest in the premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school’s foundation body, to be held by that body for the relevant purposes.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (3) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

### PART III

#### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: COMMON PROVISIONS

*Default powers of Secretary of State*

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

*Endowments*

- 11 Where any sums accruing in respect of the income of an endowment are required by virtue of the provisions of a trust deed to be applied towards the maintenance of a foundation, voluntary or foundation special school, those sums shall not be payable to the local education authority but shall be applied by the governing body of the school—
- (a) (in the case of a voluntary aided school) towards the discharge of their obligations under paragraph 3, or
  - (b) (in the case of any school) in such manner, if any, as may be determined by a scheme for the administration of the endowment made after 1st April 1945.

*Status: Point in time view as at 31/03/2003.*

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*Disapplication of restriction on local authority disposals*

- 12 Subsection (2) of section 123 of the <sup>M8</sup>Local Government Act 1972 (local authority prohibited from making disposal of land under that section below market value without consent of the Secretary of State) shall not apply in the case of a disposal—
- (a) to the governing body of a foundation, voluntary or foundation special school, or
  - (b) to persons proposing to establish such a school.

**Marginal Citations**

**M8** 1972 c. 70.

SCHEDULE 4

Section 24.

SCHOOL ORGANISATION COMMITTEES

*Interpretation*

- 1 In this Schedule—
- “committee” means a school organisation committee;
  - “the relevant authority”, in the case of any such committee, means the local education authority by whom the committee are established.

*Election of chairmen and appointment of members*

- 2 Regulations may make provision with respect to—
- (a) the election by a committee of one of their number to be chairman, and one to be vice-chairman, of the committee;
  - (b) the period for which the chairman and vice-chairman are to be elected; and
  - (c) the appointment and tenure of office of, and the vacation of office by, members of a committee.

*Allowances for members*

- 3 (1) For the purpose of the payment of financial loss allowance under section 173(4) of the <sup>M9</sup>Local Government Act 1972, that provision shall apply, with any necessary modifications, to any member of a committee as it applies to any member of a parish or community council; and a committee shall be included in the bodies to which section 174 of that Act (travelling and subsistence allowances) applies.
- (2) In section 174(1) of that Act, in its application to a committee in accordance with subparagraph (1), the reference to payments at rates determined by the body in question shall be read as a reference to payments at rates determined by the relevant authority.

**Marginal Citations**

**M9** 1972 c. 70.

*Status: Point in time view as at 31/03/2003.*

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*Financial and other assistance by LEA*

- 4 (1) The relevant authority in the case of a committee shall—
- (a) defray the expenses of the committee in accordance with sub-paragraphs (2) to (5); and
  - (b) make arrangements for them to be provided with accommodation and with such services as the authority consider appropriate.
- (2) Before the beginning of each financial year a committee shall submit to the relevant authority a statement of the estimated expenses of the committee in respect of that year (including estimates of any allowances payable to their members by virtue of paragraph 3).
- (3) Where they have received such a statement the relevant authority shall approve it, either without modification or with such modifications as they may specify.
- (4) Once they have approved the statement under sub-paragraph (3) the relevant authority shall (subject to sub-paragraphs (5) and (6)) defray the expenses of the committee, in respect of the financial year in question, up to the total amount of the expenses set out in the statement as so approved.
- (5) The relevant authority are not required by sub-paragraph (4) to defray any expenses of the committee which do not relate to an activity of the committee mentioned in the statement.
- (6) If they consider it appropriate to do so, the relevant authority may—
- (a) defray the expenses of the committee in respect of a financial year up to an amount which exceeds the total amount referred to in sub-paragraph (4);
  - (b) defray any expenses of the committee to which sub-paragraph (5) applies.

*Proceedings*

- 5 (1) Regulations may make provision as to the meetings and proceedings of a committee.
- (2) Regulations under this paragraph may in particular—
- (a) provide that, in any prescribed circumstances, the members within each category of members of a committee are to have collectively a single vote;
  - (b) require all decisions of a prescribed description which are taken by a committee (in accordance with regulations made by virtue of paragraph (a)) to be unanimous decisions of those voting.
- (3) Regulations under this paragraph must, however, include provision—
- (a) for the members within each category of members of a committee to have collectively a single vote in relation to any decision to which this sub-paragraph applies;
  - (b) requiring any such decision which is taken by a committee to be a unanimous decision of those voting.
- (4) Sub-paragraph (3) applies to any decision of a committee as to whether or not—
- (a) to give any approval under section 26(5) or to prepare such a plan as is mentioned in section 26(6)(d)(ii);
  - (b) to give any approval under paragraph 3 of Schedule 6 or to—
    - (i) modify any proposals,
    - (ii) specify any date, or

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- (iii) make any determination,  
under paragraph 5(2)(a) or (b) or (3) of that Schedule;
- (c) to make, vary or revoke a transitional exemption order under paragraph 21 of that Schedule or paragraph 16 of Schedule 7;
- (d) to give any approval under paragraph 8 of Schedule 7;
- (e) [<sup>F26</sup>to make any decision authorised by or by virtue of paragraph 6 of Schedule 23.]
- (5) Where regulations under paragraph 2(2) of Schedule 8 provide for either of the following provisions, namely paragraph 3 or 5(2)(a) of Schedule 6, to have effect in relation to proposals published under paragraph 2 or 3 of Schedule 8, the reference to that provision in sub-paragraph (4) above shall include a reference to it as it so has effect.

#### Textual Amendments

**F26** Sch. 4 para. 5(4)(e) repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

- 6 The validity of any proceedings of a committee shall not be affected by any vacancy among the members or by any defect in the appointment of a member.
- 7 Subject to any provision made by or under this Schedule, a committee may regulate their own procedure.
- 8 When taking any decision a committee shall have regard (so far as relevant) to the obligations which, by virtue of—
- (a) Part III of the <sup>M10</sup>Sex Discrimination Act 1975,<sup>F27</sup> . . .
- (b) Part III [<sup>F28</sup>or section 71] of the <sup>M11</sup>Race Relations Act 1976, [<sup>F29</sup>or
- (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,]
- are owed by any local education authority or governing body which will be affected by the decision.

#### Textual Amendments

**F27** Word in Sch. 4 para. 8(a) repealed (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(2) (a), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

**F28** Words in Sch. 4 para. 8(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 30 (with s. 10(5)); S.I. 2001/566, art. 2(1)

**F29** Sch. 4 para. 8(c) and the preceding word "or" inserted (1.9.2002) by 2001 c. 10, ss. 42(1), 43(3), Sch. 8 Pt. 2 para. 23(2)(b) (with s. 43(12)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

#### Marginal Citations

**M10** 1975 c. 65.

**M11** 1976 c. 74.

#### Indemnity

- 9 The relevant authority in the case of a committee shall indemnify the members of the committee against any reasonable legal costs and expenses reasonably incurred

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by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of the committee.

*Default powers of Secretary of State*

- 10 Each of sections 496 and 497 of the <sup>M12</sup>Education Act 1996 (default powers of Secretary of State) shall apply in relation to a committee as it applies in relation to a body falling within subsection (2) of that section.

**Marginal Citations**

M12 1996 c. 56.

SCHEDULE 5

Section 25.

ADJUDICATORS

*Interpretation*

- 1 In this Schedule “adjudicator” means a person appointed under section 25.

*Tenure of office*

- 2 (1) Subject to sub-paragraphs (2) and (3), an adjudicator shall hold and vacate office in accordance with the terms of his appointment.
- (2) An adjudicator—
- (a) may at any time resign his office by notice in writing to the Secretary of State; and
  - (b) is eligible for re-appointment if he ceases to hold office.
- (3) An adjudicator may be removed from office by the Secretary of State on the ground of incapacity or misbehaviour.

*Remuneration and pensions*

- 3 (1) The Secretary of State may pay to an adjudicator such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines in the case of any adjudicator, the Secretary of State may 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.

*Staff and accommodation etc.*

- 4 The Secretary of State may—
- (a) provide an adjudicator with such administrative staff as the adjudicator may require; and



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- (b) provide, or defray the expenses of providing, an adjudicator with such accommodation and other facilities as the adjudicator may require.

#### *Procedure*

- 5 (1) Regulations may make provision as to the procedure to be followed in connection with the reference, under this Part or Part III of this Act, of matters to adjudicators and their determination of matters so referred.
- (2) The regulations may, in particular, make provision—
- (a) as to the manner in which matters may be referred to adjudicators;
  - (b) for determining the adjudicators to which individual referrals are to be made;
  - (c) authorising adjudicators to hold local inquiries;
  - (d) as to the procedure to be followed where local inquiries are held by adjudicators (whether by virtue of paragraph (c) or otherwise);
  - (e) authorising adjudicators to appoint assessors to sit with them at such inquiries to advise them on matters arising;
  - (f) requiring anything falling to be done under the regulations to be done within such period as may be specified in or determined in accordance with the regulations.
- (3) Subject to any provision made by the regulations, an adjudicator may regulate his own procedure.
- (4) The Secretary of State may make orders—
- (a) as to the costs of the parties at any local inquiry held by an adjudicator (whether by virtue of sub-paragraph (2)(c) or otherwise), and
  - (b) as to the parties by whom the costs are to be paid;
- and any costs payable under any such order shall be subject to taxation in such manner as the Secretary of State may direct.
- 6 When taking any decision an adjudicator shall have regard (so far as relevant) to the obligations which, by virtue of—
- (a) Part III of the <sup>M13</sup>Sex Discrimination Act 1975,<sup>F30</sup> . . .
  - (b) Part III [<sup>F31</sup>or section 71]of the <sup>M14</sup>Race Relations Act 1976, [<sup>F32</sup>or
  - (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,]
- are owed by any local education authority or governing body which will be affected by the decision.

#### **Textual Amendments**

- F30** Word in Sch. 5 para. 6(a) repealed (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(3)(a), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1
- F31** Words in Sch. 5 para. 6(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 31 (with s. 10(5)); S.I. 2001/566, art. 2(1)
- F32** Sch. 5 para. 6(c) and the preceding word "or" inserted (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(3)(b), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

#### **Marginal Citations**

- M13** 1975 c. 65.  
**M14** 1976 c. 74.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

### *Indemnity*

- 7 The Secretary of State shall indemnify an adjudicator against any reasonable legal costs and expenses reasonably incurred by him in connection with any decision or action taken by him in good faith in pursuance of his functions as an adjudicator.

### *Parliamentary disqualification*

- 8 In Part III of Schedule 1 to the <sup>M15</sup>House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place there shall be inserted—  
“Adjudicator appointed under section 25 of the School Standards and Framework Act 1998.”

#### **Marginal Citations**

**M15** 1975 c. 24.

### *Parliamentary Commissioner*

- 9 For the purposes of section 5 of the <sup>M16</sup>Parliamentary Commissioner Act 1967 (matters subject to investigation) administrative functions exercisable by any person provided by the Secretary of State under paragraph 4 above shall be taken to be administrative functions of [<sup>F33</sup>the Department for Education and Skills] .

#### **Textual Amendments**

**F33** Words in [Sch. 5 para. 9](#) substituted (27.6.2002) by [The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 \(S.I. 2002/1397\)](#), art. 12, [Sch. Pt. I para. 14](#)

#### **Marginal Citations**

**M16** 1967 c. 13.

### *Supervision of Council on Tribunals*

- 10 (1) In section 7 of the <sup>M17</sup>Tribunals and Inquiries Act 1992 (which restricts Ministers’ powers to remove members of tribunals listed in Schedule 1 to that Act) in subsection (2) (tribunals to which that section does not apply) after “14,” there shall be inserted “15(f),”.
- (2) In Schedule 1 to that Act (tribunals under the supervision of the Council on Tribunals) at the end of paragraph 15 (tribunals concerned with education) there shall be inserted—

“(f) an adjudicator appointed under section 25 of the School Standards and Framework Act 1998.”

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

### Marginal Citations

M17 1992 c. 53.

## SCHEDULE 6

Sections 28, 29 and 31.

### STATUTORY PROPOSALS: PROCEDURE AND IMPLEMENTATION

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

C9 Sch. 6 modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, Sch.  
Sch. 6 continued (1.9.2001) by S.I. 2001/2678, reg. 2(2)

## PART I

### PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS: ENGLAND

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

C10 Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(1), 10, Sch. 1.  
Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(2), 10, Sch. 1.  
Sch. 6 Pt. 1 (paras. 1-5) applied (with modifications) (E.) (1.9.2000) by S.I. 2000/2195, reg. 4(1), Sch. 1  
(as amended (15.9.2003) by The Education (Change of Category of Maintained Schools) (Amendment)  
(England) Regulations 2003 (S.I. 2003/2136), regs. 1(1), 10)

#### *Application of Part I*

- 1 (1) This Part of this Schedule applies to proposals published under section 28, 29 or 31 which relate to a school or proposed school in England.
- (2) In this Part of this Schedule “the relevant committee” means the school organisation committee for the area of the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school.

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

C11 Sch. 6 para. 1 applied (with modifications) (1.9.1999) by S.I. 1999/2212, reg. 16, Sch.4.  
Sch. 6 para. 1 applied (with modifications) (1.9.1999) by S.I. 1999/2213, reg. 15(1), Sch.4 (as amended (1.9.2006) by The Education (New Secondary School Proposals) (England) Regulations 2006 (S.I. 2006/2139), regs. 1, 26(17)).

#### *Objections*

- 2 (1) Any person may make objections to any proposals published under section 28, 29 or 31.
- (2) Where the proposals were published by a local education authority—

*Status: Point in time view as at 31/03/2003.*

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- (a) any objections under this paragraph shall be sent to the authority within such period as may be prescribed (“the objection period”); and
  - (b) within such period as may be prescribed the authority shall send to the relevant committee copies of all objections made (and not withdrawn in writing) within the objection period, together with the authority’s observations on them.
- (3) Where the proposals were published by a governing body or promoters, any objections under this paragraph shall be sent to the relevant committee within such period as may be prescribed.

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

**C12** Sch. 6 para. 2 applied (with modifications) (1.9.1999) by S.I. 1999/2212, reg. 16, **Sch. 4**  
 Sch. 6 para. 2 applied (with modifications) (1.9.1999) by S.I. 1999/2213, reg. 15, **Sch. 4** (as amended: (1.6.2003) by [The Education \(School Organisation Proposals\) \(England\) \(Amendment\) Regulations 2003](#) (S.I. 2003/1229), regs. 1(1), **16**; and (1.9.2006) by [The Education \(New Secondary School Proposals\) \(England\) Regulations 2006](#) (S.I. 2006/2139), regs. 1, **26(17)**)

*Approval of proposals*

- 3 (1) Proposals published under section 28, 29 or 31 require approval under this paragraph if—
- (a) the proposals were published by a local education authority and either—
    - (i) objections to the proposals have been made in accordance with paragraph 2 and any of them have not been withdrawn in writing within the objection period; or
    - (ii) such approval is required by virtue of paragraph 4(5); or
  - (b) the proposals were published by a governing body or promoters.
- (2) Where any proposals require approval under this paragraph, they shall be considered in the first instance by the relevant committee, who may—
- (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) approve them with such modifications as the committee think desirable after consulting such persons or bodies as may be prescribed.
- (3) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (4) When deciding whether or not to give any approval under this paragraph the committee shall have regard to—
- (a) any guidance given from time to time by the Secretary of State, and
  - (b) the school organisation plan for the committee’s area;
- and the committee shall not give any such approval unless they are satisfied that adequate financial resources will be available to enable the proposals to be implemented.
- (5) If—

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- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and
  - (b) the body or promoters by whom the proposals were published request the committee to refer the proposals to the adjudicator,
- they shall refer the proposals to the adjudicator.

Regulations made for the purposes of this sub-paragraph (or any other corresponding provision of this Act) may be framed by reference to the opinion of the committee.

- (6) If the committee—
  - (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision, but
  - (b) have failed to reach such a decision on that matter,they shall refer the proposals to the adjudicator.
- (7) Where any proposals are referred to the adjudicator under sub-paragraph (5) or (6)—
  - (a) he shall consider the proposals afresh; and
  - (b) sub-paragraphs (2) to (4) shall apply to him in connection with his decision on the proposals as they apply to the committee.
- (8) Sub-paragraph (1) does not prevent the body or promoters by whom any proposals have been published under section 28, 29 or 31 from withdrawing those proposals by notice in writing given to the relevant committee at any time before the proposals are determined under this paragraph.

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

**C13** Sch. 6 para. 3 modified (1.9.1999) by [S.I. 1999/2213](#), reg. 15(2)(4), [Sch. 5 para. 3](#) (as amended by [S.I. 2003/1229](#), regs. 1(1), 17

*Determination by LEA whether to implement proposals*

- 4 (1) Where any proposals have been published by a local education authority under section 28, 29 or 31 and either—
  - (a) no objections were made in accordance with paragraph 2, or
  - (b) all objections so made were withdrawn in writing within the objection period,then (subject to the following provisions of this paragraph) the authority shall determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within the period of four months beginning with the date of publication of the proposals (as determined in accordance with regulations); and the authority shall notify the relevant committee of any determination made by them under sub-paragraph (1).
- (3) The requirement to make a determination under sub-paragraph (1) in the case of any proposals only applies if, at the time when the authority's determination falls to be made under that sub-paragraph, they are satisfied that the proposals are not related to any of the following, namely—

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- (a) any undetermined proposals published under section 28(2) to establish a new foundation or voluntary school in the area of the authority;
  - (b) any undetermined proposals published under section 28(2), 29(2) or 31(2) by the governing body of a foundation, voluntary or foundation special school in the area of the authority;
  - (c) any undetermined proposals published by the authority which, by virtue of sub-paragraph (1)(a) of paragraph 3, require approval under that paragraph; [<sup>F34</sup>or]
  - (d) any order under paragraph 2(2) or 3(2) of Schedule 7 [<sup>F35</sup>or
  - (e) any undetermined proposals published under Schedule 7 to the Learning and Skills Act 2000.]
- (4) For the purposes of sub-paragraph (3) proposals are “undetermined” if they have not been withdrawn and—
- (a) they have not been approved or rejected under paragraph 3 [<sup>F36</sup>of this Schedule, under paragraph 8 or 9 of Schedule 7 or under Schedule 7 to the Learning and Skills Act 2000], or
  - (b) the authority have not determined under this paragraph whether to implement them,
- as the case may be; and when deciding under sub-paragraph (3) whether any proposals are related to other proposals the authority shall have regard to any guidance given from time to time by the Secretary of State.
- (5) Where, in the case of any proposals within sub-paragraph (1)—
- (a) the authority fail to make a determination under that sub-paragraph within the period mentioned in sub-paragraph (2), or
  - (b) the requirement to make such a determination does not apply by virtue of sub-paragraph (3),
- the proposals require approval under paragraph 3.

#### **Textual Amendments**

- F34** Word in Sch. 6 para. 4(3)(c) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 153, 154(3)-(5), **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F35** Sch. 6 para. 4(3)(e) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 89(1)(2)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F36** Words in Sch. 6 para. 4(4)(a) substituted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 89(1)(3)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)

#### *Requirement to implement proposals*

- 5 (1) Where—
- (a) any proposals published under section 28, 29 or 31 have been approved under paragraph 3, or
  - (b) a local education authority have determined under paragraph 4 to implement any such proposals,

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then (subject to the following provisions of this paragraph) the proposals shall be implemented, in the form in which they were so approved or determined, in accordance with Part III of this Schedule.

- (2) At the request of any prescribed body or persons, the relevant committee—
  - (a) may modify the proposals after consulting such persons or bodies as may be prescribed; and
  - (b) where any approval under paragraph 3 was given in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the event in question must occur.
- (3) If the relevant committee are satisfied—
  - (a) that implementation of the proposals would be unreasonably difficult, or
  - (b) that circumstances have so altered since approval was given under paragraph 3 that implementation of the proposals would be inappropriate,the committee may determine that sub-paragraph (1) shall cease to apply to the proposals.
- (4) The committee may only make a determination under sub-paragraph (3) where proposals that they should do so have been published, in accordance with regulations, by the body or promoters who published the proposals referred to in sub-paragraph (1)(a) or (b); and regulations so made may provide for any of the provisions of sections 28, 29 and 31 and this Part of this Schedule to have effect in relation to any such further proposals with or without modifications.
- (5) If—
  - (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on any matter falling to be decided by them under this paragraph, and
  - (b) the body or promoters who published the proposals referred to in sub-paragraph (1)(a) or (b) request the committee to refer that matter to the adjudicator,they shall refer that matter to the adjudicator.
- (6) If the committee—
  - (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision, but
  - (b) have failed to reach such a decision on that matter,they shall refer that matter to the adjudicator.
- (7) Where any matter is referred to the adjudicator under sub-paragraph (5) or (6)—
  - (a) he shall consider the matter afresh; and
  - (b) such of the provisions of sub-paragraphs (2) to (4) as are relevant shall apply to him in connection with his decision on that matter as they apply to the committee.
- (8) Where—
  - (a) any approval under paragraph 3 was given in accordance with sub-paragraph (3) of that paragraph, and

*Status: Point in time view as at 31/03/2003.*

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- (b) the event specified under that sub-paragraph does not occur by the date in question (whether as specified under that sub-paragraph or as specified under sub-paragraph (2)(b) above),
- sub-paragraph (1) above shall cease to apply to the proposals.
- (9) Where, by virtue of sub-paragraph (3) or (8), sub-paragraph (1) ceases to apply to any proposals, those proposals shall be treated for the purposes of this Schedule as if they had been rejected under paragraph 3.

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

**C14** Sch. 6 para. 5(4)(5) applied (with modifications) (E.) (1.9.2000) by S.I. 1999/2213, **reg. 21(3)** (as inserted by S.I. 2000/2198, **reg. 8**)

**Commencement Information**

**II** Sch. 6 para. 5 wholly in force at 1.9.1999; Sch. 6 para. 5 not in force at Royal Assent see s. 145(3); Sch. 6 para. 5(4) in force for specified purposes at 1.2.1999 by S.I. 1998/3198, **art. 2(2)**, **Sch. 1**; Sch. 6 para. 5 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, **art. 2(1)**, **Sch. 1** (with **arts. 3-5**, **Schs. 5-7**).

## PART II

### PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS: WALES

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

**C15** Sch. 6 Pt. II applied (with modifications) (1.9.1999) (*temp.*) by S.I. 1999/2633, **regs. 4, 5(1)**, **Sch. 1**. Sch. 6 Pt. II modified (1.9.1999) by S.I. 1999/2633, **reg. 5(2)**, **Sch. 2**.

#### *Application of Part II*

- 6 This Part of this Schedule applies to proposals published under section 28, 29 or 31 which relate to a school or proposed school in Wales.

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

**C16** Sch. 6 para. 6 applied (with modifications) (1.9.1999) by S.I. 1999/1780, **reg. 11**, **Sch. 4**.  
 Sch. 6 para. 6 applied (with modifications) (1.9.1999) by S.I. 1999/1671, **reg. 10**, **Sch. 5**  
 Sch. 6 para. 6 applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, **reg. 7**, **Sch. 1 Pt. 1** Tables 1, 2

#### *Objections*

- 7 (1) Any person may make objections to any proposals published under section 28, 29 or 31.
- (2) Where the proposals were published by a local education authority—
- (a) any objections under this paragraph shall be sent to the authority within such period as may be prescribed (“the objection period”); and



*Status: Point in time view as at 31/03/2003.*

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- (b) within such period as may be prescribed the authority shall send to the Secretary of State copies of all objections made (and not withdrawn in writing) within the objection period, together with the authority's observations on them.
- (3) Where the proposals were published by a governing body or promoters, any objections under this paragraph shall be sent to the Secretary of State within such period as may be prescribed.

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

- C17** Sch. 6 para. 7 applied (with modifications) (1.9.1999) by [S.I. 1999/1780](#), reg. 11, [Sch. 4](#).  
Sch. 6 para. 7 applied with modifications (1.9.1999) by [S.I. 1999/1671](#), reg. 10, [Sch. 5](#)  
Sch. 6 para. 7 applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. I](#) Table 2
- C18** Sch. 6 para. 7(1) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. I](#) Table 1
- C19** Sch. 6 para. 7(3) applied (with modifications) (w.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. I](#) Table 3

*Approval of proposals*

- 8 (1) Proposals published under section 28, 29 or 31 require approval under this paragraph if—
  - (a) the Secretary of State, within two months after a copy of the published proposals is sent to him under that section, gives notice to the body or promoters by whom the proposals were published that they require such approval; or
  - (b) objections to the proposals have been made in accordance with paragraph 7 and any of them have not been withdrawn in writing within the objection period.
- (2) Where any proposals require approval under this paragraph, the Secretary of State may—
  - (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) approve them with such modifications as he thinks desirable after consulting such persons or bodies as may be prescribed.
- (3) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified.
- (4) When deciding whether or not to give any approval under this paragraph the Secretary of State shall have regard to the school organisation plan for the area in which the school is, or (in the case of a new school) is proposed to be, situated.
- (5) Sub-paragraph (1) does not prevent the body or promoters by whom any proposals have been published under section 28, 29 or 31 from withdrawing those proposals by notice in writing given to the Secretary of State at any time before the proposals are approved under this paragraph.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

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

- C20** Sch. 6 para. 8(1)(3)(5) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), [reg. 7](#), [Sch. 1 Pt. 1](#) Table 3
- C21** Sch. 6 para. 8(2) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), [reg. 7](#), [Sch. 1 Pt. 1](#) Table 1
- C22** Sch. 6 para. 8(4) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), [reg. 7](#), [Sch. 1 Pt. 1](#) Table 2

*Determination whether to implement proposals*

- 9 (1) Where any proposals published under section 28, 29 or 31 do not require approval under paragraph 8, the body or promoters by whom the proposals were published shall determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within four months after a copy of the published proposals was sent to the Secretary of State under section 28, 29 or 31.
- (3) The body or promoters in question shall notify the Secretary of State of any determination made by them under sub-paragraph (1).

*Requirement to implement proposals*

- 10 (1) Where—
- (a) any proposals published under section 28, 29 or 31 have been approved under paragraph 8, or
  - (b) the body or promoters by whom such proposals were published have determined under paragraph 9 to implement the proposals,
- then (subject to the following provisions of this paragraph) the proposals shall be implemented, in the form in which they were so approved or determined, in accordance with Part III of this Schedule.
- (2) At the request of any prescribed body or persons, the Secretary of State—
- (a) may modify the proposals after consulting such persons or bodies as may be prescribed; and
  - (b) where any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the event in question must occur.
- (3) If the Secretary of State is satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
  - (b) that circumstances have so altered since approval was given under paragraph 8 that implementation of the proposals would be inappropriate,
- he may determine that sub-paragraph (1) shall cease to apply to the proposals.
- (4) The Secretary of State may only make a determination under sub-paragraph (3) where proposals that he should do so have been published, in accordance with regulations, by the body or promoters who published the proposals referred to in that sub-paragraph; and regulations so made may provide for any of the provisions of sections 28, 29 and 31 and this Part of this Schedule to have effect in relation to any such further proposals with or without modifications.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (5) Where—
- (a) any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, and
  - (b) the event specified under that sub-paragraph does not occur by the date in question (whether as specified under that sub-paragraph or as specified under sub-paragraph (2)(b) above),
- sub-paragraph (1) above shall cease to apply to the proposals.
- (6) Where, by virtue of sub-paragraph (3) [<sup>F37</sup>or (5)] , sub-paragraph (1) ceases to apply to any proposals, those proposals shall be treated for the purposes of this Schedule as if they had been rejected under paragraph 8.
- [<sup>F38</sup>(7) Where, by virtue of sub-paragraph (5), sub-paragraph (1) ceases to apply to any proposals, those proposals shall be regarded as requiring fresh approval under paragraph 8.]

#### Textual Amendments

- F37** Words in Sch. 6 para. 10(6) repealed (19.12.2002 for W. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 75, 216, Sch. 10 para. 6\(2\), Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#)
- F38** Sch. 6 para. 10(7) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 10 para. 6\(3\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#); [S.I. 2003/124, art. 4](#)

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

- C23** Sch. 6 para. 10 applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678, reg. 7, Sch. 1 Pt. I Table 2](#)
- C24** Sch. 6 para. 10(1)(2) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678, reg. 7, Sch. 1 Pt. I Table 3](#)

#### Commencement Information

- I2** Sch. 6 para. 10 wholly in force at 1.9.1999; Sch. 6 para. 10 not in force at Royal Assent see s. 145(3); Sch. 6 para. 10(4) in force for specified purposes at 1.2.1999 by [S.I. 1999/3198, art. 2\(2\), Sch.](#); Sch. 6 para. 10 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

### PART III

#### MANNER OF IMPLEMENTATION OF STATUTORY PROPOSALS

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

- C25** Sch. 6 Pt. 3 excluded (19.12.2002) by [Education Act 2002 \(c. 32\), ss. 193\(6\), 216](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#)

#### Introductory

- 11 In this Part of this Schedule “proposals” means proposals falling to be implemented under paragraph 5 or 10.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

*Proposals relating to community or maintained nursery schools*

- 12 (1) This paragraph applies to proposals relating to a community or proposed community school or to a maintained nursery school.
- (2) The proposals shall be implemented by the local education authority by whom they were published under section 28(1) or 29(1).

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

**C26** Sch. 6 para. 12 applied (with modifications) (1.9.1999) by [S.I. 1999/2103, reg. 3](#).

*Proposals relating to foundation or voluntary controlled schools*

- 13 (1) This paragraph applies to proposals relating to a foundation or voluntary controlled school or a proposed such school.
- (2) Where the proposals were published by a local education authority under section 28(1) or 29(1), they shall be implemented by the authority.
- (3) Where the proposals were published under section 28(2)—
- (a) by promoters, or
  - (b) by the governing body,
- they shall be implemented by the local education authority and by the promoters or (as the case may be) the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (4) Where the proposals were published by the governing body under section 29(2), they shall be implemented—
- (a) by the governing body; and
  - (b) by the local education authority as well.

*Proposals relating to voluntary aided schools*

- 14 (1) This paragraph applies to proposals relating to a voluntary aided school or a proposed such school.
- (2) Where the proposals were published by the governing body under section 28(2) or 29(2), they shall be implemented—
- (a) in the case of proposals published under section 28(2) so far as relating to the provision of any [<sup>F39</sup>playing fields] for the school, by the local education authority;
  - (b) in the case of proposals published under section 29(2), by the governing body and the authority; and
  - (c) otherwise by the governing body.
- (3) Where the proposals were published under section 28(2) by promoters, they shall be implemented—
- (a) so far as relating to the provision of any [<sup>F40</sup>playing fields] for the school (but subject to sub-paragraph (5)), by the local education authority; and
  - (b) otherwise by the promoters.
- (4) <sup>F41</sup> .....

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- (5) Nothing in sub-paragraph (3) requires a local education authority to provide any [<sup>F42</sup>such playing fields] where—
- (a) the new voluntary aided school is to be established in place of one or more existing independent, foundation or voluntary schools falling to be discontinued on or before the date of implementation of the proposals; and
  - (b) [<sup>F43</sup>those playing fields—]
    - (i) were part of the premises of any of the existing schools (whether it was an independent school or a foundation or voluntary school); and
    - (ii) (if it was a foundation or voluntary school) were not provided by the authority.
- (6) Where the proposals were published by a local education authority under section 29(1), they shall be implemented by the authority.

*Proposals relating to community or foundation special schools*

- 15 (1) This paragraph applies to proposals relating to—
- (a) a community or foundation special school; or
  - (b) a proposed such school.
- (2) Where the proposals were published by a local education authority under section 31(1), they shall be implemented by the authority.
- (3) Where the proposals were published by the governing body under section 31(2)(a), they shall be implemented by the local education authority and by the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (4) Where the proposals were published by the governing body under section 31(2)(b), they shall be implemented—
- (a) by the governing body; and
  - (b) by the local education authority as well.

**PART IV**

PROVISION OF PREMISES AND OTHER ASSISTANCE

*Provision of site and buildings for foundation,  
voluntary controlled or foundation special school*

- 16 (1) This paragraph applies where a local education authority are required—
- (a) by virtue of paragraph 13(2) or (3) to provide a site for a foundation or voluntary controlled school or a proposed such school; or
  - (b) by virtue of paragraph 15(2) or (3) to provide a site for a foundation special school.
- (2) The authority shall transfer their interest in the site and in any buildings on the site which are to form part of the school premises—
- (a) to the school's trustees, to be held by them on trust for the purposes of the school, or

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- (b) if the school has no trustees, to the school’s foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (4) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (5) Where—
- (a) a transfer is made under this paragraph, and
- (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons shall notify the local education authority that paragraph (b) applies to them and they or their successors shall pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Secretary of State.
- (6) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent; and
- (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (5) regard shall be had to any guidance given from time to time by the Secretary of State.
- (7) Any sum paid under sub-paragraph (5) shall be treated for the purposes of section 14 of the <sup>M18</sup>Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (8) A determination may be made under sub-paragraph (5) in respect of any property subject to a trust which has arisen under section 1 of the <sup>M19</sup>Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) if (and only if)—
- (a) the determination is made by the Secretary of State, and
- (b) he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (9) Sub-paragraph (5) shall apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs 1 to 3 of Schedule 22 to that sum.
- (10) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, or
- (b) in relation to a transfer to a school’s governing body, the purposes of the school;

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“site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

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

**C27** Sch. 6 para. 16 applied (E.) (1.9.2000) by S.I. 1999/2213, **reg. 20(1)(2)** (as inserted by S.I. 2000/2198, **reg. 8**)

**Marginal Citations**

**M18** 1841 c. 38.

**M19** 1987 c. 15.

*Grants in respect of certain expenditure relating  
to existing or proposed voluntary aided school*

- 17 (1) This paragraph applies where—
- (a) the governing body of a voluntary aided school are required by virtue of paragraph 14(2) to implement proposals relating to a prescribed alteration to the school; or
  - (b) any promoters are required by virtue of paragraph 14(3) to implement proposals involving the establishment of a new voluntary aided school.
- (2) Paragraph 5 of Schedule 3—
- (a) shall apply in relation to the voluntary aided school mentioned in subparagraph (1)(a) above; and
  - (b) shall apply in relation to the new voluntary aided school mentioned in subparagraph (1)(b) above as it applies in relation to an existing voluntary aided school.
- (3) In the application of that paragraph in relation to a new voluntary aided school—
- (a) the references to the governing body, in relation to any time before the governing body are constituted, are to the promoters; and
  - (b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the promoters, the requirements shall be complied with by the governing body, when they are constituted, as well as by the promoters.

*Assistance in respect of maintenance and other obligations relating to voluntary aided school*

- 18 A local education authority may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation arising by virtue of paragraph 14(2) in relation to proposals published by them under section 28.

*Assistance for promoters of new voluntary aided school*

- 19 A local education authority may give to persons required by virtue of paragraph 14(3) to implement proposals involving the establishment of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by those persons of any obligation arising by virtue of that provision.

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*Duty to transfer interest in premises provided under paragraph 18 or 19*

- 20 (1) Where assistance under paragraph 18 or 19 consists of the provision of any premises for use for the purposes of a school, the local education authority shall transfer their interest in the premises—
- (a) to the trustees of the school to be held on trust for the purposes of the school; or
  - (b) if the school has no trustees, to the school’s foundation body, to be held by that body for the relevant purposes.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer it shall be made to such persons as the Secretary of State thinks proper.
- (3) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

**PART V**

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

*Single-sex schools: England*

- 21 (1) This paragraph applies to proposals for a school in England to cease to be an establishment which admits pupils of one sex only.
- (2) Sub-paragraph (3) applies where—
- (a) such proposals are made under section 28 and, in accordance with subsection (6) of that section, the relevant body send a copy of the published proposals to the school organisation committee; or
  - (b) such proposals are made under section 31 and, in accordance with subsection (5) of that section, the relevant body send a copy of the published proposals to the school organisation committee.
- (3) The sending of the published proposals to the school organisation committee by the relevant body shall be treated as an application by the responsible body for the making by the school organisation committee of a transitional exemption order, and the committee may make such an order accordingly.
- (4) Where—
- (a) the school organisation committee have failed to reach a unanimous decision under sub-paragraph (3) above on whether to make a transitional exemption order, or
  - (b) the school organisation committee refer the proposals to the adjudicator under paragraph 3 or 5 of this Schedule,
- they shall refer the question whether to make a transitional exemption order to the adjudicator.
- (5) Where that question is referred to the adjudicator—



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- (a) he shall consider the matter afresh; and
- (b) he may make a transitional exemption order accordingly.

(6) In this paragraph and in paragraph 22—

“the 1975 Act” means the <sup>M20</sup>Sex Discrimination Act 1975,

“make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke,

“the responsible body” has the same meaning as in section 22 of the 1975 Act, and

“transitional exemption order” has the same meaning as in section 27 of the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).

#### Marginal Citations

M20 1975 c. 65.

#### *Single-sex schools: Wales*

- 22 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.
- (2) Sub-paragraph (3) applies where—
- (a) such proposals are made under section 28 and, in accordance with subsection (7) of that section, the relevant body send a copy of the published proposals to the Secretary of State; or
  - (b) such proposals are made under section 31 and, in accordance with subsection (6) of that section, the relevant body send a copy of the published proposals to the Secretary of State.
- (3) The sending of the published proposals to the Secretary of State shall be treated as an application by the responsible body for the making by the Secretary of State of a transitional exemption order, and he may make such an order accordingly.

## SCHEDULE 7

Section 34.

### RATIONALISATION OF SCHOOL PLACES

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

C28 Sch. 7 modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, Sch.

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*Status: Point in time view as at 31/03/2003.*

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## PART I

### INTRODUCTORY

- 1 In this Schedule—
- (a) “powers to make proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority to publish proposals under section 28, 29 or 31; and
  - (b) “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a).

## PART II

### DIRECTIONS TO BRING FORWARD PROPOSALS

#### *Directions to bring forward proposals to remedy excessive provision*

- 2 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority, or
  - (b) in any part of such an area,
- is excessive.
- (2) For the purpose of remedying the excess, the Secretary of State may—
- (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (3) An order under sub-paragraph (2) shall—
- (a) require the proposals to be published not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals are published in pursuance of an order under sub-paragraph (2) which relates to an area in England, the body concerned shall (in addition to complying with section 28(6), 29(5) or 31(5), as the case may be) send—
- (a) a copy of the published proposals, and
  - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.

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*Directions to bring forward proposals to remedy insufficient provision*

- 3 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority, or
  - (b) in any part of such an area,
- is, or is likely to become, insufficient.
- (2) The Secretary of State may—
- (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school,
- with a view (in each case) to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the order.
- (3) An order under sub-paragraph (2) shall—
- (a) require the proposals to be published not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals are published in pursuance of an order under sub-paragraph (2) which relates to an area in England, the body concerned shall (in addition to complying with section 28(6), 29(5) or 31(5), as the case may be) send—
- (a) a copy of the published proposals, and
  - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.

*Supplementary provisions*

- 4 (1) Where the Secretary of State makes an order under paragraph 2(2) or 3(2) in relation to the area of any local education authority in England, he shall send a copy of the order—
- (a) to the school organisation committee for the area, and
  - (b) to any adjudicator who appears to him to be likely to be considering proposals in relation to that area.
- (2) Where the school organisation committee or any adjudicator receive a copy of the order under sub-paragraph (1), the committee or adjudicator shall send to the Secretary of State—
- (a) a copy of all proposals relating to the area which have been received by them or him but have not been determined by the relevant time, and
  - (b) a copy of all proposals relating to the area, other than any made under paragraph 5, which they receive after the relevant time.

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- (3) Where sub-paragraph (2) applies, then unless the Secretary of State gives his consent—
- (a) neither the school organisation committee nor the adjudicator shall make any determination, and
  - (b) the school organisation committee shall not make any reference to the adjudicator under paragraph 3 of Schedule 6 or paragraph 8 below,
- in relation to any proposals within sub-paragraph (2) during the period beginning with the relevant time and ending with the time when the Secretary of State notifies the committee or the adjudicator, as the case may be, that they or he may make any such determination or reference in relation to those proposals without the Secretary of State's consent.
- (4) The duty of the school organisation committee or any adjudicator to send copies of proposals to the Secretary of State under sub-paragraph (2) shall terminate at the end of the period mentioned in sub-paragraph (3).
- (5) In sub-paragraphs (2) and (3)—
- (a) references to the relevant time, in relation to the school organisation committee or to any adjudicator, are to the time when they or he receive the copy of the order under sub-paragraph (1);
  - (b) references to proposals are to proposals made under section 28, 29 or 31 [F44 of this Act, paragraph 5 of this Schedule or Schedule 7 to the Learning and Skills Act 2000]; and
  - (c) references to the determination of any proposals are to—
    - (i) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6 or paragraph 8 or 9 below, [F45 or]
    - (ii) any determination whether or not to implement the proposals under paragraph 4 of Schedule 6 [F46 or]
    - (iii) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.]
- (6) Where a local education authority publish any proposals in pursuance of an order under paragraph 2(2) or 3(2) which relates to an area in England, those proposals shall require approval under paragraph 3 of Schedule 6, despite anything in paragraph 3(1)(a) or 4 of that Schedule.
- (7) Proposals made in pursuance of an order under paragraph 2(2) or 3(2) (whether relating to an area in England or in Wales) may not be withdrawn without the consent of the Secretary of State and such consent may be given on such conditions (if any) as the Secretary of State considers appropriate.
- (8) Where the governing body of a foundation, voluntary or foundation special school make any proposals in pursuance of any such order under paragraph 2(2) or 3(2), the local education authority shall reimburse any expenditure reasonably incurred by the governing body in making the proposals.
- (9) Where—
- (a) proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of any such order under paragraph 2(2) or 3(2) are approved or, as the case may be, determined to be implemented, or

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(b) proposals approved or adopted under paragraph 8, 9 or 14 have effect as mentioned in paragraph 10(b) or 15(b), as the case may be, then, despite anything in Part III of Schedule 6, the local education authority shall defray the cost of implementing the proposals.

#### Textual Amendments

- F44** Words in [Sch. 7 Pt. II para. 4\(5\)\(b\)](#) substituted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), [Sch. 9 para. 90\(1\)\(2\)\(a\)](#); S.I. 2001/654, art. 2, [Sch. Pt. II](#) (with art. 3)
- F45** Word after [Sch. 7 Pt. II para. 4\(5\)\(c\)\(i\)](#) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 153, 154(3)-(5), [Sch. 11](#); S.I. 2001/654, art. 2, [Sch. Pt. II](#) (with art. 3)
- F46** [Sch. 7 Pt. II para. 4\(5\)\(c\)\(iii\)](#) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), [Sch. 9 para. 90\(1\)\(2\)\(b\)](#); S.I. 2001/654, art. 2, [Sch. Pt. II](#) (with art. 3)

### PART III

#### PROPOSALS BY SECRETARY OF STATE

##### *Publication of proposals*

- 5 (1) Where—
- (a) the Secretary of State has, in relation to the area of any local education authority or any part of such an area, made an order under paragraph 2(2) or 3(2) directing the local education authority or the governing body of a foundation, voluntary or foundation special school to make proposals for the establishment, alteration or discontinuance of schools or (as the case may be) for the alteration of their school, and
  - (b) either—
    - (i) any proposals have been published in pursuance of the order, or
    - (ii) the time allowed under the order for the publication of the proposals has expired,
- he may make any such proposals as might have been made in accordance with the order relating to that area or that part of that area by the body to whom the directions were given.
- (2) Proposals under this paragraph shall—
- (a) contain such information, and
  - (b) be published in such manner,
- as may be prescribed.
- (3) Where any proposals made under this paragraph relate to an area in England, the Secretary of State shall send a copy of the proposals to the school organisation committee for the area.
- (4) Where any proposals made under this paragraph relate to an area in Wales, the Secretary of State shall send a copy of the proposals—
- (a) to the local education authority for the area, and
  - (b) to the governing body of each school to which the proposals relate.

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## PART IV

### PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: ENGLAND

#### *Application of Part IV*

- 6 This Part of this Schedule applies to proposals published under paragraph 5 which relate to an area in England.

#### *Objections*

- 7 (1) Any person may make objections to any proposals published under paragraph 5.
- (2) Objections under this paragraph—
- (a) shall be sent to the school organisation committee for the area to which those proposals relate; and
  - (b) shall be so sent within such period as may be prescribed.

#### *Approval of proposals*

- 8 (1) Proposals published under paragraph 5 require the approval of the school organisation committee under this paragraph or of the adjudicator under paragraph 9.
- (2) Where the school organisation committee receive a copy of the proposals published under paragraph 5, they must either—
- (a) approve them without modification, or
  - (b) approve them with such modifications as the committee think desirable and to which the Secretary of State consents, or
  - (c) refer them to the adjudicator under sub-paragraph (5) or (6).
- (3) Any approval given under this paragraph may, with the consent of the Secretary of State, be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (4) When deciding whether or not to give any approval under this paragraph the committee shall have regard to any guidance given from time to time by the Secretary of State.
- (5) If—
- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and
  - (b) the Secretary of State requests the committee to refer his proposals to the adjudicator,
- they shall refer his proposals to the adjudicator.
- (6) If the committee—
- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision but have failed to reach such a decision on that matter, or
  - (b) have decided not to give any approval under this paragraph,
- they shall refer the Secretary of State's proposals to the adjudicator.

