



# Education Act 2002

## 2002 CHAPTER 32

### PART 6 **E+W**

#### THE CURRICULUM IN ENGLAND

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

- C1** Pt. 6 modified (E.) (temp. from 1.10.2002) by [The Education Act 2002 \(Modification of Provisions\) \(England\) Regulations 2002 \(S.I. 2002/2316\)](#), reg. 4

#### *Preliminary*

### 76 Interpretation of Part 6 **E+W**

In this Part—

“assess” includes examine and test, and related expressions shall be construed accordingly;

[<sup>F1</sup>“assessment arrangements”, in relation to a key stage, means the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage;]

“attainment targets”, in relation to a key stage, means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of that stage;

<sup>F2</sup>  
...

“the foundation stage” has the meaning given by section 81;

“key stage”, or references to a particular key stage, shall be construed in accordance with section 82;

“maintained school” means—

- (a) any community, foundation or voluntary school maintained by a local education authority in England, or

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(b) except where otherwise stated, any community or foundation special school which is maintained by a local education authority in England and is not established in a hospital;

“maintained nursery school” means a nursery school which is maintained by a local education authority in England and is not a special school;

“programmes of study”, in relation to a key stage, means matters, skills and processes which are required to be taught to pupils of different abilities and maturities by the end of that stage;

<sup>F2</sup> ...

“school year”, in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first school term to begin after the following July; <sup>F3</sup> ...

**Textual Amendments**

- F1** Words in s. 76 substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 3\(2\)](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))
- F2** Words in s. 76 repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 3\(3\), Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))
- F3** Words in s. 76 repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 3\(4\), Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))

**<sup>F4</sup>77 Meaning of “nursery education” and related expressions E+W**

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**Textual Amendments**

- F4** [S. 77](#) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 4, Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))

*General duties in respect of the curriculum*

**78 General requirements in relation to curriculum E+W**

- (1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
  - (a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and
  - (b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life.

<sup>F5</sup>(2) .....

**Textual Amendments**

- F5** [S. 78\(2\)](#) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 5, Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))

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#### Commencement Information

- II** S. 78 wholly in force at 1.10.2002; s. 78 not in force at Royal Assent, see s. 216; s. 78 in force for certain purposes at 26.7.2002 by [S.I. 2002/2002, art. 2](#) and at 1.10.2002 insofar as not already in force by [S.I. 2002/2439, art. 2](#) (with transitional provisions and savings in [Sch.](#))

### 79 Duty to implement general requirements **E+W**

- [<sup>F6</sup>(1) The Secretary of State shall exercise his functions with a view to securing that the curriculum for every maintained school or maintained nursery school satisfies the requirements of section 78.
- (2) Every local education authority in England shall exercise their functions with a view to securing that the curriculum for every maintained school or maintained nursery school which they maintain satisfies the requirements of section 78.]
- (3) The governing body and head teacher of every maintained school or maintained nursery school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of section 78.
- (4) The functions referred to in subsections (1) to (3) include in particular—
- (a) functions conferred by this Part in relation to the National Curriculum for England, and
  - (b) except in relation to maintained nursery schools <sup>F7</sup>..., functions relating to religious education and religious worship.
- <sup>F8</sup>(5) .....
- (6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority in England shall have regard to the guidance issued by the Secretary of State under section 403(1A) of the Education Act 1996 (c. 56).
- (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education.

#### Textual Amendments

- F6** S. 79(1)(2) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 6\(2\)](#); [S.I. 2008/2261, art. 2](#) (with [Sch. 1](#))
- F7** Words in s. 79(4)(b) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 6\(3\), Sch. 3 Pt. 1](#); [S.I. 2008/2261, art. 2](#) (with [Sch. 1](#))
- F8** S. 79(5) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 1 para. 6\(4\), Sch. 3 Pt. 1](#); [S.I. 2008/2261, art. 2](#) (with [Sch. 1](#))

### 80 Basic curriculum for every maintained school in England **E+W**

- (1) The curriculum for every maintained school in England shall comprise a basic curriculum which includes—
- (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),

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- (b) a curriculum for all registered pupils at the school [<sup>F9</sup>who have ceased to be young children for the purposes of Part 1 of the Childcare Act 2006] but are not over compulsory school age (known as “the National Curriculum for England”),
  - (c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and
  - (d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education.
- (2) Subsection (1)(a) does not apply—
- (a) in relation to [<sup>F10</sup>pupils who are under compulsory school age] , or
  - (b) in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 71(7) of the School Standards and Framework Act 1998).
- (3) The Secretary of State may by order—
- (a) amend subsection (1) so as to add further requirements (otherwise than in relation to religious education or sex education),
  - (b) amend subsection (1)(b) by substituting for the reference to compulsory school age (or to any age specified there by virtue of this paragraph) a reference to such other age as may be specified in the order, and
  - (c) amend any provision included in subsection (1) by virtue of paragraph (a) of this subsection.

