



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER I

THE CURRICULUM

Preliminary

1 Duties with respect to the curriculum

- (1) It shall be the duty—
- (a) of the Secretary of State as respects every maintained school;
 - (b) of every local education authority as respects every school maintained by them; and
 - (c) of every governing body or head teacher of a maintained school as respects that school;
- to exercise their functions (including, in particular, the functions conferred on them by this Chapter with respect to religious education, religious worship and the National Curriculum) with a view to securing that the curriculum for the school satisfies the requirements of this section.
- (2) The curriculum for a maintained 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 such pupils for the opportunities, responsibilities and experiences of adult life.

Principal provisions

2 The National Curriculum

- (1) The curriculum for every maintained school shall comprise a basic curriculum which includes—
 - (a) provision for religious education for all registered pupils at the school; and
 - (b) a curriculum for all registered pupils at the school of compulsory school age (to be known as “the National Curriculum”) which meets the requirements of subsection (2) below.
- (2) The curriculum referred to in subsection (1)(b) above shall comprise the core and other foundation subjects and specify in relation to each of them—
 - (a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of each key stage (in this Chapter referred to as “attainment targets”);
 - (b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during each key stage (in this Chapter referred to as “programmes of study”); and
 - (c) the arrangements for assessing pupils at or near the end of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage (in this Chapter referred to as “assessment arrangements”).
- (3) Subsection (1)(a) above shall not apply in the case of a maintained special school.

3 Foundation subjects and key stages

- (1) Subject to subsection (4) below, the core subjects are—
 - (a) mathematics, English and science; and
 - (b) in relation to schools in Wales which are Welsh-speaking schools, Welsh.
- (2) Subject to subsection (4) below, the other foundation subjects are—
 - (a) history, geography, technology, music, art and physical education;
 - (b) in relation to the third and fourth key stages, a modern foreign language specified in an order of the Secretary of State; and
 - (c) in relation to schools in Wales which are not Welsh-speaking schools, Welsh.
- (3) Subject to subsections (4) and (5) below, the key stages in relation to a pupil are as follows—
 - (a) the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven;
 - (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;
 - (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;

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- (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 with the majority of pupils in his class ceasing to be of compulsory school age.
- (4) The Secretary of State may by order—
- (a) amend the foregoing provisions of this section; or
 - (b) provide that, in relation to any subject specified in the order, subsection (3) above shall have effect as if for the ages of seven and eight there mentioned there were substituted such other ages, less than eleven and twelve respectively, as may be so specified.
- (5) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (3) above shall have effect as if any reference to the school year in which the majority of pupils in that pupil's class attained a particular age were a reference to the school year in which that pupil attained that age.
- (6) In this section—
- “class”, in relation to a particular pupil and a particular subject, means the teaching group in which he is regularly taught that subject or, where there are two or more such groups, such one of them as may be designated by the head teacher of the school;
 - “school”, except in subsection (5) above and the above definition, includes part of a school.
- (7) For the purposes of this section a school in Wales is a Welsh-speaking school if more than one half of the following subjects, namely—
- (a) religious education; and
 - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school;
- are taught (wholly or partly) in Welsh.

4 Duty to establish the National Curriculum by order

- (1) It shall be the duty of the Secretary of State so to exercise the powers conferred by subsection (2) below as—
- (a) to establish a complete National Curriculum as soon as is reasonably practicable (taking first the core subjects and then the other foundation subjects); and
 - (b) to revise that Curriculum whenever he considers it necessary or expedient to do so.
- (2) 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.
- (3) An order made under subsection (2) above may not require—
- (a) that any particular period or periods of time should be allocated during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it; or

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- (b) that provision of any particular kind should be made in school timetables for the periods to be allocated to such teaching during any such stage.
- (4) An order under subsection (2) above may, instead of containing the provisions to be made, refer to provisions in a document published by Her Majesty's Stationery Office and direct that those provisions shall have effect or, as the case may be, have effect as amended by the order.
- (5) An order under subsection (2)(c) above may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order as appear to the Secretary of State to be expedient; and any provisions made under such an order shall, on being published by Her Majesty's Stationery Office, have effect for the purposes of this Chapter as if made by the order.