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- (7) Where any proposals are referred to the adjudicator under sub-paragraph (5) or (6), the school organisation committee shall also refer to him—
- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
  - (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), [F47]and]
  - (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn), [F48]and
  - (d) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (and not withdrawn).]
- where those proposals are not determined before the adjudicator holds an inquiry under paragraph 9(1) and appear to the committee to be related to the proposals referred by them to the adjudicator under sub-paragraph (5) or (6).
- (8) Sub-paragraph (7) applies to any proposals within that sub-paragraph whether or not the proposals have been previously referred to the adjudicator by the committee.
- (9) Sub-paragraph (1) does not prevent the Secretary of State from withdrawing any proposals published under paragraph 5 by notice in writing given to the school organisation committee at any time before the proposals are determined under this paragraph or paragraph 9.
- (10) References in this paragraph to the determination of any proposals are to—
- (a) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6, sub-paragraph (2)(a) or (2)(b) above or paragraph 9(3) below, [F49]or]
  - (b) any determination whether or not to implement the proposals under paragraph 4 of Schedule 6 [F50]or
  - (c) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.]

#### Textual Amendments

- F47** Word after Sch. 7 Pt. IV para. 8(7)(b) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 153, 154(3)–(5), **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F48** Sch. 7 Pt. IV para. 8(7)(d) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)–(5), **Sch. 9 para. 90(1)(3)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F49** Word in Sch. 7 Pt. IV para. 8(10)(a) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 153, 154(3)–(5), **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F50** Sch. 7 Pt. IV para. 8(10)(c) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)–(5), **Sch. 9 para. 90(1)(4)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)

#### *Local inquiry into proposals*

- 9 (1) Where any proposals are referred to the adjudicator under paragraph 8(5) or (6), he shall hold a local inquiry to consider—

*Status: Point in time view as at 31/03/2003.*

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- (a) those proposals,
  - (b) any additional proposals referred to him under paragraph 8(7),
  - (c) any objections made (under paragraph 2 of Schedule 6 or paragraph 7 above) to any proposals within paragraph (a) or (b) above unless such objections have been withdrawn, and
  - (d) any views expressed by the school organisation committee on any such proposals.
- (2) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).
  - (3) After holding the inquiry, the adjudicator must, in the case of any proposals considered at the inquiry, either—
    - (a) approve them with or without modifications, or
    - (b) reject them.
  - (4) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
  - (5) When deciding whether or not to give any approval under this paragraph, paragraph 8(4) shall apply to the adjudicator as it does to the committee.

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

**C29** Sch. 7 para. 9 extended (1.6.1999) by S.I. 1999/1286, reg. 12(13).

*Implementation of proposals*

- 10 Proposals approved by the school organisation committee under paragraph 8 or by the adjudicator under paragraph 9 shall have effect as if they—
  - (a) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or
  - (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school, and had been approved by the school organisation committee or the adjudicator, as the case may be, under paragraph 3 of Schedule 6.

**PART V**

PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: WALES

*Application of Part V*

- 11 This Part of this Schedule applies to proposals published under paragraph 5 which relate to an area in Wales.

*Objections*

- 12 (1) Any person may make objections to any proposals published under paragraph 5.



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- (2) Objections under this paragraph—
- (a) shall be sent to the Secretary of State; and
  - (b) shall be so sent within such period as may be prescribed.

*Local inquiry into proposals*

- 13 (1) This paragraph applies where in relation to the area of any local education authority the Secretary of State has made proposals under paragraph 5 (otherwise than in pursuance of paragraph 14(1)) which he has not withdrawn.
- (2) If objections have been made under paragraph 12(1) within the period prescribed in accordance with paragraph 12(2)(b), then, unless all objections so made have been withdrawn in writing within that period, the Secretary of State shall cause a local inquiry to be held to consider his proposals, any proposals he refers to the inquiry and any such objections.
- (3) Any proposals referred to a local inquiry under this paragraph require the approval of the Secretary of State (if they would not require such approval apart from this sub-paragraph).
- (4) Where the Secretary of State has a duty to cause a local inquiry to be held under this paragraph, he shall refer to the inquiry—
- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
  - (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn),<sup>F51</sup> . . .
  - (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn), [<sup>F52</sup>and
  - (d) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (and not withdrawn).]

where those proposals are not determined before he causes the inquiry to be held and appear to him to be related to the proposals made under paragraph 5 in respect of which he is required under this paragraph to cause the inquiry to be held.

- (5) If, before the Secretary of State causes the inquiry to be held, he forms the opinion that any proposals ought to be implemented, sub-paragraph (4) does not require him to refer those proposals to the inquiry unless—
- (a) before the proceedings on the inquiry are concluded, or
  - (b) (if earlier) the proposals are determined,
- he subsequently forms a different opinion.
- (6) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).
- (7) References in this paragraph to the determination of any proposals are to—
- (a) any determination whether or not to approve or adopt the proposals under paragraph 8 of Schedule 6 or paragraph 14 below,<sup>F53</sup> . . .
  - (b) any determination whether or not to implement the proposals under paragraph 9 of Schedule 6 [<sup>F54</sup>and

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- (c) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.]

#### Textual Amendments

- F51** Word after Sch. 7 Pt. V para. 13(4)(b) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F52** Sch. 7 Pt. V para. 13(4)(d) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 149, **Sch. 9 para. 90(5)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F53** Word after Sch. 7 Pt. V para. 13(7)(a) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F54** Sch. 7 Pt. V para. 13(7)(c) inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 149, **Sch. 9 para. 90(6)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**

#### *Adoption of proposals*

- 14 (1) Where the Secretary of State has published proposals under paragraph 5 in respect of which he is required to cause a local inquiry to be held, he may when he has considered the report of the person appointed to hold the inquiry do one or more of the following—
- (a) adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by him under that paragraph which he referred to the inquiry;
  - (b) approve, with or without modifications, or reject any other proposals which he referred to the inquiry; and
  - (c) make any such further proposals under paragraph 5 as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the body to whom the directions were given.
- (2) Where the Secretary of State has published proposals under paragraph 5 in respect of which he is not required to cause a local inquiry to be held and which he is not required to refer to such an inquiry, he may, after considering any objections made under paragraph 12(1) (and not withdrawn) within the period prescribed in accordance with paragraph 12(2)(b)—
- (a) adopt the proposals with or without modifications; or
  - (b) determine not to adopt the proposals.
- (3) Any adoption of proposals under this paragraph may be expressed to take effect only if an event specified in the adoption occurs by a date so specified.

#### *Implementation of proposals*

- 15 Proposals adopted by the Secretary of State under paragraph 14 shall have effect as if they—
- (a) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or

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- (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school, and had been approved by the Secretary of State under paragraph 8 of Schedule 6.

## PART VI

### TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

#### *Single-sex schools: England*

- 16 (1) This paragraph applies to proposals for a school in England to cease to be an establishment which admits pupils of one sex only.
- (2) Sub-paragraph (3) applies where such proposals are made under paragraph 5 of this Schedule and, in accordance with sub-paragraph (3) of that paragraph, the Secretary of State sends a copy of the published proposals to the school organisation committee.
- (3) The sending of the published proposals to the school organisation committee by the Secretary of State shall be treated as an application by the responsible body for the making by the school organisation committee of a transitional exemption order, and the committee may make such an order accordingly.
- (4) Where—
- (a) the school organisation committee have failed to reach a unanimous decision under sub-paragraph (3) above on whether to make a transitional exemption order, or
  - (b) the school organisation committee refer the proposals to the adjudicator under paragraph 8 of this Schedule,
- they shall refer the question whether to make a transitional exemption order to the adjudicator.
- (5) Where that question is referred to the adjudicator—
- (a) he shall consider the matter afresh; and
  - (b) he may make a transitional exemption order accordingly.
- (6) In this paragraph and in paragraph 17—
- “the 1975 Act” means the <sup>M21</sup>Sex Discrimination Act 1975,
  - “make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke,
  - “the responsible body” has the same meaning as in section 22 of the 1975 Act, and
  - “transitional exemption order” has the same meaning as in section 27 of the 1975 Act,
- and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

**Marginal Citations**

**M21** 1975 c. 65.

*Single-sex schools: Wales*

- 17 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.
- (2) Where such proposals are made under paragraph 5 of this Schedule, the responsible body shall be treated as having made an application to the Secretary of State for the making of a transitional exemption order, and the Secretary of State may make such an order accordingly.

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

**C30** Sch. 7 para. 17: Power to apply (with modifications) conferred (19.12.2002) by [Education Act 2002](#) (c. 32), **ss. 193(5)**, 216 (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1

SCHEDULE 8

Section 35.

CHANGES OF CATEGORY OF SCHOOL

*Permitted changes of category*

- 1 (1) A community school may in accordance with this Schedule become a foundation school in pursuance of proposals published by the local education authority.
- (2) A school within one of the following categories, namely—
- (a) a community school,
  - (b) a foundation school,
  - (c) a voluntary aided school, or
  - (d) a voluntary controlled school,
- may in accordance with this Schedule become a school within another of those categories in pursuance of proposals published by the governing body.
- (3) A community special school may in accordance with this Schedule become a foundation special school in pursuance of proposals published by the local education authority.
- (4) A community special school or a foundation special school may in accordance with this Schedule become a foundation special school or a community special school in pursuance of proposals published by the governing body.

*Procedure for changing category of school*

- 2 (1) Where, in the case of any maintained school, the local education authority or the governing body propose that the school should become a school of another category as permitted by paragraph 1, they shall publish their proposals under this paragraph.

*Status: Point in time view as at 31/03/2003.*

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- (2) Regulations may provide for any of the provisions of sections 28 and 31 and Part I or II of Schedule 6 to have effect in relation to any such proposals with or without modifications.

*Mandatory publication of proposals for voluntary aided school to change category*

- 3 (1) If at any time the governing body of a voluntary aided school are unable or unwilling to carry out their obligations under Schedule 3, they shall publish proposals under this paragraph.
- (2) If the proposals are published during the period mentioned in section 35(2), they shall be proposals for the school to become a voluntary controlled school.
- (3) If the proposals are published after the end of that period, they shall be proposals for the school to become either a voluntary controlled school or a foundation school, as the governing body may determine.
- (4) Sub-paragraph (2) of paragraph 2 shall apply in relation to proposals published under this paragraph as it applies in relation to proposals published under that paragraph.

*Restrictions on changing category of school*

- 4 (1) Regulations may make provision for preventing a school of any description specified in the regulations from changing its category under this Schedule unless such conditions are satisfied as are so specified.
- (2) The conditions which may be so specified include conditions requiring (according to the circumstances of the case) any of the following to be demonstrated to the satisfaction of any person so specified, namely—
  - (a) that the school will join a group of schools for which a foundation body acts or proposes to act;
  - (b) where a foundation is proposed to be established for the school otherwise than under this Act, that the foundation would meet such requirements as may be so specified;
  - (c) that the governing body will be able to carry out their obligations under Schedule 3;
  - (d) that the school's governing or foundation body or trustees have agreed to sell or otherwise transfer to the local education authority any land of a description so specified.

*Implementation of proposals*

- 5 (1) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the implementation of proposals published under paragraph 2 or 3, including provision with respect to—
  - (a) the revision or replacement of the school's instrument of government and the reconstitution of its governing body;
  - (b) the transfer of property, rights and liabilities (including such a transfer to or from a foundation body), and staff; and
  - (c) any transitional matters (whether relating to the implementation of proposals published under other provisions of this Act or otherwise).

*Status: Point in time view as at 31/03/2003.*

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- (2) Regulations under sub-paragraph (1) may, in particular, make provision with respect to—
- (a) restricting the disposal of land by a local authority which is used or held for the purposes of a school in relation to which proposals to change category are, or may be, published under paragraph 2, as from—
    - (i) the date of publication of such proposals; or
    - (ii) such other time as may be prescribed;
  - (b) restricting the taking of action by virtue of which any such land would cease to be so used or held to any extent;
  - (c) the consequences of any contravention of any such restriction;
  - (d) conferring on any prescribed body such functions as may be prescribed with respect to any such contravention.
- (3) Regulations under sub-paragraph (1) may, in connection with any matters falling within that sub-paragraph—
- (a) modify any provision made by or under this Part of this Act;
  - (b) apply any such provision with or without modifications;
  - (c) make provision corresponding or similar to any such provision.
- 6 A school’s change of category under this Schedule shall not be taken as authorising or requiring any change in the character of the school conducted by its governing body (including, in particular, any religious character of the school).

## SCHEDULE 9

Section 36(1).

### CONSTITUTION OF GOVERNING BODIES

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

- C31** Sch. 9 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), **reg. 81**.  
 Sch. 9 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), **reg. 9(1)**.  
 Sch. 9 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), **reg. 27(1)**.  
 Sch. 9 excluded (10.3.1999) by [S.I. 1999/362](#), **reg. 34(6)**.  
 Sch. 9 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), **reg. 43(1)**.  
 Sch. 9 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), **reg. 44(1)**.  
 Sch. 9 modified (26.5.1999) by [S.I. 1999/1287](#), **reg. 6(1)(2)**.  
 Sch. 9 applied (with modifications) (1.9.1999) by [S.I. 1999/2243](#), **reg. 32(1)-(4)**.  
 Sch. 9 applied (with modifications) by [S.I. 1999/2262](#), **reg. 32(1)(2)-(4)**.

#### **Commencement Information**

- I3** Sch. 9 wholly in force at 1.9.1999; Sch. 9 in force for certain purposes at Royal Assent see s. 145(5); Sch. 9 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

*Status: Point in time view as at 31/03/2003.*

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## PART I

### CATEGORIES OF GOVERNOR

#### *Co-opted governors*

- 1 In this Schedule “co-opted governor” means a person who is appointed to be a member of the school’s governing body by being co-opted by governors who have not themselves been so appointed.

#### *Foundation governors*

- 2 In this Act “foundation governor” means a person appointed to be a member of the school’s governing body, otherwise than by a local education authority, who—
- (a) where the school has a particular religious character, is appointed for the purpose of securing that that character is preserved and developed, and
  - (b) where the school has a trust deed, is appointed for the purpose of securing that the school is conducted in accordance with that deed,
- or, where the school has neither a religious character nor a trust deed, is appointed as a foundation governor of the school.

#### *LEA governors*

- 3 In this Schedule “LEA governor” means a governor appointed to the school’s governing body by the local education authority.

#### *Parent governors*

- 4 In this Schedule “parent governor” means—
- (a) a person who is elected as a member of the school’s governing body by parents of registered pupils at the school and is himself such a parent at the time when he is elected, or
  - (b) a person who is appointed as a parent governor by the governing body in accordance with regulations.

#### *Partnership governors*

- 5 In this Schedule “partnership governor” means a person nominated as a partnership governor, and appointed as such, in accordance with regulations.

#### *Staff governors*

- 6 In this Schedule “staff governor” means a person—
- (a) who is elected as a member of the school’s governing body by persons employed to work at the school otherwise than as teachers, and
  - (b) who is himself a person so employed at the time when he is elected;
- and for this purpose “employed” means employed under a contract of employment or a contract for services.

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*Teacher governors*

- 7 In this Schedule “teacher governor” means a person—
- (a) who is elected as a member of the school’s governing body by teachers at the school, and
  - (b) who is himself such a teacher at the time when he is elected;
- and for this purpose “teacher” means a teacher employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher.

*Head teacher*

- 8 At any time when the head teacher is a governor, he shall be treated for all purposes as being an ex officio governor.

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

**C32** Sch. 9 para. 8 modified (26.5.1999) by S.I. 1999/1287, reg. 6(2).

**PART II**

CONSTITUTION OF GOVERNING BODIES

*Community schools*

- 9 (1) The governing body of a community school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
  - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school, and
  - (c) any additional governors required by virtue of paragraph 15.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
  - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either all the first alternatives or all the second alternatives.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	6	5	4 or 5	3



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LEA governors	5	4	3 or 4	2
Teacher governors	2	2	1 or 2	1
Staff governors	1	1	1	1 or 0
Co-opted governors	5	4	3 or 4	2

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

- C33** Sch. 9 para. 9 applied (with modifications) (1.9.1999) by S.I. 1999/2243, **reg. 10(1)**.  
 Sch. 9 para. 9 excluded (1.9.1999) by S.I. 1999/2243, **regs. 14(1), 16**.  
 Sch. 9 para. 9 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 10(1)(2), 17**.

*Community special schools*

- 10 (1) The governing body of a community special school shall consist of the following—
- the head teacher, except at any time when he chooses not to be a governor,
  - governors of each of the categories specified in the first column of the table set out in paragraph 9, in the numbers specified in either the fourth or the fifth column, and
  - any additional governors required by virtue of paragraph 15.
- (2) The option of having a smaller governing body constituted in accordance with the fifth column of the table is accordingly available whether or not the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a community special school to which that column is applicable must be constituted in such a way as to reflect either all the first alternatives or all the second alternatives.
- (4) Whichever set of numbers applies to the governing body of such a school under the fourth or fifth column—
- the number of co-opted governors shall be reduced by one, and
  - in place of that governor there shall be a representative governor appointed under sub-paragraph (5) or (6),
- except in a case where sub-paragraph (6) applies and no voluntary organisation is designated for the purposes of that sub-paragraph.
- (5) Where the school is established in a hospital, a representative governor shall be appointed—
- (if the hospital is vested in the Secretary of State) by the [<sup>F55</sup>Primary Care Trust or] Health Authority; or
  - (if the hospital is vested in a National Health Service trust [<sup>F56</sup>or a Primary Care Trust]) by that trust.
- (6) Where the school is not established in a hospital, then—

*Status: Point in time view as at 31/03/2003.*

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- (a) if a voluntary organisation is designated by the local education authority, in relation to the school, as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised, a representative governor shall be appointed by that organisation; or
- (b) if two or more voluntary organisations are so designated as appropriate voluntary organisations concerned with such matters, a representative governor shall be appointed by those organisations acting jointly.

#### Textual Amendments

- F55** Words in Sch. 9 para. 10(5)(a) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 2(5), 42(3), **Sch. 2 Pt. 2 para. 65**; S.I. 2002/2478, **art. 3(d)**
- F56** Words in Sch. 9 Pt. II para. 10(5)(b) inserted (8.2.2000) by S.I. 2000/90, arts. 1, 3(1), **Sch. 1 para. 34**

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

- C34** Sch. 9 para. 10 applied (with modifications) (1.9.1999) by S.I. 1999/2243, **reg. 10(1)**.  
 Sch. 9 para. 10 excluded (1.9.1999) by S.I. 1999/2243, **regs. 14(1), 16**.  
 Sch. 9 para. 10 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 10(1)(2), 17**  
 Sch. 9 para. 10 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **reg. 32(3)**

#### *Foundation schools*

- 11 (1) The governing body of a foundation school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
  - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school, and
  - (c) any additional governors required by virtue of paragraph 15.
- Where the school does not have a foundation, the reference to foundation governors in the first column shall be read as a reference to partnership governors.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
  - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	7	6	5 or 6	4

*Status: Point in time view as at 31/03/2003.*

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LEA governors	2	2	2	2
Teacher governors	2	2	1	1
Staff governors	1	1	1	1 or 0
Foundation governors	5	4	3 or 4	2
Co-opted governors	3	2	1	1

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

- C35** Sch. 9 para. 11 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 10(1).  
 Sch. 9 para. 11 excluded (1.9.1999) by S.I. 1999/2243, regs. 14(1), 16.  
 Sch. 9 para. 11 applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 10(1)(2), 17.

*Foundation special schools*

- 12 (1) The governing body of a foundation special school shall consist of the following—
- the head teacher, except at any time when he chooses not to be a governor,
  - governors of each of the categories specified in the first column of the table set out in paragraph 11, in the numbers specified in either the fourth or the fifth column, and
  - any additional governors required by virtue of paragraph 15.
- Where the school does not have a foundation, the reference to foundation governors in the first column shall be read as a reference to partnership governors.
- (2) The option of having a smaller governing body constituted in accordance with the fifth column of the table is accordingly available whether or not the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a foundation special school to which that column is applicable must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.

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

- C36** Sch. 9 para. 12 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 10(1).  
 Sch. 9 para. 12 excluded (1.9.1999) by S.I. 1999/2243, regs. 14(1), 16.  
 Sch. 9 para. 12 applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 10(1)(2), 17.

*Voluntary controlled schools*

- 13 (1) The governing body of a voluntary controlled school shall consist of the following—
- the head teacher, except at any time when he chooses not to be a governor,

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- (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school, and
- (c) any additional governors required by virtue of paragraph 15.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
- (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	6	5	4 or 5	3
LEA governors	4	3	3	2
Teacher governors	2	2	1	1
Staff governors	1	1	1	1 or 0
Foundation governors	5	4	3 or 4	2
Co-opted governors	2	2	1	1

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

- C37 Sch. 9 para. 13 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 10(1).  
Sch. 9 para. 13 excluded (1.9.1999) by S.I. 1999/2243, regs. 14(1), 16.  
Sch. 9 para. 13 applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 10(1)(2), 17.

*Voluntary aided schools*

- 14 (1) The governing body of a voluntary aided school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
- (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school,
- (c) any additional governors required by virtue of paragraph 15, and

*Status: Point in time view as at 31/03/2003.*

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- (d) such number of foundation governors as will lead to their outnumbering the other governors mentioned in paragraphs (a) to (c)—
- (i) by three, in the case of a school to which the second column applies, or
  - (ii) by two, in the case of any other school.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
  - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.
- (4) The foundation governors required by sub-paragraph (1)(d) must include—
- (a) at least three governors who at the time of their appointment are parents of registered pupils at the school, in the case of a school to which the second column applies, or
  - (b) at least two such governors in the case of any other school.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	3	2	1 or 2	1
LEA governors	2	1	1 or 2	1
Teacher governors	2	2	1	1
Staff governors	1	1	1	1 or 0

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

- C38** Sch. 9 para. 14 applied (with modifications) (10.3.1999) by S.I. 1999/362, **reg. 36(2)**.  
 Sch. 9 para. 14 applied (with modifications) (1.9.1999) by S.I. 1999/2243, **reg. 10(1)**.  
 Sch. 9 para. 14 excluded (1.9.1999) by S.I. 1999/2243, **regs. 14(1), 16**.  
 Sch. 9 para. 14 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 10(1)(2), 17**.

*Additional governors*

- 15 (1) If the governing body of any maintained school so determine, or regulations so require, the instrument of government for the school shall provide for the governing body to include, in addition to the governors required by virtue of the preceding

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provisions of this Schedule, such number of co-opted governors as may be specified in or determined in accordance with regulations.

- (2) Regulations shall specify—
- (a) the circumstances in which provision for such appointments is authorised or required to be made under this paragraph; and
  - (b) the categories of person from whom or from amongst whose members nominations for such appointments are to be sought.
- (3) The instrument of government for any community or voluntary school which—
- (a) is a primary school, and
  - (b) serves an area for which there are one or more minor authorities,
- shall provide for the governing body to include (in addition to the governors required by virtue of paragraph 9, 13 or 14, as the case may be, and any required by virtue of sub-paragraph (1)) one co-opted governor nominated by the minor authority or (as the case may be) one of the minor authorities in question.
- (4) Where any such school serves an area for which there are two or more minor authorities, the relevant governors shall, for the purposes of the appointment of any such co-opted governor, seek nominations from such one or more of those authorities as the governors think fit.
- (5) In sub-paragraph (4) “the relevant governors” means those members of the school’s governing body who are not co-opted governors.

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

- C39** Sch. 9 para. 15 applied with modification (3.12.1998) by [S.I. 1998/2763](#), **reg. 6(2)**  
 Sch. 9 para. 15(1) applied with modification (3.12.1998) by [S.I. 1998/2763](#), **regs. 6(3), 7(2)**  
 Sch. 9 para. 15 modified (1.9.1999) by [S.I. 1999/2262](#), **reg. 32(2)**.

*Substitutes for ex officio foundation governors*

- 16 Regulations may make provision for, and in connection with, the appointment of foundation governors to act in the place of ex officio foundation governors in cases where—
- (a) any person holding a foundation governorship ex officio is unable or unwilling to act as a foundation governor, or
  - (b) there is a vacancy in the office by virtue of which such a governorship exists.

*Adjustment in number of governors*

- 17 (1) Where—
- (a) a maintained school has more governors of a particular category than are provided for by the instrument of government for the school in accordance with this Part of this Schedule, and
  - (b) the excess is not eliminated by the required number of governors of that category resigning,
- such number of governors of that category as is required to eliminate the excess shall cease to hold office.

*Status: Point in time view as at 31/03/2003.*

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- (2) If the excess has arisen in relation to foundation governors, the excess shall be eliminated in accordance with such procedure as is set out in the instrument of government for the school.
- (3) If the excess has arisen in relation to any other category of governor, the excess shall be eliminated in accordance with such procedure as may be prescribed.
- (4) Where the governing body of a maintained school includes any additional governors appointed in pursuance of paragraph 15, this paragraph shall apply to the school as if such of those governors as are nominated by a particular category of person constituted a separate category of governor.

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

**C40** SCh. 9 para. 17 excluded (10.3.1999) by [S.I. 1999/362](#), [reg. 34\(6\)](#)

[<sup>F57</sup>SCHEDULE 10]

Section 36(2).

INCORPORATION AND POWERS OF GOVERNING BODIES

**Textual Amendments**

**F57** Sch. 10 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#) (with Sch.)

*Introductory*

- <sup>1</sup> [<sup>F58</sup>(1) In the following paragraphs of this Schedule “the governing body” means the governing body of a maintained school incorporated under section 36(1).
- (2) Where an existing school (other than a grouped school) becomes a maintained school on the appointed day in accordance with Schedule 2, the governing body of the school—
    - (a) shall continue in existence as a body corporate; and
    - (b) shall so continue in existence as if incorporated under section 36(1);but as from that day the governing body shall (subject to regulations under sub-paragraph (3) or (4)) conform with Part II of Schedule 9.
  - (3) For the purposes of sub-paragraph (2) the governing body of each such existing school shall (subject to regulations under sub-paragraph (4)) be reconstituted under the instrument of government required by paragraph 6 of Schedule 12 before the appointed day; and regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the reconstitution of a governing body in pursuance of this sub-paragraph.
  - (4) Regulations may, in relation to cases where—
    - (a) the instrument of government required by paragraph 6 of Schedule 12 in the case of an existing school within sub-paragraph (2) above is not made before the appointed day, or

*Status: Point in time view as at 31/03/2003.*

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- (b) the governing body of such a school are not reconstituted before that day, make such provision as the Secretary of State considers necessary or expedient in connection with any of the following matters, namely—
- (i) the making of such instruments of government on or after that day,
  - (ii) the reconstitution of governing bodies on or after that day, and
  - (iii) the existence of such bodies on and after that day pending their reconstitution at some later date.
- (5) Regulations may, in relation to existing schools which are grouped schools, make such provision as the Secretary of State considers necessary or expedient in connection with the transition of such schools from being grouped under a single governing body to having their own governing bodies constituted under instruments of government made in accordance with Schedule 12.
- (6) If the instrument of government required by paragraph 6 of Schedule 12 is not made before the appointed day in the case of an existing school, the following requirements, namely—
- (a) the requirements of paragraph 2(1) below as to the name of the governing body, and
  - (b) the requirements of section 37(3) as to the name of the school,
- shall not apply until such time as that instrument of government is made.
- (7) In this paragraph “existing school” means (subject to sub-paragraph (8))—
- (a) a county, controlled, aided or special agreement school or a maintained special school, or
  - (b) a grant-maintained or grant-maintained special school,
- within the meaning of the <sup>M22</sup>Education Act 1996; and “grouped school” means a school grouped under section 89 or 280 of that Act.
- (8) A school is not an existing school for the purposes of this paragraph if immediately before the appointed day—
- (a) in the case of a school within paragraph (a) of sub-paragraph (7), it has a temporary governing body, or
  - (b) in the case of a school within paragraph (b) of that sub-paragraph, it has a governing body but it has not yet opened;
- and for this purpose a school “opens” on the date when it first admits pupils.
- (9) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the transition of—
- (a) any such school as is mentioned in sub-paragraph (8)(a) or (b), or
  - (b) any proposed school which would be a school within sub-paragraph (7)(a) and which has, or is required to have, a temporary governing body,
- to a school with a governing body constituted under an instrument of government made in accordance with Schedule 12.
- (10) Regulations under any provision of this paragraph may, in connection with any matters falling within that provision—
- (a) modify any provision made by or under this Part of this Act;
  - (b) apply any such provision with or without modifications;
  - (c) make provision corresponding or similar to any such provision;



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- (d) provide for the continued application of any provision made by or under any of the Education Acts with or without modifications.]

#### Textual Amendments

**F58** Sch. 10 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

#### Marginal Citations

**M22** 1996 c. 56.

#### *Name and seal of governing body*

- 2
- [<sup>F59</sup>(1) The governing body shall be known as “The governing body of . . .” with the addition of the name of the school as for the time being set out in the school’s instrument of government.
- (2) The application of the seal of the governing body must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (3) Every document purporting to be an instrument made or issued by or on behalf of the governing body and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.]

#### Textual Amendments

**F59** Sch. 10 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

#### *Powers of governing body*

- 3
- [<sup>F60</sup>(1) The governing body may do anything which appears to them to be necessary or expedient for the purposes of, or in connection with, the conduct of the school.
- (2) The governing body may in particular—
- (a) borrow such sums as the governing body think fit and, in connection with such borrowing, grant any mortgage, charge or other security over any land or other property of the governing body;
  - (b) acquire and dispose of land and other property;
  - (c) enter into contracts;

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- (d) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
  - (e) accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any of those purposes; and
  - (f) do anything incidental to the conduct of the school.
- (3) The power to borrow sums and grant security mentioned in sub-paragraph (2)(a) may only be exercised with the written consent—
- (a) of the Secretary of State, or
  - (b) if an order under sub-paragraph (4) so provides, of the local education authority;
- and any such consent may be given for particular borrowing or for borrowing of a particular class.
- (4) The Secretary of State may by order make provision for his function of giving consent under sub-paragraph (3) to be instead exercisable—
- (a) in the case of all maintained schools, or
  - (b) in the case of any class of such schools specified in the order,
- by the local education authorities by whom those schools are maintained.
- (5) In exercising that function those authorities shall comply with any directions contained in an order made by the Secretary of State.
- (6) Where the school is a foundation, voluntary aided or foundation special school, the power to enter into contracts mentioned in sub-paragraph (2)(c) includes power to enter into contracts for the employment of teachers and other staff; but no such contracts may be entered into by the governing body of a community, voluntary controlled or community special school.
- (7) Sub-paragraphs (1) and (2) have effect subject to—
- (a) any provisions of the school’s instrument of government; and
  - (b) any provisions of a scheme under section 48 which relates to the school.]

#### **Textual Amendments**

**F60** Sch. 10 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

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

**C41** Sch. 10 para. 3 extended (1.9.1999) by [S.I. 1999/2243](#), [reg. 54](#).  
 Sch. 10 para. 3 applied (with modifications) (1.9.1999) by [S.I. 1999/2243](#), [reg. 55\(3\)](#).  
 Sch. 10 para. 3 applied (1.9.1999) by [S.I. 1999/2262](#), [reg. 54](#).  
 Sch. 10 para. 3 applied (with modifications) (1.9.1999) by [S.I. 1999/2262](#), [reg. 55\(3\)](#).

#### *Dissolution of governing body*

- 4 [F61(1) If the school is discontinued, the governing body are dissolved by virtue of this paragraph—
- (a) on the discontinuance date, or
  - (b) on such later date as the Secretary of State may specify by order made before the discontinuance date.

*Status: Point in time view as at 31/03/2003.*

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- (2) In this paragraph “the discontinuance date” means—
- (a) the date when proposals for discontinuing the school are implemented under Part III of Schedule 6,
  - (b) the date when the school is discontinued under section 30, or
  - (c) the date specified in a direction given under section 19(1) or 32(1),
- as the case may be.]

#### Textual Amendments

**F61** Sch. 10 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

## SCHEDULE 11

Section 36(3).

### MEMBERSHIP AND PROCEEDINGS ETC. OF GOVERNING BODIES

#### Commencement Information

**I4** Sch. 11 wholly in force at 1.9.1999; Sch. 11 Pts. I and III in force at Royal Assent see s. 145(4); Sch. 11 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2262, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

## PART I

### MEMBERSHIP AND PROCEEDINGS

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

**C42** Sch. 11 Pt. I (paras. 1-5) modified (20.11.1998) by S.I. 1998/2670, reg. 3(1)(3)

#### *Regulations about governing bodies*

- 1 Regulations may make in relation to governing bodies of maintained schools such provision as is authorised by the following provisions of this Part of this Schedule.

#### *Election or appointment of governors*

- 2 (1) The regulations may make provision—
- (a) as to the procedures to be followed in connection with the election or appointment of persons as governors of such schools or in connection with the nomination of persons to be so appointed;
  - (b) imposing requirements which must be complied with in relation to the appointment or nomination of persons as governors of any prescribed category;
  - (c) as to the circumstances in which persons are qualified or disqualified—

*Status: Point in time view as at 31/03/2003.*

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- (i) for being elected, appointed or nominated as governors of any such category, or
- (ii) for voting in an election of such governors.

(2) The regulations may make provision—

- (a) for enabling the local education authority or (as the case may be) the governing body to determine, for the purposes of any such election, whether any person is a person of such a description as is specified in the regulations;
- (b) for requiring appointments falling to be made by persons acting jointly to be made, in any prescribed circumstances, by or in accordance with a direction given by the Secretary of State.

#### *Qualifications and tenure of office*

3 The regulations may make provision as to—

- (a) the circumstances in which persons are qualified or disqualified for holding office as governors;
- (b) the term of office of governors (subject to any provision made by virtue of sub-paragraph (a));
- (c) the resignation or removal of governors from office.

#### *Meetings and proceedings*

4 (1) The regulations may make provision as to the meetings and proceedings of governing bodies.

(2) The provision authorised by sub-paragraph (1) includes, in particular, provision—

- (a) for the election by the governors of a school of one of their number to be chairman, and one to be vice-chairman, of the governing body;
- (b) for the period for which the chairman and vice-chairman are to be elected and for the removal from office of either of those persons;
- (c) for the establishment by a governing body of committees (which may include persons who are not members of the governing body) and for the constitution, meetings and proceedings of committees so established;
- (d) for the delegation of functions of a governing body, in such circumstances as may be specified, to committees established by that body, to any member of that body or to the head teacher;
- (e) for the chairman, or such other member of a governing body as may be specified, to have power in specified circumstances to discharge any of the governing body's functions as a matter of urgency;
- (f) as to the quorum required in any specified circumstances;
- (g) for securing that proceedings of a governing body, or of any committee established by them, are not invalidated by any vacancy among the governors, or among the members of any such committee, or in any other specified circumstances;
- (h) requiring decisions taken by a governing body in any specified circumstances to be confirmed at a second meeting of that body held within such period as may be specified.

(3) In sub-paragraph (2) “specified” means specified in the regulations.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (4) The regulations may authorise or require governing bodies to make provision with respect to any matters relating to their meetings or proceedings (including any of the matters mentioned in sub-paragraph (2)).
- (5) Subject to the regulations, a governing body may regulate their own procedure and that of any of their committees.

*Information as to meetings and proceedings*

- 5 (1) The regulations may make provision requiring a governing body—
- (a) to make minutes (including draft minutes) of their proceedings available for inspection by the local education authority;
  - (b) to make available—
    - (i) to such persons or classes of person as may be specified, and
    - (ii) in such form, and at such times, as may be specified,such documents and information relating to their meetings and proceedings as may be specified.
- (2) In sub-paragraph (1) “specified” means specified in the regulations.

**PART II**

OTHER PROVISIONS ABOUT GOVERNORS

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

C43 Sch. 11 Pt. II modified (3.12.1998) by [S.I. 1998/2670](#),

*Governors’ expenses*

- 6 (1) A governor shall be entitled to receive such allowances, payable at such rates, as the governing body may determine in accordance with regulations.
- (2) Sub-paragraph (1) does not apply at any time when the school does not have a delegated budget, and the payment of allowances to a governor at any such time shall instead be in accordance with a scheme made by the local education authority for the purposes of section 519 of the <sup>M23</sup>Education Act 1996.

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

C44 Sch. 11 para. 6 modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 3\(1\)](#)

**Marginal Citations**

M23 1996 c. 56.

*Training and support of governors*

- 7 The local education authority shall—

*Status: Point in time view as at 31/03/2003.*

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- (a) (to the extent that they are not otherwise required to secure the provision of such information) secure that every governor is provided, free of charge, with such information as they consider appropriate in connection with the discharge of his functions as a governor; and
- (b) secure that there is made available to every governor, free of charge, such training as they consider necessary for the effective discharge of those functions.

### PART III

#### CLERK TO THE GOVERNING BODY

##### *Appointment etc. of clerk*

- 8 Regulations may make provision—
- (a) requiring the appointment of a clerk to the governing body of a maintained school and authorising or requiring the appointment of clerks to committees of the governing body;
  - (b) prescribing the body by whom any such appointment is to be made and any restrictions or other requirements relating to any such appointment;
  - (c) as to the dismissal of any such clerk and the procedure to be followed in connection with his dismissal;
  - (d) authorising the governing body or a committee of the governing body, where the clerk fails to attend a meeting of theirs, to appoint one of their number to act as clerk for the purposes of that meeting.

#### SCHEDULE 12

Section 37.

#### INSTRUMENTS OF GOVERNMENT

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

- C45** Sch. 12 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), [reg. 8\(1\)](#).  
 Sch. 12 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), [reg. 9\(1\)](#).  
 Sch. 12 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), [reg. 27\(1\)](#).  
 Sch. 12 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), [reg. 43\(1\)](#).  
 Sch. 12 applied (with modifications) (10.3.1999) by [S.I. 1999/362](#), [reg. 44\(1\)](#).  
 Sch. 12 applied (with modifications) (1.9.1999) by [S.I. 1999/2243](#), [reg. 32\(1\)-\(4\)](#).  
 Sch. 12 applied (with modifications) (1.9.1999) by [S.I. 1999/2243](#), [reg. 32\(1\)\(5\)\(6\)](#).  
 Sch. 12 applied (with modifications) (1.9.1999) by [S.I. 1999/2262](#), [reg. 32\(1\)\(5\)\(6\)](#).  
 Sch. 12 applied (with modifications) (E.) (1.9.2000) by [S.I. 2000/2195](#), [reg. 13\(1\)](#), [Sch. 4 Pt. VI](#)

##### **Commencement Information**

- I5** Sch. 12 wholly in force at 1.9.1999; Sch. 12 in force for certain purposes at Royal Assent see s. 145(5); Sch. 12 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

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### *Contents and form of instrument of government*

- 1 (1) The instrument of government for a maintained school shall set out—
  - (a) the name of the school;
  - (b) the category of school (within section 20(1)) to which the school belongs;
  - (c) the name of the governing body of the school;
  - (d) the manner in which the governing body are to be constituted, specifying—
    - (i) the categories of governor and the number of governors in each category,
    - (ii) the categories of person from whom or from amongst whose members nominations for the appointment of any additional governors required by virtue of paragraph 15 of Schedule 9 are to be sought,
    - (iii) the number of such governors for whose appointment nominations are to be sought in the case of each such category of person,
    - (iv) where the school is a community special school, whether it has a representative governor by virtue of paragraph 10 of Schedule 9, and
    - (v) the total number of governors;
  - (e) where the school has foundation governors—
    - (i) the name of any foundation body or person who is entitled to appoint such governors and (if there is more than one such person) the basis on which such appointments are made,
    - (ii) details of any foundation governorship to be held ex officio by the holder of a named office and the name of any person entitled to make any appointment by virtue of paragraph 16 of Schedule 9, and
    - (iii) the procedure to be adopted for eliminating any excess in the number of foundation governors for the purposes of paragraph 17 of that Schedule;
  - (f) where the school is a community special school, the names of any body or bodies by whom any representative governor is appointed under paragraph 10 of that Schedule;
  - (g) where the school is a foundation or voluntary school which has a religious character, a description of the ethos of the school; and
  - (h) the date when the instrument takes effect.
- (2) The manner in which the governing body are to be constituted, as set out in the instrument in accordance with sub-paragraph (1)(d), must conform with the provisions of—
  - (a) Part II of Schedule 9, and
  - (b) any regulations made under paragraph 15 of that Schedule,as they apply to a school of the category to which the school belongs.
- (3) Where, for the purposes of any provision of that Part of that Schedule, it is material to determine the number of registered pupils at the school, that number shall be determined as at the date when the instrument is made.
- (4) The instrument shall (subject to any other statutory provision) comply with any trust deed relating to the school.
- (5) The instrument shall be made in such form as may be prescribed.

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

- C46** Sch. 12 para. 1 applied (with modifications) (3.12.1998) by *S.I. 1998/2763, regs. 6(4), 7(3)*  
Sch. 12 para. 1 applied (with modifications) (1.9.1999) by *S.I. 1999/2262, reg. 32(5)*.

*Making of instruments of government*

- 2 (1) Paragraph 3 shall apply in connection with the making of an instrument of government for a maintained school subject to any relevant modifications.
- (2) In sub-paragraph (1) “relevant modifications” means—
- (a) where the instrument of government is to be made in pursuance of paragraph 6 for a school which is to become a maintained school on the appointed day in accordance with Schedule 2, modifications prescribed under that paragraph;
  - (b) where the instrument of government is to be made in pursuance of regulations under section 44 for a new maintained school, modifications prescribed under that section; and
  - (c) where the instrument of government is to be made in pursuance of regulations under paragraph 5 of Schedule 8 for a school changing its category in accordance with that Schedule, modifications prescribed by regulations under that paragraph.

*Procedure for making instrument*

- 3 (1) The governing body shall prepare a draft of the instrument and submit it to the local education authority.
- (2) Where the school has foundation governors, the governing body shall not submit the draft to the authority unless the following persons have agreed to the contents of the draft, namely—
- (a) the foundation governors;
  - (b) any trustees under a trust deed relating to the school; and
  - (c) in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority.
- (3) On receiving the draft the authority shall consider whether it complies with all applicable statutory provisions, and if—
- (a) the authority are content with the draft, or
  - (b) there is agreement between the authority, the governing body and (if the school has foundation governors) the persons mentioned in sub-paragraph (2) that the draft should be revised to any extent,
- the instrument shall be made by order of the authority in the form of the draft or (as the case may be) in the form of the revised draft.
- (4) If, in the case of a school which has foundation governors, there is at any time disagreement as to the contents of the draft among the bodies and persons mentioned in sub-paragraph (3)(b), any of those bodies or persons may refer the draft to the Secretary of State; and on such a reference the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the category of school to which the school belongs.



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- (5) If neither of paragraphs (a) and (b) of sub-paragraph (3) applies in the case of a school which does not have foundation governors, the authority shall—
- (a) notify the governing body of the reasons why they are not content with the draft instrument, and
  - (b) give the governing body a reasonable opportunity to reach agreement with the authority on revising the draft;
- and the instrument shall be made by order of the authority either in the form of a revised draft agreed between the authority and the governing body or (in the absence of such agreement) in such form as the authority think fit having regard, in particular, to the category of school to which the school belongs.
- (6) When taking any decision as to the name of the school the governing body, the authority and (if the school has foundation governors) the persons mentioned in sub-paragraph (2), shall have regard to any guidance given from time to time by the Secretary of State.
- (7) Nothing in this paragraph requires the agreement of, or enables any objection to be made by, any body or person to any part of a draft instrument that reflects any decision taken by the governing body or any other person which the governing body or that person is required or authorised to take by virtue of any statutory provision.

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

- C47** Sch. 12 para. 3 applied with modification (3.12.1998) by [S. I. 1998/2763, reg. 6\(5\)](#)  
**C48** Sch. 12 para. 3(2)-(6) modified (W.) (1.9.2001) by [S.I. 2001/2678, reg. 12](#)

*Review of instruments of government*

- 4 (1) The governing body or the local education authority may review the instrument at any time after it is made.
- (2) The governing body or the authority shall review the instrument on such occasions as may be prescribed; and regulations may require the instrument to be varied at the instance of the governing body in such circumstances as may be prescribed.
- (3) Where—
- (a) on any review the governing body or the authority decide that the instrument should be varied, or
  - (b) any regulations under sub-paragraph (2) require the instrument to be varied, the governing body or (as the case may be) the authority shall notify the other of their proposed variation.
- (4) Where the governing body have received a notification under sub-paragraph (3), they shall notify the authority as to whether or not they are content with it.
- (5) Where the school has foundation governors, the governing body shall not give the authority—
- (a) any notification under sub-paragraph (3), or
  - (b) any notification under sub-paragraph (4) to the effect that they are content with the authority's proposed variation,
- unless the persons mentioned in paragraph 3(2) have agreed to the proposed variation.

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- (6) If—
- (a) both the governing body and the authority are content with a proposed variation as notified under sub-paragraph (3), or
  - (b) there is agreement between the authority, the governing body and (if the school has foundation governors) the persons mentioned in paragraph 3(2) that some other variation should be made instead,
- the instrument shall be varied accordingly by order of the authority.
- (7) If, in the case of a school which has foundation governors, there is at any time disagreement as to the proposed variation among the bodies and persons mentioned in sub-paragraph (6)(b), any of those bodies or persons may refer the proposed variation to the Secretary of State; and on such a reference the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the category of school to which the school belongs.
- (8) If neither of paragraphs (a) and (b) of sub-paragraph (6) applies in the case of a school which does not have foundation governors, the authority shall—
- (a) notify the governing body of the reasons—
    - (i) why they are not content with the governing body’s proposed variation, or
    - (ii) why they wish to proceed with their own proposed variation,
 as the case may be, and
  - (b) give the governing body a reasonable opportunity to reach agreement with the authority on revising the variation;
- and the instrument shall be varied by order of the authority either in the manner agreed between the authority and the governing body or (in the absence of such agreement) in such manner as the authority think fit having regard, in particular, to the category of school to which the school belongs.
- (9) Where there is no such agreement (and no variation is required by regulations under sub-paragraph (2)), sub-paragraph (8) does not require the authority to vary the instrument if they consider it appropriate not to do so.
- (10) The following requirements under paragraph 3, namely—
- (a) the requirement under sub-paragraph (3) for the authority to consider compliance with all applicable statutory provisions, and
  - (b) the requirement under sub-paragraph (6) to have regard, in connection with the name of the school, to guidance given by the Secretary of State,
- shall apply in relation to a proposed variation of an instrument of government as they apply in relation to a draft of such an instrument.
- (11) Where an instrument of government is varied under this paragraph—
- (a) the instrument shall set out the date on which the variation takes effect, and
  - (b) paragraph 1(3) shall apply in relation to any variation relating to the manner in which the governing body are to be constituted as if it referred to the date when the variation is made rather than the date when the instrument is made.
- (12) Nothing in this paragraph requires the agreement of, or enables any objection to be made by, any body or person to any proposed variation that reflects any decision taken by the governing body or any other person which the governing body or that person is required or authorised to take by virtue of any statutory provision.