#### Textual Amendments

**F9** Words in s. 80(1)(b) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 1 para. 7\(2\)](#); [S.I. 2008/2261](#), art. 2 (with [Sch. 1](#))

**F10** Words in s. 80(2)(a) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 1 para. 7\(3\)](#); [S.I. 2008/2261](#), art. 2 (with [Sch. 1](#))

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

**C2** S. 80(1)(d) applied (1.9.2005) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2005 \(S.I. 2005/2039\)](#), reg. 1(1), [Sch. 1 para. 10](#)

**C3** S. 80(1)(d) applied (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), [Sch. 1 para. 19](#)

### *The National Curriculum for England*

#### <sup>F11</sup>81 The foundation stage **E+W**

#### Textual Amendments

**F11** [S. 81](#) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 1 para. 8](#), [Sch. 3 Pt. 1](#); [S.I. 2008/2261](#), art. 2 (with [Sch. 1](#))

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## 82 The key stages **E+W**

- (1) For the purposes of this Part, the key stages in relation to a pupil are—
  - (a) the period beginning at the same time as the school year in which he attains the age of six and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven (“the first key stage”),
  - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven (“the second key stage”),
  - (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen (“the third key stage”), and
  - (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending at the same time as the school year in which the majority of pupils in his class cease to be of compulsory school age (“the fourth key stage”).
- (2) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age.
- (3) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—
  - (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age, and
  - (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of fifteen and ending when he ceases to be of compulsory school age.
- (4) The Secretary of State may by order—
  - (a) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there specified there were substituted such other ages (less than eleven and twelve respectively) as may be specified in the order, or
  - (b) amend subsections (1) to (3).
- (5) In this section “class”, in relation to a particular pupil and a particular subject, means—
  - (a) the teaching group in which he is regularly taught in that subject, or
  - (b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school.

## <sup>F12</sup>83 Curriculum requirements for foundation stage **E+W**

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### Textual Amendments

**F12** S. 83 repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 9, [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)

## 84 Curriculum requirements for first, second and third key stages **E+W**

- (1) For the first, second and third key stages, the National Curriculum for England shall comprise the core and other foundation subjects specified in subsections (2) and (3), and shall specify attainment targets, programmes of study and assessment arrangements in relation to each of those subjects for each of those stages.
- (2) The following are the core subjects for the first, second and third key stages—
  - (a) mathematics,
  - (b) English, and
  - (c) science.
- (3) The following are the other foundation subjects for the first, second and third key stages—
  - (a) design and technology,
  - (b) information and communication technology,
  - (c) physical education,
  - (d) history,
  - (e) geography,
  - (f) art and design,
  - (g) music, and
  - (h) in relation to the third key stage—
    - (i) citizenship, and
    - (ii) a modern foreign language.
- (4) In this section “modern foreign language” means a modern foreign language specified in an order made by the Secretary of State or, if the order so provides, any modern foreign language.
- (5) An order under subsection (4) may—
  - (a) specify circumstances in which a language is not to be treated as a foundation subject, and
  - (b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.
- (6) The Secretary of State may by order amend subsections (2) to (5).

## [<sup>F13</sup>85 Curriculum requirements for fourth key stage **E+W**

- (1) For the fourth key stage, the National Curriculum for England shall comprise the core and other foundation subjects and the elements referred to in subsection (5).
- (2) The National Curriculum for England shall specify programmes of study in relation to each of the core and other foundation subjects for the fourth key stage.
- (3) The following are the core subjects for the fourth key stage—

