



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 4 **E+W**

#### SCHOOLS CAUSING CONCERN: ENGLAND

##### *Introduction*

### 59 Meaning of “maintained school” and “eligible for intervention” **E+W**

- (1) In this Part “maintained school” means any of the following schools in England—
- a community, foundation or voluntary school,
  - a community or foundation special school, or
  - a maintained nursery school.
- (2) In this Part, references to a school being “eligible for intervention” are to be read in accordance with—
- section 60 ([<sup>F1</sup>performance standards and safety warning notice]),
  - [<sup>F2</sup>section 60A (teachers' pay and conditions warning notice),]
  - section 61 (school requiring significant improvement), and
  - section 62 (school requiring special measures).

#### Textual Amendments

- F1** Words in s. 59(2) substituted (12.1.2010) by virtue of [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 13 para. 2\(2\)](#); S.I. 2009/3317, art. 2, Sch.
- F2** Words in s. 59(2) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 13 para. 2\(3\)](#); S.I. 2009/3317, art. 2, Sch.

#### Commencement Information

- I1** S. 59 in force at 1.4.2007 by [S.I. 2007/935](#), [art. 5\(j\)](#)

*Status: Point in time view as at 05/05/2010.*

*Changes to legislation: Education and Inspections Act 2006, Part 4 is up to date with all changes known to be in force on or before 07 September 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)*

*Schools that are eligible for intervention*

**60 [F3Performance standards and safety warning notice] E+W**

- (1) A maintained school is by virtue of this section eligible for intervention if—
  - (a) the [F4local authority] have given the governing body a warning notice in accordance with subsection (2),
  - (b) the period beginning with the day on which the warning notice is given and ending with the fifteenth working day following that day (“the initial period”) has expired,
  - (c) either the governing body made no representations under subsection (7) to the Chief Inspector against the warning notice during the initial period or the Chief Inspector has confirmed the warning notice under subsection (8),
  - (d) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction by the end of the compliance period (as defined by subsection (10)), and
  - (e) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under any one or more of sections 63 to 66 (whether or not the notice is combined with a notice under section 62(2A)(c) of SSFA 1998).
- (2) A [F4local authority] may give a warning notice to the governing body of a maintained school where the authority are satisfied—
  - (a) that the standards of performance of pupils at the school are unacceptably low, and are likely to remain so unless the authority exercise their powers under this Part, or
  - (b) that there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or
  - (c) that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise).
- (3) For the purposes of subsection (2)(a) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—
  - (a) the standards that the pupils might in all the circumstances reasonably be expected to attain,
  - (b) where relevant, the standards previously attained by them, or
  - (c) the standards attained by pupils at comparable schools.
- (4) For the purposes of this section a “warning notice” is a notice in writing by the [F4local authority] setting out—
  - (a) the matters on which the conclusion mentioned in subsection (2) is based,
  - (b) the action which they require the governing body to take in order to remedy those matters,
  - (c) the initial period applying under subsection (1)(b), and
  - (d) the action which the [F4local authority] are minded to take (under one or more of sections 63 to 66 or otherwise) if the governing body fail to take the required action.
- (5) The warning notice must also inform the governing body of their right to make representations under subsection (7) during the initial period.

*Status: Point in time view as at 05/05/2010.*

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- (6) The [<sup>F4</sup>local authority] must, at the same time as giving the governing body the warning notice, give a copy of the notice to each of the following persons—
- (a) the Chief Inspector,
  - (b) the head teacher of the school,
  - (c) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (d) in the case of a foundation or voluntary school, the person who appoints the foundation governors.
- (7) Before the end of the initial period, the governing body may make representations in writing to the Chief Inspector against the warning notice, and must send a copy of any such representations to the [<sup>F4</sup>local authority].
- (8) The Chief Inspector must consider any representations made to him under subsection (7) and may, if he thinks fit, confirm the warning notice.
- (9) The Chief Inspector must give notice in writing of his decision whether or not to confirm the warning notice to the [<sup>F4</sup>local authority], the governing body and such other persons as the Secretary of State may require.
- (10) In this section—
- “the compliance period”, in relation to a warning notice, means—
- (a) in a case where the governing body does not make representations under subsection (7), the initial period mentioned in subsection (1)(b), and
  - (b) in a case where the Chief Inspector confirms the warning notice under subsection (8), the period beginning with the day on which he does so and ending with the fifteenth working day following that day;
- “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in England.