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*Other requirements relating to instruments of government*

- 5 Regulations may make provision imposing on local education authorities requirements with respect to the provision of—
- (a) copies of instruments of government made or varied by them; or
  - (b) information relating to such instruments.

*Duty to secure making of first instrument of government*

- 6 (1) A local education authority shall secure that, by the end of such period as may be prescribed, an instrument of government has been made in accordance with this Schedule for each school which is to be, or is, maintained by them as from the appointed day in accordance with section 20(4) or (5).
- (2) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the making of instruments of government in pursuance of sub-paragraph (1), including provision modifying any provision of this Schedule or Schedule 9.

SCHEDULE 13

Section 40.

CONTROL OF SCHOOL PREMISES BY GOVERNING BODIES

*Community and community special schools: general*

- 1 (1) This paragraph applies to a community or community special school.
- (2) The occupation and use of the premises of the school, both during and outside school hours, shall be under the control of the governing body, subject to—
- (a) any directions given by the local education authority under sub-paragraph (3);
  - (b) any transfer of control agreement entered into by the governing body under paragraph 2; and
  - (c) any requirements of an enactment other than this Act or regulations made under it.
- (3) The local education authority may give such directions as to the occupation and use of the premises of a community or community special school as they think fit.
- (4) In exercising control of the occupation and use of the premises of the school outside school hours the governing body shall have regard to the desirability of those premises being made available for community use.

*Transfer of control agreement in case of community or community special school*

- 2 (1) Subject to sub-paragraph (2), the governing body of a community or community special school may enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school

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

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

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*Foundation and foundation special schools: general*

- 3 (1) This paragraph applies to a foundation or foundation special school.
- (2) The occupation and use of the premises of the school, both during and outside school hours, shall be under the control of the governing body, subject to—
- (a) any transfer of control agreement entered into by the governing body under paragraph 4; and
  - (b) any requirements of an enactment other than this Act or regulations made under it.
- (3) In exercising control of the occupation and use of the premises of the school outside school hours the governing body shall have regard to the desirability of those premises being made available for community use.
- (4) Where the school has a trust deed which provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under paragraph 4) the use of those premises is or would be under the control of such a person—
- (a) this paragraph, and
  - (b) paragraph 4,
- shall have effect in relation to the school with the substitution of references to that person for references to the governing body.

*Transfer of control agreement in case of foundation or foundation special school*

- 4 (1) Subject to sub-paragraph (2), the governing body of any foundation or foundation special school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
- (a) they may do so even though the school has a trust deed that would, apart from this sub-paragraph, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
  - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by any such trust deed as would apply if control were being exercised by the governing body.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the Secretary of State's consent to the agreement in so far as it makes such provision.
- (3) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the controlling body, in exercising control of the use of any premises subject to the agreement, shall have regard to the desirability of the premises being made available for community use; and
  - (b) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may

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be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—

- (i) the use of the specified premises at those times shall be under the control of the governing body, and
- (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,

even though their use at those times would, apart from this paragraph, be under the control of the controlling body.

(4) Sub-paragraph (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.

(5) In such a case paragraph (b) of sub-paragraph (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.

(6) In this paragraph—

“the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

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

#### *Voluntary schools: general*

- 5 (1) This paragraph applies to a voluntary school.
- (2) The occupation and use of the premises of the school, both during and outside school hours, shall be under the control of the governing body, subject to—
- (a) any directions given by the local education authority—
    - (i) (in the case of a voluntary controlled school) under sub-paragraph (3), or
    - (ii) (in the case of a voluntary aided school) under paragraph 7(3);
  - (b) any transfer of control agreement entered into by the governing body under paragraph 6; and
  - (c) any requirements of an enactment other than this Act or regulations made under it.
- (3) The local education authority may give such directions as to the occupation and use of the premises of a voluntary controlled school as they think fit (subject to paragraph 7(1) and (2)).
- (4) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control

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agreement made under paragraph 6) the use of those premises is or would be under the control of such a person—

- (a) this paragraph, and
- (b) paragraphs 6 and 7,

shall have effect in relation to the school with the substitution of references to that person for references to the governing body.

*Transfer of control agreement in case of voluntary school*

- 6 (1) Subject to sub-paragraph (2), the governing body of any voluntary school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
- (a) they may do so even though the trust deed for the school would, apart from this sub-paragraph, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
  - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would apply if control were being exercised by the governing body.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the local education authority's consent to the agreement in so far as it makes such provision.
- (3) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of—
    - (i) any directions given to the governing body under paragraph 5(3) (in the case of a voluntary controlled school) or paragraph 7(3) (in the case of a voluntary aided school); and
    - (ii) any determination made by the foundation governors under paragraph 7(2) (in the case of a voluntary controlled school);
  - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
    - (i) shall do so in accordance with any directions or determinations from time to time notified to that body in pursuance of paragraph (a); and
    - (ii) shall have regard to the desirability of the premises being made available for community use; and
  - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
    - (i) the use of the specified premises at those times shall be under the control of the governing body, and
    - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,

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even though their use at those times would, apart from this paragraph, be under the control of the controlling body.

- (4) Sub-paragraph (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.
- (5) In such a case paragraph (c) of sub-paragraph (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (6) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of sub-paragraph (3)(a).
- (7) In this paragraph—
  - “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;
  - “transfer of control agreement” means an agreement which (subject to sub-paragraph (3)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

*Control of use of premises of voluntary school outside school hours*

- 7 (1) The governing body may determine the use to which the premises of a voluntary controlled school (or any part of them) are put on Saturdays when not required—
  - (a) for the purposes of the school, or
  - (b) for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises (or on the part in question).
- (2) The foundation governors may determine the use to which the premises of a voluntary controlled school (or any part of them) are put on Sundays.
- (3) If the local education authority—
  - (a) desire to provide accommodation for any purpose connected with education or with the welfare of the young, and
  - (b) are satisfied that there is no suitable alternative accommodation in their area for that purpose,
 they may direct the governing body of a voluntary aided school to provide accommodation free of charge for that purpose on the school premises (or any part of them) on any weekday when not needed for the purposes of the school.
- (4) The local education authority shall not exercise their power under sub-paragraph (3) so as to direct the governing body to provide accommodation on more than three days in any week.



*Status: Point in time view as at 31/03/2003.*

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- (5) In exercising control of the occupation and use of the premises of a voluntary school outside school hours the governing body shall have regard to the desirability of those premises being made available for community use.

### *Saving*

- 8 The power of the governing body of a maintained school to control the occupation and use of the premises of the school shall be subject to any arrangements made under or by virtue of—
- (a) an agreement made under paragraph 1 or 2 of Schedule 10 to the <sup>M24</sup>Education Reform Act 1988 or a determination made in accordance with paragraph 62 or 63 of Schedule 8 to the <sup>M25</sup>Further and Higher Education Act 1992; or
  - (b) an agreement made under paragraph 1 or 2 of Schedule 5 to the <sup>M26</sup>Further and Higher Education Act 1992 or a determination made in accordance with paragraph 3 or 4 of that Schedule.

#### **Marginal Citations**

**M24** 1988 c. 40.

**M25** 1992 c. 13.

**M26** 1992 c. 13.

### *Interpretation*

- 9 In this Schedule—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
- “school hours” means any time during a school session or during a break between sessions on the same day;
- “school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with section 41.

## SCHEDULE 14

Section 48.

### LOCAL EDUCATION AUTHORITY SCHEMES: APPROVAL, IMPOSITION AND REVISION

#### *Approval or imposition of schemes by Secretary of State*

- 1 (1) A scheme prepared by a local education authority under section 48(1) shall be submitted to the Secretary of State on or before such date as he may by order direct, whether—
- (a) generally; or
  - (b) in relation to that authority or to any class or description of local education authorities to which that authority belongs.

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- (2) In preparing such a scheme a local education authority shall take into account any guidance given by the Secretary of State, whether—
- (a) generally, or
  - (b) in relation to that authority or to any class or description of local education authorities to which that authority belongs,
- as to the provisions he regards as appropriate for inclusion in the scheme.
- (3) Before preparing such a scheme the local education authority shall consult—
- (a) where this sub-paragraph applies in relation to any time before the appointed day—
    - (i) the governing body and the head teacher of every school maintained by the authority as a county, voluntary or maintained special school (within the meaning of the <sup>M27</sup>Education Act 1996), and
    - (ii) the governing body and the head teacher of every grant-maintained or grant-maintained special school (within the meaning of that Act) in the area of the authority; and
  - (b) where this sub-paragraph applies in relation to any time on or after the appointed day, the governing body and the head teacher of every school maintained by the authority (within the meaning of this Chapter);
- and in paragraph (a)(i) “every school” includes any new school (within the meaning of Part II of the <sup>M28</sup>Education Act 1996).
- (4) Such a scheme shall not come into force until it has been approved by the Secretary of State or until such date as he may, in giving his approval, specify; and the Secretary of State may approve such a scheme—
- (a) either without modifications or with such modifications as he thinks fit after consulting the authority concerned; and
  - (b) subject to such conditions as he may specify in giving his approval.
- (5) If in the case of any local education authority either—
- (a) the authority fail to submit a scheme as required by sub-paragraph (1), or
  - (b) it appears to the Secretary of State that a scheme submitted by the authority as required by that sub-paragraph does not accord with any guidance given by him for the purposes of this paragraph and cannot be made to do so merely by modifying it,
- he may, after consulting the authority and such other persons as he thinks fit, impose a scheme making such provision of a description required to be made by a scheme under section 48 as he considers appropriate.
- (6) A scheme imposed by the Secretary of State by virtue of sub-paragraph (5)—
- (a) shall be treated as if made under section 48 by the local education authority concerned; and
  - (b) shall come into force on such date as may be specified in the scheme.
- (7) A scheme shall be published in such manner as may be prescribed—
- (a) on its coming into force, and
  - (b) on such subsequent occasions as may be prescribed.

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#### Marginal Citations

M27 1996 c. 56.

M28 1996 c. 56.

#### *Revision of schemes*

- 2
- (1) A local education authority may, in accordance with this paragraph, revise the whole or any part of the scheme prepared by them under section 48(1).
  - (2) Section 48(1) and paragraph 1(2) shall apply in relation to the preparation by the authority of any revision under this paragraph as they apply in relation to the preparation by the authority of a scheme.
  - (3) As regards any proposed variation of the scheme, the authority—
    - (a) shall first consult every governing body and head teacher whom they are obliged to consult under paragraph 1(3), and
    - (b) shall then submit a copy of their proposals to the Secretary of State for his approval.
  - (4) Where the proposals are so submitted, paragraph 1(4) shall apply to the scheme as revised as it applies to a scheme prepared under section 48.
  - (5) The Secretary of State may by a direction revise the whole or any part of any scheme as from such date as may be specified in the direction.
  - (6) Before giving such a direction the Secretary of State shall consult the local education authority and such other persons as he thinks fit.

## SCHEDULE 15

Section 51.

### SUSPENSION OF FINANCIAL DELEGATION

#### *Suspension of financial delegation for mismanagement, etc.*

- 1
- (1) This paragraph applies where it appears to the local education authority that the governing body of a school which has a delegated budget—
    - (a) have been guilty of a substantial or persistent failure to comply with any delegation requirement or restriction, [<sup>F62</sup>or]
    - (b) are not managing in a satisfactory manner the expenditure or appropriation of the sum referred to in section 50(1)[<sup>F63</sup> or
    - (c) are not managing in a satisfactory manner any expenditure, or sums received, in the exercise of the power conferred by section 27 of the Education Act 2002 (power to provide community facilities etc.).]
  - (2) The authority may suspend the governing body's right to a delegated budget by giving the governing body not less than one month's notice of the suspension, unless by reason of any gross incompetence or mismanagement on the part of the governing body or other emergency it appears to the authority to be necessary—
    - (a) to give the governing body a shorter period of notice, or

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- (b) to give the governing body a notice suspending their right to such a budget with immediate effect.
- (3) The notice must specify the grounds for the suspension, giving particulars—
  - (a) of any alleged failure on the part of the governing body to comply with any delegation requirement or restriction;
  - (b) of any alleged mismanagement on their part; and
  - (c) if applicable, of the basis upon which a period of notice of less than one month was given under sub-paragraph (2).
- (4) The notice must also inform the governing body of their right to appeal against the suspension under paragraph 3 and of the time within which such an appeal may be brought.
- (5) A copy of the notice must be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (6) The authority shall send a copy of the notice to the Secretary of State.
- (7) In this paragraph “delegation requirement or restriction” means any requirement or restriction applicable, under or by virtue of the scheme or section 50(3), to the management by the governing body of the school’s budget share.
- (8) Any notice given under this paragraph must be in writing.

#### **Textual Amendments**

**F62** Sch. 15 para. 1(1): Word "or" at the end of para. 1(1)(a) omitted (2.9.2002 for E. otherwise prosp.) by virtue of Education Act 2002 (c. 32), ss. 40, 216, **Sch. 3 para. 5** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**

**F63** Sch. 15 para. 1(1)(c) and word "or" at the end of para. 1(1)(b) inserted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 40, 216, **Sch. 3 para. 5** (with ss. 210(8), 214(4)); S.I. 2002/2002, **art. 4**

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

**C49** Sch. 15 para. 1 modified (20.11.1998) by S.I. 1998/2670, **reg. 6**

#### *Review of suspension*

- 2 (1) The local education authority concerned—
  - (a) shall review before the beginning of every financial year any suspension under paragraph 1 which is for the time being in force, unless the suspension took effect less than two months before the beginning of that year; and
  - (b) may review at any time any suspension under paragraph 1 which is for the time being in force, if they consider it appropriate to do so.
- (2) For the purposes of any review under sub-paragraph (1), the authority shall give the governing body and the head teacher of the school an opportunity of making representations with respect to the suspension.
- (3) If on the review the authority consider it appropriate to do so, they shall revoke the suspension—
  - (a) (in the case of a review under sub-paragraph (1)(a)) with effect from the beginning of the financial year next following the review; or

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- (b) (in the case of a review under sub-paragraph (1)(b)) with effect from such time before the beginning of the financial year next following the review as they may determine.
- (4) The authority shall give the governing body and the head teacher notice in writing of their decision on the review.
- (5) If—
  - (a) the review was conducted under sub-paragraph (1)(a), and
  - (b) the authority's decision is to refuse to revoke the suspension,the notice must inform the governing body of their right to appeal against the refusal under paragraph 3 and of the time within which such an appeal may be brought.

*Appeal against suspension or refusal to revoke it*

- 3 (1) A governing body may appeal to the Secretary of State against—
  - (a) the imposition of any suspension under paragraph 1 of their right to a delegated budget; or
  - (b) any refusal of a local education authority to revoke any such suspension on a review under paragraph 2(1)(a).
- (2) An appeal under this paragraph must be brought within the period of two months beginning with the date on which the governing body receive the authority's notice under paragraph 1(2) or 2(4), as the case may be.
- (3) But if the authority's notice failed to comply with paragraph 1(4) or 2(5), such an appeal may be brought at any time before the end of the period of two months beginning with the date on which the governing body are informed by the authority in writing of their right of appeal under this paragraph.
- (4) On an appeal under this paragraph, the Secretary of State—
  - (a) may allow or reject the appeal; and
  - (b) shall have regard, in making his determination, to the gravity of the default on the part of the governing body and the likelihood of its continuing or recurring.
- (5) Where the Secretary of State allows an appeal under this paragraph, the suspension of the governing body's right to a delegated budget shall be revoked from a date determined by the Secretary of State.

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

**C50** Sch. 15 para. 3(1)(a) excluded (20.11.1998) by S.I. 1998/2670, reg.6

*Effect of suspension of right to delegated budget*

- 4 (1) During any period when a governing body's right to a delegated budget is suspended under paragraph 1—
  - (a) the local education authority's duty under section 50(1) shall not apply in relation to the school; but

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- (b) the authority may permit the governing body to take such decisions as to the spending of sums to be met from the school’s budget share as the authority consider appropriate.
- (2) Where in accordance with sub-paragraph (1)(b) the governing body have decided that a particular sum should be spent, they shall, in spending that sum, comply with such reasonable conditions as the authority think fit to impose.
- (3) The governing body may, to such extent as they may specify, delegate their powers in relation to that sum to the head teacher.

## SCHEDULE 16

Section 54.

### STAFFING OF COMMUNITY, VOLUNTARY CONTROLLED AND COMMUNITY SPECIAL SCHOOLS

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

- C51** Sch. 16 applied (1.9.1999) by S.I. 1999/2243, **reg. 49(2)**.  
 Sch. 16 modified (1.9.1999) by S.I. 1999/2243, **reg. 49(4)**.  
 Sch. 16 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 49(2)**.  
 Sch. 16 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 49(4)**.

#### *Introductory*

- 1 (1) In this Schedule “the school” means a community, voluntary controlled or community special school.
- (2) References in this Schedule to a vacancy in any post include a prospective vacancy in the post, and references to a person’s absence are to his absence, or prospective absence, from the school.
- (3) References in this Schedule to staff qualification requirements are to any requirements with respect to—
- (a) qualifications,
  - (b) registration,
  - (c) health and physical capacity, or
  - (d) fitness on educational grounds or in any other respect,
- of teachers or other persons employed, or otherwise engaged to provide their services, in work that brings them regularly into contact with persons who have not attained the age of 19 which for the time being apply under regulations under section 218 of the <sup>M29</sup>Education Reform Act 1988 (regulations relating to employment of teachers etc.) or section 19 of the <sup>M30</sup>Teaching and Higher Education Act 1998 (induction training).
- (4) References in this Schedule to the chief education officer of the local education authority include any officer of the authority nominated by the chief education officer.

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#### Marginal Citations

**M29** 1988 c. 40.

**M30** 1998 c. 30.

#### *Appointment of head teacher and deputy head teacher*

- 2 Paragraphs 3 to 7 apply in relation to the filling of a vacancy in the post of head teacher or deputy head teacher of the school.
- 3 The governing body shall notify the local education authority of the vacancy in writing before taking any of the steps mentioned in paragraphs 4 to 7.
- 4 (1) Where the vacancy is in the post of head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant, the governing body shall either—
- (a) recommend a person for appointment as acting head teacher, or
  - (b) exercise their power under sub-paragraph (5).
- (2) Where the vacancy is in the post of deputy head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant, the governing body may—
- (a) recommend a person for appointment as acting deputy head teacher, or
  - (b) exercise their power under sub-paragraph (5).
- (3) If the governing body recommend a person for appointment as acting head teacher or acting deputy head teacher, the local education authority shall appoint the person recommended unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (4) If the authority decline to appoint a person recommended by the governing body for appointment as acting head teacher, the governing body shall recommend another person for appointment.
- (5) Instead of making a recommendation under sub-paragraph (1) or (2) the governing body may for the purpose of filling the vacancy—
- (a) engage, or
  - (b) make arrangements for the engagement of,
- a person to provide his services as acting head teacher, or (as the case may be) acting deputy head teacher, otherwise than under a contract of employment with the local education authority.
- (6) No person shall be engaged under sub-paragraph (5) unless he meets all the staff qualification requirements applicable in relation to the head teacher or (as the case may be) deputy head teacher at the school.
- 5 The governing body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
- 6 (1) The governing body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on them by this paragraph.

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- (2) The selection panel shall—
- (a) select for interview such applicants for the post as they think fit and, where the post is that of head teacher, notify the local education authority in writing of the names of the applicants so selected,
  - (b) interview such of those applicants as attend for the purpose,
  - (c) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them, and
  - (d) if their recommendation is approved by the governing body, recommend the applicant in question to the local education authority for appointment.
- (3) Any decision of the selection panel shall be taken by a vote representing an absolute majority of all the members of the panel (whether or not taking part in the vote).
- (4) If, within the period of 14 days beginning with the date when they receive a notification under sub-paragraph (2)(a), the authority make written representations to the selection panel that any of the applicants selected by the panel is not a suitable person for the appointment, the panel shall not recommend that person to the governing body for appointment unless the panel have—
- (a) considered those representations, and
  - (b) notified the authority in writing of their response to the representations;
- and when making such a recommendation the panel shall supply the governing body with a copy of those representations and of the panel's response to them.
- (5) If the panel do not recommend a person to the governing body, or the governing body do not approve their recommendation, the governing body—
- (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
  - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in sub-paragraph (2).
- (6) In determining whether a person is suitable for appointment as head teacher the authority shall have regard to any guidance given from time to time by the Secretary of State.
- 7 (1) Where the governing body approve a recommendation of the selection panel, the local education authority shall appoint the person recommended by the panel unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint the person recommended by the panel, the governing body—
- (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
  - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in paragraph 6(2).
- 8 (1) The governing body may, in connection with any absence of the person for the time being holding the post of head teacher or deputy head teacher of the school, take either of the steps mentioned in paragraphs (a) and (b) of sub-paragraph (1) or (as the case may be) (2) of paragraph 4.
- (2) For the purposes of this paragraph—



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- (a) paragraph 4(3) shall apply in relation to any recommendation made by virtue of sub-paragraph (1) above as it applies in relation to any recommendation made by virtue of paragraph 4(1) or (2); and
- (b) paragraph 4(5) and (6) shall apply in connection with any such absence as is mentioned in sub-paragraph (1) above as they apply for the purpose of filling any such vacancy as is mentioned in paragraph 4(1) or (2).

#### *Appointment of other teachers*

- 9 Subject to paragraph 10, paragraphs 11 to 15 apply in relation to the filling of a vacancy in any teaching post (whether full-time or part-time) at the school, other than the post of head teacher or deputy head teacher.
- 10 (1) Paragraphs 11 to 15 do not apply in relation to any temporary appointment or engagement to fill a vacancy in any such post as is mentioned in paragraph 9—
- (a) for a period not exceeding four months, or
  - (b) where it appears to the governing body that the period for which the person appointed or engaged will act in the post in question will not exceed four months.
- (2) Where it appears to the governing body in the case of any post that it would be appropriate for such an appointment as is mentioned in sub-paragraph (1) to be made—
- (a) they may recommend a person for appointment to the post on such terms as to the duration of the appointment as they may specify, and
  - (b) the local education authority shall appoint the person recommended on the terms specified unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (3) Where it appears to the governing body in the case of any post that it would be appropriate for such an engagement as is mentioned in sub-paragraph (1) to be made, the governing body may—
- (a) engage, or
  - (b) make arrangements for the engagement of,
- a person to provide his services as a teacher at the school otherwise than under a contract of employment with the local education authority.
- (4) Any engagement under sub-paragraph (3) shall be on such terms as to the duration of the engagement as the governing body may specify; but no person shall be engaged under that sub-paragraph unless he meets all the staff qualification requirements applicable in relation to a teacher in the post in which he would be acting as a temporary teacher.
- 11 Before taking any of the steps mentioned below, the governing body shall—
- (a) determine a specification for the post in consultation with the head teacher, and
  - (b) send a copy of the specification to the local education authority.
- 12 (1) The local education authority may nominate for consideration for appointment to the post any person who appears to them to be qualified to fill it and who at the time of his nomination either—
- (a) is an employee of theirs or has been appointed to take up employment with them at a future date, or

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- (b) is employed by the governing body of a foundation, voluntary aided or foundation special school maintained by them.
- (2) No person who is employed at any school maintained by the authority shall be nominated by the authority under sub-paragraph (1) without the consent of the governing body of the school.
- 13 (1) The governing body may advertise the vacancy at any time after they have sent a copy of the specification for the post to the local education authority in accordance with paragraph 11, and shall do so unless either—
- (a) they accept for appointment to the post a person nominated by the local education authority under paragraph 12, or
- (b) they decide to recommend to the authority for appointment to the post a person who is already employed to work at the school.
- (2) Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it.
- 14 (1) Where the governing body advertise the vacancy, they shall—
- (a) interview such applicants for the post and such of the persons (if any) nominated by the local education authority under paragraph 12 as they think fit, and
- (b) where they consider it appropriate to do so, either recommend to the authority for appointment one of the applicants interviewed by them or notify the authority that they accept for appointment any person nominated by the authority under paragraph 12.
- (2) If the governing body are unable to agree on a person to recommend or accept for appointment, they may repeat the steps mentioned in sub-paragraph (1)(a) and (b), with or without first re-advertising the vacancy in accordance with paragraph 13(2).
- 15 (1) The local education authority shall appoint the person recommended or accepted for appointment by the governing body unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint a person recommended by the governing body, the governing body shall repeat such of the steps mentioned in paragraph 14(1)(a) and (b) as they think fit, with or without first re-advertising the vacancy in accordance with paragraph 13(2).
- 16 (1) The governing body may, in connection with any absence of the person for the time being holding any such post as is mentioned in paragraph 9—
- (a) engage, or
- (b) make arrangements for the engagement of,
- a person to provide his services as a teacher at the school otherwise than under a contract of employment with the local education authority.
- (2) No person shall be engaged under sub-paragraph (1) unless he meets all the staff qualification requirements applicable in relation to a teacher in the post in which he would be acting as a temporary teacher.
- 17 The governing body may, in relation to a particular vacancy or absence or a vacancy or absence of a kind specified by them, delegate any of their functions under paragraphs 10 to 16—

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- (a) to one or more governors,
- (b) to the head teacher, or
- (c) to one or more governors and the head teacher acting together.

*Advice of chief education officer on appointments of teachers*

- 18 (1) The chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice—
- (a) all proceedings (including interviews) of the governing body, and of any selection panel appointed under paragraph 6, relating to appointments or engagements to which any of the provisions of paragraphs 3 to 8 apply, and
  - (b) all proceedings (including interviews) of the governing body, and of any persons to whom any functions of the governing body under paragraphs 10 to 16 are delegated, relating to appointments or engagements to which any of the provisions of paragraphs 10 to 16 apply.
- (2) The chief education officer shall offer such advice as he considers appropriate with respect to—
- (a) the appointment of a head teacher or deputy head teacher or the appointment or engagement of an acting head teacher or acting deputy head teacher, or
  - (b) any matter arising in connection with any such appointment or engagement.
- (3) If requested to do so by the governing body, the chief education officer shall give such advice as he considers appropriate in relation to any appointment or engagement to which any of the provisions of paragraphs 10 to 16 apply.
- (4) Any advice given by the chief education officer to—
- (a) the governing body,
  - (b) any selection panel appointed under paragraph 6, or
  - (c) any persons to whom any functions of the governing body under paragraphs 10 to 16 are delegated,
- with respect to any matter which relates to an appointment or engagement and falls to be determined by them shall be considered by them before determining that matter, whether or not the advice was given at their request.

*Advice of head teacher on appointments etc. of teachers*

- 19 Except in relation to the appointment of a head teacher—
- (a) paragraph 18(1) applies in relation to the head teacher (if not otherwise entitled to be present at the proceedings there mentioned) as it applies in relation to the chief education officer, and
  - (b) paragraph 18(4) applies in relation to advice given by the head teacher as it applies in relation to advice given by the chief education officer.

*Appointment of non-teaching staff*

- 20 (1) Where the governing body desire the appointment of a person to work in a non-teaching post at the school, they may recommend a person to the local education authority for appointment to the post.
- (2) A recommendation under this paragraph shall be in writing and shall specify—

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- (a) the duties to be performed by the person appointed (including, where the post is part-time, his hours of work) and such terms (if any) as to the duration of his appointment as are proposed by the governing body;
  - (b) the grade (on the scale of grades currently applicable in relation to employment with the authority) which the governing body consider appropriate for the post; and
  - (c) where the authority have a discretion with respect to the remuneration to be paid to a person appointed to the post, the determination of any matter to which that discretion applies and which the governing body consider appropriate in the case of the person recommended for appointment.
- (3) Before selecting a person to recommend under this paragraph and determining in relation to such a recommendation any matters mentioned in sub-paragraph (2), the governing body shall consult—
- (a) the head teacher (where he would not otherwise be involved in the decision), and
  - (b) the chief education officer of the authority.
- (4) For the purposes of sub-paragraph (2)(c), the authority are to be regarded as having a discretion with respect to the remuneration to be paid to a person appointed to a post if any provisions regulating the rates of remuneration or allowances payable to persons in the authority’s employment either—
- (a) do not apply in relation to that appointment, or
  - (b) leave to the authority any degree of discretion as to rate of remuneration or allowances in the case of that appointment.

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

- C52** Sch. 16 para. 20 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
 Sch. 16 para. 20 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 21 (1) The local education authority shall appoint a person recommended to them under paragraph 20 unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Any such appointment shall be on such terms as to give effect, so far as they relate to any matter mentioned in paragraph 20(2), to the governing body’s recommendation in respect of that matter.

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

- C53** Sch. 16 para. 21 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
 Sch. 16 para. 21 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

*Discipline*

- 22 (1) The regulation of conduct and discipline in relation to the staff of the school, and any procedures for giving members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body.
- (2) The governing body shall establish—

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- (a) disciplinary rules and procedures (including such rules and procedures for dealing with lack of capability on the part of members of the staff), and
  - (b) procedures such as are mentioned in sub-paragraph (1);
- and shall take such steps as appear to the governing body to be appropriate for making them known to members of the staff.
- (3) In determining the capability of members of the staff the governing body shall have regard to any guidance given from time to time by the Secretary of State.
  - (4) If the Secretary of State determines that any prescribed rules and procedures are to apply to the school or to any class or description of school to which the school belongs—
    - (a) the governing body shall act in accordance with those rules and procedures in determining the capability of members of the staff; and
    - (b) in the event of any inconsistency, those rules and procedures shall prevail over any rules and procedures established by the governing body under sub-paragraph (2)(a).
  - (5) Where the implementation of any determination made by the governing body in the exercise of their control over the conduct and discipline of the staff requires any action which—
    - (a) is not within the functions exercisable by the governing body by virtue of this Act, but
    - (b) is within the power of the local education authority,the authority shall take that action at the request of the governing body.

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

- C54 Sch. 16 para. 22 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
Sch. 16 para. 22 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1)

*LEA report on performance of head teacher*

- 23 (1) Where the authority have any serious concerns about the performance of the head teacher of the school—
  - (a) they shall make a written report of their concerns to the chairman of the governing body at the same time sending a copy to the head teacher; and
  - (b) the chairman of the governing body shall notify the authority in writing of the action which he proposes to take in the light of the report.
- (2) In determining whether to make a report under this paragraph the authority shall have regard to any guidance given from time to time by the Secretary of State.

*Suspension*

- 24 (1) Both the governing body and the head teacher shall have power to suspend any person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (2) The governing body or head teacher shall, when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body.

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- (3) A suspension under this paragraph may only be ended by the governing body.
- (4) The governing body shall, on ending such a suspension, immediately inform the authority and the head teacher.
- (5) In this paragraph “suspend” means suspend without loss of emoluments.

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

- C55** Sch. 16 para. 24 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
 Sch. 16 para. 24 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

*Dismissal, etc.*

- 25 (1) Where the governing body determine that any person employed by the local education authority to work at the school should cease to work there, they shall notify the authority in writing of their determination and the reasons for it.
- (2) If the person concerned is employed to work solely at the school (and he does not resign), the authority shall, before the end of the period of 14 days beginning with the date on which the notification under sub-paragraph (1) is given, either—
- (a) give him such notice terminating his contract of employment with the authority as is required under that contract, or
  - (b) terminate that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.
- (3) If the person concerned is not employed to work solely at the school, the authority shall require him to cease to work at the school.

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

- C56** Sch. 16 para. 25 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
 Sch. 16 para. 25 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 26 (1) Where paragraph 25(3) applies, no part of the costs incurred by the local education authority in respect of the emoluments of the person concerned, so far as they relate to any period falling after the expiration of his contractual notice period, shall be met from the school’s budget share.
- (2) The reference in sub-paragraph (1) to the person’s contractual notice period is to the period of notice that would have been required under his contract of employment with the authority for termination of that contract if such notice had been given on the date on which the notification under paragraph 25(1) was given.

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

- C57** Sch. 16 para. 26 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
 Sch. 16 para. 26 applied (1.9.1999) by S.I. 1999/2258, reg. 4(1).

- 27 (1) The governing body shall—
- (a) make arrangements for giving any person in respect of whom they propose to make a determination under paragraph 25(1) an opportunity of making

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- representations as to the action they propose to take (including, if he so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and
- (b) have regard to any representations made by him.
- (2) The governing body shall also make arrangements for giving any person in respect of whom they have made a determination under paragraph 25(1) an opportunity of appealing against it before they notify the local education authority of the determination.
- (3) Nothing in this paragraph shall, however, apply to a person who—
- (a) is due to cease to work at the school by reason of the termination of his contract of employment by effluxion of time; and
- (b) has not been continuously employed at the school [<sup>F64</sup>, within the meaning of the Employment Rights Act 1996, for a period at least as long as the period for the time being specified in section 108(1) of that Act (unfair dismissal: qualifying period)].

#### Textual Amendments

**F64** Words in Sch. 16 para. 27(3)(b) substituted (1.9.1999) by 1999 c. 26, s. 40(1); S.I. 1999/2262, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

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

**C58** Sch. 16 para. 27 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
Sch. 16 para. 27 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 28 (1) The head teacher (except where he is the person concerned) and the chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the governing body relating to a determination under paragraph 25(1).
- (2) The governing body shall consider any advice given by a person who is entitled to attend such proceedings under this paragraph before making a determination under paragraph 25(1).

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

**C59** Sch. 16 para. 28 applied (1.9.1999) by S.I. 1999/2258, reg. 4.  
Sch. 16 para. 28 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 29 (1) The local education authority shall not dismiss a person employed by them to work solely at the school except as provided by paragraph 25.
- (2) Sub-paragraph (1) does not apply in a case where—
- (a) the dismissal of the person in question is required by virtue of regulations under section 218 of the <sup>M31</sup>Education Reform Act 1988 or section 19 of the <sup>M32</sup>Teaching and Higher Education Act 1998, or
- (b) the person in question is a teacher who is subject to a conditional registration, suspension or prohibition order made under Schedule 2 to the 1998 Act (disciplinary powers of General Teaching Council).

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

- C60** Sch. 16 para. 29 applied (1.9.1999) by S.I. 1999/2258, **reg. 4**.  
 Sch. 16 para. 29 applied (1.9.1999) by S.I. 1999/2802, **reg. 4(1)**.

**Marginal Citations**

- M31** 1988 c. 40.  
**M32** 1998 c. 30.

*School meals staff*

- 30 The Secretary of State may by regulations make provision as to the appointment, discipline, suspension and dismissal of persons employed or to be employed to work at a community, voluntary controlled or community special school solely in connection with the provision of meals.

*Advisory rights for appropriate diocesan authorities*

- 31 (1) This paragraph applies to a voluntary controlled school which is a Church of England, Church in Wales or Roman Catholic Church school.
- (2) The governing body may agree with the appropriate diocesan authority to accord to the appropriate diocesan officer—
- (a) with respect to all teachers at the school, or
  - (b) with respect to any particular description of such teachers,
- the same advisory rights in relation to their appointment, engagement or dismissal as are exercisable by the chief education officer in accordance with paragraphs 18 and 28.
- (3) The agreement of the governing body for the purposes of sub-paragraph (2) must be given in writing and may only be withdrawn by notice in writing to the appropriate diocesan authority.
- (4) In paragraphs 18 and 28, as they apply to a voluntary controlled school within sub-paragraph (1) above, references to the chief education officer accordingly include the appropriate diocesan officer, so far as necessary for giving effect to any advisory rights exercisable by him under this paragraph.
- (5) In this paragraph “the appropriate diocesan officer” means such person as the appropriate diocesan authority may nominate.

SCHEDULE 17

Section 55.

STAFFING OF FOUNDATION, VOLUNTARY AIDED AND FOUNDATION SPECIAL SCHOOLS

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

- C61** Sch. 17 applied (1.9.1999) by S.I. 1999/2243, **reg. 50(2)**.  
 Sch. 17 modified (1.9.1999) by S.I. 1999/2243, **reg. 50(3)**.  
 Sch. 17 applied (1.9.1999) by S.I. 1999/2243, **reg. 52(2)**.



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Sch. 17 modified (1.9.1999) by S.I. 1999/2243, **reg. 52(2)**.  
Sch. 17 modified (1.9.1999) by S.I. 1999/2243, **reg. 52(3)**.  
Sch. 17 modified (1.9.1999) by S.I. 1999/2243, **reg. 52(4)**.  
Sch. 17 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 50(2)**.  
Sch. 17 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 50(3)**.  
Sch. 17 applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(2)**.  
Sch. 17 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(2)**.  
Sch. 17 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(3)**.  
Sch. 17 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(4)**.

### *Introductory*

- 1 (1) In this Schedule “the school” means a foundation or voluntary aided or foundation special school.
- (2) References in this Schedule to a vacancy in any post include a prospective vacancy in the post, and references to a person’s absence are to his absence, or prospective absence, from the school.
- (3) References in this Schedule to staff qualification requirements are to any requirements with respect to—
- qualifications,
  - registration,
  - health and physical capacity, or
  - fitness on educational grounds or in any other respect,
- of teachers or other persons employed, or otherwise engaged to provide their services, in work that brings them regularly into contact with persons who have not attained the age of 19 which for the time being apply under regulations under section 218 of the <sup>M33</sup>Education Reform Act 1988 (regulations relating to employment of teachers etc.) or section 19 of the <sup>M34</sup>Teaching and Higher Education Act 1998 (induction training).

#### **Commencement Information**

**I6** Sch. 17 para. 1 wholly in force at 1.9.1999; Sch. 17 para. 1 not in force at Royal Assent see s. 145(3); Sch. 17 para. 1(1) in force at 1.2.1999 by S.I. 1999/120, art. 2(1), **Sch. 1**; Sch. 17 para. 1 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

#### **Marginal Citations**

**M33** 1988 c. 40.

**M34** 1998 c. 30.

### *Advisory rights of chief education officer*

- 2 (1) This paragraph applies where—
- the governing body of the school have agreed with the local education authority to accord to the authority’s chief education officer advisory rights in relation to the appointment, engagement or dismissal of teachers at the school, or

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- (b) in default of such agreement, the Secretary of State has determined that it would be appropriate that such advisory rights should be accorded to the chief education officer.
- (2) Advisory rights accorded by an agreement or determination under sub-paragraph (1) shall be framed by reference to the rights conferred on the chief education officer by the following paragraphs of this Schedule and may relate to the appointment and engagement or dismissal, or both to the appointment and engagement and to the dismissal, either—
  - (a) of head teachers and deputy head teachers alone, or
  - (b) of all teachers at the school.
- (3) During any period when an agreement or determination under sub-paragraph (1) is effective, the chief education officer shall be entitled to exercise such of the rights conferred on him under the following paragraphs of this Schedule as are accorded to him by virtue of the agreement or determination.
- (4) The chief education officer shall not be entitled to exercise any of the rights so conferred except in accordance with sub-paragraph (3).
- (5) The agreement of a governing body for the purposes of sub-paragraph (1)(a) must be given in writing and may only be withdrawn by notice in writing to the local education authority.
- (6) A determination by the Secretary of State for the purposes of sub-paragraph (1)(b) may be withdrawn at any time (without prejudice to a further determination for those purposes).
- (7) References in this Schedule to the chief education officer of the local education authority include any officer of the authority nominated by the chief education officer.

*Appointment of head teacher and deputy head teacher*

- 3 Paragraphs 4 to 8 apply in relation to the filling of a vacancy in the post of head teacher or deputy head teacher of the school (but paragraphs 6 to 8 so apply subject to paragraphs 29 and 30).
- 4 The governing body shall notify the local education authority of the vacancy in writing before taking any of the steps mentioned in paragraphs 5 to 8 (or, in a case where paragraph 29 or 30 applies, any of the steps falling to be taken under that paragraph).
- 5 (1) Where the vacancy is in the post of head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 6 to 8 before the date on which it falls vacant, the governing body shall either—
  - (a) appoint a person as acting head teacher, or
  - (b) exercise their power under sub-paragraph (4).
- (2) Where the vacancy is in the post of deputy head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 6 to 8 before the date on which it falls vacant, the governing body may—
  - (a) appoint a person as acting deputy head teacher, or

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- (b) exercise their power under sub-paragraph (4).
- (3) A person shall not be appointed under sub-paragraph (1) or (2) unless he meets all the staff qualification requirements which are applicable in relation to his appointment.
- (4) Instead of making an appointment under sub-paragraph (1) or (2) the governing body may for the purpose of filling the vacancy—
  - (a) engage, or
  - (b) make arrangements for the engagement of,  
a person to provide his services as acting head teacher, or (as the case may be) acting deputy head teacher, otherwise than under a contract of employment.
- (5) No person shall be engaged under sub-paragraph (4) unless he meets all the staff qualification requirements applicable in relation to the head teacher or (as the case may be) deputy head teacher at the school.
- (6) In sub-paragraph (1) the reference to paragraphs 6 to 8 includes a reference to paragraph 29 or 30; and in sub-paragraph (2) the reference to paragraphs 6 to 8 includes a reference to paragraph 30.
- 6 The governing body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
- 7 (1) The governing body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on them by this paragraph.
- (2) The selection panel shall—
  - (a) select for interview such applicants for the post as they think fit and, where the post is that of head teacher, notify the local education authority in writing of the names of the applicants so selected,
  - (b) interview such of those applicants as attend for the purpose, and
  - (c) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them.
- (3) Any decision of the selection panel shall be taken by a vote representing an absolute majority of all the members of the panel (whether or not taking part in the vote).
- (4) If, within the period of 14 days beginning with the date when they receive a notification under sub-paragraph (2)(a), the authority make written representations to the selection panel that any of the applicants selected by the panel is not a suitable person for the appointment, the panel shall not recommend that person to the governing body for appointment unless the panel have—
  - (a) considered those representations, and
  - (b) notified the authority in writing of their response to the representations;and when making such a recommendation the panel shall supply the governing body with a copy of those representations and of the panel's response to them.
- (5) If the panel do not recommend a person to the governing body, or the governing body do not approve their recommendation, the governing body—
  - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 6, and
  - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in sub-paragraph (2).

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- (6) Where the chief education officer has no advisory rights under paragraph 2 with respect to the appointment of head teachers and deputy head teachers, the selection panel's notification under sub-paragraph (2)(a) shall be accompanied by such information relating to each of the persons selected for interview as will enable the authority to determine his suitability for the appointment.
- (7) In determining whether a person is suitable for appointment as head teacher the authority shall have regard to any guidance given from time to time by the Secretary of State.
- 8       Where the governing body approve a recommendation of the selection panel, the governing body shall appoint the person recommended by the panel unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- 9       (1) The governing body may, in connection with any absence of the person for the time being holding the post of head teacher or deputy head teacher of the school, take either of the steps mentioned in paragraphs (a) and (b) of sub-paragraph (1) or (as the case may be) (2) of paragraph 5.
- (2) For the purposes of this paragraph—
- (a) paragraph 5(3) shall apply in relation to any appointment made by virtue of sub-paragraph (1) above as it applies in relation to any appointment made by virtue of paragraph 5(1) or (2); and
- (b) paragraph 5(4) and (5) shall apply in connection with any such absence as is mentioned in sub-paragraph (1) above as they apply for the purpose of filling any such vacancy as is mentioned in paragraph 5(1) or (2).

