



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER IV

##### GRANT-MAINTAINED SCHOOLS

##### *Discontinuance of grant-maintained schools*

#### **92 Discontinuance by governing body**

- (1) The governing body of a grant-maintained school shall not discontinue the school except in pursuance of proposals published and approved under this section.
- (2) Where the governing body of such a school—
  - (a) decide by a resolution passed at a meeting of that body (“W”) to publish proposals under this section for the discontinuance of the school and confirm that decision by a resolution (“W”) passed at a subsequent meeting of that body held not less than twenty-eight days after that at which the first resolution was passed; and
  - (b) give notice in writing of the second resolution to the local education authority for the area in which the school is situated;they may within the period of six months beginning with the date of the second resolution publish proposals for that purpose in such manner as may be required by regulations made by the Secretary of State and shall submit to him a copy of the published proposals.
- (3) The notice required by subsection (2)(b) above shall be given as soon as practicable after the passing of the resolution to which it refers.
- (4) The published proposals—

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- (a) shall specify the proposed date of discontinuance of the school; and
  - (b) shall be accompanied by a statement—
    - (i) indicating whether or not any proposals with respect to the establishment of a new school on the premises of the school have been published under section 12 or 13 of the 1980 Act (which relate respectively to county schools and voluntary schools); and
    - (ii) explaining the effect of subsection (5) below.
- (5) Before the end of the period of two months beginning with the date of publication of the proposals, any of the following may submit objections to the Secretary of State—
- (a) any ten or more local government electors;
  - (b) the governing body of any school affected by the proposals; and
  - (c) any local education authority concerned.
- (6) The Secretary of State may reject any proposals under this section, approve them without modification or, after consultation with the governing body, approve them with the substitution of a different date for the date of discontinuance proposed.
- (7) If the Secretary of State approves proposals under this section with respect to a grant-maintained school—
- (a) the governing body of the school shall cease to conduct the school; and
  - (b) the Secretary of State’s duty to maintain the school shall cease;
- on the date of discontinuance specified in the proposals as approved or on any other date subsequently specified by the Secretary of State at the request of the governing body (whether in substitution for the date specified in the proposals as approved or in substitution for a date previously specified under this subsection).

### **93 Withdrawal of grant by Secretary of State**

- (1) The Secretary of State may cease to maintain a grant-maintained school by giving notice of his intention to do so to the governing body of the school under this section; and on the date specified in any such notice as the date on which the Secretary of State intends to cease to maintain the school the Secretary of State’s duty to maintain the school shall cease.
- (2) Subject to the following provisions of this section—
- (a) a notice under this section may not specify as the date on which the Secretary of State intends to cease to maintain such a school a date falling less than seven years after the date of the notice; and
  - (b) before giving such a notice the Secretary of State shall consult—
    - (i) the governing body of the school;
    - (ii) the local education authority for the area in which the school is situated;
    - (iii) the statutory diocesan body responsible for schools in the diocese in which the school is situated; and
    - (iv) the former maintaining authority, if that authority is not the local education authority for the area in which the school is situated.
- (3) Subsection (2) above shall not apply where the Secretary of State is satisfied, in the case of any grant-maintained school, that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained school on all or any of the following grounds—

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- (a) that the number of registered pupils at the school is too small for sufficient and suitable instruction to be provided for them at reasonable cost;
  - (b) that the governing body have failed for a significant period of time to carry out their duties under Chapter I of this Part;
  - (c) that the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any other requirement imposed by or under this Act or any other enactment.
- (4) In any case within subsection (3) above, the Secretary of State may give to the governing body of the school a notice stating the grounds on which he considers that the school as currently constituted or conducted is unsuitable to continue as a grant-maintained school together with full particulars of the matters relevant to each such ground.
- (5) Where any of the matters of which particulars are given in a notice under subsection (4) above are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall also state that the Secretary of State intends to cease to maintain the school on a date specified in the notice.
- (6) Where subsection (5) above does not apply in the case of any notice under subsection (4) above, the notice shall—
- (a) state that the Secretary of State intends to cease to maintain the school unless the matters of which particulars are given in the notice are remedied;
  - (b) specify the measures necessary in the opinion of the Secretary of State to remedy those matters; and
  - (c) specify the time, not being less than six months after the date of the notice, within which the governing body are required to take those measures.
- (7) Where the governing body of a grant-maintained school fail to take the measures required by a notice under subsection (4) above within the time specified in the notice or allowed by any previous notice under this subsection, the Secretary of State shall within the period of two months beginning with the date next following the end of that time either—
- (a) give notice to the governing body extending the time within which those measures are required to be taken; or
  - (b) after consulting the local education authority for the area in which the school is situated, give notice that he intends to cease to maintain the school on a date specified in the notice.
- (8) The Secretary of State may by notice given to the governing body—
- (a) withdraw any notice under subsection (1), (4) or (7)(b) above; or
  - (b) vary—
    - (i) any notice under subsection (1) or (7)(b) above; or
    - (ii) any notice under subsection (4) above to which subsection (5) above applies;by substituting a later date for the date for the time being specified in the notice as the date on which he intends to cease to maintain the school; or
  - (c) vary any notice under subsection (4) above to which subsection (6) above applies, so far as relates to the measures required by the notice to remedy the matters of which particulars are given in the notice.

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- (9) If by virtue of subsection (8)(c) above the Secretary of State varies any notice under subsection (4) above so as to require different measures to be taken he shall also substitute for the time specified in the notice as the time within which the governing body are required to take the measures specified in the notice as varied a time ending—
- (a) not less than six months after the date of the notice of variation; and
  - (b) where the time so specified has been extended under subsection (7) above, not earlier than that time as so extended.
- (10) Any variation under subsection (9) above of the time specified in a notice under subsection (4) above is without prejudice to any further extension of that time under subsection (7) above.
- (11) Any notice under this section shall be in writing; and references in this section to the date of any such notice given to a governing body under this section are references to the date on which it is given to the governing body.