#### Textual Amendments

- F3** S. 60 title substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 13 para. 3](#); S.I. 2009/3317, art. 2, Sch.
- F4** Words in Pts. 1-7 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. 14\(2\)](#)

#### Commencement Information

- I2** S. 60 in force at 1.4.2007 by [S.I. 2007/935](#), art. 5(j)

### [<sup>F5</sup>60A Teachers' pay and conditions warning notice **E+W**

- (1) A maintained school is by virtue of this section eligible for intervention if—
- (a) the [local authority] have given the governing body a warning notice in accordance with subsection (2),
  - (b) the period beginning with the day on which the warning notice is given and ending with the fifteenth working day following that day (“the initial period”) has expired,

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- (c) either the governing body made no representations under subsection (7) to the [local authority] against the warning notice during the initial period or the [local authority] have confirmed the warning notice under subsection (8),
  - (d) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction by the end of the compliance period (as defined by subsection (10)), and
  - (e) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under any one or more of sections 64 to 66.
- (2) A [local authority] may give a warning notice to the governing body of a maintained school where the authority are satisfied that—
- (a) the governing body have failed to comply with a provision of an order under section 122 of EA 2002 (teachers' pay and conditions) that applies to a teacher at the school, or
  - (b) the governing body have failed to secure that the head teacher of the school complies with such a provision.
- (3) In subsection (2) references to an order under section 122 of EA 2002 include a document by reference to which provision is made in such an order.
- (4) For the purposes of this section a “warning notice” is a notice in writing by the [local authority] setting out—
- (a) the matters on which the conclusion mentioned in subsection (2) is based,
  - (b) the action which they require the governing body to take in order to remedy those matters,
  - (c) the initial period applying under subsection (1)(b), and
  - (d) the action which the [local authority] are minded to take (under one or more of sections 64 to 66 or otherwise) if the governing body fail to take the required action.
- (5) The warning notice must also inform the governing body of their right to make representations under subsection (7) during the initial period.
- (6) The [local authority] must, at the same time as giving the governing body the warning notice, give a copy of the notice to each of the following persons—
- (a) the head teacher of the school,
  - (b) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (c) in the case of a foundation or voluntary school, the person who appoints the foundation governors.
- (7) Before the end of the initial period, the governing body may make representations in writing to the [local authority] against the warning notice.
- (8) The [local authority] must consider any representations made to them under subsection (7) and may, if they think fit, confirm the warning notice.
- (9) The [local authority] must give notice in writing of their decision whether or not to confirm the warning notice to the governing body and such other persons as the Secretary of State may require.
- (10) In this section “the compliance period”, in relation to a warning notice, means—

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- (a) in a case where the governing body does not make representations under subsection (7), the initial period mentioned in subsection (1)(b), and
- (b) in a case where the [local authority] confirm the warning notice under subsection (8), the period beginning with the day on which they do so and ending with the fifteenth working day following that day.]

#### Textual Amendments

**F5** S. 60A inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 4**; S.I. 2009/3317, art. 2, Sch.

### 61 School requiring significant improvement **E+W**

A maintained school is by virtue of this section eligible for intervention if—

- (a) following an inspection of the school under Chapter 1 of Part 1 of EA 2005, the Chief Inspector has given notice under section 13(3)(a) of that Act in a case falling within section 13(1)(b) of that Act (school requiring significant improvement), and
- (b) where any subsequent inspection of the school has been made under Chapter 1 of Part 1 of that Act, the notice has not been superseded by—
  - (i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or
  - (ii) the Chief Inspector giving the Secretary of State a notice under section 13(3)(a) of that Act in a case falling within section 13(1)(a) of that Act (school requiring special measures).

#### Commencement Information

**I3** S. 61 in force at 1.4.2007 by S.I. 2007/935, art. 5(j)

### 62 School requiring special measures **E+W**

A maintained school is by virtue of this section eligible for intervention if—

- (a) following an inspection of the school under Chapter 1 of Part 1 of EA 2005, the Chief Inspector has given notice under section 13(3)(a) of that Act in a case falling within section 13(1)(a) of that Act (school requiring special measures), and
- (b) where any subsequent inspection of the school has been made under Chapter 1 of Part 1 of that Act, the person making it did not state that in his opinion special measures were not required to be taken in relation to the school.