*Appointment of other teachers*

- 10       Subject to paragraph 11, paragraphs 12 to 15 apply in relation to the filling of a vacancy in any teaching post (whether full-time or part-time) at the school, other than the post of head teacher or deputy head teacher.
- 11       (1) Paragraphs 12 to 15 do not apply in relation to any temporary appointment or engagement to fill a vacancy in any such post as is mentioned in paragraph 10—
- (a) for a period not exceeding four months, or
- (b) where it appears to the governing body that the period for which the person appointed or engaged will act in the post in question will not exceed four months.
- (2) Where it appears to the governing body in the case of any post that it would be appropriate for such an appointment as is mentioned in sub-paragraph (1) to be made, they may appoint a person to the post on such terms as to the duration of the appointment as they think fit.
- (3) A person shall not be appointed under sub-paragraph (2) unless he meets all the staff qualification requirements which are applicable in relation to his appointment.
- (4) Where it appears to the governing body in the case of any post that it would be appropriate for such an engagement as is mentioned in sub-paragraph (1) to be made, the governing body may—
- (a) engage, or
- (b) make arrangements for the engagement of,

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- a person to provide his services as a teacher at the school otherwise than under a contract of employment.
- (5) Any engagement under sub-paragraph (4) shall be on such terms as to the duration of the engagement as the governing body may specify; but no person shall be engaged under that sub-paragraph unless he meets all the staff qualification requirements applicable in relation to a teacher in the post in which he would be acting as a temporary teacher.
- 12 Before taking any of the steps mentioned below, the governing body shall—
- (a) determine a specification for the post in consultation with the head teacher, and
  - (b) send a copy of the specification to the local education authority.
- 13 (1) The local education authority may nominate for consideration for appointment to the post any person who appears to them to be qualified to fill it and who at the time of his nomination either—
- (a) is an employee of theirs or has been appointed to take up employment with them at a future date, or
  - (b) is employed by the governing body of a foundation, voluntary aided or foundation special school maintained by them.
- (2) No person who is employed at any school maintained by the authority shall be nominated by the authority under sub-paragraph (1) without the consent of the governing body of the school.
- 14 (1) The governing body may advertise the vacancy at any time after they have sent a copy of the specification for the post to the local education authority in accordance with paragraph 12, and shall do so unless they appoint to the post either—
- (a) a person nominated by the local education authority under paragraph 13, or
  - (b) a person who is already employed to work at the school.
- (2) Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it.
- 15 (1) Where the governing body advertise the vacancy, they shall—
- (a) interview such applicants for the post and such of the persons (if any) nominated by the local education authority under paragraph 13 as they think fit, and
  - (b) where they consider it appropriate to do so, appoint to the post either one of the applicants interviewed by them or a person so nominated by the authority;
- and the person so appointed shall be employed by the governing body under a contract of employment.
- (2) If the governing body are unable to agree on a person to appoint to the post, they may repeat the steps mentioned in sub-paragraph (1)(a) and (b), with or without first re-advertising the vacancy in accordance with paragraph 14(2).
- (3) A person shall not be appointed under this paragraph unless he meets all the staff qualification requirements which are applicable in relation to his appointment.
- 16 (1) The governing body may, in connection with any absence of the person for the time being holding any such post as is mentioned in paragraph 10—

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- (a) engage, or
  - (b) make arrangements for the engagement of,
- a person to provide his services as a teacher at the school otherwise than under a contract of employment.
- (2) No person shall be engaged under sub-paragraph (1) unless he meets all the staff qualification requirements applicable in relation to a teacher in the post in which he would be acting as a temporary teacher.
- 17 The governing body may, in relation to a particular vacancy or absence or a vacancy or absence of a kind specified by them, delegate any of their functions under paragraphs 11 to 16—
- (a) to one or more governors,
  - (b) to the head teacher, or
  - (c) to one or more governors and the head teacher acting together.

*Advice of chief education officer on appointments of teachers*

- 18 (1) The chief education officer shall be entitled to attend, for the purpose of giving advice—
- (a) all proceedings (including interviews) of the governing body, and of any selection panel appointed under paragraph 7, relating to appointments or engagements to which any of the provisions of paragraphs 4 to 9 or 29 and 30 apply, and
  - (b) all proceedings (including interviews) of the governing body, and of any persons to whom any functions of the governing body under paragraphs 11 to 16 are delegated, relating to appointments or engagements to which any of the provisions of paragraphs 11 to 16 apply.
- (2) The chief education officer shall be entitled to offer such advice as he considers appropriate with respect to—
- (a) the appointment of a head teacher or deputy head teacher or the appointment or engagement of an acting head teacher or an acting deputy head teacher, or
  - (b) any matter arising in connection with any such appointment or engagement.
- (3) Any advice given by the chief education officer to—
- (a) the governing body,
  - (b) any selection panel appointed under paragraph 7, or
  - (c) any persons to whom any functions of the governing body under paragraphs 11 to 16 are delegated,
- with respect to any matter which relates to an appointment or engagement and falls to be determined by them shall be considered by them before determining that matter, whether or not the advice was given at their request.
- (4) This paragraph has effect subject to paragraph 2(3) and (4).

*Advice of head teacher on appointments etc. of teachers*

- 19 (1) Except in relation to the appointment of a head teacher—
- (a) paragraph 18(1) applies in relation to the head teacher (if not otherwise entitled to be present at the proceedings there mentioned) as it applies in relation to the chief education officer, and

*Status: Point in time view as at 31/03/2003.*

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- (b) paragraph 18(3) applies in relation to advice given by the head teacher as it applies in relation to advice given by the chief education officer.
- (2) Paragraph 18 shall have effect for the purposes of sub-paragraph (1) above as if sub-paragraph (4) of that paragraph were omitted.

*Appointment of non-teaching staff*

- 20
- (1) Except in a case where the governing body and the authority agree that the appointment of a person to work in a non-teaching post at the school should be made by the authority—
    - (a) any such appointment shall be made by the governing body; and
    - (b) the person appointed shall be employed by the governing body under a contract of employment on such terms as they think fit.
  - (2) Before making an appointment under this paragraph the governing body shall consult the head teacher (where he would not otherwise be involved in the decision to make the appointment).
  - (3) No person shall be appointed to work in a non-teaching post at the school, whether—
    - (a) by the governing body, or
    - (b) by the authority,unless he meets all the staff qualification requirements which are applicable in relation to his appointment.

*Conduct and discipline of staff*

- 21
- (1) The regulation of conduct and discipline in relation to the staff of the school, and any procedures for giving members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body.
  - (2) The governing body shall establish—
    - (a) disciplinary rules and procedures (including such rules and procedures for dealing with lack of capability on the part of members of the staff), and
    - (b) procedures such as are mentioned in sub-paragraph (1);and shall take such steps as appear to the governing body to be appropriate for making them known to members of the staff.
  - (3) In determining the capability of members of the staff the governing body shall have regard to any guidance given from time to time by the Secretary of State.
  - (4) If the Secretary of State determines that any prescribed rules and procedures are to apply to the school or to any class or description of school to which the school belongs—
    - (a) the governing body shall act in accordance with those rules and procedures in determining the capability of members of the staff; and
    - (b) in the event of any inconsistency, those rules and procedures shall prevail over any rules and procedures established by the governing body under sub-paragraph (2)(a).

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*LEA report on performance of head teacher*

- 22 (1) Where the authority have any serious concerns about the performance of the head teacher of the school—
- (a) they shall make a written report of their concerns to the chairman of the governing body at the same time sending a copy to the head teacher; and
  - (b) the chairman of the governing body shall notify the authority in writing of the action which he proposes to take in the light of the report.
- (2) In determining whether to make a report under this paragraph the authority shall have regard to any guidance given from time to time by the Secretary of State.

*Suspension*

- 23 (1) Both the governing body and the head teacher shall have power to suspend any person employed to work at the school (whether or not he is employed by the governing body) where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (2) The governing body or head teacher shall, when exercising that power, immediately inform the head teacher or (as the case may be) governing body.
- (3) A suspension under this paragraph may only be ended by the governing body.
- (4) The governing body shall, on ending such a suspension, immediately inform the head teacher.
- (5) In this paragraph “suspend” means suspend without loss of emoluments.

*Dismissal*

- 24 (1) Before making a decision that a person employed to work at the school should have his contract of employment with the governing body terminated or should not have that contract renewed, the governing body shall—
- (a) make arrangements for giving that person an opportunity of making representations as to the action they propose to take (including, if he so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and
  - (b) have regard to any representations made by him.
- (2) The governing body shall also make arrangements for giving any person in respect of whom they have made such a decision an opportunity of appealing against the decision before they give effect to it.
- (3) Where their decision is that a person should have his contract of employment terminated, then, subject to any such appeal, the governing body shall give effect to their decision by—
- (a) giving the person in question such notice terminating his contract of employment as is required under that contract;
  - (b) terminating that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.
- (4) Nothing in this paragraph shall be read as referring to a person who—
- (a) is due to cease to work at the school by reason of the termination of his contract of employment by effluxion of time; and



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- (b) has not been continuously employed at the school [<sup>F65</sup>, within the meaning of the Employment Rights Act 1996, for a period at least as long as the period for the time being specified in section 108(1) of that Act (unfair dismissal: qualifying period)].

#### Textual Amendments

**F65** Words in Sch. 17 para. 24(4)(b) substituted (25.10.1999) by 1999 c. 26, s. 40(2); S.I. 1999/2830, art. 2(1)(2), Sch. 1 Pt.I

- 25 (1) The head teacher (except where he is the person concerned) and the chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the governing body relating to such a decision as is mentioned in paragraph 24(1).
- (2) The governing body shall consider any advice given by a person who is entitled to attend such proceedings under this paragraph before making any such decision.
- (3) Sub-paragraph (1), so far as relating to the chief education officer, has effect subject to paragraph 2(3) and (4).
- 26 The governing body are not required to comply with paragraph 24 in relation to the making of such a decision as is mentioned in sub-paragraph (1) of that paragraph in a case where—
- (a) the termination or non-renewal of the contract of employment of the person in question is required by virtue of regulations under section 218 of the <sup>M35</sup>Education Reform Act 1988 or section 19 of the <sup>M36</sup>Teaching and Higher Education Act 1998, or
- (b) the person in question is a teacher who is subject to a conditional registration, suspension or prohibition order made under Schedule 2 to the 1998 Act (disciplinary powers of General Teaching Council).

#### Marginal Citations

**M35** 1988 c. 40.

**M36** 1998 c. 30.

#### *Staff employed by LEA*

- 27 (1) Nothing in paragraph 24 applies in relation to a person employed by the authority to work at the school.
- (2) Paragraphs 25 to 29 of Schedule 16 apply in relation to the dismissal or withdrawal from the school of any member of the staff who is employed by the authority as they apply in relation to the dismissal or withdrawal from a school to which that Schedule applies of a person who is employed to work at the school.
- (3) Any regulations in force under paragraph 30 of that Schedule shall apply to any person who is, or is to be, employed by the authority to work at the school solely in connection with the provision of meals as if it were a school to which that Schedule applies.

*Status: Point in time view as at 31/03/2003.*

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#### **Commencement Information**

- 17** Sch. 17 para. 27 wholly in force at 1.9.1999; Sch. 17 para. 27 not in force at Royal Assent see s. 145(3); Sch. 17 para. 27(1) in force at 1.2.1999 by S.I. 1999/120, art. 2(1), Sch. 1; Sch. 17 para. 27 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

#### *Advisory rights for appropriate diocesan authorities*

- 28 (1) This paragraph applies to a voluntary aided or foundation school which is a Church of England, Church in Wales or Roman Catholic Church school.
- (2) If the school is a voluntary aided school, the appropriate diocesan officer shall have the same advisory rights in relation to the appointment, engagement or dismissal of teachers at the school as are for the time being exercisable by the chief education officer in accordance with paragraph 2(3).
- (3) If the school is a foundation school, the governing body may agree with the appropriate diocesan authority to accord to the appropriate diocesan officer—
- (a) with respect to all teachers at the school, or
  - (b) with respect to any particular description of such teachers,
- the same advisory rights in relation to their appointment, engagement or dismissal as are exercisable by the chief education officer in accordance with paragraph 2(3).
- (4) The agreement of the governing body for the purposes of sub-paragraph (3) must be given in writing and may only be withdrawn by notice in writing to the appropriate diocesan authority.
- (5) In paragraphs 18 and 25, as they apply to a school within sub-paragraph (2) or (3) above, references to the chief education officer accordingly include the appropriate diocesan officer, so far as necessary for giving effect to any advisory rights exercisable by him under this paragraph.
- (6) In this paragraph “the appropriate diocesan officer” means such person as the appropriate diocesan authority may nominate.

#### *Appointment of head teachers for schools of Roman Catholic religious orders*

- 29 (1) This paragraph applies to a voluntary aided school if the trustees under a trust deed relating to the school are also the trustees of a Roman Catholic religious order.
- (2) Subject to sub-paragraph (6), sub-paragraphs (3) to (5) shall have effect in relation to the filling of a vacancy in the post of head teacher of the school, in place of paragraphs 6 to 8.
- (3) The governing body shall notify the Major Superior of the vacancy in writing.
- (4) The governing body shall—
- (a) interview such persons who are members of the order as are proposed as candidates for appointment to the post by the Major Superior; and
  - (b) appoint to the post one of the persons so interviewed by them unless, by virtue of sub-paragraph (5) or otherwise, they have good reason for not making any such appointment.

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- (5) No person shall be appointed under sub-paragraph (4)(b) if he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (6) If no appointment is made by the governing body under sub-paragraph (4)(b), paragraphs 6 to 8 shall have effect in relation to the filling of the vacancy.
- (7) In this paragraph—
  - “the Major Superior” means the Major Superior of the order;
  - “the order” means the order mentioned in sub-paragraph (1);
  - “Roman Catholic religious order” means a Roman Catholic religious institute or society of apostolic life.

*Selection procedures involving whole governing body*

- 30 (1) If the governing body of a voluntary aided school so determine (and paragraph 29 does not apply), sub-paragraphs (2) to (6) below shall apply in relation to the filling of a vacancy in the post of head teacher or deputy head teacher of the school, in place of paragraphs 7 and 8.
- (2) No selection panel need be appointed by the governing body under paragraph 7(1), but the following provisions, namely—
  - (a) paragraph 7(2)(a) and (b),
  - (b) paragraph 7(3), and
  - (c) paragraph 7(6),shall apply to the governing body or (as the case may be) to any decision of that body taken by virtue of this paragraph as it applies to a selection panel or (as the case may be) to any decision of such a panel taken under paragraph 7.
- (3) If, within the period of 14 days beginning with the date when they receive a notification under paragraph 7(2)(a) (as it applies in accordance with sub-paragraph (2) above) the local education authority make written representations to the governing body that any of the applicants selected by them is not a suitable person for appointment to the post of head teacher, the governing body shall not appoint that person unless they have—
  - (a) considered those representations, and
  - (b) notified the authority of their response to the representations.
- (4) The governing body shall not appoint any person if he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (5) If the governing body do not appoint any person interviewed by them, the governing body—
  - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 6, and
  - (b) whether or not they re-advertise the vacancy, may repeat the steps mentioned in paragraph 7(2)(a) and (b) (as they apply in accordance with sub-paragraph (2) above).
- (6) Paragraph 7(7) shall apply for the purposes of this paragraph.

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## [<sup>F66</sup>SCHEDULE 18]

Section 67.

### APPEALS AGAINST EXCLUSION OF PUPILS

#### Textual Amendments

**F66** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

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

**C62** Sch. 18 restricted (18.8.1999) by S.I. 1999/2323, [art. 4](#), [Sch. 6 para. 1](#)

**C63** Sch. 18: Power to apply (with modifications) conferred (24.7.2002) by [Education Act 2002 \(c. 32\)](#), ss. [52\(8\)\(9\)](#), 216 (with ss. 210(8), 214(4))

**C64** Sch. 18 applied (with modifications) (E.) (4.11.2002) [The Education \(Pupil Referral Units\) \(Appeals Against Permanent Exclusion\) \(England\) Regulations 2002 \(S.I. 2002/2550\)](#), [reg. 6](#), Sch.

**C65** Sch. 18 applied (with modifications) (W.) (18.2.2003) by [The Education \(Pupil Referral Units\) \(Appeals Against Permanent Exclusion\) \(Wales\) Regulations 2003 \(S.I. 2003/287\)](#), regs. 1(1), 6, [Sch.](#)

#### *Time limits and notices waiving right to appeal*

- <sup>1</sup> [<sup>F67</sup>(1) No appeal under section 67(1) against a decision not to reinstate a pupil may be made after the 15th school day after the day on which the relevant person is given notice in writing under section 66(6)(b).
- (2) Any notice in writing given by the relevant person to the local education authority which states that he does not intend to appeal against a decision not to reinstate the pupil shall be final.]

#### Textual Amendments

**F67** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

#### *Constitution of appeal panels*

- <sup>2</sup> [<sup>F68</sup>(1) An appeal pursuant to arrangements made by a local education authority under section 67(1) shall be to an appeal panel constituted in accordance with this paragraph.
- (2) An appeal panel shall consist of three or five members appointed by the authority from—
- (a) persons who are eligible to be lay members; and
  - (b) persons who have experience in education, are acquainted with educational conditions in the area of the authority or are parents of registered pupils at a school.
- (3) Of the members of an appeal panel—
- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
  - (b) at least one must be a person falling within sub-paragraph (2)(b).

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- (4) For the purposes of this paragraph a person is eligible to be a lay member if he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).
- (5) Sufficient persons may be appointed by the authority under this paragraph to enable two or more appeal panels to sit at the same time.
- (6) No person shall be a member of an appeal panel if he is disqualified by virtue of sub-paragraph (7).
- (7) The following persons are disqualified for membership of an appeal panel—
  - (a) any member of the authority or of the governing body of the school in question;
  - (b) any person employed by the authority or the governing body, other than a person employed as a teacher;
  - (c) any person who has, or at any time has had, any connection with—
    - (i) the authority or the school, or with any person within paragraph (b),  
or
    - (ii) the pupil in question or the incident leading to his exclusion,  
of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority, the school or the pupil in question.
- (8) A person employed by the authority as a teacher shall not be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).
- (9) Where, at any time after an appeal panel consisting of five members have begun to consider an appeal, any of the members—
  - (a) dies, or
  - (b) becomes unable through illness to continue as a member,the panel may continue with their consideration and determination of the appeal so long as the number of the remaining members is not less than three and the requirements of sub-paragraph (3) are satisfied.]

#### Textual Amendments

**F68** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

#### *Allowances for members*

- <sup>3</sup> [F69(1) For the purpose of the payment of financial loss allowance under section 173(4) of the <sup>M37</sup>Local Government Act 1972, that provision shall apply, with any necessary modifications, to any member of an appeal panel constituted in accordance with paragraph 2 as it applies to any member of a parish or community council; and such an appeal panel shall be included in the bodies to which section 174 of that Act (travelling and subsistence allowances) applies.
- (2) In section 174(1) of that Act, in its application to a panel in accordance with sub-paragraph (1), the reference to payments at rates determined by the body in question

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shall be read as a reference to payments at rates determined by the local education authority.]

**Textual Amendments**

**F69** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

**Marginal Citations**

**M37** 1972 c. 70.

*Duty to advertise for lay members*

4

[<sup>F70</sup>Regulations may require any local education authority who are required by section 67(1) to make arrangements under that provision—

- (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal panel required to be constituted for the purposes of such arrangements to apply to the authority for appointment as such members, and
- (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the authority in response to an advertisement placed in pursuance of sub-paragraph (a) above.]

**Textual Amendments**

**F70** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

*Indemnity*

5

[<sup>F71</sup>Any local education authority required to make arrangements under section 67(1) shall indemnify the members of any appeal panel required to be constituted for the purposes of those arrangements against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that panel.]

**Textual Amendments**

**F71** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

*Procedure on an appeal*

6

[<sup>F72</sup>In the following provisions of this Schedule “appeal” means an appeal under section 67(1).]

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#### Textual Amendments

**F72** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

7

[<sup>F73</sup>An appeal shall be by notice in writing setting out the grounds on which it is made.]

#### Textual Amendments

**F73** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

8

[<sup>F74</sup>(1) The appeal panel shall meet to consider an appeal on such date as the local education authority may determine.

(2) [<sup>F75</sup>Subject to sub-paragraph (3),]the date so determined must not be later than the closing date for appeals, namely the 15th school day after the day on which the appeal is lodged.

[<sup>F76</sup>(3) If the relevant person requests the local education authority to do so, they may in exceptional circumstances determine under sub-paragraph (1) a date later than the closing date for appeals.]]

#### Textual Amendments

**F74** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

**F75** Words in Sch. 18 para. 8(2) omitted (E.) (7.6.2001) by S.I. 2001/2086, art. 2(2)(a) (with art 3(1))

**F76** Sch. 18 para. 8(3) omitted (E.) (7.6.2001) by S.I. 2001/2086, art. 2(2)(b) (with art. 3(2))

9

[<sup>F77</sup>(1) For the purpose of fixing the time (in accordance with paragraph 8) at which the hearing of an appeal is to take place, the local education authority shall take reasonable steps to ascertain any times falling on or before the closing date for appeals when—

(a) the relevant person, or

(b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 10,

would be unable to attend.

(2) Where in accordance with sub-paragraph (1) the authority have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.]

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#### Textual Amendments

**F77** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

10

[<sup>F78</sup>(1) The appeal panel shall give the relevant person an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.

(2) The panel shall also allow—

- (a) the head teacher to make written representations and to appear and make oral representations,
- (b) the local education authority and the governing body to make written representations,
- (c) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations, and
- (d) the governing body to be represented.

[<sup>F79</sup>(3) The appeal panel may from time to time adjourn the hearing.]]

#### Textual Amendments

**F78** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

**F79** Sch. 18 para. 10(3) inserted (E.) (7.6.2001) by S.I. 2001/2086, [art. 2\(3\)](#)

11

[<sup>F80</sup>Appeals shall be heard in private except when the local education authority direct otherwise; but—

- (a) if the panel so direct, one member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal panel; and
- (b) one member of the Council on Tribunals may attend, as an observer, any meeting of an appeal panel at which an appeal is considered.]

#### Textual Amendments

**F80** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

12

[<sup>F81</sup>Two or more appeals may be combined and dealt with in the same proceedings if the appeal panel consider that it is expedient to do so because the issues raised by the appeals are the same or connected.]

#### Textual Amendments

**F81** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)



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- 13 [F82] In the event of a disagreement between the members of an appeal panel, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the panel shall have a second or casting vote.]

**Textual Amendments**

**F82** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

- 14 [F83] The decision of an appeal panel and the grounds on which it is made shall—
- (a) be communicated by the panel in writing to the relevant person, the local education authority, the governing body and the head teacher, and
  - (b) be so communicated by the end of the second school day after the conclusion of the hearing of the appeal.]

**Textual Amendments**

**F83** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

- 15 [F84] (1) Subject to paragraphs 7 to 14, all matters relating to the procedure on appeals shall be determined by the local education authority.
- (2) The local education authority shall, in setting any time limits in connection with appeals, have regard to the desirability of securing that appeals are disposed of without delay.]

**Textual Amendments**

**F84** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

*Notices*

- 16 [F85] (1) Where in accordance with section 66(6)(b) notice in writing is required to be given to a person, the notice may be given either—
- (a) by delivering it to the person's last-known address, or
  - (b) by properly addressing, pre-paying and sending by first class post to the person's last-known address a letter containing the notice.
- (2) For the purposes of calculating the period referred to in paragraph 1(1), a notice shall be taken to have been given—
- (a) where first class post is used, on the second school day after the date of posting, or
  - (b) where the notice is delivered, on the date of delivery, unless (in either case) the contrary is shown.]

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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**

**F85** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

*Meaning of “the relevant person”*

17

[<sup>F86</sup>In this Schedule “the relevant person” means—  
 (a) in relation to a pupil under the age of 18, a parent of his;  
 (b) in relation to a pupil who has attained that age, the pupil himself.]

**Textual Amendments**

**F86** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

*Power of Secretary of State to make amendments*

18

[<sup>F87</sup>The Secretary of State may by order make such amendments of this Schedule as he considers expedient.]

**Textual Amendments**

**F87** Sch. 18 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

SCHEDULE 19

Section 69.

REQUIRED PROVISION FOR RELIGIOUS EDUCATION

*Introductory*

- 1 (1) In this Schedule “the required provision for religious education”, in relation to a school, means the provision for pupils at the school which is required by [<sup>F88</sup>section 80(1)(a) or 101(1)(a) of the Education Act 2002] to be included in the school’s basic curriculum.
- (2) In this Schedule “agreed syllabus” has the meaning given by section 375(2) of [<sup>F89</sup>the Education Act 1996].

**Textual Amendments**

**F88** Words in [Sch. 19 para. 1\(1\)](#) substituted (1.10.2002 for E. for specified purposes and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(2\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#) Sch. Pt. I; S.I. 2003/124, [art. 2](#)

*Status: Point in time view as at 31/03/2003.*

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**F89** Words in Sch. 19 para. 1(2) substituted (1.10.2002 for E. and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by Education Act 2002 (c. 32), ss. 215(1), 216, Sch. 21 para. 117(2)(b) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.); S.I. 2002/3185, art. 4, Sch. Pt. I; S.I. 2003/124, art. 2

*Community schools and foundation and voluntary schools without a religious character*

- 2 (1) This paragraph applies to—
- (a) any community school; and
  - (b) any foundation or voluntary school which does not have a religious character.
- (2) Subject to sub-paragraph (4), the required provision for religious education in the case of pupils at the school is provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.
- (3) If the school is a secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 71 to receive religious education elsewhere and the local education authority are satisfied—
- (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
  - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall to be met from the school's budget share or otherwise by the authority,
- the authority shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.
- (4) If immediately before the appointed day the school was a grant-maintained school (within the meaning of the <sup>M38</sup>Education Act 1996), and in relation to the school or any pupils at the school the appropriate agreed syllabus as defined by section 382 of that Act was a syllabus falling within subsection (1)(c) of that section, then until—
- (a) the end of such period as the Secretary of State may by order prescribe, or
  - (b) such earlier date as the governing body may determine,
- the required provision for religious education in the case of the school or (as the case may be) those pupils is provision for religious education in accordance with that syllabus.
- (5) No agreed syllabus shall provide for religious education to be given to pupils at a school to which this paragraph applies by means of any catechism or formulary which is distinctive of a particular religious denomination (but this is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies).

**Commencement Information**

**18** Sch. 19 para. 2 wholly in force at 1.9.1999; Sch. 19 para. 2 not in force at Royal Assent see s. 145(3); Sch. 19 para. 2(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 19 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

### Marginal Citations

**M38** 1996 c. 56.

#### *Foundation and voluntary controlled schools with a religious character*

- 3 (1) This paragraph applies to any foundation or voluntary controlled school which has a religious character.
- (2) Subject to sub-paragraph (4), the required provision for religious education in the case of pupils at the school is provision for religious education—
- (a) in accordance with any arrangements made under sub-paragraph (3), or
  - (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.
- (3) Where the parents of any pupils at the school request that they may receive religious education—
- (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4),
- the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.
- (4) If immediately before the appointed day the school was a grant-maintained school (within the meaning of the <sup>M39</sup>Education Act 1996), and in relation to the school or any pupils at the school the appropriate agreed syllabus as defined by section 382 of that Act was a syllabus falling within subsection (1)(c) of that section, then until—
- (a) the end of such period as the Secretary of State may by order prescribe, or
  - (b) such earlier date as the governing body may determine,
- that syllabus shall be treated for the purposes of sub-paragraph (2)(b) as an agreed syllabus adopted for the school or (as the case may be) those pupils.

### Commencement Information

**I9** Sch. 19 para. 3 wholly in force at 1.9.1999; Sch. 19 para. 3 not in force at Royal Assent see. s. 145(3); Sch. 19 para. 3(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 19 para. 3 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

### Marginal Citations

**M39** 1996 c. 56.

#### *Voluntary aided schools with a religious character*

- 4 (1) This paragraph applies to any voluntary aided school which has a religious character.
- (2) The required provision for religious education in the case of pupils at the school is provision for religious education—

*Status: Point in time view as at 31/03/2003.*

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- (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4), or
  - (c) in accordance with any arrangements made under sub-paragraph (3).
- (3) Where the parents of any pupils at the school—
- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority, and
  - (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,
- the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for religious education in accordance with that syllabus to be given to those pupils in the school.
- (4) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum by virtue of [F90 section 80(1)(a) or 101(1)(a) of the Education Act 2002].
- (5) Any arrangements under sub-paragraph (3) shall be made by the governing body, unless the local education authority are satisfied that the governing body are unwilling to make them, in which case they shall be made by the authority.
- (6) Subject to sub-paragraph (3), the religious education given to pupils at the school shall be under the control of the governing body.

#### Textual Amendments

**F90** Words in [Sch. 19 para. 4\(4\)](#) substituted (1.10.2002 for E. for specified purposes and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. I; S.I. 2003/124, [art. 2](#)

## SCHEDULE 20

Section 70.

### COLLECTIVE WORSHIP

#### *Introductory*

- 1 In this Schedule “the required collective worship”, in relation to a school, means the collective worship in that school which is required by section 70.

#### *General provisions as to collective worship*

- 2 (1) This paragraph applies to any community, foundation or voluntary school.
- (2) The arrangements for the required collective worship may, in respect of each school day, provide for a single act of worship for all pupils or for separate acts of worship for pupils in different age groups or in different school groups.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (3) For the purposes of sub-paragraph (2) a “school group” is any group in which pupils are taught or take part in other school activities.
- (4) Subject to sub-paragraph (6), the arrangements for the required collective worship shall be made—
  - (a) if the school is a community school or a foundation school which does not have a religious character, by the head teacher after consulting the governing body;
  - (b) if the school is a foundation school which has a religious character or a voluntary school, by the governing body after consulting the head teacher.
- (5) Subject to sub-paragraph (6), the required collective worship shall take place on the school premises.
- (6) If the governing body of a community, foundation or voluntary school are of the opinion that it is desirable that any act of collective worship in the school required by section 70 should, on a special occasion, take place elsewhere than on the school premises, they may, after consultation with the head teacher, make such arrangements for that purpose as they think appropriate.
- (7) The powers of a governing body under sub-paragraph (6) shall not be exercised so as to derogate from the rule that the required collective worship must normally take place on the school premises.

*Nature of collective worship in community schools  
and foundation schools without a religious character*

- 3 (1) This paragraph applies to—
  - (a) any community school; and
  - (b) any foundation school which does not have a religious character.
- (2) Subject to paragraph 4, the required collective worship shall be wholly or mainly of a broadly Christian character.
- (3) For the purposes of sub-paragraph (2), collective worship is of a broadly Christian character if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.
- (4) Not every act of collective worship in the school required by section 70 need comply with sub-paragraph (2) provided that, taking any school term as a whole, most such acts which take place in the school do comply with that sub-paragraph.
- (5) Subject to sub-paragraphs (2) and (4)—
  - (a) the extent to which (if at all) any acts of collective worship required by section 70 which do not comply with sub-paragraph (2) take place in the school,
  - (b) the extent to which any act of collective worship in the school which complies with sub-paragraph (2) reflects the broad traditions of Christian belief, and
  - (c) the ways in which those traditions are reflected in any such act of collective worship,

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shall be such as may be appropriate having regard to any relevant considerations relating to the pupils concerned which fall to be taken into account in accordance with sub-paragraph (6).

- (6) Those considerations are—
- (a) any circumstances relating to the family backgrounds of the pupils which are relevant for determining the character of the collective worship which is appropriate in their case, and
  - (b) their ages and aptitudes.
- (7) In this paragraph references to acts of collective worship in the school include such acts which by virtue of paragraph 2(6) take place otherwise than on the school premises.

*Disapplication of requirement under paragraph 3(2)*

- 4 (1) This paragraph applies where a standing advisory council on religious education have determined (under section 394 of the <sup>M40</sup>Education Act 1996) that it is not appropriate for the requirement imposed by paragraph 3(2) to apply in the case of any school to which paragraph 3 applies or in the case of any class or description of pupils at any such school.
- (2) While the determination has effect—
- (a) paragraph 3 shall not apply in relation to the school or (as the case may be) the pupils in question, and
  - (b) the collective worship required by section 70 in the case of the school or pupils shall not be distinctive of any particular Christian or other religious denomination;
- but paragraph (b) shall not be taken as preventing that worship from being distinctive of any particular faith.

**Marginal Citations**

M40 1996 c. 56.

*Nature of collective worship in foundation schools  
with a religious character and voluntary schools*

- 5 In the case of a foundation school which has a religious character or a voluntary school, the required collective worship shall be—
- (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where—
    - (i) provision for that purpose is not made by such a deed, and
    - (ii) the school has a religious character,in accordance with the tenets and practices of the religion or religious denomination specified in relation to the school under section 69(4).

*Status: Point in time view as at 31/03/2003.*

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## SCHEDULE 21

Section 74.

### TRANSFERS OF LAND ON APPOINTED DAY

#### PART I

##### GENERAL PROVISIONS

###### *Introductory*

- 1 In this Schedule any reference to a grant-maintained or grant-maintained special school is a reference to such a school within the meaning of the <sup>M41</sup>Education Act 1996.

**Marginal Citations**

**M41** 1996 c. 56.

###### *Effect of transfers under this Schedule*

- 2 (1) Where any land is transferred to and vests in any body in accordance with this Schedule, any rights or liabilities—
- (a) enjoyed or incurred by the transferor in connection with the land, and
  - (b) subsisting immediately before the appointed day,
- shall also be transferred to, and by virtue of this Act vest in, that body.
- (2) Any reference in this Schedule, in relation to a school, to land being transferred to, and vesting in, a foundation body is a reference to its being transferred to, and vesting in, that body for the purposes of the schools comprising the group for which that body acts.
- (3) This Schedule is subject to section 198 of the <sup>M42</sup>Education Reform Act 1988 (which with Schedule 10 to that Act makes further provision in relation to transfers of property, rights and liabilities), and references in that Schedule as applied by virtue of this sub-paragraph to the transfer date are to the appointed day.

**Marginal Citations**

**M42** 1988 c. 40.

#### PART II

##### RULES RELATING TO TRANSFERS

###### *Application of Part II*

- 3 (1) This Part of this Schedule applies to schools which, in accordance with Schedule 2, become community, foundation, voluntary or community special schools on the appointed day.



*Status: Point in time view as at 31/03/2003.*

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- (2) This Part has effect subject to Part III of this Schedule.

*Transfers for purposes of community schools*

- 4 (1) This paragraph applies where a grant-maintained school (an “existing school”) becomes a community school.
- (2) In such a case—
- (a) any publicly funded land shall on the appointed day be transferred to, and by virtue of this Act vest in, the local education authority;
  - (b) any other land which, immediately before that day, is held by the governing body for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement; and
  - (c) any land which, immediately before that day, is held by any trustees for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement.
- (3) In this paragraph “publicly funded land” means land which—
- (a) immediately before the appointed day is held by the governing body for the purposes of the existing school, and
  - (b) was acquired from a local authority under a transfer under section 201(1) (a) of the <sup>M43</sup>Education Act 1996 or from the Funding Agency for Schools or was acquired wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of that Act).
- (4) In this paragraph “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the governing body or (as the case may be) trustees mentioned in that sub-paragraph, and
  - (b) providing for the land in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

**Marginal Citations**

M43 1996 c. 56.

*Transfers for purposes of foundation schools*

- 5 (1) This paragraph applies where—
- (a) a grant-maintained school (an “existing school”) becomes a foundation school; and
  - (b) as from the appointed day the school (as a foundation school) is a member of the group for which a foundation body acts.
- (2) In such a case, any land which, immediately before the appointed day, was held by the governing body for the purposes of the existing school shall on that day be transferred to, and by virtue of this Act vest in, the foundation body.

*Status: Point in time view as at 31/03/2003.*

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*Transfers for purposes of voluntary schools*

- 6 (1) This paragraph applies where—
- (a) a grant-maintained school (an “existing school”) becomes a voluntary school; and
  - (b) as from the appointed day the school (as a voluntary school) is a member of the group for which a foundation body acts.
- (2) In such a case, any land which, immediately before the appointed day, was held by the governing body for the purposes of the existing school shall on that day be transferred to, and by virtue of this Act vest in, the foundation body.

*Transfers for purposes of community special schools*

- 7 (1) This paragraph applies where a grant-maintained special school (an “existing school”) becomes a community special school.
- (2) In such a case—
- (a) any publicly funded land shall on the appointed day be transferred to, and by virtue of this Act vest in, the local education authority;
  - (b) any other land which, immediately before that day, is held by the governing body for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement; and
  - (c) any land which, immediately before that day, is held by any trustees for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement.
- (3) In this paragraph “publicly funded land” means land which—
- (a) immediately before the appointed day is held by the governing body for the purposes of the existing school, and
  - (b) was acquired from a local authority under a transfer under section 201(1) (a) of the <sup>M44</sup>Education Act 1996 or from the Funding Agency for Schools or was acquired wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of that Act).
- (4) In this paragraph “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the governing body or (as the case may be) the trustees mentioned in that sub-paragraph, and
  - (b) providing for the land in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

**Marginal Citations**

**M44** 1996 c. 56.

*Outstanding transfers to existing school*

- 8 Where immediately before the appointed day—

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- (a) any land vested in a local authority is by virtue of any statutory provision required to be transferred to the governing body or any trustees of an existing school within the meaning of any of paragraphs 4 to 7, but
  - (b) the land has not yet been so transferred,
- that paragraph shall apply to the school as if it had been so transferred by that time.

#### *Transfer of rights to use land*

- 9 (1) Where paragraph 4, 5, 6 or 7 applies to an existing school and any land held by a person or body other than the governing body of the school was, immediately before the appointed day, used for the purposes of the school, any rights or liabilities—
- (a) enjoyed or incurred by the governing body in connection with the use of the land, and
  - (b) subsisting immediately before the appointed day,
- shall on that day be transferred to, and by virtue of this Act vest in, the local education authority (in a case to which paragraph 4 or 7 applies) or the foundation body (in a case to which paragraph 5 or 6 applies).
- (2) Where paragraph 4 or 7 applies to an existing school and any land held by a person or body other than any trustees who hold any land for the purposes of the school was, immediately before the appointed day, used for the purposes of the school, any rights or liabilities—
- (a) enjoyed or incurred by any such trustees in connection with the use of the land, and
  - (b) subsisting immediately before the appointed day,
- shall on that day be transferred to, and vest in, the local education authority in accordance with a transfer agreement.
- (3) Nothing in this paragraph applies in relation to land to which paragraph 4, 5, 6 or 7 applies.
- (4) In this paragraph—
- “existing school” has the meaning given by paragraph 4, 5, 6 or 7, as the case may be;
  - “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the trustees mentioned in that sub-paragraph, and
  - (b) providing for the rights or liabilities in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

### **PART III**

#### **PROPERTY EXCLUDED FROM TRANSFERS**

- 10 (1) Nothing in Part II of this Schedule has the effect of transferring to, or vesting in, any body—
- (a) any land, rights or liabilities excluded under sub-paragraph (2) or (3),
  - (b) any rights or liabilities under a contract of employment,

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- (c) any liability of a governing body in respect of the principal of, or any interest on, any loan,
  - (d) any liability in tort, or
  - (e) any rights or liabilities which are determined in accordance with regulations to be rights or liabilities falling within this paragraph.
- (2) If before the appointed day—
- (a) the prospective transferee and transferor have agreed in writing that any land should be excluded from the operation of Part II of this Schedule, and
  - (b) the Secretary of State has given his written approval of the agreement,
- the land (and any rights or liabilities relating to it) shall be so excluded.
- (3) If in default of agreement under sub-paragraph (2)—
- (a) the prospective transferee or transferor have applied to the Secretary of State to exclude any land from the operation of Part II of this Schedule, and
  - (b) the Secretary of State has by order directed its exclusion,
- the land (and any rights or liabilities relating to it) shall be so excluded.
- (4) An agreement under sub-paragraph (2) may provide for the land to be used or held for the purposes of the school (as a school of a new category) on such terms as may be specified in or determined in accordance with the agreement; and directions under sub-paragraph (3)—
- (a) may confer any rights or impose any liabilities that could have been conferred or imposed by such an agreement, and
  - (b) shall have effect as if contained in such an agreement.
- (5) In this paragraph—
- “new category” means one of the categories set out in section 20(1);
  - “the prospective transferee”, in relation to any land, means the body to whom, apart from sub-paragraph (2) or (3), the land would fall to be transferred under Part II of this Schedule; and
  - “the prospective transferor” shall be construed accordingly.

## SCHEDULE 22

Section 76.

### DISPOSALS OF LAND IN CASE OF CERTAIN SCHOOLS AND DISPOSALS ON DISCONTINUANCE

#### PART I

##### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: DISPOSALS OF LAND

###### *Disposal of land by governing body of foundation, voluntary or foundation special school*

- 1 (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school of—
- (a) any land acquired under a transfer under section 201(1)(a) of the <sup>M45</sup>Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 [<sup>F91</sup>(including that provision as applied by any

*Status: Point in time view as at 31/03/2003.*

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- enactment)] or paragraph 5(4)(c) of this Schedule or under any regulations made under paragraph 5 of Schedule 8;
- (b) any land acquired from a foundation body;
  - (c) any land acquired from the Funding Agency for Schools;
  - (d) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the<sup>M46</sup>Education Act 1996);
  - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature; or
  - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).
- (2) The governing body shall not make any such disposal without the written consent of the Secretary of State.
- (3) Where the governing body apply to the Secretary of State for his consent to any such disposal, he may do one or more of the following, namely—
- (a) require the land or any part of the land to be transferred to such local authority as he may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate; and
  - (b) give the governing body, when the land or any part of the land is disposed of—
    - (i) a direction to pay, either to him or to such local authority as he may specify, the whole or any part of the proceeds of disposal; and
    - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (4) More than one direction may be given under sub-paragraph (3)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

#### Textual Amendments

**F91** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\)](#), [Sch. 21 para. 118\(2\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#); [S.I. 2003/124, art. 4](#)

*Status: Point in time view as at 31/03/2003.*

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#### **Marginal Citations**

**M45** 1996 c. 56.

**M46** 1996 c. 56.

#### *Disposal of land by foundation body*

- 2 (1) This paragraph applies to any disposal by a foundation body of—
- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 <sup>F92</sup>(including that provision as applied by any enactment)] or paragraph 5 or 6 of Schedule 21 or under any regulations made under paragraph 5 of Schedule 8;
  - (b) any land acquired from the governing body of a maintained school;
  - (c) any land acquired from another foundation body;
  - (d) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day;
  - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature; or
  - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).
- (2) The foundation body shall not make any such disposal without the written consent of the Secretary of State.
- (3) Where the foundation body apply to the Secretary of State for his consent to any such disposal, he may do either or both of the following, namely—
- (a) make any such requirement as is mentioned in paragraph 1(3)(a); and
  - (b) give any such direction to the foundation body as he could give to a governing body under paragraph 1(3)(b).
- (4) More than one direction may be given under sub-paragraph (3)(b) to make a payment in relation to the proceeds of disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

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### Textual Amendments

**F92** Words in Sch. 22 para. 2(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002](#) (c. 32), s. 216(4), [Sch. 21 para. 118\(3\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

### *Disposal of land by trustees of foundation, voluntary or foundation special school*

- 3 (1) This paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school of—
- (a) any land acquired under section 60, 61 or 70 of the <sup>M47</sup>Education Act 1996, under paragraph 2, 4 or 9 of Schedule 3 or paragraph 16 or 20 of Schedule 6 [<sup>F93</sup>(including that provision as applied by any enactment)] or under any regulations made under paragraph 5 of Schedule 8;
  - (b) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
  - (c) any land acquired by the governing body of the school—
    - (i) under a transfer under section 201(1)(a) of the <sup>M48</sup>Education Act 1996, or
    - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees;
  - (d) any land acquired from the Funding Agency for Schools;
  - (e) any land acquired, or enhanced in value, wholly or partly by means of—
    - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the <sup>M49</sup>Education Act 1996), or
    - (ii) any grant paid under section 216(2) of that Act;
  - (f) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (d) or (e); or
  - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the <sup>M50</sup>Education Act 1996).
- (2) If a voluntary aided school was, immediately before the appointed day, a controlled school within the meaning of the <sup>M51</sup>Education Act 1996, this paragraph also applies to any disposal by the trustees of the school of any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of that Act.
- (3) Where paragraph (a), (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the local education authority that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Secretary of State.
- (4) In making any determination under sub-paragraph (3), the trustees and the authority, or the Secretary of State, as the case may be, shall have regard in particular to—

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- (a) the value, as at the date of the determination, of the land acquired from the authority;
  - (b) any enhancement in value of the land attributable to expenditure by the local education authority, the trustees or the governing body of the school on school buildings on the land; and
  - (c) any payments already made by the trustees to the authority—
    - (i) in respect of the current school site; or
    - (ii) under section 60(4) of the <sup>M52</sup>Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act.
- (5) More than one determination may be made under sub-paragraph (3) in relation to a disposal of land within sub-paragraph (1) or (2) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Sub-paragraph (1)(b) shall not apply in the case of any expenditure unless the authority—
- (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) Sub-paragraph (3) does not apply in the case of land acquired under section 60 or 61 of the <sup>M53</sup>Education Act 1996 or under paragraph 2 or 4 of Schedule 3 to this Act by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the <sup>M54</sup>Education Act 1996).
- (8) Where paragraph (d), (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the local education authority that that paragraph applies to them and they and their successors shall (subject to sub-paragraph (9)) undertake to the authority to use the proceeds of disposal—
- (a) for the purposes of the school, or
  - (b) for the purposes—
    - (i) of any other existing foundation, voluntary or foundation special school, or
    - (ii) of any other proposed foundation, voluntary or foundation special school, whether or not proposals have yet been published under [<sup>F94</sup>any enactment] in respect of that proposed school.
- (9) Where it appears to the Secretary of State that the trustees have not given a suitable undertaking under sub-paragraph (8), the Secretary of State may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as he determines to be just.
- (10) More than one direction may be given under sub-paragraph (9) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.



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- (11) Where paragraph (g) of sub-paragraph (1) applies, the governing body of the school shall repay the grant referred to in that paragraph to the local education authority by whom the school is maintained, unless the governing body and the authority otherwise agree.
- (12) Where the trustees of a foundation, voluntary or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
  - (b) the value of the land as at the date of any determination under sub-paragraph (3) or of any direction under sub-paragraph (9) shall be treated as proceeds of the disposal of the land.

#### Textual Amendments

- F93** Words in Sch. 22 para. 3(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(4\)\(a\)\(i\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F94** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(4\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

#### Marginal Citations

- M47** 1996 c. 56.  
**M48** 1996 c. 56.  
**M49** 1996 c. 56.  
**M50** 1996 c. 56.  
**M51** 1996 c. 56.  
**M52** 1996 c. 56.  
**M53** 1996 c. 56.  
**M54** 1996 c. 56.