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- (a) mathematics,
  - (b) English, and
  - (c) science.
- (4) The following are the other foundation subjects for the fourth key stage—
- (a) information and communication technology,
  - (b) physical education, and
  - (c) citizenship.
- (5) The elements for the fourth key stage referred to in subsection (1) are—
- (a) work-related learning, and
  - (b) in relation to any pupil who so elects, one subject from each of such one or more of the four entitlement areas specified below as the pupil may elect.
- (6) Those entitlement areas are—
- (a) arts, comprising—
    - (i) art and design,
    - (ii) music,
    - (iii) dance,
    - (iv) drama, and
    - (v) media arts,
  - (b) design and technology (comprising only that subject),
  - (c) humanities, comprising—
    - (i) geography, and
    - (ii) history, and
  - (d) modern foreign languages, comprising any modern foreign language specified in an order made by the Secretary of State or, if the order so specifies, any modern foreign language.
- (7) An order under subsection (6)(d) may—
- (a) specify circumstances in which a language is not to be treated as falling within subsection (6)(d), and
  - (b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.
- (8) A pupil in the fourth key stage shall, if he so elects, be entitled to follow a course of study in a subject within each of the four entitlement areas specified in subsection (6); but this entitlement is satisfied where one subject within each of those entitlement areas is made available to him by or on behalf of the school at which he is a registered pupil.
- (9) In the exercise of their functions under this Part by virtue of this section, a local education authority, governing body or head teacher shall have regard to any guidance relating to work-related learning or the entitlement areas which is issued from time to time by the Qualifications and Curriculum Authority.
- (10) In this section—
- “course of study” means a course of education or training which leads to a qualification approved under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act;

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“work-related learning” means planned activity designed to use the context of work to develop knowledge, skills and understanding useful in work, including learning through the experience of work, learning about work and working practices and learning the skills for work.]

#### Textual Amendments

**F13** S. 85 substituted (E.) (15.11.2003) by [Education \(Amendment of the Curriculum Requirements for Fourth Key Stage\) \(England\) Order 2003 \(S.I. 2003/2946\)](#), arts. 1(2), 2 (with art. 3)

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

- C4** S. 85 applied by 1989 c. 41, Sch. 2 para. 19(6) (as amended (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), **Sch. 3 para. 72(b)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o) (as amended (15.10.2005) by S.I. 2005/2897, art. 14(3)))
- C5** S. 85 modified (temp.) (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 74(4)**, 188(3) (with s. 74(5)); S.I. 2007/935, art. 5(k)
- C6** S. 85(9) modified (temp.) by 2009 c. 22 Sch. 12 para. 33 (as amended) (30.3.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Commencement No. 3 and Transitional and Transitory Provisions\) and \(Commencement No. 2 \(Amendment\)\) Order 2010 \(S.I. 2010/1151\)](#), **art. 21**

#### 86 Power to alter or remove requirements for fourth key stage **E+W**

The Secretary of State may by order—

- (a) amend any provision of section 85, or
- (b) provide that, while the order remains in force, that section is not to have effect.

#### 87 Establishment of the National Curriculum for England by order **E+W**

[<sup>F14</sup>(1) The Secretary of State shall so exercise the powers conferred by subsection (3) as to revise the National Curriculum for England whenever he considers it necessary or expedient to do so.]

<sup>F15</sup>(2) .....

(3) In respect of the first, second and third key stages and (subject to section 86) the fourth key stage, the Secretary of State may by order specify in relation to each of the foundation subjects—

- (a) such attainment targets,
- (b) such programmes of study, and
- (c) such assessment arrangements,

as he considers appropriate for that subject.

(4) An order under subsection <sup>F16</sup>... (3) may not require—

- (a) the allocation of any particular period or periods of time during <sup>F17</sup>... any key stage to the teaching of any <sup>F17</sup>... programme of study or any matter, skill or process forming part of it, or
- (b) the making in school timetables <sup>F18</sup>... of provision of any particular kind for the periods to be allocated to such teaching during any such stage.



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- (5) An order under subsection <sup>F19</sup>... (3) may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.
- <sup>F20</sup>(6) .....
- (7) An order under subsection (3)(c) may confer or impose such functions on—
- (a) the governing body and head teacher, and
  - (b) the local education authority,
- as appear to the Secretary of State to be required.
- (8) An order under subsection <sup>F21</sup>... (3)(c) may specify such assessment arrangements as may for the time being be made by a person specified in the order.
- (9) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and any such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (10) The duties that may be imposed by virtue of subsection <sup>F22</sup>... (7) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (9), the duty to permit them—
- (a) to enter premises of the school <sup>F23</sup>....,
  - (b) to observe implementation of the arrangements, and
  - (c) to inspect, and take copies of, documents and other articles.
- (11) An order under subsection <sup>F24</sup>... (3)(c) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection <sup>F24</sup>... (7)) as appear to the Secretary of State to be expedient; and any provisions made under such an order shall, on being published as specified in the order, have effect for the purposes of this Part as if made by the order.