#### Commencement Information

**I4** S. 62 in force at 1.4.2007 by S.I. 2007/935, art. 5(j)

*Status: Point in time view as at 05/05/2010.*

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*Intervention by [F4]local authority]*

**63 Power of [F6]local authority] to require governing body to enter into arrangements E+W**

- (1) If at any time a maintained school is eligible for intervention [F7]other than by virtue of section 60A], then (subject to subsection (3)) the [F4]local authority] may, with a view to improving the performance of the school, give the governing body of the school a notice requiring the governing body—
- (a) to enter into a contract or other arrangement with a specified person (who may be the governing body of another school) for the provision to the governing body of specified services of an advisory nature,
  - (b) to make specified arrangements authorised by section 26 of EA 2002 (collaboration between schools) with the governing body of such other school as may be specified,
  - (c) to make specified arrangements authorised by regulations under section 166 of this Act (collaboration arrangements: maintained schools and further education bodies) with a further education body within the meaning of that section, or
  - (d) to take specified steps for the purpose of creating or joining a federation, as defined by section 24(2) of EA 2002.
- (2) Before exercising the power conferred by subsection (1), the [F4]local authority] must consult—
- (a) the governing body of the school,
  - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) Where the school is eligible for intervention by virtue of section 60 (school subject to [F8]performance standards and safety warning]), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10)).
- (4) A notice under subsection (1)(a) may require the contract or other arrangement to contain specified terms and conditions.

**Textual Amendments**

- F6** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**
- F7** Words in s. 63(1) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 5(2)**; S.I. 2009/3317, art. 2, Sch.
- F8** Words in s. 63(3) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 5(3)**; S.I. 2009/3317, art. 2, Sch.

**Commencement Information**

- I5** S. 63 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

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## 64 Power of <sup>F6</sup>[local authority]etc. to appoint additional governors **E+W**

(1) If at any time a maintained school is eligible for intervention, then (subject to <sup>F9</sup>[subsections (1A) and (2) ]) the <sup>F4</sup>[local authority] may appoint such number of additional governors as they think fit.

<sup>F10</sup>(1A) Subsection (1) does not apply if the Secretary of State has exercised the power under section 67 (power to appoint additional governors) in connection with—

- (a) the same warning notice, where the school is eligible for intervention by virtue of section 60 (school subject to performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning), or
- (b) the same inspection falling within section 61(a) or 62(a), where the school is eligible for intervention by virtue of section 61 (school requiring significant improvement) or 62 (school requiring special measures).]

(2) Where the school is eligible for intervention by virtue of section 60 (school subject to <sup>F11</sup>[performance standards and safety warning] or 60A (school subject to teachers' pay and conditions warning)], the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10) <sup>F12</sup>[or as the case may be section 60A(10) ]).

(3) In relation to any appointment made by the <sup>F4</sup>[local authority] by virtue of subsection (1) to the governing body of a school, the instrument of government for the school has effect as if (despite anything in regulations under section 19 of EA 2002) it provided for the <sup>F4</sup>[local authority] to appoint such number of additional governors as they think fit.

(4) If at any time—

- (a) a voluntary aided school other than one falling within section 61 or 62 is eligible for intervention by virtue of section 60 (school subject to <sup>F13</sup>[performance standards and safety warning] or 60A (school subject to teachers' pay and conditions warning)], and
- (b) the <sup>F4</sup>[local authority] have exercised their power to appoint additional governors under subsection (1),<sup>F14</sup>[and]

<sup>F14</sup>(c) the Secretary of State has not exercised the power under section 67 in connection with the same warning notice,]

the appropriate appointing authority may appoint such number of additional foundation governors as is equal to the number of additional governors appointed by the authority.

(5) Any additional foundation governors appointed under subsection (4)—

- (a) shall cease to hold office at the time when the additional governors appointed by the authority cease to do so; and
- (b) shall not be eligible for re-appointment except where, and to the extent that, those governors are re-appointed.