#### *Land required by local education authority for new school*

- 4 (1) This paragraph applies where, on an application made by a local education authority, the Secretary of State is satisfied—
- (a) that any relevant land—
    - (i) held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the governing body or the trustees of the school, or
    - (ii) held by a foundation body for the purposes of the group of schools for which it acts,
 is not required for the purposes of the school or (as the case may be) those schools; and
  - (b) that that land is required by the authority as the site for a new maintained school or as the site to which a maintained school is to be transferred.
- (2) In such a case the Secretary of State may by order require the relevant land to be transferred to the authority by the body or trustees holding the land, subject to

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the payment by the authority of such sum by way of consideration (if any) as he determines to be appropriate.

- (3) In this paragraph “relevant land” means land which was acquired by the governing body of the school, or (as the case may be) one of the schools, mentioned in sub-paragraph (1)(a) under a transfer under section 201(1)(a) of the <sup>M55</sup>Education Act 1996.

#### Marginal Citations

M55 1996 c. 56.

## PART II

### MAINTAINED SCHOOLS: DISPOSALS ON DISCONTINUANCE

#### *Discontinuance of foundation, voluntary and foundation special schools: land*

- 5 (1) This paragraph applies where—
- <sup>F95</sup>(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted or determined to be implemented under any enactment, or]
  - (b) the Secretary of State has given a direction—
    - (i) under section 19(1) requiring a maintained school to be discontinued, or
    - (ii) under section 32(1) requiring a foundation special school to be discontinued.
- (2) The governing body of the school shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4) below in relation to any land falling within paragraphs (a) to (f) of paragraph 1(1) which is held by them for the purposes of the school.
- (3) Where the school is a member of the group for which a foundation body acts, the body shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4) below in relation to any land falling within paragraphs (a) to (f) of paragraph 2(1) which is held by it for the purposes of the schools comprising the group.
- (4) On an application under sub-paragraph (2) or (3), the Secretary of State may do one or more of the following, namely—
- (a) make any such requirement as is mentioned in paragraph 1(3)(a);
  - (b) direct the governing body or the foundation body, as the case may be, to pay, either to him or to such local authority as he may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph (2) or (3), as the case may be; and
  - (c) in a case where the discontinuance of the school is connected with proposals under <sup>F96</sup>[“any enactment”] to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred to the governing body of such maintained school or the temporary governing body of such new school as he may specify.

*Status: Point in time view as at 31/03/2003.*

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- (5) Where the governing body or foundation body fail to make an application as required by sub-paragraph (2) or (3), as the case may be, the Secretary of State may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph (4).
- (6) Where the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2), or
  - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

#### Textual Amendments

- F95** Sch. 22 para. 5(1)(a) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(5\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F96** Words in Sch. 22 para. 5(4)(c) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 118\(5\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

#### *Discontinuance of foundation or voluntary school by notice given by its governing body: land and premises*

- 6 (1) This paragraph applies where the governing body of a foundation or voluntary school apply for the Secretary of State’s consent to serve a notice under section 30(1).
- (2) If the Secretary of State gives such consent, he may impose any requirements in relation to the governing body or, where the school is a member of the group for which a foundation body acts, the foundation body that he thinks just—
- (a) in respect of the repayment of all or part of any expenditure incurred by him as mentioned in section 30(2);
  - (b) in respect of the transfer to the local education authority of any premises used for the purposes of the school which he is satisfied the authority will need for any purpose connected with education;
  - (c) (where any premises are to be so transferred) in respect of the payment by the authority of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
  - (d) (where any premises used for the purposes of the school are not to be so transferred) in respect of the payment by the governing body or the foundation body, as the case may be, to the authority of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- (a) the Funding Agency for Schools, or
  - (b) any local education authority or an authority within section 30(2)(d).
- (4) Where the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2), or

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- (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,  
 paragraph 3 shall apply to them.

*Disposal of property held by governing body of maintained school on their dissolution*

- 7 (1) This paragraph applies in connection with the dissolution of the governing body of a maintained school by virtue of [<sup>F97</sup>paragraph 5 of Schedule 1 to the Education Act 2002] .
- (2) Where a governing body are so dissolved—
- (a) all land or other property of the governing body which is used or held for the purposes of the school, and
  - (b) all rights and liabilities (including rights and liabilities in relation to staff) of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school,
- shall on the date of dissolution be transferred to, and by virtue of this Act vest in—
- (i) the local education authority, or
  - (ii) one or more of the following, namely the governing body of a maintained school and the temporary governing body of a new school, if the Secretary of State so directs before the date of dissolution.
- (3) Sub-paragraph (2) does not apply to—
- (a) any land or other property for which provision has been made for transfer or payment under paragraph 5(4) or 6(2),
  - (b) any property of whatever nature which is held by the governing body on trust for the purposes of the school, or
  - (c) unless the Secretary of State otherwise directs by order made before the date of dissolution, any liabilities of the governing body in respect of any loan made to the governing body.
- (4) Subject to sub-paragraph (5), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land or other property which is held by them on trust for the purposes of the school to any person to hold such land or other property on trust for purposes connected with the provision of education in maintained schools.
- (5) Sub-paragraph (4) does not apply to any land or other property so held by the governing body of a foundation, voluntary or foundation special school where any other persons also hold any property on trust for the purposes of the school; and any such land or other property shall on the date of dissolution be transferred to, and by virtue of this Act vest in, those persons.
- (6) If any doubt or dispute arises as to the persons to whom any land or other property within sub-paragraph (5) falls to be transferred under that sub-paragraph, it shall be treated as falling to be so transferred to such persons as the Secretary of State thinks proper.

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### Textual Amendments

**F97** Words in Sch. 22 Pt. II para. 7(1) substituted (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 118\(6\)](#) (with [210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))

### *Notice by trustees terminating foundation or voluntary school's occupation of existing site*

- 8 (1) This paragraph applies where trustees have given a notice falling within section 30(10) which is effective to terminate a foundation or voluntary school's occupation of any land ("the relevant premises").
- (2) If any expenditure has been incurred on the relevant premises as mentioned in section 30(2)(a) to (d), the Secretary of State may impose any requirements that he thinks just—
- (a) in respect of the repayment by the trustees of all or part of any such expenditure which was incurred by him;
  - (b) in respect of the transfer by the trustees to the local education authority of the whole or part of the relevant premises where he is satisfied the authority will need them for any purpose connected with education;
  - (c) (to the extent that the relevant premises are to be so transferred) in respect of the payment by the authority to the trustees of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
  - (d) (to the extent that the relevant premises are not to be so transferred) in respect of the payment by the trustees to the authority of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) "at public expense" means at the expense of—
- (a) the Funding Agency for Schools, or
  - (b) any local education authority or an authority within section 30(2)(d).

## PART III

### GENERAL

- 9 (1) Where a transfer under paragraph 1(3)(a), 2(3)(a), 4(2), 5(4)(a) or (c), 6(2)(b) or 8(2)(b) of this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Acts 1925 to 1986,
  - (b) to deliver any such certificate under those Acts, and
  - (c) to do such other things under those Acts,
- as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- (2) Paragraphs 6 to 8 of Schedule 10 to the <sup>M56</sup>Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers under paragraph 7 of this Schedule as they apply in relation to transfers to which that Schedule applies.

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### Marginal Citations

M56 1988 c. 40.

- 10 (1) In this Schedule—
- (a) “the trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school;
  - (b) “disposal” includes—
    - (i) a compulsory disposal; and
    - (ii) in the case of any premises held under a tenancy to which Part II of the <sup>M57</sup>Landlord and Tenant Act 1954 (“the 1954 Act”) applies, the termination of that tenancy under that Part of that Act;
  - (c) references to “proceeds of disposal”, in relation to a disposal of land, are references to—
    - (i) any consideration for the disposal, including rent;
    - (ii) any compensation for the disposal, including any compensation paid by the landlord on the quitting of any premises within paragraph (b) (ii) by the governing body, foundation body or trustees (whether or not the compensation is required to be paid by section 37 of the 1954 Act (compensation where order for new tenancy precluded on certain grounds)); and
    - (iii) interest which has accrued in respect of any such consideration or compensation;
  - (d) “new school” has the meaning given by section 72(3).
- (2) In paragraphs (b)(ii) and (c)(ii) of sub-paragraph (1) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.
- (3) In paragraphs 1(1), 3(1) and 4(3) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day—
- (a) to any land being acquired in a particular way, or
  - (b) to any grant being provided in a particular way,
- are references to the land being acquired in that way by, or (as the case may be) to the grant being provided in that way to, the governing body or trustees of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the <sup>M58</sup>Education Act 1996.
- (4) In paragraphs 1(1) and 3(1) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day, to any expenditure being incurred for the purposes of the school are references to such expenditure being incurred for the purposes of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the <sup>M59</sup>Education Act 1996.
- (5) In paragraph 1(1) references, in relation to the governing body of a foundation, voluntary or foundation special school, to any land being acquired in a particular way include references to the land being acquired in that way by the temporary governing body for the school.

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#### Marginal Citations

**M57** 1954 c. 56.

**M58** 1996 c. 56.

**M59** 1996 c. 56.

## [<sup>F98</sup>PART IV

### DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE LOCAL EDUCATION AUTHORITY

#### Textual Amendments

**F98** Sch. 22 Pt. IV inserted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), [art. 12](#) (with [art. 13](#))

- 11 (1) In this paragraph—
- (a) “capital expenditure” has the meaning given by Article 13 of the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002, as it has effect from time to time;
  - (b) “commencement date” means the date on which that Order comes into force;
  - (c) “relevant body” means—
    - (i) the governing body of a voluntary aided school; or
    - (ii) if the school has been discontinued and the governing body dissolved, the trustees;
  - (d) “relevant land” means—
    - (i) any caretaker’s dwelling; or
    - (ii) other buildings which are not school buildings;which form part of the premises of a voluntary aided school.
- (2) This paragraph applies to any disposal by the local education authority of relevant land enhanced in value wholly or partly by means of capital expenditure incurred by the governing body after the commencement date.
- (3) But this paragraph shall not apply unless the relevant body gives to the local education authority no later than 12 months after the expenditure is incurred a statement—
- (a) setting out the amount of expenditure; and
  - (b) stating that it is capital expenditure.
- (4) Where this paragraph applies, the local education authority shall notify the relevant body that the provision applies to them and they shall pay to the relevant body so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the relevant body or, in default of agreement, by the Secretary of State.
- (5) In making the determination under sub-paragraph (4), the relevant body and the local education authority, or the Secretary of State, as the case may be, shall have regard in particular to any enhancement in value of the relevant land attributable to expenditure by or on behalf of the governing body.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (6) If the local education authority permit relevant land to be used for purposes not connected with the school—
- (a) they shall be treated for the purposes of this paragraph as having disposed of the land; and
  - (b) sub-paragraph (4) shall have effect as if the reference to proceeds of disposal were a reference to the value of the land.]

[<sup>F99</sup>SCHEDULE 23]

Section 93.

DETERMINATION, VARIATION AND REVIEW OF STANDARD NUMBERS

**Textual Amendments**

**F99** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

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

**C66** Sch. 23 modified (temp.) (1.9.1999) by [S.I. 1999/1064](#), [reg. 9](#).

[<sup>F100</sup>PART I]

DETERMINATION OF STANDARD NUMBERS

**Textual Amendments**

**F100** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

*Standard numbers for admission to maintained schools*

- <sup>1</sup> [<sup>F101</sup>(1) This paragraph applies to any maintained school which immediately before the appointed day was a county, voluntary or grant-maintained school (within the meaning of the <sup>M60</sup>Education Act 1996).
- (2) Subject to paragraph 2(1), the standard number applying to a school for any relevant age group in any school year beginning on or after the appointed day shall be—
- (a) in the case of a school which immediately before that day was a county or voluntary school, the standard number applying to the school under sections 417 to 420 of the <sup>M61</sup>Education Act 1996 for that age group in the last school year beginning before that day, or
  - (b) in the case of a school which immediately before that day was a grant-maintained school, the approved admission number applying to the school under sections 426 to 428 of that Act for that age group in the school year mentioned in paragraph (a).]



*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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

**F101** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### Marginal Citations

**M60** 1996 c. 56.

**M61** 1996 c. 56.

### *Standard numbers on establishment or alteration of school*

- <sup>2</sup> [F102(1) If proposals under section 28 or paragraph 5 of Schedule 7 have fallen to be implemented in relation to a maintained school—
- (a) any number stated in the proposals as the number of pupils which it is intended to admit to the school in any relevant age group shall constitute the standard number applying to the school for that age group in any school year in relation to which the proposals have been implemented; and
  - (b) in the case of any such proposals which provide for their implementation in stages, any number stated in the proposals as the number of pupils which it is intended to admit to the school in any relevant age group at any particular stage of implementation of the proposals shall constitute the standard number applying to the school for that age group in any school year in relation to which that stage of the proposals has been implemented.
- (2) Any standard number applying under sub-paragraph (1) is without prejudice to the application under that sub-paragraph of a new standard number if further proposals under section 28 or paragraph 5 of Schedule 7 fall to be implemented.
- (3) References in this paragraph to proposals under section 28 or paragraph 5 of Schedule 7 are to the proposals with any modifications made—
- (a) where the school is in England, by the school organisation committee or the adjudicator under paragraph 3 or 5 of Schedule 6 or paragraph 8 or 9 of Schedule 7, or
  - (b) where the school is in Wales, by the Secretary of State under paragraph 8 or 10 of Schedule 6 or paragraph 14 of Schedule 7.]

#### Textual Amendments

**F102** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

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

**C67** Sch. 23 Pt. I para. 2 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(d\), 2-8](#).

Sch. 23 Pt. I para. 2 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), [Sch. paras. 1, 2-8](#).

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

## [<sup>F103</sup>PART II]

### VARIATION OF STANDARD NUMBERS: ENGLAND

#### Textual Amendments

**F103** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### *Application of Part II*

3

[<sup>F104</sup>This Part of this Schedule applies to schools in England.]

#### Textual Amendments

**F104** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### *Variation of standard numbers*

4

- [<sup>F105</sup>(1) The Secretary of State may by order applying to maintained schools of any class or description vary any standard number that would otherwise apply by virtue of paragraph 1 or 2.
- (2) Subject to sub-paragraphs (3) to (5), the school organisation committee or the adjudicator may make a decision varying any standard number that would otherwise apply to an individual school by virtue of paragraph 1 or 2 or by virtue of any order made under sub-paragraph (1).
- (3) A decision under sub-paragraph (2) increasing a standard number may be made on the application of the admission authority for the school or on an application made by the governing body or local education authority in accordance with section 93(7).
- (4) A decision under sub-paragraph (2) reducing a standard number may only be made on the application of the admission authority for the school.
- (5) A decision under sub-paragraph (2) is subject to the procedure provided for in paragraphs 5 and 6.]

#### Textual Amendments

**F105** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### *Procedure for application to vary standard number*

5

- [<sup>F106</sup>(1) Where the local education authority or the governing body intend to apply for a variation under paragraph 4(2) of any standard number applying to a school under paragraph 1, 2 or 4 for any age group in any year—

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (a) they shall publish their proposals relating to the variation in such manner, and containing such information, as may be prescribed, and
  - (b) they shall send—
    - (i) their application,
    - (ii) a copy of the published proposals, and
    - (iii) such information in connection with those proposals as may be prescribed,to the school organisation committee.
- (2) Before making such an application, the local education authority or the governing body shall consult the governing body or the local education authority, as the case may be.
- (3) Sub-paragraph (2) shall not apply in relation to any application made by the local education authority or the governing body in accordance with section 93(7).
- (4) Any person may make objections to any proposals published under sub-paragraph (1).
- (5) Objections under sub-paragraph (4) shall be sent to the school organisation committee within such period as may be prescribed.
- (6) Where any proposals published under this paragraph relate to a school which is situated in an area other than that of the local education authority who maintain the school, the provisions of this paragraph and paragraph 6 shall have effect in relation to the proposals with such modifications as may be prescribed.]

#### Textual Amendments

**F106** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#) (with Sch.)

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

**C68** Sch. 23 para. 5 modified (1.9.1999) by [S.I. 1999/2213](#), reg. 15(4), [Sch. 5 Pt. II para. 4](#).

#### Commencement Information

**I10** Sch. 23 para. 5 wholly in force at 1.9.1999; Sch. 23 para. 5 not in force at Royal Assent see s. 145(3); Sch. 23 para. 5(1)(5)(6) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 23 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch. 3](#) (with arts. 3-6, Sch. 4).

#### *Decision on application to vary standard number*

- <sup>6</sup> <sup>F107</sup>(1) Subject to the following provisions of this paragraph, on an application for a decision under paragraph 4(2), the school organisation committee may—
- (a) make a decision under that provision varying the standard number to the number proposed;
  - (b) where the application is for an increase in the standard number, make a decision under that provision increasing the standard number to such number (less than the number proposed) as they think desirable;

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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) where the application is for a reduction of the standard number, make a decision under that provision reducing the standard number to such number (greater than the number proposed) as they think desirable; or
  - (d) decide not to vary the standard number.
- (2) Before making any decision in accordance with paragraph (b) or (c) of sub-paragraph (1), the committee shall consult the local education authority and the governing body of the school.
- (3) When making any decision in accordance with sub-paragraph (1), the committee shall have regard to—
- (a) any guidance given from time to time by the Secretary of State,
  - (b) the school organisation plan for the area in which the school is situated, and
  - (c) where the application is for the reduction of a standard number at a primary school, any limit imposed under section 1 which applies to that school and to any other school which is likely to be affected if any reduction of that number were to be made.
- (4) Subject to sub-paragraph (5), the committee shall not make a decision reducing a standard number unless they are satisfied that the reduction is necessary, having regard to the school's capacity to accommodate pupils.
- (5) Where—
- (a) an application is for a reduction of any standard number applicable to admissions to an infant class (as defined by section 4); and
  - (b) the committee are satisfied that the admission to the school in any school year of a number of children in any relevant age group equal to the relevant standard number would cause prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section,
- the committee shall make a decision under paragraph 4(2) reducing the standard number by the smallest number which they consider sufficient to avoid such prejudice arising.
- (6) Where the school organisation committee make a decision in accordance with paragraph (a), (b) or (c) of sub-paragraph (1), then subject to sub-paragraph (2) the committee may decide that the standard number shall be varied with effect from a date other than that specified in the application.
- (7) If—
- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to vary the standard number under sub-paragraph (1), and
  - (b) the body by whom the application was made request the committee to refer the application to the adjudicator,
- they shall refer the application to the adjudicator.
- (8) If the committee—
- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under sub-paragraph (1) by a unanimous decision, but
  - (b) have failed to reach such a decision on that matter,
- they shall refer the application to the adjudicator.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (9) Where any application is referred to the adjudicator under sub-paragraph (7) or (8)—
- (a) he shall consider the application afresh; and
  - (b) sub-paragraphs (1) to (6) shall apply to him in connection with his decision on the application as they apply to the committee.
- (10) Regulations may make provision for enabling the school organisation committee or the adjudicator—
- (a) to review any decision of theirs made in accordance with sub-paragraph (1), and
  - (b) (if appropriate) to revoke or vary any such decision, in such circumstances as may be prescribed.
- (11) For the purposes of sub-paragraph (4) a school's capacity to accommodate pupils shall be calculated having regard to any guidance given from time to time by the Secretary of State.]

#### Textual Amendments

**F107** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### Commencement Information

**I11** Sch. 23 para. 6 wholly in force at 1.9.1999; Sch. 23 para. 6 not in force at Royal Assent see s. 145(3); Sch. 23 para. 6(7) and (10) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. 1](#); Sch. 23 para. 6 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch. 3](#) (with arts. 3-6, Sch. 4).

### [<sup>F108</sup>PART III]

#### VARIATION OF STANDARD NUMBERS: WALES

#### Textual Amendments

**F108** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### *Application of Part III*

7

[<sup>F109</sup>This Part of this Schedule applies to schools in Wales.]

#### Textual Amendments

**F109** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

### *Variation of standard numbers*

- 8 [F110(1) The Secretary of State may by order applying to maintained schools of any class or description vary any standard number that would otherwise apply by virtue of paragraph 1 or 2.
- (2) Subject to sub-paragraphs (3) to (5), the Secretary of State may make a decision varying any standard number that would otherwise apply to an individual school by virtue of paragraph 1 or 2 or by virtue of any order made under sub-paragraph (1).
- (3) A decision under sub-paragraph (2) increasing a standard number may be made on the application of the admission authority for the school or on an application made by the governing body or local education authority in accordance with section 93(7).
- (4) A decision under sub-paragraph (2) reducing a standard number may only be made on the application of the admission authority for the school.
- (5) A decision under sub-paragraph (2) is subject to the procedure provided for in paragraphs 9 and 10.]

#### **Textual Amendments**

**F110** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#))

### *Procedure for application to vary standard number*

- 9 [F111(1) Where the local education authority or the governing body intend to apply for a variation under paragraph 8(2) of any standard number applying to a school under paragraph 1, 2 or 8 for any age group in any year—
- (a) they shall publish their proposals relating to the variation in such manner, and containing such information, as may be prescribed, and
- (b) they shall send—
- (i) their application,
- (ii) a copy of the published proposals, and
- (iii) such information in connection with those proposals as may be prescribed,
- to the Secretary of State.
- (2) Before making such an application, the local education authority or the governing body shall consult the governing body or the local education authority, as the case may be.
- (3) In making such an application, the local education authority or the governing body shall have regard to any guidance given from time to time by the Secretary of State (including any such guidance as to the manner in which a school's capacity to accommodate pupils should be calculated).
- (4) Sub-paragraph (2) shall not apply in relation to any application made by the local education authority or the governing body in accordance with section 93(7).
- (5) Any person may make objections to any proposals published under sub-paragraph (1).

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (6) Objections under sub-paragraph (5) shall be sent to the Secretary of State within such period as may be prescribed.
- (7) Where any proposals published under this paragraph relate to a school which is situated in an area other than that of the local education authority who maintain the school, the provisions of this paragraph and paragraph 10 shall have effect in relation to the proposals with such modifications as may be prescribed.]

#### Textual Amendments

**F111** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))

#### Commencement Information

**I12** Sch. 23 para. 9 wholly in force at 1.9.1999; Sch. 23 para. 9 not in force at Royal Assent see s. 145(3); Sch. 23 para. 9(1), (6) and (7) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. 1](#); Sch. 23 para. 9 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch. 3](#) (with arts. 3-6, [Sch. 4](#)).

#### *Decision on application to vary standard number*

- <sup>10</sup> [F112(1) Subject to the following provisions of this paragraph, on an application for a decision under paragraph 8(2), the Secretary of State may—
- (a) make a decision under that provision varying the standard number to the number proposed;
  - (b) where the application is for an increase in the standard number, make a decision under that provision increasing the standard number to such number (less than the number proposed) as he thinks desirable;
  - (c) where the application is for a reduction of the standard number, make a decision under that provision reducing the standard number to such number (greater than the number proposed) as he thinks desirable; or
  - (d) decide not to vary the standard number.
- (2) Before making any decision in accordance with paragraph (b) or (c) of sub-paragraph (1), the Secretary of State shall consult the local education authority and the governing body of the school.
- (3) When making any decision in accordance with sub-paragraph (1), the Secretary of State shall have regard to—
- (a) the school organisation plan for the area in which the school is situated, and
  - (b) where the application is for the reduction of a standard number at a primary school, any limit imposed under section 1 which applies to that school and to any other school which is likely to be affected if any reduction of that number were to be made.
- (4) Subject to sub-paragraph (5), the Secretary of State shall not make a decision reducing a standard number unless he is satisfied that the reduction is necessary, having regard to the school's capacity to accommodate pupils.
- (5) Where—

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (a) an application is for a reduction of any standard number applicable to admissions to an infant class (as defined by section 4); and
- (b) the Secretary of State is satisfied that the admission to the school in any school year of a number of children in any relevant age group equal to the relevant standard number would cause prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section,

the Secretary of State shall make a decision under paragraph 8(2) reducing the standard number by the smallest number which he considers sufficient to avoid such prejudice arising.

- (6) Where the Secretary of State makes a decision in accordance with paragraph (a), (b) or (c) of sub-paragraph (1), then subject to sub-paragraph (2) he may decide that the standard number shall be varied with effect from a date other than that specified in the application.
- (7) Regulations may make provision for enabling the Secretary of State—
  - (a) to review any decision of his made in accordance with sub-paragraph (1), and
  - (b) (if appropriate) to revoke or vary any such decision,
 in such circumstances as may be prescribed.]

#### Textual Amendments

**F112** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3** (with Sch.)

#### Commencement Information

**I13** Sch. 23 para. 10 wholly in force at 1.9.1999; Sch. 23 para. 10 not in force at Royal Assent see s. 145(3); Sch. 23 para. 10(7) in force at 1.10.1998 for certain purposes by S.I. 1998/2212, **art. 2**, **Sch. Pt. I**; Sch. 23 para. 10 in force at 1.9.1999 in so far as not already in force by S.I. 1999/1016, **art. 2(3)**, **Sch. 3** (with arts. 3-6, Sch. 4).

## [<sup>F113</sup>PART IV]

### REVIEW OF STANDARD NUMBERS

#### Textual Amendments

**F113** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3** (with Sch.)

- <sup>11</sup> [<sup>F114</sup>(1) The admission authority for a maintained school shall keep under review any standard numbers applying to the school under paragraph 1, 2, 4 or 8, as the case may be, having regard to—
- (a) the school's capacity to accommodate pupils, and
  - (b) in the case of any standard number applicable to admissions to an infant class (as defined by section 4), the need to secure that the admission to the school in any school year of a number of children in any relevant age group equal to the relevant standard number would not cause prejudice of the kind



*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.

- (2) The admission authority for a maintained school containing any infant class (as defined by section 4) shall in particular carry out a review under sub-paragraph (1) as soon as reasonably practicable following the coming into force of regulations under section 1 by virtue of which any limit on class sizes is to apply, or be varied, in relation to any such class at the school.
- (3) Where, as a result of a review under sub-paragraph (1), the authority consider that any standard number at the school should be varied in order to enable the objective referred to in sub-paragraph (1)(b) to be achieved, they shall make an application for a decision under paragraph 4(2) or 8(2) (as the case may be) varying the standard number.
- (4) For the purposes of sub-paragraph (1) a school's capacity to accommodate pupils shall be calculated having regard to any guidance given from time to time by the Secretary of State.]

#### Textual Amendments

**F114** Sch. 23 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#))

[<sup>F115</sup>SCHEDULE 24]

Section 94.

ADMISSION APPEALS

#### Textual Amendments

**F115** [Sch. 24](#) repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with [Sch.](#))

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

**C69** [Sch. 24](#) modified (temp.) (22.4.1999) by S.I. 1999/1064, [reg. 10](#).  
[Sch. 24](#) restricted (29.3.1999) by S.I. 1999/1016, [art. 6](#), [Sch. 4 paras. 1, 8](#).  
[Sch. 24](#) applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 1](#), [Sch. paras. 1, 2-8](#).  
[Sch. 24](#) applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(d\), 2-8](#).

[<sup>F116</sup>PART I]

CONSTITUTION OF APPEAL PANELS

#### Textual Amendments

**F116** [Sch. 24](#) repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with [Sch.](#))

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

*Appeal arrangements made by local education authorities*

- <sup>1</sup> [F117] (1) An appeal pursuant to arrangements made by a local education authority under section 94(1) shall be to an appeal panel constituted in accordance with this paragraph.
- (2) An appeal panel shall consist of three or five members appointed by the authority from—
- (a) persons who are eligible to be lay members; and
  - (b) persons who have experience in education, are acquainted with educational conditions in the area of the authority or are parents of registered pupils at a school.
- (3) Of the members of an appeal panel—
- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
  - (b) at least one must be a person falling within sub-paragraph (2)(b).
- (4) For the purposes of this paragraph a person is eligible to be a lay member if he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).
- (5) Sufficient persons may be appointed by the authority under this paragraph to enable two or more appeal panels to sit at the same time.
- (6) No person shall be a member of an appeal panel if he is disqualified by virtue of sub-paragraph (7).
- (7) The following persons are disqualified for membership of an appeal panel—
- (a) any member of the authority or of the governing body of the school in question;
  - (b) any person employed by the authority or the governing body, other than a person employed as a teacher;
  - (c) any person who has, or at any time has had, any connection with the authority or the school, or with any person within paragraph (b), of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority or the school.
- (8) A person employed as a teacher by the authority shall not be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).
- (9) A person shall not be a member of an appeal panel for the consideration of an appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.
- (10) A person who is a teacher at a school shall not be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.
- (11) Where, at any time after an appeal panel consisting of five members have begun to consider an appeal, any of the members—
- (a) dies, or

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(b) becomes unable through illness to continue as a member,  
the panel may continue with their consideration and determination of the appeal so long as the number of the remaining members is not less than three and the requirements of sub-paragraph (3) are satisfied.]

#### Textual Amendments

**F117** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

#### *Appeal arrangements made by governing bodies*

- 2
- [<sup>F118</sup>(1) An appeal pursuant to arrangements made by the governing body of a foundation or voluntary aided school under section 94(2) shall be to an appeal panel constituted in accordance with this paragraph.
- (2) An appeal panel shall consist of three or five members appointed by the governing body from—
- (a) persons who are eligible to be lay members; and
  - (b) persons who have experience in education, are acquainted with educational conditions in the area of the school or are parents of registered pupils at a school.
- (3) Of the members of an appeal panel—
- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
  - (b) at least one must be a person falling within sub-paragraph (2)(b).
- (4) For the purposes of this paragraph a person is eligible to be a lay member if he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).
- (5) Sufficient persons may be appointed by the governing body under this paragraph to enable two or more appeal panels to sit at the same time.
- (6) No person shall be a member of an appeal panel if he is disqualified by virtue of sub-paragraph (7).
- (7) The following persons are disqualified for membership of an appeal panel—
- (a) any member of the local education authority by whom the school is maintained or of the governing body;
  - (b) any person employed by the authority or the governing body, other than a person employed as a teacher;
  - (c) any person who has, or at any time has had, any connection with the authority or the school, or with any person within paragraph (b), of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority or the school.
- (8) A person employed as a teacher by the authority shall not be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).

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- (9) A person who is a teacher at a school shall not be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.
- (10) Where, at any time after an appeal panel consisting of five members have begun to consider an appeal, any of the members—
- (a) dies, or
  - (b) becomes unable through illness to continue as a member,
- the panel may continue with their consideration and determination of the appeal so long as the number of the remaining members is not less than three and the requirements of sub-paragraph (3) are satisfied.]

#### Textual Amendments

**F118** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

- <sup>3</sup> [F119(1) Where (by virtue of section 94(3)) joint arrangements are made under section 94(2) by the governing bodies of two or more schools, paragraph 2 shall apply as if—
- (a) (except in sub-paragraph (7)) any reference to the governing body were a reference to the governing bodies of both or all the schools; and
  - (b) in sub-paragraph (7), any reference to the governing body of the school in question or to that school were a reference to any of those governing bodies or to any of those schools (as the case may be).
- (2) An appeal pursuant to such joint arrangements shall be to an appeal panel constituted in accordance with paragraph 2 as it so applies.]

#### Textual Amendments

**F119** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

#### *Joint arrangements by local education authorities and governing bodies*

- <sup>4</sup> [F120(1) Where (by virtue of section 94(4)) joint arrangements are made by a local education authority and the governing body or bodies of one or more schools, paragraph 1 shall apply in relation to those arrangements as it applies in relation to arrangements made by a local education authority under section 94(1), but as if in sub-paragraph (7) any reference to the governing body of the school in question or to that school were a reference to the governing body of any school to which the arrangements relate or to any such school (as the case may be).
- (2) An appeal pursuant to such joint arrangements shall be to an appeal panel constituted in accordance with paragraph 1 as it so applies.]

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#### Textual Amendments

**F120** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

#### *Allowances for members*

- 5
- [<sup>F121</sup>(1) For the purpose of the payment of financial loss allowance under section 173(4) of the <sup>M62</sup>Local Government Act 1972, that provision shall apply, with any necessary modifications, to any member of an appeal panel constituted in accordance with paragraph 1 or 2 (or in accordance with either of those paragraphs as it applies by virtue of paragraph 3 or 4) as it applies to any member of a parish or community council; and such an appeal panel shall be included in the bodies to which section 174 of that Act (travelling and subsistence allowances) applies.
- (2) In section 174(1) of that Act, in its application to a panel in accordance with sub-paragraph (1), the reference to payments at rates determined by the body in question shall be read as a reference to payments at rates determined—
- (a) by the authority, if the panel is constituted in accordance with paragraph 1 (or in accordance with that paragraph as it applies by virtue of paragraph 4); and
  - (b) otherwise by the governing body or bodies of the school or schools in question.]

#### Textual Amendments

**F121** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

#### Marginal Citations

**M62** 1972 c. 70.

#### *Duty to advertise for lay members*

- 6
- [<sup>F122</sup>The Secretary of State may by regulations require any local education authority or governing body who are required by section 94(1) or (2) to make arrangements under that provision—
- (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal panel required to be constituted for the purposes of such arrangements to apply to the authority or body for appointment as such members, and
  - (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the authority or body in response to an advertisement placed in pursuance of sub-paragraph (a) above.]

#### Textual Amendments

**F122** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

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### Indemnity

- 7 <sup>[F123]</sup>(1) Any local education authority or governing body required to make arrangements under section 94(1) or (2) shall indemnify the members of any appeal panel required to be constituted for the purposes of those arrangements against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that panel.
- (2) Where any such panel is constituted in accordance with—
- (a) paragraph 1 as it applies by virtue of paragraph 4, or
  - (b) paragraph 2 as it applies by virtue of paragraph 3,
- any liability arising under sub-paragraph (1) above shall be a joint and several liability of the bodies by whom the joint arrangements are made unless otherwise previously agreed in writing between those bodies.]

#### Textual Amendments

**F123** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

### <sup>[F124]</sup>PART II

#### PROCEDURE

#### Textual Amendments

**F124** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

- 8 <sup>[F125]</sup>In this Part of this Schedule “appeal” means an appeal pursuant to any arrangements made under section 94.]

#### Textual Amendments

**F125** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

- 9 <sup>[F126]</sup>An appeal shall be by notice in writing setting out the grounds on which it is made.]

#### Textual Amendments

**F126** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

*Status: Point in time view as at 31/03/2003.*

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[<sup>F127</sup>An appeal panel shall give the appellant an opportunity of appearing and making oral representations, and may allow him to be accompanied by a friend or to be represented.]

#### Textual Amendments

**F127** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

11

[<sup>F128</sup>The matters to be taken into account by an appeal panel in considering an appeal shall include—

- (a) any preference expressed by the appellant in respect of the child as mentioned in section 86, and
- (b) the arrangements for the admission of pupils published by the local education authority or the governing body under section 92.]

#### Textual Amendments

**F128** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

12

[<sup>F129</sup>Where the decision under appeal was made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section, an appeal panel shall determine that a place is to be offered to the child only if they are satisfied—

- (a) that the decision was not one which a reasonable admission authority would make in the circumstances of the case; or
- (b) that the child would have been offered a place if the admission arrangements (as published under section 92) had been properly implemented.]

#### Textual Amendments

**F129** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

13

[<sup>F130</sup>(1) Appeals shall be heard in private except when the body or bodies by whom the arrangements under section 94 are made direct otherwise; but—

- (a) if the panel so direct, one member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal panel constituted in accordance with paragraph 1;
- (b) if the panel so direct, one member of the governing body of the school in question may attend, as an observer, any hearing of an appeal by an appeal panel constituted in accordance with paragraph 1 or 2 (or in accordance with paragraph 2 as it applies by virtue of paragraph 3); and
- (c) one member of the Council on Tribunals may attend, as an observer, any meeting of any appeal panel at which an appeal is considered.

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- (2) For the purposes of sub-paragraph (1), an appeal to an appeal panel constituted in accordance with paragraph 1 as it applies by virtue of paragraph 4 shall be treated—
- (a) as an appeal to an appeal panel constituted in accordance with paragraph 1 if it relates to a community or voluntary controlled school; and
  - (b) as an appeal to an appeal panel constituted in accordance with paragraph 2 if it relates to a foundation or voluntary aided school.]

#### Textual Amendments

**F130** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

14

[<sup>F131</sup>In the event of a disagreement between the members of an appeal panel, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the panel shall have a second or casting vote.]

#### Textual Amendments

**F131** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

15

- [<sup>F132</sup>(1) The decision of an appeal panel and the grounds on which it is made shall be communicated by the panel in writing to—
- (a) the appellant and the local education authority, and
  - (b) in the case of an appeal to an appeal panel constituted in accordance with paragraph 2 (or in accordance with that paragraph as it applies by virtue of paragraph 3), to the governing body by whom or on whose behalf the decision appealed against was made.
- (2) For the purposes of sub-paragraph (1), an appeal to an appeal panel constituted in accordance with paragraph 1 as it applies by virtue of paragraph 4 shall be treated as an appeal to an appeal panel constituted in accordance with paragraph 2, if it relates to a foundation or voluntary aided school.]

#### Textual Amendments

**F132** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

16

[<sup>F133</sup>Subject to paragraphs 9 to 15, all matters relating to the procedure on appeals, including the time within which they are to be brought, shall be determined by the body or bodies by whom the arrangements under section 94 are made.]

#### Textual Amendments

**F133** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)



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### *Power of Secretary of State to make amendments*

17

[<sup>F134</sup>The Secretary of State may by order make such amendments of this Schedule as he considers expedient.]

#### **Textual Amendments**

**F134** Sch. 24 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

### [<sup>F135</sup>SCHEDULE 25]

Section 95.

#### CHILDREN TO WHOM SECTION 87 APPLIES: APPEALS BY GOVERNING BODIES 12.10.01

#### **Textual Amendments**

**F135** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

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

**C70** Sch. 25 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(d), 2-8.  
Sch. 25 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, 8  
Sch. 25 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8.

### *Duty to notify governing body of decision to admit child*

1

[<sup>F136</sup>Where any such decision as is mentioned in section 95(2) is made by or on behalf of a local education authority, the authority shall give the governing body of the school notice in writing—

- (a) of that decision; and
- (b) of the governing body's right to appeal against the decision in accordance with paragraph 2.]

#### **Textual Amendments**

**F136** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

### *Time limit on appealing*

2

[<sup>F137</sup>An appeal by the governing body against any such decision must be made not later than the 15th school day after the day on which they are given the notice under paragraph 1.]

*Status: Point in time view as at 31/03/2003.*

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#### Textual Amendments

**F137** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

#### *Appeal panels*

- 3 [F138(1) Subject to sub-paragraphs (2) and (3) below, paragraphs 1, 5, 6 and 7 of Schedule 24 (school admission appeals) shall have effect in relation to appeals under section 95(2) as they have effect in relation to appeals under section 94(1).
- (2) A person shall not be a member of an appeal panel for the consideration of an appeal under section 95(2) if he has to any extent been involved in any previous consideration of the question whether the child in question should or should not be reinstated at any school from which he has at any time been permanently excluded, or in any previous appeal relating to the child under section 95(2).
- (3) In this paragraph “appeal panel” means an appeal panel constituted in accordance with Part I of Schedule 24, as it applies in accordance with this paragraph.]

#### Textual Amendments

**F138** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

#### *Procedure on an appeal*

- 4 [F139 In the following provisions of this Schedule—  
“appeal” means an appeal under section 95(2); and  
“appeal panel” means such an appeal panel as is mentioned in paragraph 3(3) above.]

#### Textual Amendments

**F139** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

- 5 [F140 An appeal shall be by notice in writing setting out the grounds on which it is made.]

#### Textual Amendments

**F140** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

- 6 [F141(1) The appeal panel shall meet to consider an appeal on such date as the local education authority may determine.

*Status: Point in time view as at 31/03/2003.*

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- (2) The date so determined must not be later than the 15th school day after the day on which the appeal is lodged.]

#### Textual Amendments

**F141** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

7

[<sup>F142</sup>On an appeal the panel shall allow—

- (a) the local education authority and the governing body to make written representations;
- (b) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations; and
- (c) the governing body to be represented.]

#### Textual Amendments

**F142** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

8

[<sup>F143</sup>In considering an appeal the appeal panel shall have regard to—

- (a) the reasons for the local education authority's decision that the child in question should be admitted; and
- (b) any reasons put forward by the governing body as to why the child's admission would be inappropriate.]

#### Textual Amendments

**F143** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

9

[<sup>F144</sup>Appeals shall be heard in private except when the local education authority direct otherwise; but—

- (a) if the panel so direct, one member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal panel; and
- (b) one member of the Council on Tribunals may attend, as an observer, any meeting of an appeal panel at which an appeal is considered.]

#### Textual Amendments

**F144** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

10

*Status: Point in time view as at 31/03/2003.*

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[<sup>F145</sup>Two or more appeals may be combined and dealt with in the same proceedings if the appeal panel consider that it is expedient to do so because the issues raised by the appeals are the same or connected.]

**Textual Amendments**

**F145** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

11

[<sup>F146</sup>In the event of a disagreement between the members of an appeal panel, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the panel shall have a second or casting vote.]

**Textual Amendments**

**F146** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

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[<sup>F147</sup>The decision of an appeal panel and the grounds on which it is made shall—

- (a) be communicated by the panel in writing to the local education authority and the governing body, and
- (b) be so communicated by the end of the second school day after the conclusion of the hearing of the appeal.]

**Textual Amendments**

**F147** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

13

[<sup>F148</sup>Subject to paragraphs 5 to 12, all matters relating to the procedure on appeals shall be determined by the local education authority.]

**Textual Amendments**

**F148** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with Sch.)

*Power of Secretary of State to make amendments*

14

[<sup>F149</sup>The Secretary of State may by order make such amendments of this Schedule as he considers expedient.]

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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

**F149** Sch. 25 repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

## SCHEDULE 26

Section 122.

### INSPECTION OF NURSERY EDUCATION

#### *Introductory*

- 1 (1) In this Schedule “relevant nursery education” means—
- (a) nursery education which is provided by a local education authority;
  - (b) nursery education which is provided by any other person who is (or is to be) in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a); or
  - (c) nursery education in respect of which grants are (or are to be) made under arrangements under section 1 of the <sup>M63</sup>Nursery Education and Grant-Maintained Schools Act 1996.
- (2) In this Schedule “nursery education under consideration for funding” means nursery education provided by a person to whom a local education authority are considering giving financial assistance and whose provision of nursery education would fall to be taken into account by the authority in formulating proposals for the purposes of section 120(2)(a).
- (3) Where—
- (a) any education is for the time being provided at any premises for children who have not attained the age prescribed for the purposes of section 118(1)(b), and
  - (b) that education is provided by a person—
    - (i) who proposes to provide nursery education at those premises, and
    - (ii) to whom a local education authority are considering giving financial assistance in the event of his providing that nursery education, and
    - (iii) whose provision of that nursery education would fall to be taken into account by the authority in formulating proposals for the purposes of section 120(2)(a),
- this Schedule shall apply in relation to the education for the time being provided for the children mentioned in paragraph (a) above as it applies in relation to nursery education under consideration for funding.

### Marginal Citations

**M63** 1996 c. 50.

- 2 (1) In this Schedule “the Chief Inspector” means—

*Status: Point in time view as at 31/03/2003.*

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- (a) as respects nursery education provided in England, Her Majesty’s Chief Inspector of Schools in England, and
  - (b) as respects nursery education provided in Wales, [<sup>F150</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru].
- (2) In this Schedule references to registered nursery education inspectors are to persons registered under paragraph 8.
- (3) In this Schedule “members of the Inspectorate” means—
- (a) the Chief Inspector,
  - (b) Her Majesty’s Inspectors, and
  - (c) additional inspectors with whom the Chief Inspector has made arrangements to give him assistance under paragraph 2 of Schedule 1 to the <sup>M64</sup>School Inspections Act 1996.
- (4) In sub-paragraph (3)(b) “Her Majesty’s Inspectors” means—
- (a) as respects nursery education provided in England, Her Majesty’s Inspectors of Schools in England, and
  - (b) as respects nursery education provided in Wales, [<sup>F151</sup>Her Majesty’s Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru].

#### Textual Amendments

**F150** Words in Sch. 26 para. 2(1)(b) substituted (W.) (1.1.2001) by 2000 c. 21, s. 73(3)(a); S.I. 2000/3230, art. 2, Sch.

**F151** Words in Sch. 26 para. 2(4)(b) substituted (W.) (1.1.2001) by 2000 c. 21, s. 73(3)(b); S.I. 2000/3230, art. 2, Sch.

#### Marginal Citations

**M64** 1996 c. 57.

### *General functions of the Chief Inspector*

- 3 The Chief Inspector has the general duty of keeping the Secretary of State informed about—
- (a) the quality and standards of relevant nursery education, and
  - (b) the spiritual, moral, social and cultural development of children for whom relevant nursery education is provided.
- 4 When asked to do so by the Secretary of State, the Chief Inspector shall give advice to the Secretary of State on such matters relating to relevant nursery education as may be specified in the Secretary of State’s request.
- 5 The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with—
- (a) relevant nursery education generally, or
  - (b) relevant nursery education, or nursery education under consideration for funding, provided at particular premises.