5 Courses leading to external qualifications

- (1) No course of study leading to a qualification authenticated by an outside person shall be provided for pupils of compulsory school age by or on behalf of any maintained school unless the qualification is for the time being approved by the Secretary of State or by a designated body and either—
 - (a) a syllabus provided by the outside person for the purposes of the course is for the time being approved by such a body; or
 - (b) criteria so provided for determining a syllabus for those purposes are for the time being so approved.
- (2) An approval under this section may be given either generally or in relation to particular cases.
- (3) In this section—
 - “designated” means designated by the Secretary of State;
 - “outside person”, in relation to a school, means a person other than a member of staff of the school.

Religious education

6 Collective worship

- (1) Subject to section 9 of this Act, all pupils in attendance at a maintained school shall on each school day take part in an act of collective worship.
- (2) The arrangements for the collective worship in a school required by this section 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.
- (3) The arrangements for the collective worship in a county or voluntary school required by this section shall be made—
 - (a) in the case of a county school, by the head teacher after consultation with the governing body; and
 - (b) in the case of a voluntary school, by the governing body after consultation with the head teacher.
- (4) Subject to subsection (5) below, the collective worship in every maintained school required by this section shall take place on the school premises.

- (5) If the governing body of—
- (a) an aided or special agreement school; or
 - (b) a grant-maintained school;
- are of opinion that it is desirable that any act of collective worship in the school required by this section should, on a special occasion, take place elsewhere than on the school premises, they may make such arrangements for that purpose as they think appropriate.
- (6) The powers of a governing body under subsection (5) above shall not be so exercised as to derogate from the rule that, in every such school as is there mentioned, the collective worship required by this section must normally take place on the school premises.
- (7) For the purposes of this section—
- “maintained school” does not include a maintained special school; and
 - “school group” means any group in which pupils are taught or take part in other schools activities.

7 Special provisions as to collective worship in county schools

- (1) Subject to the following provisions of this section, in the case of a county school the collective worship required in the school by section 6 of this Act shall be wholly or mainly of a broadly Christian character.
- (2) For the purposes of subsection (1) above, 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.
- (3) Every act of collective worship required by section 6 of this Act in the case of a county school need not comply with subsection (1) above provided that, taking any school term as a whole, most such acts which take place in the school do comply with that subsection.
- (4) Subject to subsections (1) and (3) above—
- (a) the extent to which (if at all) any acts of collective worship required by section 6 of this Act which do not comply with subsection (1) above take place in a county school;
 - (b) the extent to which any act of collective worship in a county school which complies with subsection (1) above reflects the broad traditions of Christian belief; and
 - (c) the ways in which those traditions are reflected in any such act of collective worship;
- 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 subsection (5) below.
- (5) Those considerations are—
- (a) any circumstances relating to the family backgrounds of the pupils concerned which are relevant for determining the character of the collective worship which is appropriate in their case; and
 - (b) their ages and aptitudes.

- (6) Where under section 12 of this Act a standing advisory council on religious education determine that it is not appropriate for subsection (1) above to apply in the case of any county school, or in the case of any class or description of pupils at such a school, then, so long as that determination has effect—
- (a) that subsection shall not apply in relation to that school or (as the case may be) in relation to those pupils; and
 - (b) the collective worship required by section 6 of this Act in the case of that school or those pupils shall not be distinctive of any particular Christian or other religious denomination (but this shall not be taken as preventing that worship from being distinctive of any particular faith).

8 Religious education required in the basic curriculum: further provisions

- (1) Section 2(1)(a) of this Act is subject to section 9 of this Act.
- (2) The religious education for which provision is required by section 2(1)(a) to be included in the basic curriculum for any particular maintained school shall be religious education of the kind required by such of the provisions of sections 26 to 28 of the 1944 Act or sections 84 to 86 of this Act as apply in the case of that school.
- (3) Any agreed syllabus which after this section comes into force is adopted or deemed to be adopted under Schedule 5 to that Act (which, as amended by this Act, provides for the preparation, adoption and reconsideration of an agreed syllabus of religious education) shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.