(6) If at any time—

- (a) a voluntary aided school is eligible for intervention by virtue of section 61 (school requiring significant improvement) or section 62 (school requiring special measures),
- (b) the Secretary of State has not exercised his power under section 67 (power to appoint additional governors) in connection with the same inspection falling within section 61(a) or 62(a),

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- (c) the Secretary of State has not exercised his power under section 68 (power to direct closure of school), and
  - (d) the appropriate appointing authority have received a notice in writing from the Secretary of State informing them that he has received a notice under section 13(3)(a) of EA 2005 from the Chief Inspector,
- the appropriate appointing authority may appoint such number of additional foundation governors as they think fit.
- (7) In the case of any appointment made by virtue of subsection (4) or (6) to the governing body of a school, the instrument of government for the school has effect as if (despite anything in regulations under section 19 of EA 2002) the instrument provided for the appropriate appointing authority to appoint such number of additional foundation governors as they are authorised to appoint under subsection (4) or (6) (as the case may be).
- (8) Subject to subsection (9), references in this section to the appropriate appointing authority in relation to any voluntary aided school are references—
- (a) to the appropriate diocesan authority, if it is a Church of England school or a Roman Catholic Church school; or
  - (b) in any other case, to the person or persons by whom the foundation governors are appointed.
- (9) Where, in the case of any voluntary aided school not falling within subsection (8)(a), there are different powers to appoint foundation governors, references in this section to the appropriate appointing authority are references—
- (a) to all those persons who have any such power acting jointly, or
  - (b) if they are unable to agree, to such of them acting jointly, or such one of them, as the Secretary of State may, after consulting all those persons, determine.

#### Textual Amendments

- F6** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**
- F9** Words in s. 64(1) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 6(2)**; S.I. 2009/3317, art. 2, Sch.
- F10** S. 64(1A) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 6(3)**; S.I. 2009/3317, art. 2, Sch.
- F11** Words in s. 64(2) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 6(4)(a)**; S.I. 2009/3317, art. 2, Sch.
- F12** Words in s. 64(2) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 6(4)(b)**; S.I. 2009/3317, art. 2, Sch.
- F13** Words in s. 64(4)(a) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 6(5)(a)**; S.I. 2009/3317, art. 2, Sch.
- F14** S. 64(4)(c) and word inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 6(5)(b)**; S.I. 2009/3317, art. 2, Sch.

#### Commencement Information

- I6** S. 64 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**



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## 65 Power of [<sup>F6</sup>local authority] to provide for governing body to consist of interim executive members **E+W**

- (1) If at any time a maintained school is eligible for intervention, the [<sup>F4</sup>local authority] may, with the consent of the Secretary of State, give the governing body a notice in writing stating that, as from a date specified in the notice, the governing body are to be constituted in accordance with Schedule 6 (governing bodies consisting of interim executive members).
- (2) Before exercising the power conferred by subsection (1), the [<sup>F4</sup>local authority] must consult—
  - (a) the governing body of the school,
  - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

### Textual Amendments

- F6** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

### Commencement Information

- I7** S. 65 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

## 66 Power of [<sup>F6</sup>local authority] to suspend right to delegated budget **E+W**

- (1) If at any time—
  - (a) a maintained school is eligible for intervention, and
  - (b) the school has a delegated budget within the meaning of Part 2 of SSFA 1998,then (subject to subsection (2)) the [<sup>F4</sup>local authority] may, by giving the governing body of the school notice in writing of the suspension, suspend the governing body's right to a delegated budget with effect from the receipt of the notice by the governing body.
- (2) Where the school is eligible for intervention by virtue of section 60 (school subject to [<sup>F15</sup>performance standards and safety warning] or 60A (school subject to teachers' pay and conditions warning)], the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10) [<sup>F16</sup>or as the case may be section 60A(10)]).
- (3) A copy of a notice given under subsection (1) must be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (4) A suspension imposed under this section shall have effect for the purposes of Chapter 4 of Part 2 of SSFA 1998 as if made under paragraph 1 of Schedule 15 to that Act.

### Textual Amendments

- F6** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

*Status: Point in time view as at 05/05/2010.*

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**F15** Words in s. 66(2) substituted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 7(a)**; S.I. 2009/3317, art. 2, Sch.