*Status: Point in time view as at 31/03/2003.*

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### Inspections

- 6 (1) The Chief Inspector—
- (a) shall secure that relevant nursery education provided at any premises is inspected by [<sup>F152</sup>a member of the Inspectorate or] a registered nursery education inspector at such intervals as may be prescribed,
  - (b) shall secure that relevant nursery education, or nursery education under consideration for funding, provided at any premises is inspected by [<sup>F153</sup>a member of the Inspectorate or] a registered nursery education inspector at any time when the Secretary of State requires the Chief Inspector to secure its inspection, and
  - (c) may secure that relevant nursery education, or nursery education under consideration for funding, provided at any premises is inspected by [<sup>F154</sup>a member of the Inspectorate or] a registered nursery education inspector at any other time when the Chief Inspector considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 10 of the <sup>M65</sup>School Inspections Act 1996 (inspections of certain schools by inspectors registered under that Act) applies.
- (3) The Chief Inspector may comply with sub-paragraph (1) either by organising inspections or by making arrangements with others for them to organise inspections.
- (4) Where an inspection under this paragraph is to be undertaken of nursery education provided at premises which are also liable to inspection under section 76 of the <sup>M66</sup>Children Act 1989 (inspection by person authorised by local authority of premises on which child minding is being carried on or day care is being provided for children), the person organising the inspection under this paragraph shall, before that inspection is undertaken, consult the local authority with power to authorise an inspection of the premises under that section.
- (5) In prescribing the intervals mentioned in sub-paragraph (1)(a) the Secretary of State may make provision as to the period within which the first inspection of education provided at any premises is to take place under this Schedule.
- (6) A requirement such as is mentioned in sub-paragraph (1)(b) may be imposed in relation to particular premises or a class of premises.

#### Textual Amendments

- F152** Words in Sch. 26 para. 6(1)(a) inserted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 1 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F153** Words in Sch. 26 para. 6(1)(b) inserted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 1 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F154** Words in Sch. 26 para. 6(1)(c) inserted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 1 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4

#### Marginal Citations

- M65** 1996 c. 57.  
**M66** 1989 c. 41.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- 7 A person conducting an inspection under paragraph 6 shall report on the quality and standards of the nursery education provided and, so far as it is reasonably practicable to do so, on the spiritual, moral, social and cultural development of the children for whom the education is provided.

*Registration of nursery education inspectors*

- 8 (1) Her Majesty's Chief Inspector of Schools in England shall establish and maintain a register of nursery education inspectors for England and [<sup>F155</sup>Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] shall establish and maintain a register of nursery education inspectors for Wales.
- (2) The Chief Inspector—
- (a) shall give guidance to registered nursery education inspectors and such other persons as he considers appropriate in connection with inspections under paragraph 6 and the making of reports of such inspections, and
  - (b) shall keep under review the system of inspections under paragraph 6 and, in particular, the standard of such inspections and of the reports made of them.
- (3) The Chief Inspector shall not register a person under this paragraph unless, having regard to any conditions that he proposes to impose under sub-paragraph [<sup>F156</sup>(5B)], it appears to him that the person—
- (a) is a fit and proper person for discharging the functions of a registered nursery education inspector, and
  - (b) will be capable of conducting inspections under paragraph 6 competently and effectively and no person shall be so registered if he falls within a category of persons prescribed for the purposes of this sub-paragraph.
- [<sup>F157</sup>(4) Subject to that, the Chief Inspector shall register such persons as he considers appropriate.
- (5) The factors which the Chief Inspector may take into account for the purposes of sub-paragraph (4) include the extent to which there is a need for registered inspectors in any part of England and Wales.
- (5A) The Chief Inspector may require payment of a fee before registering a person under sub-paragraph (4).
- (5B) Registration under sub-paragraph (4) may be subject to such conditions as the Chief Inspector considers it appropriate to impose.]
- (6) Conditions imposed under sub-paragraph [<sup>F158</sup>(5B)] may be conditions applying generally in relation to all cases, or particular classes of case, or such conditions together with specific conditions applying in the particular case.
- (7) Where a person is registered subject to conditions imposed under sub-paragraph [<sup>F159</sup>(5B)], he shall be taken to be authorised to act as a registered nursery education inspector only so far as those conditions permit.
- (8) The period for which any registration is to have effect shall be determined by the Chief Inspector and shall be entered in the register kept by him.



*Status: Point in time view as at 31/03/2003.*

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- (9) <sup>F160</sup>Nothing in sub-paragraph (8) is to be taken as preventing a registered nursery education inspector from applying for a fresh registration to take effect immediately on the expiry of his current registration.]

#### Textual Amendments

- F155** Words in Sch. 26 para. 8(1) substituted (W.) (1.1.2001) by 2000 c. 21, s. 73(3)(a); S.I. 2000/3230, art. 2, Sch.
- F156** Words in Sch. 26 para. 8(3) substituted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 2(2) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F157** Sch. 26 para. 8(4)-(5B) substituted for para. 8(4)(5) (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 2(3) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F158** Words in Sch. 26 para. 8(6) substituted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 2(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F159** Words in Sch. 26 para. 8(7) substituted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 2(4) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4
- F160** Sch. 26 para. 8(9) shall cease to have effect (2.9.2002 for E. otherwise prosp.) and repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 215(2), 216, Sch. 14 para. 2(5), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2002/2439, art. 3 (with Sch.)

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

- C71** Sch. 26 para. 8(2)-(9) applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

- 9 (1) If the Chief Inspector is satisfied that any of the conditions mentioned in sub-paragraph (2) is satisfied with respect to a nursery education inspector registered in his register, he may remove the name of that inspector from that register.
- (2) The conditions are that—
- he is no longer a fit and proper person for discharging the functions of a registered nursery education inspector under paragraph 6,
  - he is no longer capable of conducting inspections under that paragraph competently and effectively,
  - there has been a significant failure on his part to comply with any condition imposed under <sup>F161</sup>paragraph 8(5B)] subject to which his registration has effect,
  - he has, without reasonable explanation, produced a report of an inspection under paragraph 6 which is, in whole or in part, seriously misleading.
- (3) The Chief Inspector may vary any condition subject to which the registration of an inspector has effect, or vary the registration of an inspector by imposing a condition subject to which it will have effect, if he is satisfied—
- that he is authorised by sub-paragraph (1) to remove the name of the inspector from his register, or
  - that it would otherwise be in the public interest for him to do so.

*Status: Point in time view as at 31/03/2003.*

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- (4) References in this Schedule to a condition imposed under [F162 paragraph 8(5B)] include a condition imposed under sub-paragraph (3).
- (5) Either Chief Inspector may, in exercising his functions under this paragraph with respect to a registered nursery education inspector, have regard to any action taken by the other Chief Inspector with respect to that inspector.

#### Textual Amendments

**F161** Words in Sch. 26 para. 9(2)(c) substituted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 3 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4

**F162** Words in Sch. 26 para. 9(4) substituted (2.9.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 3 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4

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

**C72** Sch. 26 para. 9(1)-(4) applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

- 10 (1) Any person who is aggrieved by—
- the refusal of the Chief Inspector to renew his registration under paragraph 8,
  - the imposition or variation of any condition subject to which he is registered under that paragraph, or
  - the removal of his name from the register under paragraph 9,
- may appeal against the Chief Inspector's decision.
- [F163(1A) An appeal under sub-paragraph (1) against a decision of Her Majesty's Chief Inspector of Schools in England shall be made to the Tribunal established under section 9 of the Protection of Children Act 1999.]
- (2) An appeal under sub-paragraph (1) [F164 against a decision of Her Majesty's Chief Inspector of Education and Training in Wales] shall be made to a tribunal with the same constitution as a tribunal to hear an appeal under section 9 of the M67 School Inspections Act 1996; and paragraph 2 (procedure) and paragraph 3 (staff) of Schedule 2 to that Act apply to tribunals to hear appeals under sub-paragraph (1) as they apply to tribunals to hear appeals under that section.
- (3) No decision against which an appeal may be made under sub-paragraph (1) shall have effect until—
- any appeal against it which is duly made is disposed of, or
  - the period within which an appeal may be made expires without an appeal being made.
- (4) Sub-paragraph (3) shall not apply where the Chief Inspector—
- is satisfied that the circumstances of the case justify the decision in question taking effect immediately or earlier than would otherwise be the case, and
  - notifies the person concerned to that effect.
- (5) On determining any appeal under this paragraph, the tribunal may—

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- (a) confirm, reverse or vary the decision appealed against, or
- (b) remit the case to the Chief Inspector with directions as to the action to be taken by him.

#### Textual Amendments

**F163** Sch. 26 para. 10(1A) inserted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 5(2) (with ss. 210(8), 214(4), Sch. 14 para. 7 and with savings (23.12.2002) in S.I. 2002/2953, reg. 6); S.I. 2002/2439, art. 3 (with Sch.)

**F164** Words in Sch. 26 para. 10(2) inserted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 155, 216, Sch. 14 para. 5(3) (with ss. 210(8), 214(4), Sch. 14 para. 7 and with savings (23.12.2002) in S.I. 2002/2953, reg. 6); S.I. 2002/2439, art. 3 (with Sch.)

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

**C73** Sch. 26 para. 10 applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

#### Marginal Citations

**M67** 1996 c. 57.

### Training

- 11 (1) A registered nursery education inspector shall not conduct an inspection under paragraph 6 unless he has, in the opinion of the Chief Inspector, satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector.
- (2) Sub-paragraph (1) shall not apply in such circumstances as may be specified, either generally or in relation to a particular case or class of case, by the Chief Inspector.
- (3) Where the Chief Inspector provides such training he may charge such fees as are reasonable for the purpose of recovering the whole, or part, of the cost of providing it.

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

**C74** Sch. 26 para. 11 applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. {2}, 3

### Impartiality

- 12 A person shall not undertake an inspection under paragraph 6 of nursery education provided by a person at any premises, or accompany a person undertaking such an inspection, if he has, or has at any time had, any connection with—
  - (a) the person by whom the education is provided (or, where it is provided by a body, any member of the body), or

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(b) any person employed by that person (whether or not at the premises), of a kind which might reasonably be taken to raise doubts about his ability to act impartially.

#### *Reports of inspections*

- 13 (1) Where a person has conducted an inspection under paragraph 6 he shall make his report in writing to the Chief Inspector within such period as may be prescribed, subject to any extension not exceeding three months which the Chief Inspector may consider necessary.
- (2) Once the report of an inspection has been made to the Chief Inspector under subparagraph (1) he shall without delay send a copy of it to such authorities and persons as may be prescribed.
- (3) Section 42A(2) and (3) of the <sup>M68</sup>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).

#### **Marginal Citations**

**M68** 1996 c. 57.

#### *Annual reports of the Chief Inspector*

- 14 The annual reports of the Chief Inspector required by subsection (7)(a) of sections 2 and 5 of the <sup>M69</sup>School Inspections Act 1996 to be made to the Secretary of State shall include an account of the exercise of the functions imposed or conferred on him by this Schedule; and the power conferred by subsection (7)(b) of those sections to make other reports to the Secretary of State includes a power to make reports with respect to matters which fall within the scope of his functions by virtue of this Schedule.

#### **Marginal Citations**

**M69** 1996 c. 57.

#### *Reserve powers of the Chief Inspector*

- 15 [<sup>F165</sup>The Chief Inspector may, in any case where it appears to him to be appropriate to do so, secure that any inspection under paragraph 6 is conducted not by a registered nursery education inspector but by one or more members of the Inspectorate.]

#### **Textual Amendments**

**F165** Sch. 26 para. 15 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- 16 If the Chief Inspector elects in the case of an inspection within paragraph (b) or (c) of sub-paragraph (1) of paragraph 6 that the inspection shall be treated as if it were an inspection within paragraph (a) of that sub-paragraph, the inspection shall be so treated.
- 17 Where an inspection is being conducted by a registered nursery education inspector under paragraph 6, the Chief Inspector may arrange for the inspection to be monitored by one or more members of the Inspectorate.

#### *Rights of entry*

- 18 (1) This paragraph applies to—
- (a) a registered nursery education inspector or member of the Inspectorate conducting an inspection under paragraph 6, or
  - (b) a member of the Inspectorate monitoring such an inspection under paragraph 17.
- (2) A person to whom this paragraph applies shall have at all reasonable times—
- (a) a right of entry to the premises at which the relevant nursery education concerned is provided; and
  - (b) a right to inspect, and take copies of—
    - (i) any records kept by the person providing that education, and
    - (ii) any other documents containing information relating to the provision of that education,which he requires for the purposes of conducting or (as the case may be) monitoring the inspection.
- (3) Section 42 of the <sup>M70</sup>School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of this paragraph as it applies for the purposes of Part I of that Act.
- (4) It shall be an offence wilfully to obstruct a member of the Inspectorate or a registered nursery education inspector in the exercise of his functions in relation to an inspection under paragraph 6.
- (5) Any person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) In this paragraph “documents” and “records” each include information recorded in any form.

#### **Marginal Citations**

**M70** 1996 c. 57.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

## [<sup>F166</sup>SCHEDULE 27

Section 125.

### FURTHER PROVISION ABOUT PARTNERSHIP ARRANGEMENTS IN WALES

#### Textual Amendments

**F166** *Sch. 27* repealed (28.7.2000 in so far as consequential on ss. 130, 131, *Sch. 8*, 1.1.2001 (W.) otherwise) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**

#### Commencement Information

**I14** *Sch. 27* wholly in force at 1.9.1999; *Sch. 27* not in force at Royal Assent see s. 145(3); *Sch. 27* in force at 1.4.1999 for specified purposes by S.I. 1998/2212, art. 2, **Sch. 1 Pt. IV**; *Sch. 27* in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, *Schs. 5-7*).

### “SCHEDULE 5A

### FURTHER PROVISION ABOUT PARTNERSHIP ARRANGEMENTS IN WALES

#### *Interpretation*

1 In this Schedule—

“the participating bodies”, in relation to an arrangement, means—

- (i) the parties to the arrangement,
  - (ii) the Further Education Funding Council for Wales, and
  - (iii) each governing body of a school which has consented to the arrangement;
- and

“the parties”, in relation to an arrangement, means—

- (i) each local education authority, and
- (ii) each governing body of an institution (or institutions) within the further education sector,

which is a party to the arrangement.

#### *Approval by the Secretary of State*

- 2 (1) An application for approval of an arrangement by the Secretary of State for the purposes of section 60A of this Act (“an application”) shall be made jointly by the parties to the arrangement.
- (2) An application shall be in such form and contain such information as may be prescribed by regulations.
- (3) In addition, the participating bodies shall provide the Secretary of State with such further information as he may require for the purpose of deciding whether or not to grant the approval.

#### *Termination of arrangement etc*

- 3 (1) Subject to any provision of the arrangement to the contrary and to sub-paragraph (2) below, a partnership arrangement to which section 60A of this Act applies shall continue in force indefinitely.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (2) The Secretary of State may withdraw approval of a partnership arrangement to which section 60A of this Act applies.
- (3) The Secretary of State shall exercise his powers under sub-paragraph (2) in accordance with the provisions of the arrangement.

#### *Variation of arrangement*

- 4 (1) The parties to a partnership arrangement to which section 60A of this Act applies shall not make any change to the arrangement except—
  - (a) with the consent of the other participating bodies, and
  - (b) if the change amounts to a significant change to the arrangement, with the consent of the Secretary of State.
- (2) If a question arises whether a change to an arrangement would be a significant change, that question shall be determined by the Secretary of State.

#### *Interpretation of existing enactments*

- 5 (1) Regulations may provide—
  - (a) for any reference in an enactment to secondary education to be construed as including further education provided under a partnership arrangement to which section 60A of this Act applies, and
  - (b) for any enactment containing such a reference to apply in relation to such further education with such modifications (if any) as may be specified in the regulations.
- (2) In sub-paragraph (1), enactment includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M71</sup>Interpretation Act 1978).”]

#### **Marginal Citations**

**M71** 1978 c. 30.

## SCHEDULE 28

Section 135.

### AMENDMENTS RELATING TO SCHOOL AND NURSERY INSPECTIONS

#### PART I

#### SCHOOL INSPECTIONS

#### **Commencement Information**

**I15** Sch. 28 Pt. I partly in force; Sch. 28 Pt. I not in force at Royal Assent see s. 145(3); Sch. 28 Pt. I except para. 4(1) in force at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#)

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

### *Introductory*

- 1 In this Part of this Schedule “the 1996 Act” means the <sup>M72</sup>School Inspections Act 1996.

#### **Marginal Citations**

**M72** 1996 c. 57.

### *Persons who may be registered inspectors*

- 2 In section 7(3) of the 1996 Act (registration of inspectors), at the end there shall be added—

“and no person shall be so registered if he falls within a category of persons prescribed for the purposes of this subsection.”

### *Decisions of Chief Inspector having immediate effect*

- 3 In section 9(3)(a) of the 1996 Act (circumstances where Chief Inspector’s decision to revoke registration may take immediate effect), the words “are exceptional and” shall be omitted.

### *Enrolment of persons to act as team members*

- 4 (1) [<sup>F167</sup>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 are enrolled in the list kept by the Chief Inspector under paragraph 3A.”]

- (2) After paragraph 3 of that Schedule there shall be inserted—

#### *“ Enrolment of persons to act as team members*

- 3A (1) The Chief Inspector shall keep a list of persons who may act as members of an inspection team (“the list”); and no person shall act as a member of an inspection team unless he is enrolled in the list.
- (2) The Chief Inspector shall not enrol any person in the list unless, having regard to any conditions that he proposes to impose under section 7(5) (c) (as it applies in accordance with sub-paragraph (4) below), it appears to him that that person—
- (a) is a fit and proper person for carrying out an inspection, and
  - (b) will be capable of assisting in an inspection competently and effectively.
- (3) An application for enrolment in the list shall (except in such circumstances as may be prescribed) be accompanied by the prescribed fee.
- (4) Subsections (5) to (9) of section 7 shall apply in relation to the enrolment of a person in the list and to acting as a member of an inspection team as



*Status: Point in time view as at 31/03/2003.*

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- they apply in relation to the registration of a person under subsection (1) or (2) of that section and to acting as a registered inspector.
- (5) Sections 8 and 9 and Schedule 2 shall (with any necessary modifications) apply in relation to enrolment in the list and to a person so enrolled as they apply in relation to registration under section 7(1) or (2) and to a person so registered.
- (6) In its application to an enrolled person in accordance with sub-paragraph (5) above, section 8 shall have effect as if the conditions mentioned in subsection (2) of that section were that—
- (a) that person is no longer a fit and proper person to act as a member of an inspection team;
  - (b) he is no longer capable of assisting in an inspection competently and effectively;
  - (c) there has been a significant failure on his part to comply with any condition imposed under section 7(5)(c) (as it applies in accordance with sub-paragraph (4) above).
- (7) Without prejudice to the generality of paragraph 2(1) of Schedule 2, regulations under that provision may provide that, where a person is appealing simultaneously—
- (a) against a decision of the Chief Inspector relating to that person’s registration, and
  - (b) against a decision of the Chief Inspector relating to that person’s enrolment in the list,
- both appeals are to be heard at the same time.”

#### Textual Amendments

**F167** Sch. 28 Pt. I para. 4(1) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

#### Commencement Information

**I16** Sch. 28 Pt. I para. 4 partly in force; Sch. 28 Pt. I para. 4 not in force at Royal Assent see s. 145(3); Sch. 28 Pt. I except para. 4(1) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 28 Pt. I para. 4(1) in force for certain purposes at 1.1.2000 by [S.I. 1999/2323](#), [art. 2\(3\)](#), [Sch. 3](#) (with arts. 3-5, [Schs. 5-7](#)); Sch. 28 Pt. I para. 4(1) in force for certain purposes at 1.8.2000 by [S.I. 1999/2323](#), [art. 2\(4\)](#), [Sch. 4](#) (with arts. 3-5, [Schs. 5-7](#)).

PROSPECTIVE

### *Replacement of inspectors*

F1685

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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

**F168** Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 1](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

## PART II

### NURSERY INSPECTIONS

#### *Persons who may be registered nursery education inspectors*

- 6 In paragraph 8(3) of Schedule 1 to the <sup>M73</sup>Nursery Education and Grant-Maintained Schools Act 1996 (registration of nursery education inspectors), at the end there shall be added—
- “and no person shall be so registered if he falls within a category of persons prescribed for the purposes of this sub-paragraph.”

#### Marginal Citations

**M73** 1996 c. 50.

#### *Decisions of Chief Inspector having immediate effect*

- 7 In paragraph 10(4)(a) of Schedule 1 to the <sup>M74</sup>Nursery Education and Grant-Maintained Schools Act 1996 (circumstances where Chief Inspector’s decision to revoke registration may take immediate effect), the words “are exceptional and” shall be omitted.

#### Marginal Citations

**M74** 1996 c. 50.

#### *Powers of entry of registered nursery education inspectors*

- 8 After paragraph 17 of Schedule 1 to the <sup>M75</sup>Nursery Education and Grant-Maintained Schools Act 1996 there shall be added—

#### *“ Rights of entry*

- 18 (1) This paragraph applies to—
- (a) a registered nursery education inspector or member of the Inspectorate conducting an inspection under paragraph 6, or
  - (b) a member of the Inspectorate monitoring such an inspection under paragraph 17.
- (2) A person to whom this paragraph applies shall have at all reasonable times—

*Status: Point in time view as at 31/03/2003.*

**Changes to legislation:** School Standards and Framework Act 1998 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)

- (a) a right of entry to the premises at which the funded nursery education concerned is provided; and
  - (b) a right to inspect, and take copies of—
    - (i) any records kept by the person providing that education, and
    - (ii) any other documents containing information relating to the provision of that education,which he requires for the purpose of conducting or (as the case may be) monitoring the inspection.
- (3) Section 42 of the <sup>M76</sup>School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of this paragraph as it applies for the purposes of Part I of that Act.
- (4) It shall be an offence wilfully to obstruct a member of the Inspectorate or a registered nursery education inspector in the exercise of his functions in relation to an inspection under paragraph 6.
- (5) Any person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) In this paragraph “documents” and “records” each include information recorded in any form.”

**Marginal Citations**

**M75** 1996 c. 50.

**M76** 1996 c. 57.

SCHEDULE 29

Section 137.

AMENDMENTS RELATING TO FUNCTIONS OF EDUCATION TRANSFER COUNCIL

*Introductory*

- 1 In this Schedule “the 1988 Act” means the <sup>M77</sup>Education Reform Act 1988.

**Marginal Citations**

**M77** 1988 c. 40.

*General provisions as to transfers*

- 2 (1) Section 198 of the 1988 Act (transfers under Parts I and II of that Act) shall be amended as follows.
- (2) For subsections (1) to (4) substitute—

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- “(1) This section applies to any transfer under any of the following provisions, namely—
- (a) section 126 or 130 of this Act,
  - (b) Schedule 21 to the School Standards and Framework Act 1998 (“the 1998 Act”), or
  - (c) any regulations made—
    - (i) under section 21(5) or (9) of that Act, or
    - (ii) under paragraph 10 of Schedule 2 or paragraph 5 of Schedule 8 to that Act;
- and those provisions, so far as relating to transfers under them, shall in each case have effect subject to Schedule 10 to this Act.
- (1A) However, nothing in—
- (a) the provisions of that Schedule other than paragraph 2(4), or
  - (b) subsection (3) below,
- applies in relation to any transfer agreement falling to be made under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act.
- (2) Schedule 10 to this Act has effect for the purpose of—
- (a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies by a transferor authority or body where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or other educational institution;
  - (b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer;
  - (c) providing for identifying and defining the property, rights and liabilities which fall to be transferred under a transfer to which this section applies; and
  - (d) making supplementary and consequential provisions in relation to such transfers.
- (3) In carrying out the functions conferred or imposed on them by that Schedule—
- (a) the Education Transfer Council—
    - (i) shall, subject to subsection (4) below, not act on behalf of the transferor, the transferee or any other interested person, but
    - (ii) shall seek to ensure that all such persons’ interests are protected; and
  - (b) it shall be the duty of the Council, so far as it is reasonably practicable for them to do so, to secure that each transfer to which this section applies is, so far as possible, fully effective on the date on which it takes effect under this Act or under or by virtue of the 1998 Act.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

(4) Where the transferor under any such transfer is a local authority and in accordance with that Schedule anything falls to be or may be done by the Council for the purposes of or in connection with that transfer—

- (a) it may not be done by the transferee; and
- (b) in doing it the Council shall be regarded as acting on behalf and in the name of the transferee;

and in a case where the transferee is a body corporate established under this Act or the 1998 Act paragraph (b) above applies both in relation to things done before and in relation to things done after that body is established under this Act or the 1998 Act.”

(3) For “the Board”, wherever occurring in subsections (5) and (6) of section 198, there is substituted (in accordance with section 136(2) of this Act) “the Council”.

*Division and apportionment of property etc.*

3 For paragraph 1 of Schedule 10 to the 1988 Act (supplementary provisions with respect to transfers) substitute—

*“ Division and apportionment of property etc.*

1 (1) Any property, rights and liabilities of a transferor authority held or used or subsisting—

- (a) for the purposes of more than one relevant institution; or
- (b) partly for the purposes of one or more relevant institutions and partly for other purposes of the transferor authority;

shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferees, or (as the case may be) between the transferor authority and the transferee or transferees, in such proportions as may be appropriate.

(2) Any property, rights or liabilities of a transferor body shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferees, or (as the case may be) between the transferor body and the transferee or transferees, in such proportions as may be appropriate.

(3) Where any estate or interest in land falls to be divided in accordance with either sub-paragraph (1) or sub-paragraph (2) above—

- (a) any rent payable under a lease in respect of that estate or interest; and
- (b) any rent charged on that estate or interest;

shall be correspondingly divided or apportioned so that each part is payable in respect of, or charged on, only one part of the estate or interest and the other part or parts are payable in respect of, or charged on, only the other part or parts of the estate or interest.

(4) Any such property, right or liability as is mentioned in sub-paragraph (1) or (2) above the nature of which does not permit its division or apportionment as so mentioned shall be transferred to the transferee (or to one or other of the transferees) or retained by the transferor authority or body according to—

*Status: Point in time view as at 31/03/2003.*

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- (a) in the case of an estate or interest in land, whether on the transfer date the transferor authority or body or the transferee (or one or other of the transferees) appears to be in greater need of the security afforded by that estate or interest or, where none of them appears to be in greater need of that security, which of them appears on that date to be likely to make use of the land to the greater extent; or
- (b) in the case of any other property or any right or liability, which of them appears on the transfer date to be likely to make use of the property or (as the case may be) to be affected by the right or liability to the greater extent;

subject (in either case) to such arrangements for the protection of the other person or persons concerned as may be agreed between the transferor authority or body and the relevant person or determined by the Secretary of State under paragraph 3 below.

(5) In this paragraph—

- (a) “relevant institution” means—
  - (i) any institution which a body corporate is established under this Act to conduct;
  - (ii) any institution to which section 130 of this Act applies; and
  - (iii) any maintained school;
- (b) “the relevant person” means—
  - (i) in a case where the transferor is a transferor authority, the Education Transfer Council;
  - (ii) in a case where the transferor is a transferor body, the transferee;
- (c) references to a transferor authority are references to a local authority who are the transferor for the purposes of any transfer to which this Schedule applies;
- (d) references to a transferor body are references to any foundation body who are the transferor for the purposes of any transfer to which this Schedule applies;

and for the purposes of this sub-paragraph references to a maintained school or a foundation body have the same meaning as in the School Standards and Framework Act 1998.”

*Identification of property, rights and liabilities*

4 For paragraph 2 of Schedule 10 to the 1988 Act substitute—

*“ Identification of property, rights and liabilities*

- 2 (1) It shall be the duty of the transferor and the relevant person, whether before or after the transfer date, so far as practicable to arrive at such written agreements, and to execute such other instruments, as are necessary or expedient to identify or define the property, rights and liabilities transferred to the transferee or retained by the transferor or for making any such arrangements as are mentioned in paragraph 1(4) above and as will—

*Status: Point in time view as at 31/03/2003.*

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- (a) afford to the transferor and the transferee as against one another such rights and safeguards as they may require for the proper discharge of their respective functions; and
  - (b) make as from such date, not being earlier than the transfer date, as may be specified in the agreement or instrument such clarifications and modifications of the effect of the provision of this Act or of the 1998 Act (or any regulations made under it) under which the transfer is required on the property, rights and liabilities of the transferor as will best serve the proper discharge of the respective functions of the transferor and the transferee.
- (2) Any such agreement shall provide so far as it is expedient—
- (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not;
  - (b) for the granting of indemnities in connection with the severance of leases and other matters;
  - (c) for responsibility for registration of any matter in any description of statutory register.
- (3) Except in a case where the transferor is a local authority, the Education Transfer Council shall—
- (a) assist the transferor, the transferee and any other interested person in identifying or defining the property, rights and liabilities transferred to the transferee or retained by the transferor;
  - (b) advise such persons as to the terms of any agreement or instrument falling to be made under sub-paragraph (1) above;
  - (c) assist such persons to negotiate any such agreement or instrument and mediate in any such negotiations;
  - (d) prepare drafts of any such agreement or instrument; and
  - (e) assist the parties in executing and giving effect to any such agreement or instrument.
- (4) If and to the extent that they are requested to do so by any person falling to make a transfer agreement under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act, the Education Transfer Council shall exercise any one or more functions falling within sub-paragraph (3) above in relation to such an agreement, or an instrument made pursuant to such an agreement, as if it were an agreement or instrument falling to be made under sub-paragraph (1) above.
- (5) Any transfer of any estate or interest in land under this paragraph or under paragraph 1 above (whether by virtue of an agreement or instrument entered into before or after the transfer date) shall be regarded as having taken place on the transfer date.
- (6) In this paragraph—
- “the 1998 Act” means the School Standards and Framework Act 1998; and

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

“the relevant person” means—

- (a) in a case where the transferor is a local authority, the Education Transfer Council;
- (b) in a case where the transferor is not a local authority, the transferee.”

*Resolution of disputes*

5 For paragraph 3 of Schedule 10 to the 1988 Act substitute—

*“ Resolution of disputes*

- 3 (1) The Education Transfer Council shall notify the Secretary of State if it appears to them that it is unlikely in the case of any matter on which agreement is required to be reached under paragraph 2(1) above that such an agreement will be reached.
- (2) Where the Secretary of State has received a notification from the Council under sub-paragraph (1) above, he may, whether before or after the transfer date, give a direction determining that matter, and may include in the direction any provision which might have been included in an agreement under paragraph 2(1) above.
- (3) Any property, rights or liabilities required by a direction under this paragraph to be transferred to the transferee shall be regarded as having been transferred to, and by virtue of this Act vested in, the transferee on the transfer date.
- (4) The Secretary of State shall consult the transferor, the transferee and any other interested person before giving a direction under this paragraph.
- (5) The Education Transfer Council shall give the Secretary of State such assistance and advice as he may require for the purpose of determining any matter under this paragraph.”

*Proof of title by certificate*

6 In paragraph 5 of Schedule 10 to the 1988 Act, for “or of the Education Act 1996” substitute “ or of the School Standards and Framework Act 1998 ”.

*Construction of agreements etc.*

7 In paragraph 7 of Schedule 10 to the 1988 Act, for “or of the Education Act 1996”, in both places, substitute “ or of the School Standards and Framework Act 1998 ”.

*Third parties affected by vesting provisions*

8 In paragraph 9 of Schedule 10 to the 1988 Act—

- (a) in sub-paragraph (6)(a), after “Board” insert “ or (as the case may be) the transferee ”;
- (b) in sub-paragraph (6)(b), for “or of the Education Act 1996” substitute “ or of the School Standards and Framework Act 1998 (or any regulations made under it) ”; and



*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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) in sub-paragraph (9), after “Board” insert “ or (as the case may be) the transferee ”.

*Delivery of documents to transferee*

- 9 In paragraph 10 of Schedule 10 to the 1988 Act, after “transfer” insert “ under which the transferor is a local authority ”.

*Amendment of references to Education Assets Board*

- 10 For “the Education Assets Board” or “the Board”, wherever occurring in Schedule 10 to the 1988 Act, there is substituted (in accordance with section 136(2) of this Act) “ the Education Transfer Council ” or “ the Council ” respectively.

SCHEDULE 30

Section 140(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

*Children and Young Persons Act 1933 (c.12)*

- 1 In section 1(7) of the <sup>M78</sup>Children and Young Persons Act 1933 (saving for right of parents etc. to administer corporal punishment), for “teacher, or other person” substitute “ or (subject to section 548 of the Education Act 1996) any other person, ”.

**Marginal Citations**

M78 1996 c. 56.

*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” shall include any Education Action Forum established in an education action zone.
- (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).
- (3) An order under section 1(5) may accordingly vary or revoke the provisions of sub-paragraph (1) above as they apply to an Education Action Forum specified in the order.

*Local Government Act 1972 (c.70)*

- 3 (1) Section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176) shall be amended as follows.
- (2) In subsection (1), omit the words from the beginning to “committees),”.
- (3) <sup>F169</sup>After subsection (1) insert—

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

“(1A) Subsection (1) above has effect without prejudice to the operation of the following provisions of the School Standards and Framework Act 1998, namely—

- (a) paragraph 3 of Schedule 4 (allowances for school organisation committees);
- (b) paragraph 3 of Schedule 18 (allowances for exclusion appeals panels); and
- (c) paragraph 5 of Schedule 24 (allowances for admission appeals panels).”]

#### Textual Amendments

**F169** Sch. 30 para. 3(3) repealed (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\), ss. 215\(2\), 216](#) {Sch. 22 Pt. 3} (with ss. 210(8), 214(4)); [S.I. 2002/2952, art. 2](#) (with Sch.)

#### *Local Government Act 1974 (c.7)*

- 4 (1) The Local Government Act 1974 shall be amended as follows.
- (2) For section 25(5) (authorities subject to investigation by Local Commissioner) substitute—

“(5) Any reference to an authority to which this Part of this Act applies also includes a reference to—

- (a) a school organisation committee constituted in accordance with section 24 of the School Standards and Framework Act 1998,
- (b) an exclusion appeals panel constituted in accordance with Schedule 18 to that Act,
- (c) an admission appeals panel constituted in accordance with Schedule 24 or paragraph 3 of Schedule 25 to that Act, and
- (d) the governing body of any community, foundation or voluntary school so far as acting in connection with the admission of pupils to the school or otherwise performing any of their functions under Chapter I of Part III of that Act.”

#### Commencement Information

**I17** Sch. 30 para. 4 wholly in force at 1.9.1999; Sch. 30 para. 4 not in force at Royal Assent see s. 145(3); Sch. 30 para. 4 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\), Sch. 1](#) (with arts. 3-6, Sch. 4); Sch. 30 para. 4 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with arts. 3-5, Schs. 5-7).

#### *Sex Discrimination Act 1975 (c.65)*

- 5 In section 22 of the Sex Discrimination Act 1975 (discrimination by bodies in charge of educational establishments), in the Table, in paragraph 1, for “governors” substitute “governing body”.
- 6 In section 27 of that Act (exception for single-sex establishments turning co-educational), after subsection (1) insert—

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

“(1A) Without prejudice to subsection (1), a transitional exemption order may be made in accordance with paragraph 21 or 22 of Schedule 6 or paragraph 16 or 17 of Schedule 7 to the <sup>M79</sup>School Standards and Framework Act 1998 (transitional exemption orders for purposes of the Sex Discrimination Act 1975: England and Wales).”

**Marginal Citations**

M79 1975 c. 65.

*Race Relations Act 1976 (c.74)*

- 7 In section 17 of the Race Relations Act 1976 (discrimination by bodies in charge of educational establishments), in the Table, in paragraph 1, for “governors” substitute “governing body”.

*National Health Service Act 1977 (c.49)*

- 8 In Schedule 1 to the National Health Service Act 1977 (additional provisions as to the medical inspection of pupils, etc.)—
- (a) in paragraph 3, for the words from “by which” to “grant-maintained schools” substitute “in respect of the schools (other than foundation, voluntary or foundation special schools) which they maintain or the governing bodies of foundation, voluntary or foundation special schools in respect of those schools”; and
  - (b) in paragraph 4, after “1996” insert “or (as the case may be) the School Standards and Framework Act 1998”.

*Representation of the People Act 1983 (c.2)*

- 9 The Representation of the People Act 1983 shall be amended as follows.
- 10 In section 95(2)(a) (schools and rooms for parliamentary election meetings), for “county schools voluntary schools and grant-maintained schools” substitute “community, foundation and voluntary schools”.
- 11 In section 96(2)(a) (schools and rooms for local election meetings), for “county voluntary or grant-maintained school” substitute “community, foundation or voluntary school”.
- 12 In Schedule 5 (use for parliamentary election meetings of rooms in school premises and meeting rooms), in paragraph 1(1), for “a grant-maintained school” substitute “a foundation or voluntary aided school”.

*Local Government Act 1986 (c.10)*

- 13 In section 2A(4)(a) of the Local Government Act 1986 (prohibition on promoting homosexuality by teaching or publishing material), for the words from “a county” to the end substitute “a maintained school or maintained nursery school, within the meaning of the School Standards and Framework Act 1998;”.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

*Education (No. 2) Act 1986 (c.61)*

14

[<sup>F170</sup>In section 49(3) of the Education (No. 2) Act 1986 (appraisal of performance of teachers)—

(a) for paragraph (b) substitute—

“(b) at any special school which is not so maintained but is for the time being approved by the Secretary of State under section 342 of the <sup>M80</sup>Education Act 1996 (approval of special schools);”, and

(b) omit paragraph (ba).]

**Textual Amendments**

**F170** Sch. 30 para. 14 repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)

**Marginal Citations**

**M80** 1996 c. 56.

*Local Government Act 1988 (c.9)*

15

In Schedule 1 to the Local Government Act 1988 (defined activities open to competition), in paragraph 8(5), for the words from “county or” to “education authority;” substitute “ community, foundation or voluntary schools or community or foundation special schools; ”.

*Education Reform Act 1988 (c.40)*

16

The Education Reform Act 1988 shall be amended as follows.

17

In section 218 (school and further and higher education regulations), for subsection (12) substitute—

“(12) In this section (except in subsection (6)(d) or (6A) above) “school” means any school maintained by a local education authority or any special school not so maintained.”

18

In section 221(1)(b) (avoidance of certain contractual terms), for “an aided or grant-maintained school;” substitute “ a foundation, voluntary aided or foundation special school; ”.

19

In section 226(4) (services to schools in member States providing education to British children), for the words from “any county” to the end substitute “ any community, foundation or voluntary school. ”

20

In Schedule 8 (provisions relating to the body to be known as the Education Transfer Council)—

(a) omit paragraph 6(3); and

(b) in paragraph 8—

(i) in sub-paragraph (4), omit “given with the consent of the Treasury”; and

(ii) in sub-paragraph (7), for “Treasury” substitute “ Secretary of State ”.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

*Children Act 1989 (c.41)*

21 In Schedule 9 to the Children Act 1989 (child minding and day care for young children), in paragraph 3(3), for the definitions of “assisted” and “maintained” substitute—

““assisted” has the same meaning as in the <sup>M81</sup>Education Act 1996;

“maintained” has the same meaning as in the School Standards and Framework Act 1998; and”.

**Marginal Citations**

M81 1996 c. 56.

*Local Government and Housing Act 1989 (c.42)*

22 In section 13(5) of the Local Government and Housing Act 1989 (voting rights of certain members of committees)—

(a) after “is required” insert “ either ”; and

(b) at the end insert “ or pursuant to regulations under subsection (6) of that section. ”

*Environmental Protection Act 1990 (c.43)*

23 In section 98(2) of the Environmental Protection Act 1990 (definitions), for paragraphs (f) and (g) substitute—

“(f) any community, foundation or voluntary school;

(g) any community or foundation special school.”

*School Teachers’ Pay and Conditions Act 1991 (c.49)*

24 The School Teachers’ Pay and Conditions Act 1991 shall be amended as follows.

25 <sup>F171</sup> .....

**Textual Amendments**

F171 Sch. 30 para. 25 repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2 (with Sch.)

26 In section 2 (orders relating to statutory conditions of employment)—

(a) in subsection (1)(b), for the words from “governors of” to “grant-maintained schools” substitute “governing bodies of foundation, voluntary and foundation special schools”;

(b) omit subsection (2);

(c) in subsection (3), for “by Her Majesty’s Stationery Office” substitute “ in accordance with the order ”;

(d) in subsection (4)—

(i) in paragraph (a), omit “, in the case of a grant-maintained school,” and the words from “and provide” to the end,

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (ii) in paragraph (g), after “authorities” insert “ or governing bodies of schools ”, and
- (iii) omit paragraph (h);
- (e) in subsection (5), omit the words from “and, where” to “(2) above”; and
- (f) in subsection (6)(a), omit the words from “or, in” to “such schools,”.

**Commencement Information**

**I18** Sch. 30 para. 26 wholly in force at 1.9.1999; Sch. 30 para. 26 not in force at Royal Assent see s. 145(3); Sch. 30 para. 26(c) and (d) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 26 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 27 In section 3A (special provisions for teachers on transfer of employment)—
  - (a) for subsection (1) substitute—
    - “(1) This section applies where—
      - (a) a community, foundation or voluntary or community or foundation special school is established in place of an independent school in pursuance of proposals published under section 28 or 31 of the School Standards and Framework Act 1998, and
      - (b) a school teacher employed to teach at that independent school becomes employed by the local education authority or (as the case may be) the governing body in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981.”; and
    - (b) in subsection (3), for “an aided school” substitute “ a foundation, voluntary aided or foundation special school ”.
- 28 (1) Section 5 (interpretation, etc.) shall be amended as follows.
  - (2) In subsection (1)—
    - (a) in the definition of “school teacher”, for “voluntary or grant-maintained” substitute “ foundation, voluntary aided or foundation special ”;
    - <sup>F172</sup>(b) .....
    - (c) for the words from “other expressions” to the end substitute “ where any other expression used in this Act is defined for the purposes of the <sup>M82</sup>Education Act 1996 or the School Standards and Framework Act 1998, it shall have the same meaning in this Act as in that Act. ”
  - (3) For the sidenote substitute “ Interpretation, orders and application of provisions of Education Acts. ”

**Textual Amendments**

**F172** Sch. 30 para. 28(2)(b) repealed (1.4.1999) by S.I. 1999/638, reg. 10.

**Commencement Information**

**I19** Sch. 30 para. 28 wholly in force at 1.9.1999; Sch. 30 para. 28 not in force at Royal Assent see s. 145(3); Sch. 30 para. 28(1)(2)(a)(c) in force for certain purposes at 1.6.1999 by S.I. 1999/1016, art. 2(2), Sch.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

2 (with arts. 3-6, Sch. 4); Sch. 30 para. 28 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

#### Marginal Citations

M82 1996 c. 56.

#### *Diocesan Boards of Education Measure 1991 (1991 No.2)*

- 29 The Diocesan Boards of Education Measure 1991 shall be amended as follows.
- 30 In section 3 (transactions for which advice or consent of Board is required)—
- (a) in subsection (1), for the words from “before making” to the end substitute “before—
    - (a) publishing proposals for any prescribed alteration to the school under section 28(2)(b) of the School Standards and Framework Act 1998;
    - (b) publishing proposals for the discontinuance of the school under section 29(2) of that Act;
    - (c) serving notice of an intention to discontinue the school under section 30(1) of that Act;
    - (d) publishing proposals for changing the category of the school under paragraph 2 or 3 of Schedule 8 to that Act; or
    - (e) making any application to, or entering into any agreement with, any body or person for or in connection with any disposal (whether by sale or otherwise) of the premises of the school or any part of them.”;
  - (b) in subsection (2), for “an aided or special agreement school” substitute “a voluntary aided school”;
  - (c) omit subsections (4) and (5); and
  - (d) in subsection (6)—
    - (i) omit “or (5)”, and
    - (ii) for “the secretary of the governing body” substitute “the clerk to the governing body”.
- 31 In section 7 (powers of Board to give directions to governing bodies)—
- (a) for subsection (1) substitute—
    - “(1) Where the Board is satisfied that the governing body of a voluntary aided church school in the diocese in discharging, or failing to discharge, its functions so far as relating to—
      - (a) the making of any prescribed alteration to the school under Chapter II of Part II of the School Standards and Framework Act 1998, or
      - (b) the discontinuance of the school under that Chapter, or
      - (c) changing the school’s category in accordance with paragraph 2 or 3 of Schedule 8 to that Act,is acting in a manner which is not in the interests of that school or of church schools generally, the Board may, subject to subsection (1A) below, give directions to the governing body as to the discharge of those functions.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- (1A) The Board may not, under subsection (1) above, give directions as to the publication of proposals under paragraph 2 or 3 of Schedule 8 to that Act which would prevent the publication of proposals for the school to become a foundation school.”;
- (b) in subsection (2), for “the secretary of the governing body” substitute “ the clerk to the governing body ”;
- (c) in subsection (3), for the words from the beginning of paragraph (a) onwards substitute—
- “(a) publication of proposals for any prescribed alteration to the school under section 28(2)(b) of the School Standards and Framework Act 1998; or
- (b) publication of proposals under paragraph 2 or 3 of Schedule 8 to that Act,
- the Board may itself publish those proposals, and the provisions of that Act shall apply to anything done by the Board by virtue of this subsection as if it had been done by the governing body of the school. ”;
- (d) omit subsection (5); and
- (e) for the sidenote substitute “ Powers of Board to give directions to governing bodies of voluntary aided church schools. ”
- 32 (1) Section 10 (interpretation) shall be amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “Church of England voluntary school”, and
- (b) for the definition of “church school” substitute—
- ““church school” means a foundation or voluntary school which is a Church of England school as defined by section 142(1) of the School Standards and Framework Act 1998;”.
- (3) Omit subsection (2).
- (4) For subsection (3) substitute—
- “(3) Expressions used in this Measure which are also used in the School Standards and Framework Act 1998 shall, unless the context otherwise requires, have the same meaning as in that Act.”