#### Textual Amendments

- F14** S. 87(1) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 1 para. 10(2)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F15** S. 87(2) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(3), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F16** Words in s. 87(4) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(4)(a), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F17** Words in s. 87(4)(a) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(4)(b), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F18** Words in s. 87(4)(b) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(4)(c), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F19** Words in s. 87(5) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(5), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F20** S. 87(6) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(6), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F21** Words in s. 87(8) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(7), **Sch. 3 Pt. 1**; S.I. 2008/2261, art. 2 (with Sch. 1)

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- F22** Words in s. 87(10) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(8)(a), [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F23** Words in s. 87(10)(a) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(8)(b), [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F24** Words in s. 87(11) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 10(9), [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)

## 88 <sup>F25</sup> **Implementation of the National Curriculum for England in schools** **E+W**

[<sup>F26</sup>(1)] In relation to any maintained school and any school year—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

that the National Curriculum for England as subsisting at the beginning of that year is implemented.

[<sup>F27</sup>This subsection does not apply in relation to assessment arrangements.]

[<sup>F28</sup>(1A) In relation to any maintained school—

- (a) the local education authority and the governing body must exercise their functions with a view to securing, and
- (b) the head teacher must secure,

that the assessment arrangements specified for the time being in the National Curriculum for England are implemented.]

### Textual Amendments

- F25** S. 88 amendment to earlier affecting provision 2006 c. 40 s. 74(3) (26.11.2008) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(1)(g), [Sch. 1 para. 87](#)
- F26** S. 88(1): s. 88 renumbered as s. 88(1) (26.11.2008) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 156\(1\)](#), 173(1)(b)
- F27** Words in s. 88(1) inserted (26.11.2008) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 156\(1\)](#), 173(1)(b)
- F28** S. 88(1A) inserted (26.11.2008) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 156\(2\)](#), 173(1)(b)

## <sup>F29</sup>89 **Implementation in respect of nursery schools etc.** **E+W**

### Textual Amendments

- F29** S. 89 repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 11, [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)

*The National Curriculum for England: special cases*

## 90 **Development work and experiments** **E+W**

- (1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct in respect of a particular maintained school <sup>F30</sup>... that,

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- for such period as may be specified in the direction, the National Curriculum for England—
- (a) shall not apply, or
  - (b) shall apply with such modifications as may be specified in the direction.
- (2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.
- (3) In the case of a community, voluntary controlled or community special school <sup>F31</sup> ..., a direction shall not be given under subsection (1) except on an application—
- (a) by the governing body with the agreement of the local education authority,
  - (b) by the local education authority with the agreement of the governing body, or
  - (c) by the Qualifications and Curriculum Authority with the agreement of both the local education authority and the governing body.
- (4) In the case of a foundation, voluntary aided or foundation special school, a direction shall not be given under subsection (1) except on an application by the governing body or by the Qualifications and Curriculum Authority with the agreement of the governing body.
- (5) The Secretary of State may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Secretary of State on any matters specified by him.
- (6) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1).

#### Textual Amendments

- F30** Words in s. 90(1) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 12(2), [Sch. 3 Pt. 1](#); [S.I. 2008/2261](#), art. 2 (with [Sch. 1](#))
- F31** Words in s. 90(3) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 12(3), [Sch. 3 Pt. 1](#); [S.I. 2008/2261](#), art. 2 (with [Sch. 1](#))

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

- C7** S. 90 applied (with modifications) (25.5.2007) by [The School Governance \(New Schools\) \(England\) Regulations 2007 \(S.I. 2007/958\)](#), regs. 1, [30](#)
- C8** S. 90(3) modified (31.3.2004) by [The Blackburn with Darwen \(Maintained Nursery School Governance\) Order 2004 \(S.I. 2004/657\)](#), arts. 1(1), [3\(i\)](#)

## 91 Exceptions by regulations **E+W**

Regulations may provide that the National Curriculum for England, or such of the provisions of the National Curriculum for England as may be specified in the regulations—

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the regulations, in such cases or circumstances as may be specified in the regulations.

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## 92 Pupils with statements of special educational needs **E+W**

The special educational provision for any pupil specified in a statement under section 324 of the Education Act 1996 (c. 56) of his special educational needs may include provision—

- (a) excluding the application of the National Curriculum for England, or
- (b) applying the National Curriculum for England with such modifications as may be specified in the statement.