**F16** Words in s. 66(2) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 7(b)**; S.I. 2009/3317, art. 2, Sch.

#### Commencement Information

**I8** S. 66 in force at 1.4.2007 by S.I. 2007/935, art. 5(j)

### *Intervention by Secretary of State*

#### **67 Power of Secretary of State to appoint additional governors** **E+W**

- (1) If at any time a maintained school is eligible for intervention <sup>F17</sup>..., the Secretary of State may appoint such number of additional governors as he thinks fit; and he may nominate one of those governors to be the chairman of the governing body in place of any person who has been elected as chairman of that body.
- (2) Before making any such appointment, the Secretary of State must consult—
  - (a) the [<sup>F4</sup>local authority],
  - (b) the governing body of the school,
  - (c) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) A governor appointed under this section—
  - (a) shall hold office as governor for such term, and
  - (b) if nominated as chairman of the governing body, shall be chairman of that body for such period,
 as the Secretary of State may determine.
- (4) The Secretary of State may pay to any governor appointed under this section such remuneration and allowances as the Secretary of State may determine.
- (5) In relation to any appointment made by the Secretary of State by virtue of subsection (1) to the governing body of a school, the instrument of government for the school shall have effect as if (despite anything in regulations under section 19 of EA 2002) it provided for the Secretary of State to appoint such number of additional governors as he thinks fit.
- (6) Where the Secretary of State has exercised his power under this section in relation to a school, then—
  - (a) in any such case—
    - (i) the [<sup>F4</sup>local authority] may not exercise their power under section 66(1) or paragraph 1 of Schedule 15 to SSFA 1998 to suspend the governing body's right to a delegated budget, and
    - (ii) if they have already exercised either of those powers, the Secretary of State must, if requested to do so by the governing body, revoke the suspension; and

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- (b) in the case of a voluntary aided school, nothing in regulations under section 19 of EA 2002 is to be read as authorising the appointment of foundation governors for the purpose of outnumbering the other governors as augmented by those appointed by the Secretary of State under this section.
- (7) The revocation of a suspension under subsection (6)(a)—
- (a) must be notified to the [F4]local authority] in writing, and
  - (b) takes effect from such date as is specified in that notification.

#### Textual Amendments

- F4** Words in Pts. 1-7 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. 14(2)**
- F17** Words in s. 67(1) repealed (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 8**, **Sch. 16 Pt. 6**; S.I. 2009/3317, art. 2, **Sch.**

#### Commencement Information

- I9** S. 67 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

## 68 Power of Secretary of State to direct closure of school **E+W**

- (1) If at any time a maintained school is eligible for intervention by virtue of section 62 (school requiring special measures), the Secretary of State may give a direction to the [F4]local authority] requiring the school to be discontinued on a date specified in the direction.
- (2) Before giving a direction under subsection (1), the Secretary of State must consult—
- (a) the [F4]local authority] and the governing body of the school,
  - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority,
  - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed,
  - <sup>F18</sup>(d) .....
  - (e) such other persons as the Secretary of State considers appropriate.
- (3) On giving a direction under subsection (1) the Secretary of State must give notice in writing of the direction to the governing body of the school and its head teacher.
- (4) Where the [F4]local authority] are given a direction under subsection (1), they must discontinue the school in question on the date specified in the direction; and nothing in sections 15 to 17 of this Act or in section 30 of SSFA 1998 applies to their discontinuance of the school under this section.
- (5) In this section any reference to the discontinuance of a maintained school is a reference to the [F4]local authority] ceasing to maintain it.

#### Textual Amendments

- F4** Words in Pts. 1-7 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. 14(2)**

*Status: Point in time view as at 05/05/2010.*

*Changes to legislation: Education and Inspections Act 2006, Part 4 is up to date with all changes known to be in force on or before 07 September 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)*

**F18** S. 68(2)(d) repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a)(b), Sch. 1 para. 60, **Sch. 2 Pt. 1** (with art. 2(3))