*Further and Higher Education Act 1992 (c.13)*

- 33 The Further and Higher Education Act 1992 shall be amended as follows.
- 34 In section 5(4) (administration of funds by councils), for “grant-maintained school” substitute “ maintained school ”.
- 35 In section 21 (initial instruments and articles)—
- (a) in subsection (1), omit—
- (i) paragraph (a), and
- (ii) “(b) in any other case;”;
- (b) in subsection (2), omit—
- (i) “orders and”,
- (ii) in paragraph (a), “grant-maintained school or other”, and



*Status: Point in time view as at 31/03/2003.*

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- (iii) in paragraph (b), “grant-maintained schools or other”; and
- (c) in subsection (3), for the words from “a grant-maintained” to “earlier enactment)” substitute “ a maintained school, the governing body incorporated under Chapter III of Part II of the School Standards and Framework Act 1998 ”.

36 For section 25 substitute—

**“25 Transfer of property, etc. from foundation bodies.**

- (1) This section applies where a further education corporation is established to conduct an institution which, on the date the corporation is established, is a foundation or voluntary school belonging to the group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998.
- (2) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the transfer, in any such case, of property, rights and liabilities from the foundation body to the further education corporation.
- (3) Regulations under subsection (2) may, in relation to any such transfer of property, rights or liabilities—
  - (a) modify any provision made by or under any of sections 23, 24, 36 and 38 of this Act and Schedule 5 to this Act;
  - (b) apply any such provision with or without modifications;
  - (c) make provision corresponding or similar to any such provision.
- (4) In this section “foundation body” and “group of schools” have the same meaning as in the School Standards and Framework Act 1998.”

37 In section 26 (transfer of staff to further education corporation)—

- (a) in subsection (1), omit “or was a grant-maintained school”; and
- (b) in subsection (6)—
  - (i) for “that authority” substitute “ references to that authority, and ”, and
  - (ii) for paragraphs (b) and (c) substitute—
    - “(b) in relation to a corporation established to conduct an institution which, on that date, was a foundation or voluntary aided school, references to the governing body of that school.”

38 In section 28(2)(a) (designation of institutions as eligible for funds) after “school” insert “ (other than one belonging to a group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998) ”.

39 In section 32 (transfer of property, etc., to designated institutions), after subsection (2) insert—

- “(2A) In the case of an institution which when designated was a voluntary aided school, on the designation date—
  - (a) all land and other property which, immediately before that date, was property of the governing body of the school incorporated under

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Chapter III of Part II of the School Standards and Framework Act 1998, and

- (b) all rights and liabilities of that body subsisting immediately before that date,

shall be transferred to and, by virtue of this Act, vest in the governing body of the designated institution; and the governing body of the school shall be dissolved on that date.”

40 In section 37 (attribution of surpluses and deficits)—

- (a) in subsection (1), for “section 103 of the Education Act 1996 (schemes for financing schools)” substitute “ section 48 of the School Standards and Framework Act 1998 (LEAs’ financial schemes) ”; and
- (b) in subsection (7), in the definition of “budget share”, for “Part II of the Education Act 1996” substitute “ Part II of the School Standards and Framework Act 1998 ”.

F173 41 .....

**Textual Amendments**  
 F173 Sch. 30 para. 41 repealed (28.7.2000 for specified purposes, 1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, s. 153, Sch. 11; S.I. 2000/2559, art. 2(1), Sch. Pt. I; S.I. 2001/1274, art. 2, Sch. Pt. I

F174 42 .....

**Textual Amendments**  
 F174 Sch. 30 para. 42 repealed (28.7.2000 for specified purposes and 1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, s. 153, Sch. 11; S.I. 2000/2559, art. 2(1), Sch. Pt. I; S.I. 2001/1274, art. 2, Sch. Pt. I

43 In section 47(2) (transfer of higher education institutions to further education sector) for the words from “any provision” to the end substitute “ provision as to the initial name of the corporation as a further education corporation. ”

44 F175 .....

**Textual Amendments**  
 F175 Sch. 30 para. 44 repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 1 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2 (with Sch.)

45 In section 58(3) (reorganisations of schools involving establishment of further education corporation), for paragraph (b) substitute—

- “(b) a prescribed alteration within the meaning of section 28 of the School Standards and Framework Act 1998 has been made to the school,”.

46 In section 90 (interpretation)—

- (a) after subsection (3) insert—

“(3A) In this Act references to a voluntary aided school are—

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- (a) in relation to any time before the appointed day within the meaning of the <sup>M83</sup>School Standards and Framework Act 1998, references to a voluntary aided school within the meaning of the Education Act 1996; or
  - (b) in relation to any time on or after that day, references to a voluntary aided school within the meaning of the 1998 Act.”; and
- (b) in subsection (5), at end insert “ and section 140(2) of the School Standards and Framework Act 1998 has effect for defining the expressions there mentioned. ”

#### Marginal Citations

M83 1996 c. 56.

#### *Tribunals and Inquiries Act 1992 (c.53)*

47 In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under general supervision of Council on Tribunals)—

[<sup>F176</sup>(a) for paragraphs (b) and (c) substitute—

- “(b) exclusion appeal panels constituted in accordance with Schedule 18 to the School Standards and Framework Act 1998 (c. 31);
  - (c) admission appeal panels constituted in accordance with Schedule 24 or paragraph 3 of Schedule 25 to that Act;”;
- and]

(b) in paragraph (d), for “(c. 38)” substitute “ (c. 57) ”.

#### Textual Amendments

F176 Sch. 30 para. 47(a) repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

#### Commencement Information

I20 Sch. 30 para. 47 wholly in force at 1.9.1999; Sch. 30 para. 47 not in force at Royal Assent see s. 145(3); Sch. 30 para. 47 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 47 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

#### *Charities Act 1993 (c.10)*

48 In section 3 of the <sup>M84</sup>Charities Act 1993 (the register of charities), after subsection (5A) (inserted by Schedule 3 to the Teaching and Higher Education Act 1998) insert—

“(5B) In addition, in subsection (5) above—

(a) paragraph (a) shall be read as referring also to—

- (i) any body to which section 23(1)(a) or (b) of the School Standards and Framework Act 1998 applies, and

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- (ii) any Education Action Forum established by virtue of section 10(1) of that Act; and
- (b) paragraph (b) shall be read as referring also to any foundation to which section 23(3) of that Act applies;
- but an order of the Commissioners, or regulations made by the Secretary of State, may provide that section 23(3) of that Act shall cease to apply to any such foundation as is mentioned in that provision or to any such foundation of a description specified in the order or regulations.”

#### Marginal Citations

**M84** 1998 c. 30.

- 49 In section 79(9) of that Act (parochial charities), for the words from “voluntary or” to the end substitute “ foundation or voluntary school within the meaning of the School Standards and Framework Act 1998. ”

#### *Welsh Language Act 1993 (c.38)*

- 50 In section 6(1) of the Welsh Language Act 1993 (meaning of “public body”), for paragraph (l) substitute—
- “(l) the governing body of a community, foundation or voluntary school or a community or foundation special school (within the meaning of the School Standards and Framework Act 1998);”.

#### *Value Added Tax Act 1994 (c.23)*

- 51 In Schedule 9 to the Value Added Tax Act 1994 (exemptions), in paragraph (a) of Note (1) to Group 6 (education)—
- (a) in sub-paragraph (iii), for the <sup>M85</sup>words from “a county” to “Education Act 1996” substitute “ a community, foundation or voluntary school within the meaning of the <sup>M86</sup>School Standards and Framework Act 1998, a special school within the meaning of section 337 of the Education Act 1996 ”; and
- (b) omit sub-paragraphs (v) and (vii).

#### Marginal Citations

**M85** 1996 c. 56.

**M86** 1996 c. 56.

#### *Education Act 1994 (c.30)*

- 52 The Education Act 1994 shall be amended as follows.

#### Commencement Information

**I21** Sch. 30 para. 54 wholly in force at 1.9.1999; Sch. 30 para. 54 not in force at Royal Assent see s. 145(3); Sch. 30 para. 54 in force for certain purposes at 1.4.1999 by S.I. 1999/2212, art. 2, Sch. 1 Pt. IV; Sch.

*Status: Point in time view as at 31/03/2003.*

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30 para. 54 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 53 In section 11A (general duty of Secretary of State with respect to training), omit “grant-maintained schools.”
- 54 In section 12 (power of schools to provide courses of initial teacher training)—
- (a) in subsection (1), for “any county, voluntary or maintained special school or of any grant-maintained school” substitute “any community, foundation or voluntary or community or foundation special school”;
  - (b) omit subsections (4) and (5); and
  - (c) in subsection (6), for the words from “purposes of” onwards substitute “purposes of Chapter IV of Part II of the School Standards and Framework Act 1998 (financing of maintained schools), as being undertaken for the purposes of the school.”

#### Commencement Information

- I22** Sch. 30 para. 54 wholly in force at 1.9.1999; Sch. 30 para. 54 not in force at Royal Assent see s. 154(3); Sch. 30 para. 54(c) in force at 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pt. IV; Sch. 30 para. 54 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

#### *Employment Rights Act 1996 (c.18)*

- 55 In section 134(1) of the Employment Rights Act 1996 (teachers in aided schools), for the words from “an aided school” to “1996” substitute “a foundation, voluntary aided or foundation special school is dismissed by the governing body of the school in pursuance of a requirement of the local education authority under section 55(5) of the School Standards and Framework Act 1998”.

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

- 56 In section 4(1) of the <sup>M87</sup>Nursery Education and Grant-Maintained Schools Act 1996 (children with special educational needs), for the words from “(except where” to the end substitute “(except where a duty is already imposed under section 313(2) of the <sup>M88</sup>Education Act 1996 or section 123(1) of the School Standards and Framework Act 1998) to have regard to the provisions of the code of practice issued under section 313 (practical guidance in respect of the discharge of functions under Part IV of the Education Act 1996).”

#### Marginal Citations

- M87** 1996 c. 56.  
**M88** 1996 c. 56.

#### *Education Act 1996 (c.56)*

- 57 The Education Act 1996 shall be amended as follows.
- 58 In section 1(2) (the stages of education), omit paragraph (b) and the “and” preceding it.

*Status: Point in time view as at 31/03/2003.*

*Changes to legislation: School Standards and Framework Act 1998 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)*

- 59 In section 5 (primary, secondary and middle schools)—
- (a) in subsection (3) for “section 49, 198(6) or 291” substitute “ section 28(4) of the School Standards and Framework Act 1998 ”, and
  - (b) in subsection (5) for “sections 49, 198(6) and 291” substitute “ section 28(4) of the School Standards and Framework Act 1998 ”.
- 60 In section 6(2) (nursery schools and special schools), for the words from “and” onwards substitute “ and (in the case of a school which is not maintained by a local education authority) is for the time being approved, as mentioned in section 337. ”
- 61 In section 9 (pupils to be educated in accordance with parents’ wishes), for the words from “State,” to “funding authorities” substitute “ State and local education authorities ”.
- 62 In section 14 (functions of local education authorities in respect of provision of primary and secondary schools), omit subsection (5).
- 63 After section 15 insert—

**“15A Functions in respect of full-time education for 16 to 18 year olds.**

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

VALID FROM 12/01/2010

- 64 (1) Section 16 (power to establish, maintain and assist primary and secondary schools) is amended as follows.
- (2) In subsection (1)—
    - (a) at the end of paragraph (a) insert “ and ”, and
    - (b) omit paragraph (c) and the “and” preceding it.
  - (3) In subsection (2), for “, maintain and assist” substitute “ and maintain ”.
  - (4) For the sidenote substitute “ Power to establish and maintain primary and secondary schools. ”

PROSPECTIVE

- 65 In section 17(2) (powers in respect of nursery education), for “establish, maintain and assist” substitute “ establish and maintain ”.
- 66 Omit sections 20 to 28 (the funding authorities).

**Commencement Information**

**123** [Sch. 30 para. 66](#) wholly in force at 1.11.1999; [Sch. 30 para. 66](#) not in force at Royal Assent see [s. 145\(3\)](#); [Sch. 30 para. 66](#) in force for specified purposes at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts.](#)

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3-6, Sch. 4); Sch. 30 para. 66 in force at 1.11.1999 in so far as not already in force by S.I. 1999/2323, art. 2(2), Sch. 2 (with arts. 3-5, Schs. 5-7).

- 67 In section 29 (provision of information by local education authorities)—  
(a) omit subsection (2), and  
(b) in subsection (3), omit the words “and the funding authority”.
- 68 Omit section 30 (provision of information by funding authorities).
- 69 Part II (schools maintained by local education authorities) shall be omitted.

#### Commencement Information

- I24** Sch. 30 para. 69 wholly in force at 1.9.1999; Sch. 30 para. 69 not in force at Royal Assent see s. 145(3); Sch. 30 para. 69 in force for specified purposes at 1.10.1998 and 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I and IV; Sch. 30 para. 69 in force for specified purposes at 10.3.1999 by S.I. 1999/120, art. 2(2), Sch. 2; Sch. 30 para. 69 in force for specified purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para 69 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 70 Part III (grant-maintained schools) shall be omitted.

#### Commencement Information

- I25** Sch. 30 para. 70 partly in force; Sch. 30 para. 70 not in force at Royal Assent see s. 145(3); Sch. 30 para. 70 in force at 1.10.1998 for certain purposes by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 70 in force at 1.4.1999 for certain purposes by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 70 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 71 In section 312 (definitions for purposes of Part IV)—  
(a) in subsection (4)(a) omit “or grant-maintained schools in their area”; and  
(b) in subsection (5) for the definition of “maintained school” substitute—  
““maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital.”
- 72 In section 313(1) (code of practice on special educational needs), for “maintained or grant-maintained schools, or grant-maintained special schools,” substitute “maintained schools”.
- 73 In section 315(2) (review of arrangements for special educational provision), for the words from “the funding” onwards substitute “the governing bodies of community, foundation and voluntary and community and foundation special schools in their area.”
- 74 (1) Section 317 (duties of governing body or local education authority in relation to pupils with special educational needs) shall be amended as follows.  
(2) In subsection (1), for “a county, voluntary or grant-maintained school,” substitute “a community, foundation or voluntary school,”.  
(3) In subsection (2), for “a county, voluntary or grant-maintained school,” substitute “a community, foundation or voluntary school,”.

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- (4) In subsection (3)—
- (a) in paragraph (a)—
    - (i) for “county, voluntary and grant-maintained schools” substitute “community, foundation and voluntary schools”, and
    - (ii) omit “, the funding authority”; and
  - (b) in paragraph (b), for the words from “the funding” onwards substitute “the governing bodies of community, foundation and voluntary schools.”
- (5) In subsection (4), for “a county, voluntary or grant-maintained school” substitute “a community, foundation or voluntary school”.
- (6) In subsection (5), for “each county, voluntary, maintained special or grant-maintained school” substitute “each community, foundation or voluntary or community or foundation special school”.
- (7) In subsection (6), for “each county, voluntary or grant-maintained school” substitute “each community, foundation or voluntary school”.
- (8) In subsection (7), for the words from “the articles” onwards substitute “section 42 of the School Standards and Framework Act 1998.”
- 75 (1) Section 318 (provision of goods and services in connection with special educational needs) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “county, voluntary or grant-maintained schools” substitute “community, foundation or voluntary schools”, and
  - (b) in paragraph (b), for “maintained or grant-maintained special schools” substitute “community or foundation special schools”.
- (3) In subsection (2), for the words from “this section” to “in any other area” substitute “this section to the governing bodies of community, foundation or voluntary schools or community or foundation special schools in any other area”.
- (4) For subsection (3) substitute—
- “(3) A local education authority may supply goods and services to any authority or other person (other than a governing body within subsection (1)) for the purpose only of assisting them in making for any child to whom subsection (3A) applies any special educational provision which any learning difficulty of the child calls for.
- (3A) This subsection applies to any child—
- (a) who is receiving relevant nursery education within the meaning of section 123 of the School Standards and Framework Act 1998, or
  - (b) in respect of whose education grants are (or are to be) made under section 1 of the <sup>M89</sup>Nursery Education and Grant-Maintained Schools Act 1996.”

#### **Commencement Information**

**I26** Sch. 30 para. 75 wholly in force at 1.9.1999; Sch. 30 para. 75 not in force at Royal Assent see s. 145(3); Sch. 30 para. 75(4) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 75 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).



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### Marginal Citations

**M89** 1996 c. 50.

- 76 In section 321(3) (general duty of local education authority towards children for whom they are responsible)—
- (a) in paragraph (a), for the words from “maintained” onwards substitute “maintained school”; and
  - (b) for paragraph (b) substitute—
    - “(b) education is provided for him at a school which is not a maintained school but is so provided at the expense of the authority.”.
- 77 In section 324 (statement of special educational needs)—
- (a) in subsection (5)(b), for “maintained, grant-maintained or grant-maintained special school” substitute “maintained school”; and
  - (b) after subsection (5) insert—
    - “(5A) Subsection (5)(b) has effect regardless of any duty imposed on the governing body of a school by section 1(6) of the School Standards and Framework Act 1998.”

### Commencement Information

**I27** Sch. 30 para. 77 wholly in force at 1.9.1999; Sch. 30 para. 77 not in force at Royal Assent see s. 145(3); Sch. 30 para. 77(b) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 77(a) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 78 In section 327 (access for local education authority to certain schools), for subsection (b) substitute—
  - “(b) in pursuance of the statement education is provided for the child at a school maintained by another local education authority.”
- 79 Omit section 330 (assessment of education needs at request of governing body of grant-maintained school).
- 80 For section 337 substitute—
- “337 Special schools.**
- (1) A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs.
  - (2) There are the following categories of special school—
    - (a) special schools maintained by local education authorities, comprising—
      - (i) community special schools, and
      - (ii) foundation special schools; and
    - (b) special schools which are not so maintained but are for the time being approved by the Secretary of State under section 342.”
- 81 Omit sections 338 to 341 (establishment of maintained and grant-maintained special schools).

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### Commencement Information

**I28** Sch. 30 para. 81 wholly in force at 1.9.1999; Sch. 30 para. 81 not in force at Royal Assent see s. 145(3); Sch. 30 para. 81 in force for specified purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 81 in force at 1.9.1999 in so far as it is not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Sch. 5-7).

82 For section 342 substitute—

*“ Approval of non-maintained special schools*

### **342 Approval of non-maintained special schools.**

- (1) The Secretary of State may approve under this section any school which—
  - (a) is specially organised to make special educational provision for pupils with special educational needs, and
  - (b) is not a community or foundation special school,
 and may give his approval before or after the school is established.
- (2) Regulations may make provision as to the requirements which are to be complied with as a condition of approval under subsection (1) above.
- (3) Any school which was a special school immediately before 1st April 1994 shall be treated, subject to subsection (4) below, as approved under this section.
- (4) Regulations may make provision as to—
  - (a) the requirements which are to be complied with by a school while approved under this section, and
  - (b) the withdrawal of approval from a school (including approval treated as given under subsection (3)) at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (5) Without prejudice to the generality of subsections (2) and (4), the requirements which may be imposed by the regulations include requirements—
  - (a) which call for arrangements to be approved by the Secretary of State, or
  - (b) as to the organisation of any special school as a primary school or as a secondary school.
- (6) Regulations shall make provision for securing that, so far as practicable, every pupil attending a special school approved under this section—
  - (a) receives religious education and attends religious worship, or
  - (b) is withdrawn from receiving such education or from attendance at such worship in accordance with the wishes of his parent.”

83 Omit sections 343 to 346 (government etc. of special schools).

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### Commencement Information

**I29** Sch. 30 para. 83 wholly in force at 1.9.1999; Sch. 30 para. 83 not in force at Royal Assent see s. 145(3); Sch. 30 para. 83 in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 83 partly in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 83 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

84 In section 348 (provision of special education at non-maintained schools), for subsection (3) substitute—

“(3) In this section “maintained school” means a school maintained by a local education authority.”

85 <sup>[F177]</sup>In section 350 (definitions for purposes of Part V), for subsection (1) substitute—

“(1) In this Part “maintained school” means—  
(a) any community, foundation or voluntary school; or  
(b) except where otherwise stated, any community or foundation special school not established in a hospital.”]

### Textual Amendments

**F177** Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

86 <sup>[F178]</sup>In section 352(1)(a) (basic curriculum for maintained schools), for “sections 376 to 381” substitute “Schedule 19 to the School Standards and Framework Act 1998 ”.]

### Textual Amendments

**F178** Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

87 <sup>[F179]</sup>In section 356 (establishment of the National Curriculum by order)—  
(a) in each of subsections (4) and (8), for “by Her Majesty’s Stationery Office” substitute “as specified in the order ”; and  
(b) in subsection (5)(a)(ii), omit the words “(except in the case of grant-maintained schools)”.]

### Textual Amendments

**F179** Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

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### Commencement Information

- I30** Sch. 30 para. 87 wholly in force at 1.4.1999; Sch. 30 para. 87 not in force at Royal Assent see s. 145(3); Sch. 30 para. 87(a) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. 1; Sch. 30 para. 87(b) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4).

88

[<sup>F180</sup>In section 357 (implementation of National Curriculum in schools), omit subsection (2).]

### Textual Amendments

- F180** Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

89

[<sup>F181</sup>In section 362 (National Curriculum: development work and experiments)—

- (a) in subsection (3), for “a county, controlled or maintained special school” substitute “ a community, voluntary controlled or community special school ”, and
- (b) in subsection (4), for “a grant-maintained, aided or special agreement school” substitute “ a foundation, voluntary aided or foundation special school ”.]

### Textual Amendments

- F181** Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

90

[<sup>F182</sup>In section 366 (information concerning directions under section 365)—

- (a) in subsection (1)(b), omit the words from “where” to “special school,”;
- (b) in subsection (4), for “a county, voluntary or maintained special school” substitute “ a maintained school ”;
- (c) omit subsection (5); and
- (d) in subsection (6), for “subsection (1), (4) or (5)” substitute “ subsection (1) or (4) ”.]

### Textual Amendments

- F182** Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

91

Omit sections 370 to 374 (functions of local education authority etc. in relation to curriculum).

### Commencement Information

- I31** Sch. 30 para. 91 wholly in force at 1.9.1999; Sch. 30 para. 91 not in force at Royal Assent see s. 145(3); Sch. 30 para. 91 in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. 1; Sch.

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30 para. 91 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 92 Omit sections 376 to 389 (religious education and worship).
- 93 In section 390 (constitution of advisory councils), for subsection (2) substitute—
- “(2) The council shall consist of such groups of persons appointed by the authority as representative members (“representative groups”) as are required by subsection (4).”
- 94 (1) Section 391 (functions of advisory councils) shall be amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) to advise the local education authority on such matters connected with—
- (i) religious worship in community schools or in foundation schools which (within the meaning of Part II of the School Standards and Framework Act 1998) do not have a religious character, and
- (ii) the religious education to be given in accordance with an agreed or other syllabus in accordance with Schedule 19 to that Act,
- as the authority may refer to the council or as the council may see fit, and”.
- (3) Omit subsections (8) and (9).
- 95 In section 392 (advisory councils: supplementary provisions), omit subsection (4).
- 96 Omit section 393 (duty to constitute new standing advisory council).
- 97 (1) Section 394 (determination of cases in which requirement for Christian worship is not to apply) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “county school” substitute “community school”;
- (b) for paragraph (b) substitute—
- “(b) any foundation school which has not been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character,”; and
- (c) for “section 386(2)” substitute “paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 (requirement for Christian collective worship)”.
- (3) In subsection (4), for “section 387” substitute “paragraph 4 of Schedule 20 to the School Standards and Framework Act 1998 (disapplication of requirement for Christian collective worship)”.
- (4) In subsection (8), for “a school which becomes a grant-maintained school” substitute “a community school which becomes a foundation school (by virtue of section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998)”.

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- 98 In section 395(1) (review of determinations under section 394), for “section 386(2)” substitute “ paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 ”.
- 99 In section 396(1) (power of Secretary of State to direct council to revoke determination or discharge duty), for “section 386(2)” substitute “ paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 ”.
- 100 In section 399 (determination of question whether religious education in accordance with trust deed), for “a voluntary or grant-maintained school” substitute “ a foundation or voluntary school ”.
- 101 In section 402(6) (obligation to enter pupils for public examinations), for “a maintained special school” substitute “ a community or foundation special school ”.
- 102 In section 403(2) (sex education: manner of provision), for “a maintained special school” substitute “ a community or foundation special school ”.
- 103 In section 404 (sex education: statements of policy)—
- (a) in subsection (2), for “a maintained special school” substitute “ a community or foundation special school ”; and
  - (b) omit subsection (3).

#### Commencement Information

- I32** Sch. 30 para. 103 wholly in force at 1.9.1999; Sch. 30 para. 103 not in force at Royal Assent see s. 145(3); Sch. 30 para. 103(b) in force at 1.10.1998 by S.I.1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 103(a) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 104 In section 406(3) (political indoctrination), for “a maintained special school” substitute “ a community or foundation special school ”.
- 105 In section 407(2) (duty to secure balanced treatment of political issues), for “a maintained special school” substitute “ a community or foundation special school ”.
- 106 In section 408 (provision of information)—
- (a) omit subsection (1)(b);
  - (b) in subsection (2)(d), for “pupils at such categories of school” substitute “ such classes or descriptions of pupils ”;
  - (c) omit subsection (3); and
  - (d) in subsection (4)—
    - (i) omit paragraphs (b) and (c); and
    - (ii) in paragraph (d), for “389” substitute “ 390 ”.

#### Commencement Information

- I33** Sch. 30 para. 106 wholly in force at 1.9.1999; Sch. 30 para. 106 not in force at Royal Assent see s. 145(3); Sch. 30 para. 106(b) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 106 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 107 In section 409 (complaints and enforcement: maintained schools)—
- (a) in subsection (1), for “of aided schools and of special agreement schools,” substitute “ of foundation and voluntary aided schools, ”;

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- (b) in subsection (2), for the words from “any county” to “special school” substitute “ any community, foundation or voluntary school maintained by the authority or any community or foundation special school ”;
  - (c) in subsection (3)(b), omit “other than grant-maintained schools”; and
  - (d) for the sidenote substitute “ Complaints and enforcement: maintained schools. ”
- 108 For the cross-heading “SCHOOL ADMISSIONS” preceding section 411 substitute — “ ADMISSION, REGISTRATION AND WITHDRAWAL OF PUPILS ”.
- 109 Omit sections 411 to 432 (admission of pupils: general).

#### Commencement Information

**I34** Sch. 30 para. 109 partly in force; Sch. 30 para. 109 not in force at Royal Assent see s. 145(3); Sch. 30 para. 109 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 109 in force for certain purposes at 1.9.1999 by S.I. 1999/1016, art. 2(3), Sch. 3 (with arts. 3-6, Sch. 4).

- 110 Omit section 433(4) (time for admission of pupils: admission for nursery education).
- 111 In section 434(4)(c) (registration of pupils: returns)—
- (a) at the end of sub-paragraph (i) insert “ and ”; and
  - (b) omit sub-paragraph (ii).
- 112 Omit section 436 (effect of admission for nursery education).
- 113 In section 437 (school attendance orders)—
- (a) in each of subsections (5) and (6), omit “or grant-maintained”; and
  - (b) in subsection (8), for the definition of “maintained school” substitute—  
““maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital; and”.
- 114 In section 438 (choice of school: child without statement of special educational needs)—
- (a) for subsection (4)(a) substitute—  
“(a) within the period mentioned in subsection (3) the parent applies for the child to be admitted to a school maintained by a local education authority and, where that authority are not the authority by whom the notice was served, notifies the latter authority of the application, and”;
  - (b) for subsection (5) substitute—  
“(5) If—
    - (a) within the period mentioned in subsection (3), the parent applies to the local education authority by whom the notice was served for education to be provided at a school which is not a school maintained by a local education authority, and
    - (b) the child is offered a place at the school and the authority are required by virtue of regulations under section 18(3) to

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- pay the fees payable in respect of the education provided for him at the school,  
that school shall be named in the order.”; and  
(c) in subsection (6)(a)(i), omit “and is not a grant-maintained school”.

#### Commencement Information

**I35** Sch. 30 para. 114 partly in force; Sch. 30 para. 114 not in force at Royal Assent see s. 145(3); Sch. 30 para. 114 in force at 1.9.1999 for certain purposes by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 115 (1) Section 439 (specification of schools in notices under section 438(2)) shall be amended as follows.
- (2) In subsection (2), for the words from “fixed” to “as the number” substitute “ fixed in accordance with section 93 of the School Standards and Framework Act 1998 (fixing admission numbers) as the number ”.
- (3) In subsections (3), (5) and (6), omit “or grant-maintained” wherever occurring.
- (4) After subsection (4) insert—
- “(4A) A local education authority shall not specify a school in a notice under section 438(2) if the admission of the child concerned would result in prejudice of the kind referred to in section 86(3)(a) of the School Standards and Framework Act 1998 (parental preferences) by reason of measures required to be taken as mentioned in subsection (4) of that section.”
- 116 In section 440 (amendment of order at request of parent: child without statement of special educational needs)—
- (a) in subsection (2)(a), omit “or grant-maintained school”;
- (b) in subsection (3), for paragraphs (a) and (b) substitute—
- “(a) the parent applies to the authority for education to be provided for the child at a school which is not a school maintained by a local education authority and which is different from the school named in the order,
- (b) the child is offered a place at the school and the authority are required by virtue of regulations under section 18(3) to pay the fees payable in respect of the education provided for him at the school, and”;
- (c) in subsection (4)(a), omit “and is not a grant-maintained school”.

#### Commencement Information

**I36** Sch. 30 para. 116 partly in force; Sch. 30 para. 116 not in force at Royal Assent see s. 145(3); Sch. 30 para. 116 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 117 In section 444(4)(b) (offence: failure to secure regular attendance at school of registered pupil), omit the words “or the funding authority”.
- 118 Omit section 448 (exemption where child becomes five during term).
- 119 For section 449 and the cross-headings preceding it substitute—



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### “CHAPTER III

#### CHARGES IN CONNECTION WITH EDUCATION AT MAINTAINED SCHOOLS

##### *Preliminary*

#### **449 Meaning of “maintained school” in Chapter III.**

In this Chapter “maintained school” means any school maintained by a local education authority.”

- 120 In section 451 (prohibition of charges for provision of education)—
- (a) in subsection (1), omit “Subject to subsection (5)”;
  - (b) in subsection (3)(b), for the words from “or 384” onwards substitute “ (implementation of National Curriculum) or section 69 of the School Standards and Framework Act 1998 (duty to secure due provision of religious education). ”;
  - (c) in subsection (4)(b), for “384” substitute “ section 69 of the School Standards and Framework Act 1998 ”, and
  - (d) omit subsection (5).
- 121 In section 456(1) (regulation of permitted charges), omit the words from “, other than” to “section 231(8)”.
- 122 In section 457 (charges and remissions policies)—
- (a) in subsection (1), omit the words from “This subsection” onwards; and
  - (b) in subsection (3), omit “other than a grant-maintained school”.
- 123 In section 458 (charges for board and lodging at boarding schools)—
- (a) in subsection (1)—
    - (i) for the words from “pupil concerned” to “charges” substitute “ pupil concerned, to the local education authority, charges ”, and
    - (ii) omit “or governing body”;
  - (b) in subsection (2)—
    - (i) omit paragraph (a), and
    - (ii) in paragraph (b), for “for his area” substitute “ for that pupil’s area ”;
  - (c) omit subsection (3); and
  - (d) in subsection (4)(b), omit “or to the governing body of a grant-maintained school”.
- 124 In section 463 (meaning of “independent school”)—
- (a) at the end of paragraph (b) insert “ or ”; and
  - (b) omit paragraph (c) and the “or” preceding it.
- 125 In section 484 (grants for education support and training)—
- (a) in subsection (1), for “grants for education support and training,” substitute “ education standards grants, ”;
  - (b) in subsections (3) and (4), for “any grant for education support and training” substitute “ any education standards grant ”; and

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- (c) for the sidenote substitute “ Education standards grants. ”
- 126 In section 489 (conditions as to payment of grants under sections 484 to 488), in subsection (2)(a) for “grant for education support and training,” substitute “ education standards grant, ”.
- 127 In section 490(1) (grants in respect of special provision for ethnic minorities), omit paragraph (a).
- 128 For section 494 substitute—

**“494 Recoupment: excluded pupils.**

- (1) Subsection (2) applies where a pupil is permanently excluded from any school maintained by a local education authority (“the old authority”) and, in the financial year in which the exclusion first takes effect, he is subsequently provided with education by another local education authority (“the new authority”), whether at a school maintained by that authority or otherwise than at school.
  - (2) The old authority shall pay to the new authority, in connection with the provision of education for that pupil in that financial year, such amount, if any, as is payable in accordance with regulations.
  - (3) Where a pupil is permanently excluded from any school maintained by a local education authority and, in the financial year in which the exclusion first takes effect, the following events subsequently occur—
    - (a) he is first provided by another local education authority (“the intermediate authority”) with education in a pupil referral unit or otherwise than at school, and
    - (b) at any time afterwards he is provided with education by a local education authority other than the intermediate authority (“the last authority”), whether at a school maintained by that authority or otherwise than at school,

then, in connection with the provision of the education mentioned in paragraph (b), subsection (2) shall apply to the intermediate authority and the last authority as if they were an old authority and a new authority respectively.
  - (4) Any dispute as to whether any local education authority are entitled to be paid any amount under this section by any other such authority shall be determined by the Secretary of State.
  - (5) Regulations may prescribe the time when the permanent exclusion of a pupil is to be regarded as taking effect for the purposes of this section.”
- 129 In section 496 (power of Secretary of State to prevent unreasonable use of functions), in subsection (2)—
- (a) at the end of paragraph (a) insert “ and ”; and
  - (b) for paragraphs (b) and (c) substitute—
    - “(b) the governing body of any community, foundation or voluntary school or any community or foundation special school.”
- 130 In section 497 (general default powers of the Secretary of State), in subsection (2)—

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- (a) at the end of paragraph (a) insert “ and ”; and
  - (b) for paragraphs (b) and (c) substitute—
    - “(b) the governing body of any community, foundation or voluntary school or any community or foundation special school.”
- 131 In section 498 (powers of Secretary of State where no properly constituted governing body), for subsection (2) substitute—  
“(2) This section applies to any community, foundation or voluntary school or any community or foundation special school.”
- 132 Omit sections 500 to 505 (rationalisation of school places).

#### Commencement Information

**I37** Sch. 30 para. 132 wholly in force at 1.9.1999; Sch. 30 para. 132 not in force at Royal Assent see s. 145(3); Sch. 30 para. 132 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 132 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 133 In section 509 (provision of transport etc.)—
- (a) omit subsection (5)(a); and
  - [<sup>F183</sup>(b) for subsection (6) substitute—
    - “(6) Regulations may require a local education authority to publish, at such times and in such manner as may be prescribed, such information as may be prescribed with respect to the authority’s policy and arrangements relating to the making of—
      - (a) provision under this section for persons attending institutions mentioned in subsection (1)(c) or (d) who are over compulsory school age and have not attained the age of 19; or
      - (b) provision under section 509A (travel arrangements for children receiving nursery education otherwise than at school).”]

#### Textual Amendments

**F183** Sch. 30 para. 133(b) repealed (20.1.2003 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.)

#### Commencement Information

**I38** Sch. 30 para. 133 wholly in force at 1.9.1999; Sch. 30 para. 133 not in force at Royal Assent see s. 145(3); Sch. 30 para. 133(b) in force at 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pt. IV; Sch. 30 para. 133(a) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 134 In section 510 (provision of clothing)—
- (a) in subsection (1)(a) and (c), omit “or at a grant-maintained school” wherever occurring;
  - (b) in subsection (3)(a), omit “or a grant-maintained school”;

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- (c) in subsection (4)(a), omit “, at a grant-maintained school”; and
  - (d) in subsection (5)(a), omit “grant-maintained school or”.
- 135 In section 514 (provision of board and lodging otherwise than at school), in subsection (1)(a), for the words from “particular” onwards substitute “ particular community, foundation or voluntary or community or foundation special school, but ”.
- 136 In section 515(2) (provision of teaching services for day nurseries), for “voluntary school” substitute “ foundation or voluntary school ”.
- 137 Omit section 516 (supply by LEA of goods and services to grant-maintained schools).

PROSPECTIVE

- 138 Omit section 517 (payment of fees at schools not maintained by a [<sup>F184</sup>local authority]).

**Textual Amendments**

**F184** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))

- 139 (1) Section 519 (allowances for governors, etc.) shall be amended as follows.
- (2) In subsection (1), for the words from “travelling” to “section 115);” substitute “such allowances as may be prescribed to governors of—
- (a) any community, foundation or voluntary school or community or foundation special school which does not have a delegated budget (within the meaning of Part II of the School Standards and Framework Act 1998);”.
- (3) In subsection (3), for “travelling and subsistence allowances” substitute “ such allowances as may be prescribed ”.
- (4) After subsection (6) add—
- “(7) Regulations may impose a limit on the amount which may be paid by way of any allowance under this section.”

**Commencement Information**

**I39** Sch. 30 para. 139 wholly in force; Sch. 30 para. 139 not in force at Royal Assent see s. 145(3); Sch. 30 para. 139 in force at 20.11.1998 for certain purposes and at 1.4.1999 for all other purposes by S.I. 1998/2791, art. 2

- 140 Omit section 520(3) (medical inspection and treatment of pupils: grant-maintained schools excluded).
- 141 In section 521 (examination of pupils for cleanliness), in subsection (4), omit paragraph (b) and the “and” preceding it.

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- 142 In section 524 (removal of pupil at direction of medical officer)—
- (a) in subsection (1), for “excluded” substitute “suspended”;
  - (b) omit subsection (3)(b) and the “or” preceding it; and
  - (c) for the sidenote substitute “Suspension of a pupil pending examination or cleansing.”
- 143 In section 525 (offence of neglecting the cleanliness of a pupil), in subsection (3), omit “or a grant-maintained school”.
- 144 In section 527A (local education authority plans for children with behavioural difficulties), as inserted by section 9 of the <sup>M90</sup>Education Act 1997, for subsection (7) substitute—
- “(7) In this section “relevant school”, in relation to a local education authority, means a school maintained by the authority (whether situated in their area or not).”

**Marginal Citations**

**M90** 1997 c. 44.

- 145 In section 529 (power to accept gifts on trust for educational purposes)—
- (a) in subsection (2) for the words from “section 35(1)” onwards substitute “section 28 of the School Standards and Framework Act 1998 as an intention to establish a new community school (so that proposals for that purpose shall be published as required by that section); and Schedule 6 to that Act (statutory proposals: procedure and implementation) shall apply accordingly.”; and
  - (b) in subsection (3) for “a county school” substitute “a community school”.
- 146 In section 530 (compulsory purchase of land)—
- (a) in subsection (2) for “voluntary school” substitute “foundation, voluntary or foundation special school”; and
  - (b) in subsection (3) for the words from “under” onwards substitute “under paragraph 18 of Schedule 6 to the School Standards and Framework Act 1998 (power to give assistance to governing body of voluntary aided school in carrying out statutory proposals).”
- 147 In section 531(2) (acquisition of land by agreement) for “voluntary school” substitute “foundation, voluntary or foundation special school”.
- 148 In section 533 (duties of governing bodies of maintained schools with respect to provision of school meals etc.)—
- (a) in subsection (2), for “a voluntary” substitute “any such”; and
  - (b) in subsection (3), after “Part II” insert “of the School Standards and Framework Act 1998”.
- 149 Omit section 534 (duties of governing bodies of grant-maintained schools with respect to school meals).
- 150 In section 535(1) (provision of teaching services for day nurseries), for “a county or voluntary primary school” substitute “a community, foundation or voluntary primary school”.

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- 151 Omit section 536 (medical inspection and treatment of pupils at grant-maintained schools).
- 152 In section 537 (power of Secretary of State to require information from governing bodies etc.)—
- (a) for subsection (1) substitute—
- “(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 special school which is not maintained by such an authority, and
- (b) the proprietor of every independent school, to provide such information about the school as may be prescribed.”; and
- (b) in subsection (7)(a), omit “or which is a grant-maintained school”.
- 153 For section 537A substitute—

**“537A Provision of information about individual pupils.**

- (1) Regulations may make provision requiring—
- (a) the governing body of every school which is—
- (i) maintained by a local education authority, or
- (ii) a special school which is not maintained by such an authority, and
- (b) the proprietor of every independent school, to provide to the relevant person such individual pupil information as may be prescribed.
- (2) In subsection (1) “the relevant person” means one or more of the following—
- (a) the Secretary of State, and
- (b) any prescribed person.
- (3) Where any person within paragraph (b) of subsection (2) receives information by virtue of subsection (1), the Secretary of State may require that person to provide any such information—
- (a) to him, or
- (b) to any prescribed person.
- (4) The Secretary of State may provide any individual pupil information—
- (a) to any information collator,
- (b) to any prescribed person, or
- (c) to any person falling within a prescribed category.
- (5) Any information collator—
- (a) may provide any individual pupil information—
- (i) to the Secretary of State,
- (ii) to any other information collator, or

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- (iii) 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 such individual pupil information as may be prescribed—
    - (i) to any prescribed person, or
    - (ii) to any person falling within a prescribed category.
- (6) Any person holding any individual pupil information (other than the Secretary of State or an information collator) may provide that information to—
  - (a) the Secretary of State,
  - (b) any information collator, or
  - (c) any prescribed person.
- (7) No 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.
- (8) 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 imposed by or by virtue of any such provision and relating to the provision of information to the Secretary of State.
- (9) In this section—
  - “individual pupil information” means information relating to and identifying individual pupils or former pupils at any school within subsection (1), whether obtained under subsection (1) or otherwise;
  - “information collator” means 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 pupils.”
- 154 In section 538 (provision of information to Secretary of State by governing bodies of maintained schools), for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary school or a community or foundation special school ”.
- 155 Omit section 539 (provision of information by governing body of grant-maintained schools).
- 156 In section 540 (distribution of information about schools providing a secondary education), for subsection (2) substitute—
  - “(2) In this section “school” means—
    - (a) any community, foundation or voluntary school, or
    - (b) any community or foundation special school (which is not established in a hospital).”
- 157 In section 541 (distribution of information about further education institutions), for subsection (4) substitute—
  - “(4) In this section “school” means—
    - (a) any community, foundation or voluntary school, or

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- (b) any community or foundation special school (which is not established in a hospital).”
- 158 In section 542 (prescribed standards for school premises)—
- (a) in subsection (1), omit “and of grant-maintained schools”;
  - (b) omit subsection (3); and
  - (c) in subsection (4), for “subsections (2) and (3) have” substitute “subsection (2) has”.
- 159 In section 543 (relaxation of prescribed standards in special cases)—
- (a) in subsection (1), for “or (4)” substitute “, (4) or (4A)”; and
  - (b) after subsection (4) insert—
 

“(4A) This subsection applies, in relation to any playing fields used by the school for the purposes of the school, if the Secretary of State is satisfied that, having regard to other facilities for physical education available to the school, it would be unreasonable to require conformity with any prescribed requirement relating to playing fields.

In this subsection “playing fields” has the same meaning as in section 77 of the School Standards and Framework Act 1998 (control of disposals or changing use of school playing fields).”
- 160 In section 544 (approval etc. of school premises and boarding houses)—
- (a) in subsection (1), omit the words from “(or,” to “authority)”; and
  - (b) in subsection (3)—
    - (i) at the end of paragraph (a) insert “ and ”, and
    - (ii) omit paragraph (b).
- Commencement Information**

**140** Sch. 30 para. 160 wholly in force at 1.9.1999; Sch. 30 para. 160 not in force at Royal Assent see s. 145(3); Sch. 30 para. 160(a) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 160(b) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).
- 161 In section 545(2) (exemption from building byelaws of approved buildings), omit paragraph (b) and the “or” preceding it.
- 162 In section 546(2) (control of potentially harmful materials and apparatus in schools)
- (a) at the end of paragraph (a) insert “ and ”; and
  - (b) omit paragraph (b).
- 163 In section 547 (nuisance or disturbance on school premises)—
- (a) in subsection (2), omit paragraph (b) and the “or” preceding it;
  - (b) in each of subsections (4) and (7), for “an aided, special agreement or grant-maintained school” substitute “a foundation, voluntary aided or foundation special school”; and
  - (c) in each of subsections (5) and (8), for “a voluntary or grant-maintained school” substitute “a foundation, voluntary or foundation special school”.
- 164 Omit sections 549 and 550 (provisions about corporal punishment).



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- 165 In section 550B(2) (detention), as inserted by section 5 of the <sup>M91</sup>Education Act 1997, omit “(b) a grant-maintained or grant-maintained special school;”.

#### Marginal Citations

**M91** 1997 c. 44.

- 166 In section 551(2) (regulations as to duration of school day etc.)—  
(a) at the end of paragraph (a) insert “ and ”; and  
(b) omit paragraph (b).
- 167 Omit section 552 (transitional exemption orders for purposes of Sex Discrimination Act 1975).

#### Commencement Information

**I41** Sch. 30 para. 167 wholly in force at 1.9.1999; Sch. 30 para. 167 not in force at Royal Assent see s. 145(3); Sch. 30 para. 167 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 167 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 168 (1) Section 554 (power to make new provision as to use of endowments) shall be amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies where—
- (a) in relation to any time before the appointed day, the premises of a voluntary or grant-maintained school (within the meaning of this Act) have ceased to be used for such a voluntary or (as the case may be) grant-maintained school; or
- (b) in relation to any time on or after the appointed day—
- (i) the premises of a foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998) have ceased to be used for such a foundation or (as the case may be) voluntary school; or
- (ii) in the opinion of the Secretary of State it is likely such premises will cease to be so used;
- and in this subsection “the appointed day” has the meaning given by section 20(7) of the School Standards and Framework Act 1998.”
- (3) In subsection (3)—
- (a) for paragraph (a) substitute—
- “(a) that the school was or has been maintained as a voluntary or grant-maintained school (within the meaning of this Act) or as a foundation or voluntary school (within the meaning of the <sup>M92</sup>School Standards and Framework Act 1998) since 1st April 1945 (the date when Part II of the Education Act 1944 came into force); and”; and
- (b) in paragraph (b), for “(or any corresponding earlier enactment)”, substitute “of this Act (or any corresponding earlier enactment) or paragraph 3 or 4 of Schedule 19 to the School Standards and Framework Act 1998 ”.