9 Exceptions, special arrangements and supplementary and consequential provisions

- (1) It shall not be required, as a condition of any pupil attending any maintained school, that he shall attend or abstain from attending any Sunday school or any place of religious worship.
- (2) For the purposes of subsections (3) to (10) below “maintained school” does not include a maintained special school.
- (3) If the parent of any pupil in attendance at any maintained school requests that he may be wholly or partly excused—
 - (a) from attendance at religious worship in the school;
 - (b) from receiving religious education given in the school in accordance with the school’s basic curriculum; or
 - (c) both from such attendance and from receiving such education;
 the pupil shall be so excused accordingly until the request is withdrawn.
- (4) Where in accordance with subsection (3) above any pupil has been wholly or partly excused from attendance at religious worship or from receiving religious education in any school, and the responsible authority are satisfied—
 - (a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused;

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- (b) that the pupil cannot with reasonable convenience be sent to another maintained school where religious education of the kind desired by the parent is provided; and
 - (c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere;
- the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.
- (5) In this section “the responsible authority” means—
 - (a) in relation to a county or voluntary school, the local education authority; and
 - (b) in relation to a grant-maintained school, the governing body.
 - (6) A pupil may not be withdrawn from school under subsection (4) above unless the responsible authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of the school session or, if there is more than one, of any school session on that day.
 - (7) Where the parent of any pupil who is a boarder at a maintained school requests that the pupil be permitted—
 - (a) to attend worship in accordance with the tenets of a particular religious denomination on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs; or
 - (b) to receive religious education in accordance with such tenets outside school hours;the governing body of the school shall make arrangements for affording to the pupil reasonable opportunities for doing so.
 - (8) Arrangements made under subsection (7) above may provide for affording facilities for such worship or education on the school premises, but the arrangements shall not entail expenditure by the responsible authority.
 - (9) In this section—
 - (a) references to religious worship in a school include references to religious worship which under section 6 of this Act takes place otherwise than on the school premises; and
 - (b) references to religious education given in a school in accordance with the school’s basic curriculum are references to such education given in accordance with the provision included in the school’s basic curriculum by virtue of section 2(1)(a) of this Act.
 - (10) Schedule 1 to this Act shall have effect for making amendments of the enactments there mentioned consequential on the provisions of this Chapter relating to religious education.

Duties with respect to certain requirements

10 Duties with respect to certain requirements

- (1) Subject to section 9 of this Act, in relation to any maintained school (other than a maintained special school) and any school year it shall be the duty of the local

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education authority and the governing body to exercise their functions with a view to securing, and the duty of the head teacher to secure—

- (a) that all pupils in attendance at the school take part in the daily collective worship required by section 6 of this Act; and
 - (b) that religious education is given in accordance with the provision for such education included in the school's basic curriculum by virtue of section 2(1)(a) of this Act.
- (2) In relation to any maintained school and any school year it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing, and the duty of the head teacher to secure—
- (a) that the National Curriculum as subsisting at the beginning of that year is implemented; and
 - (b) that section 5 of this Act is not contravened.
- (3) In relation to any time before the beginning of the school year following the establishment of the National Curriculum so far as relating to a particular subject and a particular key stage, subsection (2)(a) above shall have effect as if that Curriculum required that subject to be taught for a reasonable time during that stage.

Standing advisory councils on religious education

11 Standing advisory councils on religious education

- (1) It shall be the duty of every local education authority to constitute a standing advisory council on religious education—
- (a) to advise the authority upon such matters connected with religious worship in county schools and the religious education to be given in accordance with an agreed syllabus as the authority may refer to the council or as the council may see fit; and
 - (b) to carry out the functions conferred by section 12 of this Act on councils constituted under this section.

References below in this section and in sections 12 and 13 of this Act to the council are references to any council constituted by a local education authority under this section.

- (2) The matters referred to in subsection (1) above include in particular methods of teaching, the choice of materials and the provision of training for teachers.
- (3) The council shall consist of—
- (a) the representative members required by subsection (4) below; and
 - (b) where any agreed syllabus for the time being adopted by the authority is in use at one or more grant-maintained schools, a person appointed by the governing body or (as the case may be) by the governing bodies of the school or schools concerned;
- and may also include co-opted members.
- (4) Subject to subsection (5) below, the representative members required by this subsection are persons appointed by the authority to represent respectively—

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- (a) such Christian and other religious denominations as, in the opinion of the authority, will appropriately reflect the principal religious traditions in the area;
- (b) except in the case of an area in Wales, the Church of England;
- (c) such associations representing teachers as, in the opinion of the authority, ought, having regard to the circumstances of the area, to be represented; and
- (d) the authority;

and references below in this section to representative groups on the council are references to the members appointed by virtue of paragraphs (a), (c) and (d) above respectively and, where members are required to be appointed by virtue of paragraph (b) above, the members so appointed.