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

**C1** S. 68 applied (with modifications) (E.) (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. 23**

**Commencement Information**

**I10** S. 68 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

**69 Power of Secretary of State to provide for governing body to consist of interim executive members** **E+W**

- (1) If at any time a maintained school is eligible for intervention <sup>F19</sup>... ,the Secretary of State may give the governing body a notice in writing stating that, as from the date specified in the notice, the governing body are to be constituted in accordance with Schedule 6 (governing bodies consisting of interim executive members).
- (2) Before exercising the power conferred by subsection (1), the Secretary of State must consult—
  - (a) the [<sup>F4</sup>local authority],
  - (b) the governing body of the school,
  - (c) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) The Secretary of State need not consult the persons mentioned in subsection (2)(b), (c) and (d) if the [<sup>F4</sup>local authority] have consulted them under subsection (2) of section 65 in relation to a proposed notice under subsection (1) of that section.

**Textual Amendments**

**F4** Words in Pts. 1-7 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. 14(2)**

**F19** Words in s. 69(1) repealed (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), Sch. 13 para. 9, **Sch. 16 Pt. 6**; [S.I. 2009/3317](#), art. 2, Sch.

**Commencement Information**

**I11** S. 69 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

**[<sup>F20</sup>69A Power of Secretary of State to direct [local authority] to consider giving performance standards and safety warning notice** **E+W**

- (1) This section applies if the Secretary of State thinks that the conditions in subsections (2) and (3) are met.

*Status: Point in time view as at 05/05/2010.*

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- (2) The condition is that there are reasonable grounds for a [local authority] to give a warning notice to the governing body of a maintained school under section 60 (performance standards and safety warning notice).
- (3) The condition is that one of the following applies—
  - (a) the authority have not given a warning notice to the governing body under section 60 on those grounds;
  - (b) the authority have done so, but in inadequate terms;
  - (c) the authority have given a warning notice to the governing body under section 60 on those grounds, but the Chief Inspector has failed or declined to confirm it;
  - (d) the school has become eligible for intervention on those grounds by virtue of section 60, but the period of two months following the end of the compliance period (as defined by section 60(10)) has ended.
- (4) The Secretary of State may direct the [local authority] to consider giving a warning notice to the governing body under section 60 in the terms specified in the direction.
- (5) A direction under subsection (4) must be in writing.
- (6) If the Secretary of State gives a direction under subsection (4) to a [local authority] in respect of a governing body, the authority must—
  - (a) give the Secretary of State a written response to the direction before the end of the period of 10 working days beginning with the day on which the direction is given, and
  - (b) on the same day as they do so, give the Chief Inspector a copy of the response.
- (7) The [local authority]'s response to the direction must do one of the following—
  - (a) state that the authority have decided to give a warning notice to the governing body in the specified terms;
  - (b) state that the authority have decided not to give a warning notice to the governing body in those terms.
- (8) If the response states that the authority have decided to give a warning notice to the governing body in the specified terms, the authority must—
  - (a) give the warning notice to the governing body in those terms before the end of the period of 5 working days beginning with the day on which the response is given (and withdraw any previous warning notice given to the governing body under section 60), and
  - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (9) If the response states that the authority have decided not to give a warning notice to the governing body in the specified terms, it must set out the authority's reasons for the decision.
- (10) Subsection (8)(b) applies in addition to section 60(6).]

#### Textual Amendments

**F20** Ss. 69A, 69B inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 13 para. 10](#); S.I. 2009/3317, art. 2, [Sch.](#)

*Status: Point in time view as at 05/05/2010.*

*Changes to legislation: Education and Inspections Act 2006, Part 4 is up to date with all changes known to be in force on or before 07 September 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>F20</sup>69B Power of Secretary of State to direct [local authority] to give teachers' pay and conditions warning notice E+W**