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- (4) For subsection (4)(b) substitute—
- “(b) where religious education in accordance with such tenets is shown to have been given to any pupils at—
- (i) a controlled school (within the meaning of this Act),
- (ii) a grant-maintained school (within the meaning of this Act) which was a controlled school immediately before it became a grant-maintained school, or
- (iii) a foundation or voluntary controlled school with a religious character (within the meaning of Part II of the School Standards and Framework Act 1998),
- the religious education shall be taken to have been given to them at the request of their parents, unless the contrary is shown.”

#### **Marginal Citations**

**M92** 1944 c. 31.

- 169 In section 556(2) (content of orders under section 554)—
- (a) in paragraph (a), for “voluntary schools or grant-maintained schools” substitute “ foundation schools or voluntary schools ”; and
- (b) in paragraph (b), for “voluntary” onwards substitute “ school at the premises referred to in section 554(1). ”
- 170 In section 557(9) (adoption of statutory trusts), in the definition of “relevant school” for “a voluntary school or a grant-maintained school” substitute “ a foundation or voluntary school ”.
- 171 In section 559 (power of local education authorities to prohibit or restrict employment of children)—
- (a) in subsection (1), for “county” substitute “ community, foundation ”; and
- (b) in subsection (2), for “county” substitute “ community, foundation ”.
- 172 In section 563(3) (educational records)—
- (a) at the end of paragraph (a) insert “ and ”; and
- (b) omit paragraph (b).
- 173 In section 566(1)(b) (evidence: documents), for “a county or voluntary school” substitute “ a maintained school ”.
- 174 Omit section 567 (stamp duty).
- 175 In section 568 (orders)—
- (a) for subsection (2) substitute—
- “(2) For the purposes of subsection (1) “the excepted provisions” are—
- section 349;
- sections 468, 471(1) and 474;
- section 489(3);
- section 497; and
- section 545.”;
- (b) in subsection (3), omit “section 517(6),”; and
- (c) omit subsection (5)(b) and the “or” preceding it.

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- 176 In section 569 (regulations)—
- (a) in subsection (2), for “section 480 or 492 or paragraph 1(4) of Schedule 20,” substitute “ section 492, ”; and
  - (b) in subsection (3), for “section 480 or 492 or paragraph 1(4) of Schedule 20” substitute “ section 492 ”.
- 177 In section 570 (revocation and variation of certain orders and directions)—
- (a) in subsection (1)—
    - (i) at the end of paragraph (a) insert “ or ”, and
    - (ii) omit paragraph (b); and
  - (b) in subsection (2), omit “, the funding authority”.
- 178 In section 573 (meaning of expressions relating to alteration etc. of premises or character of schools)—
- (a) in subsection (2), omit the words from “and “alterations”” onwards; and
  - (b) omit subsections (4) to (6).
- 179 Omit section 575 (meaning of expressions relating to employment).
- 180 In section 576 (meaning of “parent”)—
- (a) in subsection (1), for “the provisions mentioned in subsection (2)” substitute “ section 499(8) ”; and
  - (b) omit subsection (2).
- 181 Omit section 577 (minor authorities).
- 182 In section 578 (meaning of “the Education Acts”), insert at the appropriate place—
- “ the School Standards and Framework Act 1998 ”.
- 183 In section 579 (general interpretation)—
- (a) in subsection (1)—
    - (i) at the appropriate place insert—

““assist”, in relation to any school, institution or university, shall be construed in accordance with subsections (5) to (7) below;”,
    - (ii) omit the definitions of “the appropriate further education funding council”, “exclude”, “governing body” (and “governors”), “the local education authority”, “reception class” and “relevant age group”,
    - (iii) in the definition of “proprietor”, for “a county, voluntary or grant-maintained school,” substitute “ a community, foundation or voluntary or community or foundation special school, ”, and
    - (iv) for the definition of “trust deed” substitute—

““trust deed” includes any instrument (other than an instrument of government) regulating the constitution of the school’s governing body or the maintenance, management or conduct of the school;”,
  - (b) omit subsection (3).
- 184 In Schedule 1 (pupil referral units)—
- (a) in paragraph 6—
    - (i) for sub-paragraphs (1) and (2) substitute—

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“(1) In relation to every pupil referral unit, the local education authority, the management committee (where applicable) and the teacher in charge shall exercise their functions with a view to securing that the curriculum for the unit satisfies the requirements of section 351(1) (balanced and broadly based curriculum).

(2) Regulations may make provision for the determination and organisation of the curriculum in relation to every pupil referral unit, including provision as to making, and keeping up to date, a written statement of the policy in relation to that curriculum for the unit; and such regulations may require—

- (a) the local education authority, the management committee (where applicable), or the teacher in charge to exercise, or
- (b) such of them as may be prescribed to collaborate with each other in exercising,

such functions in relation to the curriculum as may be prescribed.”, and

(ii) in sub-paragraph (3)(a), for “or under any enactment referred to in sub-paragraph (2)” substitute “ sub-paragraph (1) or (2) ”;

- (b) omit paragraphs 12 and 13; and
- (c) in paragraph 15(2)(c) omit the words “(including grant-maintained schools)”.

**Commencement Information**

**I42** Sch. 30 para. 184 wholly in force at 1.9.1999; Sch. 30 para. 184 not in force at Royal Assent see s. 145(3); Sch. 30 para. 184(a) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 184 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

185 Schedules 2 to 25A shall be omitted.

**Commencement Information**

**I43** Sch. 30 para. 185 partly in force; Sch. 30 para. 185 not in force at Royal Assent see s. 145(3); Sch. 30 para. 185 in force for certain purposes at 1.10.1998 and 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pts. I and IV; Sch. 30 para. 185 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 185 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7); Sch. 30 para. 185 in force for certain purposes at 1.11.1999 by S.I. 1999/2323, art. 2(2), Sch. 2 (with arts. 3-5, Schs. 5-7).

186 (1) Schedule 27 (making and maintenance of statements under section 324) shall be amended as follows.

(2) In paragraph 3—

(a) in sub-paragraph (1), for “the maintained, grant-maintained or grant-maintained special school” substitute “ the maintained school ”; and

<sup>F185</sup>(b) .....

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- (3) In paragraph 8(1)(a), for “a maintained, grant-maintained or grant-maintained special school” substitute “ a maintained school ”.

#### Textual Amendments

**F185** Sch. 30 para. 186(2)(b) repealed (1.1.2002 for E. and 1.4.2002 for W.) by 2001 c. 10, s. 42(1)(6), Sch. 8 Pt. 2 para. 23(4), Sch. 9; S.I. 2001/2217, art. 5, Sch. Pt. II (which S.I. was amended by S.I. 2001/2614, art. 4); S.I. 2001/3992, art. 5, Sch. Pt. II

- 187 Schedule 28 (government and conduct of grant-maintained special schools) shall be omitted.
- 188 In Schedule 31 (agreed syllabuses of religious education), omit paragraphs 11 and 15.
- 189 The following provisions shall be omitted—
- (a) Schedule 32 (reduction of standard number for admission of pupils);
  - (b) Schedule 33 (admission appeals);
  - (c) Schedule 33A (children to whom section 411A(2) applies: appeals by governing bodies);
  - (d) Schedule 33B (restrictions on admissions to grant-maintained schools);
  - (e) in Schedule 37 (consequential amendments), paragraphs 9, 27, 33, 37(a), 41, 42(4)(b), 75, 82(1)(b) and the “and” preceding it, 82(2)(a), 82(2)(c) and the “and” preceding it, 82(3), 96(2), 97, 102, 103, 104(3), 105 to 108, 110(2) and (3)(a), 122 and 125(c) and (d);
  - (f) in Schedule 39 (transitional provisions and savings), paragraphs 2(3) and 15; and
  - (g) Schedule 40 (transitory provisions).

#### Commencement Information

**I44** Sch. 30 para. 189 wholly in force at 1.9.1999; Sch. 30 para. 189 not in force at Royal Assent see s. 145(3); Sch. 30 para. 189(g) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 189(a)-(d) in force at 1.9.1999 by S.I. 1999/1016, art. 2(3), Sch. 3 (with arts. 3-6, Sch. 4); Sch. 30 para. 189(e) (f) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

#### *School Inspections Act 1996 (c.57)*

- 190 The School Inspections Act 1996 shall be amended as follows.
- 191 (1) Section 10 (inspection of certain schools by registered inspectors) shall be amended as follows.
- (2) In subsection (3)—
- (a) omit “(4) or”;
  - (b) for paragraph (a) substitute—  
“ (a) community, foundation and voluntary schools; ”;
  - (c) omit paragraph (b);
  - (d) for paragraph (c) substitute—  
“ (c) community and foundation special schools; ”; and

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- (e) for paragraph (d) substitute—
- “(d) special schools which are not community or foundation special schools but are for the time being approved by the Secretary of State under section 342 of the<sup>M93</sup> Education Act 1996 (approval of special schools);”.

(3) Omit subsection (4).

(4) For subsection (4B) substitute—

- “(4B) In subsection (4A) a “closing school” means—
- (a) a community, foundation or voluntary or community or foundation special school in respect of which proposals to discontinue the school have been approved, adopted or determined under Schedule 6 or 7 to the School Standards and Framework Act 1998;
  - (b) a foundation or voluntary school in respect of which the governing body have given notice of discontinuance under section 30 of that Act;
  - (c) a community, foundation or voluntary or community or foundation special school in respect of which the Secretary of State has given a direction to discontinue the school under section 19 or 32 of that Act;
  - (d) 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 the<sup>M94</sup> Education Act 1996 has been given;
  - (e) a special school which is not a community or foundation special school but which is for the time being approved by the Secretary of State under section 342 of the Education Act 1996 and which the proprietor has decided to close; or
  - (f) an independent school falling within subsection (3)(e) which the proprietor has decided to close.”

#### **Marginal Citations**

**M93** 1996 c. 56.

**M94** 1996 c. 56.

- 192 (1) Section 11 (application of provisions for inspections) shall be amended as follows.
- (2) In subsection (2), for the words from “county” onwards substitute “ community, foundation or voluntary or community or foundation special schools. ”
- (3) In subsection (4)—
- (a) in the definition of “appropriate appointing authority”, for “aided or special agreement school” substitute “ voluntary aided ”; and
  - (b) for the definition of “appropriate authority” substitute—
 

““appropriate authority” means in relation to a community, foundation or voluntary or community or foundation special school, the school’s governing body or, if the school does not have a delegated budget within the meaning of section 49 of the School Standards and Framework Act 1998, the local education authority.”
- (4) In subsection (5)—

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- (a) in paragraph (a), for “paragraph (e),” substitute “ paragraph (d), (e), ”; and
- (b) in paragraph (b), omit “whose governing body does not have a delegated budget”.

#### Commencement Information

**I45** Sch. 30 para. 192 wholly in force at 1.9.1999; Sch. 30 para. 192 not in force at Royal Assent see s. 145(3); Sch. 30 para. 192(4)(b) in force at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); Sch. 30 para. 192 wholly in force at 1.9.1999 by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

193 In section 15(3)(b) (timing of inspections), for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary or community or foundation special school ”.

194 (1) Section 16 (destination of reports) shall be amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), omit the words from “and, if” to “of State”; and
- (b) in paragraph (b), for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary or community or foundation special school ”.

(3) In subsection (3)—

- (a) in paragraph (c)—
  - (i) for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary or community or foundation special school ”, and
  - (ii) <sup>F186</sup> .....
- (b) omit paragraphs (e) and (f).

#### Textual Amendments

**F186** Sch. 30 para. 194(3)(a)(ii) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 215\(2\), 216](#), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with [Sch.](#))

195 (1) Section 17 (special measures by appropriate authority) shall be amended as follows.

(2) In subsection (3)—

- (a) in paragraph (b)—
  - (i) for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary or community or foundation special school ”, and
  - (ii) at the end add “and”; and
- (b) omit paragraph (c).

(3) In subsection (4), for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary or community or foundation special school ”.

(4) Omit subsection (5)(b) and (c).

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- (5) In subsection (7), for the words from “referred to” to “the case may be,” substitute “under section 42 of the School Standards and Framework Act 1998 (governors’ reports),”.
- 196 (1) Section 18 (additional special measures by local education authority) shall be amended as follows.
- (2) In subsection (1)(a), for “a county, voluntary or maintained special school” substitute “a community, foundation or voluntary or community or foundation special school”.
- (3) In subsection (2)(b), for “an aided or special agreement school” substitute “a voluntary aided school”.
- 197 In section 20(3) (destination of reports)—
- (a) in paragraph (a), for “a maintained or grant-maintained special school” substitute “a community or foundation special school”; and
- (b) omit “the funding authority, or”.

#### Commencement Information

**I46** Sch. 30 para. 197 wholly in force at 1.9.1999; Sch. 30 para. 197 not in force at Royal Assent see s. 145(3); Sch. 30 para. 197(b) in force at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)); Sch. 30 para. 197 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

- 198 In section 21(4) (special measures by appropriate authority)—
- (a) in paragraph (a), for “a maintained or grant-maintained special school” substitute “a community or foundation special school”; and
- (b) omit “the funding authority, or”.

#### Commencement Information

**I47** Sch. 30 para. 198 wholly in force at 1.9.1999; Sch. 30 para. 198 not in force at Royal Assent see s. 145(3); Sch. 30 para. 198(b) in force at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)); Sch. 30 para. 198 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

- 199 (1) Section 23 (inspection of religious education) shall be amended as follows.
- (2) For subsection (1) substitute—
- “(1) It shall be the duty of the governing body of any voluntary or foundation school, which has been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character, to secure that—
- (a) denominational education given to any pupils, and
- (b) the content of the school’s collective worship (required by section 70 of that Act),
- are inspected under this section.”
- (3) Omit subsections (2) and (3).



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- (4) In subsection (4)(ii), for “section 385 of that Act” substitute “ section 70 of the School Standards and Framework Act 1998 ”.
- (5) In subsection (5)(a), for “a controlled school” substitute “ a voluntary controlled school ”.
- (6) In subsection (8)—
- (a) in paragraph (a), omit “if the inspection is conducted by virtue of subsection (1),”; and
  - (b) in paragraph (b), omit “if the inspection is conducted by virtue of subsection (2),”.
- 200 Omit the following sections—
- (a) sections 26 to 30 (miscellaneous powers over schools requiring special measures);
  - (b) sections 31 to 41 (education associations); and
  - (c) section 44 (stamp duty on transfer under section 38 or 39).
- 201 In section 45 (orders and regulations)—
- (a) in subsection (1), omit the words “(except an order under section 38)”; and
  - (b) in subsection (2), omit the words “(except an order under section 31, 33, or 39)”.
- 202 (1) Section 46(1) (interpretation) shall be amended as follows.
- (2) In the definition of “Church in Wales school” etc, for “section 311(1)” onwards substitute “ section 142 of the School Standards and Framework Act 1998; ”.
- (3) In the definition of “delegated budget”, for “section 116” onwards substitute “ section 49 of the School Standards and Framework Act 1998; ”.
- (4) Omit the definition of “the transfer date”.

#### Commencement Information

**I48** Sch. 30 para. 202 wholly in force at 1.9.1999; Sch. 30 para. 202 not in force at Royal Assent see s. 145(3); Sch. 30 para. 202(3)(4) in force at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); Sch. 30 para. 202 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

- 203 In paragraph 1 of Schedule 3 (inspections under section 10), for the definition of “appropriate authority” substitute—
- ““appropriate authority” means—
- (a) in relation to a community, foundation or voluntary or community or foundation special school, the school’s governing body or, if the school does not have a delegated budget within the meaning of section 49 of the School Standards and Framework Act 1998, the local education authority;
  - (b) in relation to a maintained nursery school, the local education authority;
  - (c) in the case of a school falling within paragraph (d), (e), (f) or (g) of section 10(3), the proprietor of the school;”.

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- 204 In paragraph 3 of Schedule 4 (inspections of denominational education)—
- (a) in sub-paragraph (2), for the words from “governors and” to “and to such” substitute “governors, to the local education authority and to such”, and
  - (b) <sup>[F187]</sup> in sub-paragraph (5), for the words from “means” onwards substitute “means the governors’ report under section 42 of the School Standards and Framework Act 1998.”]

#### Textual Amendments

**F187** Sch. 30 para. 204(b) repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

205 Schedule 5 (education associations) shall be omitted.

206 In Schedule 6 (consequential amendments), omit paragraph 7.

#### *Education Act 1997 (c.44)*

207 The Education Act 1997 shall be amended as follows.

208 Omit the following provisions—

- (a) sections 2 and 3 (school discipline);
- (b) sections 6 to 8 (exclusion of pupils);
- (c) Part III (school admissions).

#### Commencement Information

**I49** Sch. 30 para. 208 wholly in force at 1.9.1999; Sch. 30 para. 208 not in force at Royal Assent see s. 145(3); Sch. 30 para. 208(c) in force at 1.2.1999 for certain purposes by S.I. 1998/2212, art. 2, Sch. 1 Pt. III; Sch. 30 para. 208 (c) in force otherwise at 1.9.1999 by S.I. 1999/1060, art. 2(3), Sch. 3; Sch. 30 para. 208 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

209 In section 15 (baseline assessments: interpretation), in the definition of “maintained primary school”, for paragraphs (a) to (c) substitute—

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

210 In section 16(5) (adoption of baseline assessment schemes), for “a school which is maintained by a local education authority,” substitute “a maintained primary school,”.

211 In section 17 (assessment of pupils)—

- (a) in subsection (5), for paragraph (b) substitute—
  - “(b) the local education authority by whom the school is maintained,”; and
- (b) in subsection (7)(a), omit the words from “(except” to “school)”.

212 In section 18 (regulations for Chapter I of Part IV)—

- (a) in subsection (1)(b), omit the words from “(except” to “school)”;
- (b) in subsection (2)(a), omit the words from “(in” to “school)”.

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- 213 In section 19 (school performance targets), for subsection (3) substitute—  
“(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).”
- 214 In section 23 (functions of Qualifications and Curriculum Authority)—  
(a) <sup>F188</sup> .....  
(b) in subsection (5), in the definition of “maintained school”, for paragraphs (a) to (c) substitute—  
“(a) any community, foundation or voluntary school, and  
(b) any community or foundation special school.”

#### Textual Amendments

**F188** Sch. 30 para. 214(a) repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2 (with Sch.)

- 215 In section 29(3) (functions of Qualifications, Curriculum and Assessment Authority for Wales), for the words from “receiving nursery” onwards substitute “ under compulsory school age. ”
- 216 In section 42 (miscellaneous amendments relating to school inspections), omit the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.
- 217 In section 43(2) (provision of careers education)—  
(a) for paragraph (a) substitute—  
“(a) community, foundation and voluntary schools;”;  
(b) omit paragraph (b); and  
(c) for paragraph (c) substitute—  
“(c) community or foundation special schools (other than those established in hospitals);”.
- 218 Omit section 50 (recoupment by local education authority of costs of teachers’ premature retirement).
- 219 In section 52 (commencement of compulsory school age), omit subsections (4) and (5).
- 220 In section 57 (minor and consequential amendments, repeals etc), omit subsections (2) and (3).
- 221 In section 58(4) (commencement) omit “section 50,”.
- 222 Omit the following provisions—  
(a) Schedules 1 to 3;  
(b) in Schedule 6, paragraph 5.

#### Commencement Information

**I50** Sch. 30 para. 222 wholly in force at 1.9.1999; Sch. 30 para. 222 not in force at Royal Assent see s. 145(3); Sch. 30 para. 222(b) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I and Sch. 30 para. 222(a) in force for certain purposes at 1.2.1999 by Sch. 1 Pt. III of the same S.I.; Sch. 30 para. 222(a) in

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force for certain purposes at 1.9.1999 by S.I. 1999/1016, art. 2(3), **Sch. 3** (with arts. 3-6, Sch. 4); **Sch. 30 para. 222** in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

- 223 In Schedule 7 (minor and consequential amendments), omit paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.

#### Commencement Information

- I51** **Sch. 30 para. 223** wholly in force at 1.9.1999; **Sch. 30 para. 223** not in force at Royal Assent see s. 145(3); **Sch. 30 para. 223** in force for certain purposes at 1.9.1999 by S.I. 1999/1016, art. 2(3), **Sch. 3** (with arts. 3-6, Sch. 4); **Sch. 30 para. 223** in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

#### *Education (Schools) Act 1997 (c.59)*

- 224 In section 2 of the Education (Schools) Act 1997 (transitional arrangements for existing assisted pupils), after subsection (6) add—

“(7) Nothing in subsection (1) shall be taken as prejudicing the operation of any regulations under section 3 by virtue of which assisted places authorised to be provided under that subsection by a former participating school may instead be so provided by another such school or a new school created on the merger of such a school with another school.”

#### *Audit Commission Act 1998 (c.18)*

- 225 In section 36(3) of the Audit Commission Act 1998 (studies at request of educational bodies)—
- (a) for the words from “corporation, a” to “school” substitute “corporation or further education corporation”, and
  - (b) in paragraph (b), omit “or governing body”.

## SCHEDULE 31

Section 140(3).

### REPEALS

#### Extent Information

- E7** **Sch. 31:** the entry relating to the Education (Scotland) Act 1998 extends to Scotland only see s. 145(9).

#### Commencement Information

- I52** **Sch. 31** partly in force; **Sch. 31** not in force at Royal Assent see s. 145(3); **Sch. 31** in force for certain purposes at 1.10.1998, 1.2.1999 and 1.4.1999 by S.I. 1998/2212, art. 2, **Sch. 1 Pts. I, III and IV**; **Sch. 31** in force for certain purposes at 10.3.1999 by S.I. 1999/120, art. 2(2), **Sch. 2**; **Sch. 31** in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4); **Sch. 31** in force for certain purposes at 1.9.1999 by S.I. 1999/1016, art. 2(3), **Sch. 3** (with arts. 3-6, Sch. 4); **Sch. 31** in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7); **Sch. 31** in force for certain purposes at 1.11.1999 by S.I. 1999/2323, art. 2(2), **Sch. 2** (with arts. 3-5, Schs. 5-7).

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<b>Chapter or number</b>	<b>Short title</b>	<b>Extent of repeal</b>
1958 c. 51.	Public Records Act 1958.	In Schedule 1, in Part II of the Table at the end of paragraph 3, the entry relating to the Schools Funding Council for Wales.
1963 c. 33.	London Government Act 1963.	Section 31.
1972 c. 11.	Superannuation Act 1972.	In Schedule 1, the entries relating to the Funding Agency for Schools and the Schools Funding Council for Wales.
1972 c. 70.	Local Government Act 1972.	In section 134(1) and (2), the words “or of a grant-maintained school”.  In section 177(1), the words from the beginning to “committees),”.
1974 c. 7.	Local Government Act 1974.	In Schedule 5, paragraph 5(1).
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entries “Any member of an education association in receipt of remuneration”, “Any member of the Funding Agency for Schools in receipt of remuneration”, and “Any member of the Funding Council for Wales in receipt of remuneration”.
1975 c. 65.	Sex Discrimination Act 1975.	In sections 22, in the Table, paragraph 3A.  Section 23C.  In section 25, in subsections (2) and (4), “, 23C”; and in subsection (6), in paragraph (c)(i) “3A” and paragraph (e).
1976 c. 74.	Race Relations Act 1976.	In Schedule 2, paragraph 1.  In section 17, in the Table, paragraph 3A.  Section 18C.  In section 19, in subsections (2) and (4) “, 18C” wherever occurring and

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		in subsection (6), in paragraph (c)(i) “3A” and paragraph (e).
1977 c. 49.	National Health Service Act 1977.	In section 5, in subsections (1)(a) and (1A)(a) the words “or at grant-maintained schools”.
1980 c. 44.	Education (Scotland) Act 1980.	In section 75A(9A), the word “and” immediately preceding paragraph (b).
1981 c. 67.	Acquisition of Land Act 1981.	In section 17(4), paragraphs (ab) and (ac).
1983 c. 2.	Representation of the People Act 1983.	In Schedule 1, in paragraph 22(1)(i) the words “a grant-maintained school”.
1984 c. 55.	Building Act 1984.	In section 4(1)(a), in paragraph (ii) the words “under section 39 or 44 of the Education Act 1996 or” and paragraphs (iii) and (iv).
1986 c. 61.	Education (No. 2) Act 1986.	Section 49(3)(ba).
1988 c. 40.	Education Reform Act 1988.	Sections 166 and 167. In section 197(7), the words “or grant-maintained”. In section 236(1), the entry relating to section 219. In Schedule 8, paragraph 6(3) and in paragraph 8(4) the words “given with the consent of the Treasury”. In Schedule 12, paragraphs 11, 13, 15, 16, 18 to 22, 30, 31 and 36.
1989 c. 41.	Children Act 1989.	In Schedule 9, in paragraph 3, sub-paragraph (1)(f), and in sub-paragraph (3) the definition of “grant maintained”.
1991 c. 49.	School Teachers’ Pay and Conditions Act 1991.	In section 1, in subsection (5) the words from “and, where” to “that subsection” and subsection (6). In section 2, subsection (2), in subsection (4), in paragraph (a) the words “, in the case of a grant-

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1991 No. 2.	Diocesan Boards of Education Measure 1991.	<p>maintained school,” and the words from “and provide” to the end and paragraph (h), in subsection (5) the words from “and, where” to “(2) above” and in subsection (6)(a) the words from “or, in” to “such schools.”.</p> <p>In section 3, subsections (4) and (5) and in subsection (6), the words “or (5)”.</p> <p>Section 5.</p> <p>Section 6(2).</p> <p>Section 7(5).</p> <p>Section 9.</p> <p>In section 10, in subsection (1) the definition of “Church of England voluntary school” and subsection (2).</p>
1992 c. 13.	Further and Higher Education Act 1992.	<p>In section 2(6), the words “grant-maintained schools.”.</p> <p>In section 16, in subsection (2), the words “or any grant-maintained school” wherever occurring, and in subsection (3)(a) the words “or is a grant-maintained school”.</p> <p>In section 21, in subsection (1) paragraph (a) and the words “(b) in any other case,” and in subsection (2) the words “orders and”, “grant-maintained school or other” and “grant-maintained schools or other”.</p> <p>In section 26(1), the words “or was a grant-maintained school”.</p> <p>In section 54(1)(b), the words “grant-maintained school,”.</p> <p>In Schedule 8, paragraphs 61 to 64.</p>

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1993 c. 10.	Charities Act 1993.	In Schedule 2, paragraph (d).
1994 c. 23.	Value Added Tax Act 1994.	In Schedule 9, Group 6, Note (1), paragraph (a)(v) and (vii).
1994 c. 30.	Education Act 1994.	In section 11A, the words “grant-maintained schools,”. Section 12(4) and (5). Section 18(1)(a).
1995 c. 50.	Disability Discrimination Act 1995.	Section 19(6)(c) and (d).
1996 c. 18.	Employment Rights Act 1996.	In section 50(9)(b) the words “grant-maintained school,”.
1996 c. 50.	Nursery Education and Grant-Maintained Schools Act 1996.	Section 5.  Schedule 1.
1996 c. 56.	Education Act 1996.	In section 1(2), paragraph (b) and the word “and” preceding it. Section 14(5). In section 16(1), paragraph (c) and the “and” preceding it. Sections 20 to 28. In section 29, subsection (2) and in subsection (3) the words “and the funding authority”. Section 30. . Part II Part III. In section 312(4)(a), the words “or grant-maintained schools in their area”. In section 317(3)(a), the words “, the funding authority”. Section 330. Sections 338 to 341. Sections 343 to 346. In section 356(5)(a)(ii), the words “(except in the case of grant-maintained schools)”. Section 357(2).



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In section 366, in subsection (1)(b) the words from “where” to “special school,” and subsection (5).

Sections 370 to 374.

Sections 376 to 389.

Section 391(8) and (9).

Section 392(4).

Section 393.

Section 404(3).

In section 408, subsections (1)(b), (3) and (4)(b) and (c).

In section 409(3)(b), the words “other than grant-maintained schools”.

Sections 411 to 432.

Sections 433(4).

Section 434(4)(c)(ii).

Section 436.

In section 437, in subsections (5) and (6) the words “or grant-maintained” wherever occurring.

In section 438(6)(a)(i), the words “and is not a grant-maintained school”.

In section 439, in subsections (3), (5) and (6) the words “or grant-maintained” wherever occurring.

In section 440, in subsection (2)(a) the words “or grant-maintained school” and in subsection (4)(a) the words “and is not a grant-maintained school”.

In section 444(4)(b), the words “or the funding authority”. Section 448.

In section 451, in subsection (1) the words “Subject to subsection (5),” and subsection (5).. In section 456(1), the words

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from “, other than” to  
“section 231(8)”.

In section 457, in  
subsection (1) the words from  
“This subsection” onwards  
and in subsection (3) the  
words “other than a grant-  
maintained school”.

In section 458, in  
subsection (1) the words  
“or governing body”,  
subsections (2)(a) and (3),  
and in subsection (4)(b) the  
words “or to the governing  
body of a grant-maintained  
school”.

In section 463, paragraph (c)  
and the “or” preceding it.

Section 490(1)(a).

Sections 500 to 505.

Section 509(5)(a).

In section 510, in  
subsection (1)(a) and (c)  
the words “or at a grant-  
maintained school” wherever  
occurring; in subsection (3)  
(a) the words “or a grant-  
maintained school”; in  
subsection (4)(a) the words  
“, at a grant-maintained  
school”; in subsection (5)(a)  
the words “grant-maintained  
school or”.

Sections 516 and 517.

Section 520(3).

In section 521(4),  
paragraph (b) and the “and”  
preceding it.

In section 524(3),  
paragraph (b) and the “or”  
preceding it.

In section 525(3), the words  
“or a grant-maintained  
school”.

Section 534.

Section 536.

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In section 537(7)(a), the words “or which is a grant-maintained school”.

Section 539.

In section 542, in subsection (1) the words “and of grant-maintained schools” and subsection (3).

In section 544, in subsection (1) the words from “(or,” to “authority)” and subsection (3)(b).

In section 545(2), paragraph (b) and the “or” preceding it. Section 546(2)(b).

In section 547(2), paragraph (b) and the “or” preceding it.

Sections 549 and 550.

In section 550B(2), the words “(b) a grant-maintained or grant-maintained special school;”.

Section 551(2)(b).

Section 552.

In section 560(6), the words “or the governing body of a grant-maintained school”.

Section 563(3)(b).

Section 567.

In section 568, in subsection (3) the words “section 517(6)” and subsection (5)(b) and the “or” preceding it.

In section 570, subsection (1)(b) and in subsection (2) the words “, the funding authority”.

In section 573, in subsection (2) the words from “and “alterations”” onwards, and subsections (4) to (6).

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Section 575.

Section 576(2).

Section 577.

In section 579, in subsection (1) the definitions of “the appropriate further education funding council”, “exclude”, “governing body” (and “governors”), “the local education authority”, “reception class” and “relevant age group” and subsection (3).

In Schedule 1, paragraphs 12 and 13 and in paragraph 15(2)(c) the words “(including grant-maintained schools)”.

Schedules 2 to 25A.

Schedule 28.

In Schedule 31, paragraphs 11 and 15.

Schedules 32 to 33B.

In Schedule 37, paragraphs 9, 27, 33, 37(a), 41, 42(4)(b), 75, 82(1)(b) and the “and” preceding it, 82(2)(a), 82(2)(c) and the “and” preceding it, 82(3), 96(2), 97, 102, 103, 104(3), 105 to 108, 110(2) and (3)(a), 122 and 125(c) and (d).

In Schedule 39, paragraphs 2(3) and 15.

Schedule 40.

1996 c. 57.

School Inspections Act 1996. In section 9(3)(a), the words “are exceptional and”.

In section 10, in subsection (3) the words “(4) or” and paragraph (b) and subsection (4).

In section 11(5)(b), the words “whose governing body does not have a delegated budget”.

*Status: Point in time view as at 31/03/2003.*

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In section 16, in subsection (1)(a) the words from “and, if” to “of State” and subsection (3)(e) and (f).

Section 17(3)(c) and (5)(b) and (c).

In section 20(3), the words “the funding authority, or”.

In section 21(4), the words “the funding authority, or”.

In section 23, subsections (2) and (3) and in subsection (8), in paragraph (a) the words “if the inspection is conducted by virtue of subsection (1),” and in paragraph (b) the words “if the inspection is conducted by virtue of subsection (2),”.

## Part II

Section 44.

In section 45, in subsection (1) the words “(except an order under section 38)” and in subsection (2) the words “(except an order under section 31, 33, or 39)”.

In section 46(1), the definition of “the transfer date”.

Schedule 5.

Schedule 6, paragraph 7.

Sections 2 and 3.

Sections 6 to 8.

## Part III

In section 17(7)(a), the words from “(except” to “school)”.

In section 18, in subsection (1)(b) the words from “(except” to “school)” and in subsection (2)(a) the words from “(in” to “school)”.

1997 c. 44.

Education Act 1997.

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		In section 42, the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.
		Section 43(2)(b).
		Section 50.
		Section 52(4) and (5).
		Section 57(2) and (3).
		In section 58(4), “section 50”.
		Schedules 1 to 3.
		In Schedule 6, paragraph 5.
		In Schedule 7, paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.
1997 c. 59.	Education (Schools) Act 1997.	Section 6(1).
		In section 7, in subsection (3) (a) “section 6(1)”, and in subsection (4)(a) “(1) and”.
1998 c. 18.	Audit Commission Act 1998.	In section 36, in subsection (1) the entries relating to the Funding Agency for Schools, the Schools Funding Council for Wales and the governing body of a grant-maintained school, and in subsection (3) (b) the words “or governing body”.
		In Schedule 3, paragraphs 25 and 32.

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## SCHEDULE 32

Section 144.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

#### FUNDING

##### *Interpretation*

- 1 In this Part of this Schedule—
- “the 1996 Act” means the <sup>M95</sup>Education Act 1996;
  - “the appointed day”, in relation to any provision of this Schedule, means such day as may be appointed for the purposes of that provision by an order made by the Secretary of State.

#### **Marginal Citations**

**M95** 1996 c. 56.

##### *Continued operation of GMS grants provisions*

- 2 (1) Subject to the provisions of this paragraph, the GMS grants provisions shall continue to have effect on and after the appointed day in relation to—
- (a) any payments of maintenance grant under section 244 or 250 of the 1996 Act in respect of any financial year (or part of such a year) beginning before that day; and
  - (b) any payments of capital or special purpose grants under section 245, 246, 251 or 252 of that Act made before that day.
- (2) Regulations may provide—
- (a) for any functions of the funding authority under the GMS grants provisions—
    - (i) to be discharged instead by the Secretary of State as from a date specified in the regulations, or
    - (ii) to be discharged instead by local education authorities as from the appointed day (either subject to obtaining the Secretary of State’s consent or otherwise); and
  - (b) for any of those provisions to have effect, for any purposes specified in the regulations, with such modifications as are so specified.
- (3) Regulations under sub-paragraph (2) shall not authorise a local education authority to impose any requirement under section 247(1) of that Act (as it has effect by virtue of sub-paragraph (1)); but the Secretary of State may by order—
- (a) impose such a requirement; or
  - (b) waive or remove such a requirement even though a local education authority is by such regulations also authorised to do so.

*Status: Point in time view as at 31/03/2003.*

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- (4) In this paragraph “the GMS grants provisions” means sections 244 to 254 and 256 to 258 of the 1996 Act and any regulations in force under any of those provisions immediately before the appointed day.

**Commencement Information**

**I53** Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, art. 2 it is provided that the appointed day for the purpose of Sch. 32 para. 2(1) and (4) shall be 1.4.1999

*Existing loans*

- 3 (1) Any loan made under section 255 of the 1996 Act (loans to governing bodies) shall not be affected by the repeal of that section by this Act.
- (2) Where such a loan was made by the funding authority, any rights or liabilities of the authority in respect of the loan shall become rights or liabilities of the Secretary of State on the appointed day.

**Commencement Information**

**I54** Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, art. 2(2) it is provided that the appointed day for the purpose of Sch. 32 para. 3 shall be 1.4.1999

*Grants by Secretary of State in respect of planned expenditure*

- 4 (1) Regulations may provide for the payment by the Secretary of State of grants to—
- (a) the governing bodies of schools to which this paragraph applies, or
  - (b) local education authorities,
- in respect of relevant expenditure incurred or to be incurred by them.
- (2) Regulations under this paragraph may—
- (a) in relation to grants made to the governing bodies of any such schools, make provision corresponding to sub-paragraphs (6) and (7) of paragraph 5 of Schedule 3; and
  - (b) in relation to grants made to the governing bodies of voluntary aided schools, make in addition provision corresponding to sub-paragraphs (8) to (10) of paragraph 5 of that Schedule.
- (3) This paragraph applies to a school if immediately before the appointed day—
- (a) the school was a grant-maintained or grant-maintained special school within the meaning of the 1996 Act, or
  - (b) proposals for the establishment of the school fell to be implemented in accordance with section 215 of that Act.
- (4) Each of the following provisions of Schedule 22, namely—
- (a) paragraph 1(1)(d),
  - (b) paragraph 2(1)(d), and
  - (c) paragraph 3(1)(e),
- shall (subject to sub-paragraph (5) below) apply in relation to any grant made by virtue of this paragraph as if it were such a grant as is mentioned in that provision.



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- (5) Sub-paragraph (4) does not apply to any grant made by virtue of this paragraph to the governing body of a voluntary aided school.
- (6) In this paragraph “relevant expenditure” means such expenditure (being expenditure arising out of an obligation incurred or decision made before the appointed day) as may be prescribed.

#### Commencement Information

**I55** Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, art. 2(3) and by S.I. 1999/1498, art. 2 it is provided that the appointed days for Sch. 32, para. 4(3) and (6) for certain purposes shall be 1.4.1999 and 1.9.1999 respectively  
by S.I. 1999/2221, art. 2 it is provided that the appointed day for Sch. 32 para. 4(3) and (6) for certain purposes shall be 1.9.1999

#### *Deferment of governing body's right to delegated budget*

- 5 (1) A maintained school falling within section 49(1) shall not have a delegated budget as from the day on which section 49 comes into force if—
  - (a) the governing body's right to a delegated budget has been suspended under section 117 of the <sup>M96</sup>Education Act 1996 (suspension of financial delegation for mismanagement etc.) or section 28 of the <sup>M97</sup>School Inspections Act 1996 (suspension of right to delegated budget); and
  - (b) that suspension has not been previously revoked with effect from that or any earlier day.
- (2) Such a school shall, however, have a delegated budget as from the day with effect from which that suspension is revoked.
- (3) The Secretary of State may by order determine that a relevant school shall not have a delegated budget as from the day on which section 49 comes into force where he considers that it would not be expedient for the school to have such a budget as from that day for reasons connected with—
  - (a) the financial position, or
  - (b) the financial management,  
of the school.
- (4) Where the Secretary of State makes an order under sub-paragraph (3) in relation to a school—
  - (a) for the purposes of Part II of this Act the right of the governing body to a delegated budget shall be treated as if it had been suspended by the local education authority under paragraph 1 of Schedule 15 on the day on which section 49 comes into force;
  - (b) paragraphs 2 to 4 (but not 3(1)(a)) of that Schedule shall apply to any such suspension; and
  - (c) the school shall have a delegated budget as from the day with effect from which that suspension is revoked.
- (5) Any reference in any of sections 54 to 57 to any suspension of a school's delegated budget under Schedule 15 includes a reference to—

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- (a) any suspension of a school’s delegated budget by virtue of sub-paragraph (1); and
  - (b) (in accordance with sub-paragraph (4)), any such suspension by virtue of sub-paragraph (3).
- (6) Where the day on which section 49 comes into force is earlier than the day appointed under section 20(7) any reference in this paragraph to a maintained school is a reference to a school which is (within the meaning of the <sup>M98</sup>Education Act 1996)—
- (a) a school maintained by a local education authority, or
  - (b) a grant-maintained or grant-maintained special school,
- and to which section 49 applies in accordance with regulations under section 144(1).
- (7) In this paragraph—
- (a) “relevant school” means a maintained school which immediately before the day on which section 49 comes into force was a grant-maintained or grant-maintained special school within the meaning of the <sup>M99</sup>Education Act 1996; and
  - (b) references to a school having a delegated budget or to a governing body’s right to such a budget shall be construed in accordance with section 49(7).

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

C75 Sch. 32 para. 5(5)(a) modified (20.11.1998) by S.I. 1998/2670, reg. 5(2)

**Marginal Citations**

M96 1996 c. 56.

M97 1996 c. 57.

M98 1996 c. 56.

M99 1996 c. 56.

## PART II

### OTHER PROVISIONS

#### *Limit on class sizes*

- 6 (1) The transitional provision which may be made for the purposes of section 1 by regulations under section 144(1) includes provision with respect to any relevant time—
- (a) for disapplying to any extent in relation to existing maintained schools (whether or not subject to compliance with any prescribed requirements) section 411(6), 416(1) or 426(1) of the <sup>M100</sup>Education Act 1996 (provisions about admission numbers);
  - (b) for otherwise modifying any of the provisions (whether statutory provisions or articles of government) which are relevant to the determination or publication of the arrangements—
    - (i) for the admission of pupils to such schools, or
    - (ii) for appeals by parents against decisions taken in relation to the admission of pupils to such schools,

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- or to the procedure relating to such appeals;
- (c) for requiring or authorising bodies responsible for determining such arrangements to determine and publish fresh arrangements, subject to such consultation as may be prescribed, where arrangements previously determined (or previously determined and published) by them are to any extent inconsistent with the provisions mentioned in paragraph (b) as they have effect in accordance with the regulations.
- (2) Regulations made in pursuance of paragraph (b) of sub-paragraph (1) may, in particular, modify the provisions mentioned in that paragraph so that they apply in relation to existing maintained schools with the addition of provisions whose purposes correspond to those of any of paragraphs 6(5), 10(5) and 11 of Schedule 23 to this Act.
- (3) In this paragraph—
- “existing maintained school” means—
- (a) any county or voluntary school, or
- (b) any grant-maintained school,
- within the meaning of the <sup>M101</sup>Education Act 1996;
- “relevant time”, in relation to an existing maintained school, means any time after the coming into force of regulations under section 1 by virtue of which any limit on class sizes is to apply, or be varied, in relation to the school.

**Marginal Citations**

**M100** 1996 c. 56.

**M101** 1996 c. 56.

*School Teachers’ Pay and Conditions Act 1991*

- 7 The amendment made by section 13 of this Act shall not affect the operation of section 3 of the <sup>M102</sup>School Teachers’ Pay and Conditions Act 1991, as in force immediately before that amendment comes into force, in relation to any order made under section 3 of that Act which—
- (a) is then in force; and
- (b) relates to a grant-maintained school which becomes a foundation or voluntary aided school on the appointed day in accordance with Schedule 2 to this Act;
- and any such order may be varied or revoked accordingly.

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

**C76** Sch. 32 para. 7 applied with modification (from 1.9.1998 to 1.9.1999) by **S.I. 1998/2115**, **regs.2,3** and 4

**Marginal Citations**

**M102** 1991 c. 49.

*Status: Point in time view as at 31/03/2003.*

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*Orders for purposes of section 20(5)*

- 8 The Secretary of State may only make an order under section 20(5) where he considers it appropriate to do so on an application made for the purpose by—
- (a) the former maintaining authority (within the meaning of that provision), or
  - (b) the local education authority in whose area the school in question will be situated immediately before the appointed day,
- and received by him not later than 30th November 1998.

*Notice by trustees to terminate former voluntary school's occupation of land*

- 9 (1) This paragraph applies where—
- (a) at any time before the appointed day, whether before or after the date on which this Act is passed, any trustees (being entitled to do so) have given to the governing body of a former voluntary school a notice which is effective to terminate, on or after that day, the school's occupation of any land held by the trustees for the purposes of the school; and
  - (b) the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site.
- (2) Paragraph 8(2) of Schedule 22 shall apply in relation to the land to which such a notice relates as it applies in relation to the land to which a notice falling within section 30(10) relates.
- (3) Section 30(12) and (13) shall apply, with any necessary modifications, for the purposes of sub-paragraph (1)(b) as they apply for the purposes of section 30(10)(b).
- (4) In this paragraph “former voluntary school” means—
- (a) any voluntary school, or
  - (b) any grant-maintained school which was a voluntary school immediately before becoming grant-maintained or was established by promoters,
- within the meaning of the <sup>M103</sup>Education Act 1996, which on the appointed day becomes a foundation or voluntary school within the meaning of this Act.

**Marginal Citations**

**M103** 1996 c. 56.

*Transfer of sites provided under sections 60 and 61 of the Education Act 1996*

- 10 (1) This paragraph applies where—
- (a) before the appointed day a site was provided for a school by a local education authority under section 60 or 61 of the <sup>M104</sup>Education Act 1996 (obligation of LEAs to provide new sites and buildings for voluntary schools); but
  - (b) no conveyance was made in respect of that site under section 60(2) or (as the case may be) section 61(2) of that Act before that day.
- (2) Where the site was provided under section 60 of that Act, sub-paragraphs (3) to (11) (but not (7)(b)) of paragraph 2 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.

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- (3) Where the site was provided under section 61 of that Act, sub-paragraphs (3) to (9) of paragraph 4 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.

**Marginal Citations**

M104 1996 c. 56.

**Status:**

Point in time view as at 31/03/2003.

**Changes to legislation:**

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