- (5) Where members are required to be appointed by virtue of paragraph (b) of subsection (4) above, the representative members required by paragraph (a) of that subsection shall not include persons appointed to represent the Church of England.
- (6) On any question to be decided by the council only the representative groups on the council shall be entitled to vote, and each such group shall have a single vote.
- (7) The representative groups on the council, other than that consisting of persons appointed to represent the authority, may at any time require a review of any agreed syllabus for the time being adopted by the authority.

Each representative group concerned shall have a single vote on the question of whether to require such a review.
- (8) On receipt by the authority of written notification of any such requirement, it shall be the duty of the authority to cause a conference constituted in accordance with the provisions of Schedule 5 to the 1944 Act to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.
- (9) The council shall in each year publish a report with respect to the exercise of their functions and any action taken by representative groups on the council under subsection (7) above during the last preceding year.
- (10) The council's report shall in particular—
 - (a) specify any matters in respect of which the council have given advice to the authority;
 - (b) broadly describe the nature of the advice given; and
 - (c) where any such matter was not referred to the council by the authority, give the council's reasons for offering advice on that matter.

12 Determination by advisory councils of the cases in which the requirement for Christian collective worship is not to apply

- (1) It shall be the duty of the council, on an application made by the head teacher of any county school after consultation with the governing body, to consider whether it is appropriate for the requirement for Christian collective worship to apply in the case of that school, or in the case of any class or description of pupils at that school.

References in this section to the requirement for Christian collective worship are references to the requirement imposed by section 7(1) of this Act.

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- (2) In determining whether it is appropriate for that requirement to apply in the case of any such school or in the case of any class or description of pupils at such a school, the council shall have regard to any circumstances relating to the family backgrounds of the pupils at the school or of the pupils of the particular class or description in question which are relevant for determining the character of the collective worship appropriate in their case.
- (3) The council shall give any head teacher who has made an application to them under this section written notification of their decision on the application.
- (4) Where the council determine on any application under this section that it is not appropriate for the requirement for Christian collective worship to apply in the case of the school or any class or description of pupils at the school concerned, that determination shall take effect for the purposes of section 7 of this Act on such date as may be specified in the notification of their decision under subsection (3) above.
- (5) Any determination of the council under this section by virtue of which the requirement for Christian collective worship does not for the time being apply in the case of any school or any class or description of pupils at any school shall be reviewed by the council—
 - (a) at any time on an application made by the head teacher of the school after consultation with the governing body; and
 - (b) in any event not later than the end of the period of five years beginning with the date on which the determination first took effect or (where it has since been reviewed under this subsection) with the effective date of the decision on the last such review.
- (6) On any review under subsection (5)(b) above the council shall afford the head teacher an opportunity of making representations with respect to the determination under review; and the head teacher shall consult the governing body before making any such representations.
- (7) On any review under subsection (5) above the council may confirm (with or without variation) or revoke the determination under review (without prejudice, in a case where they revoke the determination, to any further determination under this section); and they shall give the head teacher of the school written notification of their decision specifying the effective date of that decision for the purposes of subsection (5)(b) above.
- (8) Any determination of the council which is required to be reviewed under subsection (5)(b) above shall cease to have effect, if not confirmed on such a review, at the end of the period there mentioned.
- (9) The governing body of any county school, on being consulted by the head teacher under this section, may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (10) Any application made to the council under this section shall be made in such manner and form as the council may require.