- (1) This section applies if the Secretary of State thinks that the conditions in subsections (2) and (3) are met.
- (2) The condition is that there are reasonable grounds for a [local authority] to give a warning notice to the governing body of a maintained school under section 60A (teachers' pay and conditions warning notice).
- (3) The condition is that one of the following applies—
  - (a) the authority have not given a warning notice to the governing body under section 60A on those grounds;
  - (b) the authority have done so, but in inadequate terms;
  - (c) the authority have given a warning notice to the governing body under section 60A on those grounds, but have declined or failed to confirm it;
  - (d) the school has become eligible for intervention on those grounds by virtue of section 60A, but the period of two months following the end of the compliance period (as defined by section 60A(10)) has ended.
- (4) The Secretary of State may direct the [local authority] to consider giving a warning notice to the governing body under section 60A in the terms specified in the direction.
- (5) If the Secretary of State gives a direction under subsection (4) to a [local authority] in respect of a governing body, the authority must—
  - (a) give a copy of the direction to the governing body before the end of the period of 2 working days beginning with the day on which the direction is given,
  - (b) when it does so, invite the governing body to give the authority a written response before the end of the period of 7 working days beginning with the day on which the direction is given, and
  - (c) give the Secretary of State the authority's written response, and any response received from the governing body in accordance with paragraph (b), before the end of the period of 10 working days beginning with the day on which the direction is given.
- (6) The [local authority]'s response to the direction must do one of the following—
  - (a) state that the authority have decided to give a warning notice to the governing body in the specified terms;
  - (b) state that the authority have decided not to give a warning notice to the governing body in those terms.
- (7) If the response states that the authority have decided to give a warning notice to the governing body in the specified terms, the authority must—
  - (a) give the warning notice to the governing body in those terms before the end of the period of 5 working days beginning with the day on which the response is given (and withdraw any previous warning notice given to the governing body under section 60A), and
  - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (8) If the response states that the authority have decided not to give a warning notice to the governing body in the specified terms—
  - (a) the response must set out the authority's reasons for the decision, and

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- (b) the Secretary of State may direct the authority to give the warning notice to the governing body in those terms (and to withdraw any previous warning notice given to the governing body under section 60A).
- (9) If the Secretary of State directs the authority under subsection (8)(b) to give a warning notice to the governing body in the specified terms, the authority must—
  - (a) comply with the direction under subsection (8)(b) before the end of the period of 5 working days beginning with the day on which that direction is given, and
  - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (10) Subsections (7)(b) and (9)(b) apply in addition to section 60A(6).
- (11) A direction under this section must be in writing.]

#### Textual Amendments

- F20** Ss. 69A, 69B inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), [Sch. 13 para. 10](#); [S.I. 2009/3317](#), art. 2, [Sch.](#)

*Governing bodies consisting of interim executive members: further provisions*

## 70 **Governing bodies consisting of interim executive members** E+W

Schedule 6 has effect in relation to any school in respect of which a notice has been given—

- (a) under section 65(1) by the [<sup>F4</sup>local authority], or
- (b) under section 69(1) by the Secretary of State.

#### Textual Amendments

- F4** Words in Pts. 1-7 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. 14\(2\)](#)

#### Commencement Information

- I12** S. 70 in force at 1.4.2007 by [S.I. 2007/935](#), [art. 5\(j\)](#)

*Amendments relating to schools causing concern*

## 71 **Amendments relating to schools causing concern** E+W

Schedule 7 contains amendments related to the provisions of this Part.

#### Commencement Information

- I13** S. 71 in force at 1.4.2007 by [S.I. 2007/935](#), [art. 5\(j\)](#)

*Status: Point in time view as at 05/05/2010.*

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### Supplementary

#### 72 Duty of [<sup>F6</sup>local authority] to have regard to guidance **E+W**

A [<sup>F4</sup>local authority] must, in exercising their functions under this Part, have regard to any guidance given from time to time by the Secretary of State.

##### Textual Amendments

- F4** Words in Pts. 1-7 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. 14(2)**
- F6** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 14(3)**

##### Commencement Information

- I14** S. 72 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

#### 73 Interpretation of Part 4 **E+W**

In this Part—

“appropriate diocesan authority” has the same meaning as in SSFA 1998;

“Chief Inspector” means Her Majesty's Chief Inspector of Education, Children's Services and Skills;

“Church of England school” and “Roman Catholic Church school” have the same meaning as in SSFA 1998;

“eligible for intervention”, in relation to a maintained school, has the meaning given by section 59(2);

“maintained school” has the meaning given by section 59(1).

[<sup>F21</sup>“working day” has the meaning given by section 60(10).]

##### Textual Amendments

- F21** Words in s. 73 inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), **Sch. 13 para. 11**; [S.I. 2009/3317](#), art. 2, Sch.

##### Commencement Information

- I15** S. 73 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**



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**Changes to legislation:**

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