## 93 Temporary exceptions for individual pupils **E+W**

- (1) Regulations may enable the head teacher of a maintained school <sup>F32</sup>..., in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the National Curriculum for England—
  - (a) shall not apply, or
  - (b) shall apply with such modifications as may be specified in the direction.
- (2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.
- (3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either—
  - (a) a fixed period not exceeding six months, or
  - (b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning.
- (4) Any maximum period so specified may, without prejudice to the generality of section 210(7) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning—
  - (a) immediately after the end of the operative period of a previous direction, or
  - (b) within such period after the end of the operative period of a previous direction as may be specified in the regulations.
- (5) The regulations may enable the head teacher of a maintained school <sup>F33</sup>..., in such cases or circumstances and subject to such conditions as may be prescribed—
  - (a) to revoke any direction given by him under the regulations, and
  - (b) to vary such a direction, except so as to extend its operative period.
- (6) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

### Textual Amendments

**F32** Words in s. 93(1) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 13, [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)

**F33** Words in s. 93(5) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 13, [Sch. 3 Pt. 1](#); S.I. 2008/2261, art. 2 (with Sch. 1)

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## 94 Information concerning directions under section 93 **E+W**

- (1) Where a head teacher gives or varies a direction under regulations made under section 93, he shall, in such manner as may be prescribed, give the information mentioned in subsection (2)—
- (a) to the governing body, and
  - (b) to the local education authority by whom the school is maintained,
- and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.
- (2) That information is—
- (a) the fact that he has taken the action in question, its effect and his reasons for taking it,
  - (b) the provision that is being or is to be made for the pupil's education during the operative period of the direction, and
  - (c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum for England in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3).
- (3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs which the authority are for the time being required under section 324 of the Education Act 1996 (c. 56) to maintain).
- (4) Where—
- (a) the head teacher of a maintained school <sup>F34</sup>... includes an indication of any such opinion in information given under subsection (1), and
  - (b) the local education authority by whom the school is maintained are not the responsible authority in relation to the pupil in question,
- the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (5) Where the responsible authority receive information given to them under subsection (1) or (4) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on their part is required in the case of the pupil concerned under section 323 of the Education Act 1996 (c. 56) (assessment of special educational needs).
- (6) In this section “the responsible authority”, in relation to a pupil, means the local education authority responsible for him for the purposes of Part 4 of the Education Act 1996.

### Textual Amendments

**F34** Words in s. 94(4)(a) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 1 para. 14, [Sch. 3 Pt. 1](#); [S.I. 2008/2261](#), art. 2 (with [Sch. 1](#))

## 95 Appeals against directions under section 93 etc. **E+W**

- (1) Where a head teacher—

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- (a) gives, revokes or varies a direction under regulations made under section 93,
  - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or
  - (c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,
- the parent of the pupil concerned may appeal to the governing body.
- (2) On such an appeal, the governing body may—
    - (a) confirm the head teacher’s action, or
    - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances.
  - (3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).
  - (4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal.

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

- C9** S. 95 modified (31.3.2004) by [The Blackburn with Darwen \(Maintained Nursery School Governance\) Order 2004 \(S.I. 2004/657\)](#), arts. 1(1), **3(j)**

*Supplementary provisions*

**96 Procedure for making certain orders and regulations** **E+W**

- (1) This section applies where the Secretary of State proposes to make—
  - (a) an order under section 82(4), <sup>F35</sup>..., 84(6), [<sup>F36</sup>87(3)(a) or (b)] , or
  - (b) regulations under section 91.
- (2) The Secretary of State shall refer the proposal to the Qualifications and Curriculum Authority (in this section referred to as “the Authority”) and shall give them directions as to the time within which they are to report to him.
- (3) The Authority shall give notice of the proposal—
  - (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to the Authority to be concerned, and
  - (b) to any other persons with whom consultation appears to the Authority to be desirable,

and shall give them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (4) The report of the Authority to the Secretary of State shall contain—
  - (a) a summary of the views expressed during the consultations,
  - (b) the Authority’s recommendations as to the proposal, and
  - (c) such other advice relating to the proposal as the Authority think fit.

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- (5) The Authority shall, after submitting their report to the Secretary of State, arrange for the report to be published.
- (6) Where the Authority have reported to the Secretary of State, he shall publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
- (a) a draft of the proposed order or regulations and any associated document, and
  - (b) a statement explaining his reasons for any failure to give effect to the recommendations of the Authority,
- and shall send copies of the documents mentioned in paragraphs (a) and (b) to the Authority and to each of the persons consulted by the Authority.
- (7) The Secretary of State shall allow a period of not less than one month for the submission of evidence and representations as to the issues arising.
- (8) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

#### **Textual Amendments**

- F35** Word in s. 96(1)(a) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 1 para. 15\(a\)](#), [Sch. 3 Pt. 1](#); S.I. 2008/2261, [art. 2](#) (with [Sch. 1](#))
- F36** Words in s. 96(1)(a) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 1 para. 15\(b\)](#); S.I. 2008/2261, [art. 2](#) (with [Sch. 1](#))

**Status:**

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