13 Advisory councils: supplementary provisions

- (1) Before appointing a person to represent any denomination or associations as a member of the council the local education authority concerned shall take all reasonable steps to assure themselves that he is representative of the denomination or associations in question.
- (2) A member of the council appointed by the authority may be removed from membership by the authority if in the opinion of the authority he ceases to be representative of the denomination or associations which he was appointed to represent or (as the case may be) of the authority.
- (3) Any member of the council required by section 11(3)(b) of this Act may at any time be removed from membership by the governing body or (as the case may be) by the governing bodies of the grant-maintained school or schools concerned.
- (4) In subsection (3) of that section “co-opted member” means a person co-opted as a member of the council by members of the council who have not themselves been so co-opted, and a person so co-opted shall hold office on such terms as may be determined by the members co-opting him.
- (5) Any member of the council may at any time resign his office.
- (6) Subject to subsection (6) of that section, the council and, in relation to any question falling to be decided by members of the council of any particular category, the members of that category may regulate their own proceedings.
- (7) The validity of proceedings of the council or of the members of the council of any particular category shall not be affected—
 - (a) by a vacancy in the office of any member of the council required by subsection (3) of that section; or
 - (b) on the ground that a member of the council appointed to represent any denomination or associations does not at the time of the proceedings represent the denomination or associations in question.

Curriculum and Assessment Councils

14 Establishment of Councils

- (1) There shall be established—
 - (a) a body corporate known as the National Curriculum Council;
 - (b) a body corporate known as the Curriculum Council for Wales; and
 - (c) a body corporate known as the School Examinations and Assessment Council;each of which shall perform the functions assigned to it by this Chapter.
- (2) Each Council shall consist of not less than ten or more than fifteen members appointed by the Secretary of State, of whom—
 - (a) one shall be so appointed as chairman; and
 - (b) another may be so appointed as deputy chairman;and members so appointed shall include persons having relevant knowledge or experience in education.

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- (3) The general functions of the Curriculum Council, that is to say, the National Curriculum Council in relation to England and the Curriculum Council for Wales in relation to Wales, shall be—
- (a) to keep all aspects of the curriculum for maintained schools under review;
 - (b) to advise the Secretary of State on such matters concerned with the curriculum for maintained schools as he may refer to it or as it may see fit;
 - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for schools;
 - (d) to publish and disseminate, and to assist in the publication and dissemination of, information relating to the curriculum for schools; and
 - (e) to carry out such ancillary activities as the Secretary of State may direct.
- (4) The functions of the School Examinations and Assessment Council shall be—
- (a) to keep all aspects of examinations and assessment under review;
 - (b) to advise the Secretary of State on such matters concerned with examinations and assessment as he may refer to it or as it may see fit;
 - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with examinations and assessment;
 - (d) to publish and disseminate, and to assist in the publication and dissemination of, information relating to examinations and assessment;
 - (e) to make arrangements with appropriate bodies for the moderation of assessments made in pursuance of assessment arrangements;
 - (f) to advise the Secretary of State on the exercise of his powers under section 5(1) of this Act; and
 - (g) to carry out such ancillary activities as the Secretary of State may direct.
- (5) For the purposes of subsection (3)(e) or (as the case may be) subsection (4)(g) above, activities are ancillary activities in relation to a Council if the Secretary of State considers it is appropriate for the Council to carry out those activities for the purposes of or in connection with the exercise by the Council of any of its other functions under that subsection.
- (6) It shall be the duty of each Council—
- (a) to furnish the Secretary of State with such reports and other information with respect to the exercise of its functions as he may require; and
 - (b) in exercising its functions—
 - (i) to comply with any directions given, and to act in accordance with any plans approved, by the Secretary of State; and
 - (ii) to have regard to the requirements of section 1 of this Act.
- (7) Schedule 2 to this Act shall have effect with respect to each Council.

15 Transfers of property and staff to Councils

- (1) References below in this section to the Council are references to each of the following bodies—
- (a) the National Curriculum Council;
 - (b) the Curriculum Council for Wales; and

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- (c) the School Examinations and Assessment Council.
- (2) The Secretary of State may by order provide for the transfer to the Council of—
- (a) such of the property of an existing body; and
 - (b) such of the rights and liabilities of such a body (other than rights and liabilities arising under contracts of employment);
- as, in his opinion, require to be so transferred for the purpose of enabling the Council properly to perform its functions; and an order under this subsection may contain such incidental, consequential and supplementary provisions as appear to the Secretary of State to be necessary or expedient.
- (3) Subsection (4) below applies to any person who—
- (a) immediately before the establishment of the Council is employed by an existing body; and
 - (b) is as respects the Council designated by order of the Secretary of State.
- (4) The contract of employment between a person to whom this subsection applies and the existing body shall have effect from the commencement date of the order under subsection (3) above as if originally made between him and the Council.
- (5) Without prejudice to subsection (4) above—
- (a) all the existing body's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the Council on the commencement date of the order under subsection (3) above; and
 - (b) anything done before that date by or in relation to the existing body in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the Council.
- (6) Subsections (4) and (5) above are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by subsection (4) above.
- (7) An order under subsection (3) above may designate a person either individually or as a member of a class or description of employees.
- (8) No order under this section shall be made more than six months after the date on which the Council is established; and any order under this section made before that date shall come into force on that date.
- (9) In this section—
- “commencement date”, in relation to an order under subsection (3) above, means the date on which the order comes into force;
 - “existing body” means the School Curriculum Development Committee or the Secondary Examinations Council.

Special cases

16 Development work and experiments

- (1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct as respects a particular maintained school that,

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for such period as may be specified in the direction, the provisions of the National Curriculum—

- (a) shall not apply; or
 - (b) shall apply with such modifications as may be so specified.
- (2) A direction under subsection (1) above may apply either generally or in such cases as may be specified in the direction.
- (3) A direction shall not be given under subsection (1) above except—
- (a) in the case of a county, controlled or maintained special school, on an application—
 - (i) by the governing body with the agreement of the local education authority;
 - (ii) by the local education authority with the agreement of the governing body; or
 - (iii) by the Curriculum Council with the agreement of both the local education authority and the governing body;
 - (b) in the case of a grant-maintained, aided or special agreement school, on an application by the governing body or by the Curriculum Council with the agreement of the governing body.
- (4) The Secretary of State may make it a condition of a direction under subsection (1) above 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.
- (5) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1) above.

17 Exceptions by regulations

The Secretary of State may by regulations provide that the provisions of the National Curriculum, or such of those provisions as may be specified in the regulations—

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

18 Pupils with statements of special educational needs

The special educational provision for any pupil specified in a statement under section 7 of the 1981 Act of his special educational needs may include provision—

- (a) excluding the application of the provisions of the National Curriculum; or
- (b) applying those provisions with such modifications as may be specified in the statement.

19 Temporary exceptions for individual pupils

- (1) The Secretary of State may make regulations enabling the head teacher of any maintained school, in such cases or circumstances and subject to such conditions as may be prescribed—

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- (a) to direct as respects a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the provisions of the National Curriculum—
 - (i) shall not apply; or
 - (ii) shall apply with such modifications as may be so specified; and
 - (b) to revoke any direction given by him under the regulations and to vary any such direction except so as to extend its operative period.
- (2) The conditions prescribed by the regulations shall, in particular, limit the period that may be specified in any direction given under the regulations to a maximum period specified in the regulations; and any maximum period specified in the regulations in relation to directions given under the regulations or in relation to directions so given in any circumstances so specified—
- (a) shall be either—
 - (i) a fixed period not exceeding six months; or
 - (ii) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning; and
 - (b) may (without prejudice to section 232(5) of this Act) differ according to whether or not the direction in question is given in respect of a period beginning immediately after the end of the operative period of a previous direction or within such period after the end of the operative period of a previous direction as may be specified in the regulations.
- (3) Where a head teacher gives a direction under regulations made under this section in the case of any pupil or varies any direction so given, he shall give the information mentioned in subsection (4) below, in such manner as may be prescribed—
- (a) to the governing body; and
 - (b) where the school is a county, voluntary or maintained special school, to the local education authority;
- and shall take such steps as may be prescribed to give that information also to a parent of the pupil.
- (4) That information is the following—
- (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—
 - (i) a description of the manner in which he proposes to secure the full implementation in relation to the pupil after the end of that period of the provisions of the National Curriculum; or
 - (ii) an indication of his opinion that the pupil has or probably has special educational needs by virtue of which the local education 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 the authority are for the time being required under section 7 of the 1981 Act to maintain).
- (5) Where the head teacher of a grant-maintained school includes such an indication of opinion as is mentioned in subsection (4)(c)(ii) above in information given to the

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governing body under subsection (3) above, he shall also give that information, in such manner as may be prescribed, to the local education authority.

- (6) It shall be the duty of a local education authority, on receiving information given to the authority under this section by the head teacher of any maintained school which includes such an indication of opinion with respect to a pupil, to consider whether any action on their part is required in the case of that pupil under section 5 of the 1981 Act (assessment of special educational needs).
- (7) Where the head teacher of a maintained school—
- (a) gives, revokes or varies any direction with respect to a pupil under regulations made under this section;
 - (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 parent of a registered pupil at the school; or
 - (c) fails within such period as may be prescribed following the making of such a request 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.
- (8) On any such 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;
- and it shall be the duty of the head teacher to comply with any directions of the governing body under paragraph (b) above.
- (9) The governing body shall notify the appellant and the head teacher in writing of their decision on any such appeal.
- (10) 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.

Supplementary

20 Procedure for making certain orders: England

- (1) This section applies where the Secretary of State proposes to make—
- (a) an order under section 3(4) or 4(2)(a) or (b) of this Act which relates to maintained schools in England; or
 - (b) regulations under section 17 of this Act which relate to such schools or to pupils at such schools.
- (2) The Secretary of State shall refer the proposal to the National Curriculum Council (in this section referred to as “the Council”) and give to it directions as to the time within which it is to report to him.
- (3) The Council 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 it to be concerned; and
 - (b) to any other persons with whom consultation appears to it to be desirable;

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and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.

- (4) The report of the Council to the Secretary of State shall contain—
- (a) a summary of the views expressed during the consultations;
 - (b) its recommendations as to the proposal; and
 - (c) such other advice relating to the proposal as it thinks fit;
- and the Council shall, after submitting its report to the Secretary of State, arrange for the report to be published.
- (5) Where the Council has reported to the Secretary of State, he shall—
- (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
 - (i) a draft of the proposed order or regulations and any associated document; and
 - (ii) a statement explaining his reasons for any failure to give effect to the recommendations of the Council;
 - (b) send copies of the documents mentioned in paragraph (a) above to the Council and to each of the persons consulted by the Council; and
 - (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.
- (6) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

21 Procedure for making certain orders: Wales

- (1) This section applies where the Secretary of State proposes to make—
- (a) an order under section 3(4) or 4(2)(a) or (b) of this Act which relates to maintained schools in Wales; or
 - (b) regulations under section 17 of this Act which relate to such schools or to pupils at such schools.
- (2) The Secretary of State shall give notice of the proposal—
- (a) to the Curriculum Council for Wales; and
 - (b) to any other persons with whom consultation appears to him to be desirable, and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (3) After considering any representations submitted to him under subsection (2) above, the Secretary of State shall—
- (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
 - (i) a draft of the proposed order or regulations and any associated document;
 - (ii) a statement giving such explanation of the provisions of the order or regulations as he thinks fit; and
 - (iii) a statement containing a list of the persons consulted by him and a summary of the views expressed;
 - (b) send copies of the documents mentioned in paragraph (a) above to each of the persons consulted by him; and

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- (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.
- (4) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

22 Provision of information

- (1) The Secretary of State may make regulations requiring, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—
- (a) such information relevant for the purposes of this Chapter (including information as to the matters mentioned in subsection (2) below); and
 - (b) such copies of the documents mentioned in subsection (3) below;
- as may be prescribed.
- (2) The matters referred to in subsection (1) above are as follows—
- (a) the curriculum for maintained schools;
 - (b) the educational provision made by the school for pupils at the school and any syllabuses to be followed by those pupils; and
 - (c) the educational achievements of pupils at the school (including the results of any assessments of those pupils, whether under this Chapter or otherwise, for the purpose of ascertaining those achievements).
- (3) The documents referred to in subsection (1) above are as follows—
- (a) any written statement made by the local education authority under section 17 of the 1986 Act (statement of policy in relation to school curriculum);
 - (b) any written statement made by the governing body in pursuance of provision made under section 18 of that Act (statement of conclusions as to how (if at all) the local education authority's policy should be modified);
 - (c) any written statement made by the governing body of their policy as to the curriculum for the school; and
 - (d) any report prepared by the governing body under section 30 of that Act (annual reports) or section 58(5)(j) of this Act.
- (4) Before making regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.
- (5) Regulations under this section shall not require information as to the results of an individual pupil's assessment (whether under this Chapter or otherwise) to be made available to any persons other than—
- (a) the parents of the pupil concerned;
 - (b) the governing body of the school; or
 - (c) the local education authority;
- and shall not require such information to be made available to the governing body or the local education authority except where relevant for the purposes of the performance by that body or authority of any of their functions.
- (6) Regulations under this section may authorise local education authorities, governing bodies and head teachers to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.

- (7) In relation to any maintained school, it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing that the head teacher complies with any regulations made under this section.

23 Complaints and enforcement

- (1) Every local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies of aided schools and of special agreement schools, make arrangements for the consideration and disposal of any complaint made on or after 1st September 1989 which is to the effect that the authority, or the governing body of any county or voluntary school maintained by the authority or of any special school so maintained which is not established in a hospital—
- (a) have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed on them by or under—
 - (i) any provision of this Chapter; or
 - (ii) any other enactment relating to the curriculum for, or religious worship in, maintained schools other than grant-maintained schools; or
 - (b) have failed to discharge any such duty.
- (2) The Secretary of State shall not entertain under section 68 or 99 of the 1944 Act any complaint falling within subsection (1) above, unless a complaint concerning the same matter has been made and disposed of in accordance with arrangements made under that subsection.

24 Extension of certain provisions

- (1) The Secretary of State may by order direct that the provisions of sections 5 and 10(2)(b) of this Act shall have effect as if—
- (a) any reference to pupils of compulsory school age included a reference to—
 - (i) senior pupils who are of or over that age; and
 - (ii) persons in full-time further education who are of or over that age but have not attained the age of nineteen (referred to below in this section as “FE students”);
 - (b) any reference to a maintained school included a reference to an institution required to be covered by a scheme made under section 139 of this Act and, except in relation to a local education authority—
 - (i) any institution within the PCFC funding sector; and
 - (ii) any institution (other than a university) which provides further education and is a grant-aided institution;
 - (c) any reference to the head teacher of such a school included a reference to the principal or other head of such an institution; and
 - (d) any reference to a school year included a reference to an academic year.
- (2) An order under this section may make such consequential modifications of section 14(4) of this Act as appear to the Secretary of State to be necessary or expedient.
- (3) In relation to FE students in relation to whom sections 5 and 10(2)(b) of this Act have effect by virtue of an order under this section, section 22 of this Act shall have effect—

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- (a) with the modifications mentioned in subsection (1)(b) and (c) above;
 - (b) as if the information referred to in paragraph (a) of subsection (1) were information with respect to the following matters—
 - (i) the qualifications authenticated by outside persons (within the meaning of section 5 of this Act) for which courses of study are to be provided by or on behalf of the institution concerned for such students;
 - (ii) the courses of study leading to such qualifications which are to be so provided;
 - (iii) the syllabuses which have been provided or determined for the purposes of those courses; and
 - (iv) the results of the assessments of such students for the purposes of those qualifications;
 - (c) as if in subsection (5)—
 - (i) the reference to the results of an individual pupil’s assessment (whether under this Chapter or otherwise) included a reference to the results of an individual student’s assessment for the purposes of any such qualification; and
 - (ii) the reference to the pupil concerned included a reference to the student concerned; and
 - (d) with the omission of subsections (1)(b), (2) and (3).
- (4) Before making an order under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

25 Interpretation of Chapter I

- (1) In this Chapter, except in so far as the context otherwise requires—
- “assess” includes examine and test, and cognate expressions shall be construed accordingly;
 - “assessment arrangements”, “attainment targets” and “programmes of study” have the meanings given by section 2 of this Act;
 - “core subjects”, “foundation subjects” and “key stages” have the meanings given by section 3 of this Act and “foundation subjects” includes “core subjects”;
 - “the Curriculum Council” means the National Curriculum Council in relation to England and the Curriculum Council for Wales in relation to Wales;
 - “maintained school” means—
 - (a) any county or voluntary school;
 - (b) any maintained special school which is not established in a hospital; and
 - (c) except in relation to a local education authority, any grant-maintained school.
- (2) Nothing in this Chapter shall apply in relation to a nursery school or a nursery class in a primary school.