



Education Act 1993

1993 CHAPTER 35

PART VI

MISCELLANEOUS

Supplementary

299 Stamp duty

- (1) Subject to subsection (5) below, stamp duty shall not be chargeable in respect of any transfer effected under or by virtue of any of the following sections of this Act: 38 (taken with section 198 of, and Schedule 10 to, the Education Reform Act 1988), 116(3) and (4), 226(1) and 247.
- (2) Subject to subsection (5) below, stamp duty shall not be chargeable in respect of any transfer to a funding authority under or by virtue of section 114 or 225(3) of this Act.
- (3) Subject to subsection (5) below, stamp duty shall not be chargeable in respect of any transfer to a local education authority—
 - (a) under or by virtue of section 114(1)(a), 132(2) or 225(3) of this Act of property which immediately after the transfer is held by the authority for the purposes of a maintained school, or
 - (b) under or by virtue of section 114(2) or 225(3) of this Act of property which immediately after the transfer is held by the authority for the purposes of a new county school.
- (4) Subject to subsection (5) below, stamp duty shall not be chargeable in respect of any transfer to the governing body of a grant-maintained school—
 - (a) under or by virtue of section 114(2) or 225(3) of this Act, or
 - (b) in the case of a school established under section 48(2) or 49 of this Act, from the funding authority.
- (5) No instrument (other than a statutory instrument) made or executed under or in pursuance of any of the provisions mentioned in subsections (1) to (4) above shall

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be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

300 Publication of guidance

- (1) The Secretary of State shall publish any guidance given by him for the purposes of any of the provisions mentioned in subsection (2) below in such manner as he thinks fit.
- (2) Those provisions are sections 28, 48, 49, 96(3), 97(4), 104(2), 105(4) and 184(1) of this Act.

301 Orders, regulations and directions

- (1) Any power of the Secretary of State to make orders or regulations under this Act (other than under any of the excepted provisions) shall be exercised by statutory instrument.
- (2) For the purposes of subsection (1) above the excepted provisions are sections 9, 12, 39, 57, 70, 111, 136, 150, 191, 225, 232, 233 and 295, the definition of “Church in Wales school” in section 305 and paragraph 5 of Schedule 4 and paragraph 3 of Schedule 11.
- (3) A statutory instrument containing any order or regulations under this Act, other than under section 218, 220, 226, 247(5), 248(8) or 308, or paragraph 1(4) of Schedule 3, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) No regulations shall be made under paragraph 1(4) of Schedule 3 to this Act unless a draft of the instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.
- (5) Before making any regulations under section 56 of this Act, the Secretary of State shall consult—
 - (a) a body appearing to him to be representative of the Church of England,
 - (b) a body appearing to him to be representative of the Church in Wales, and
 - (c) a body appearing to him to be representative of the Roman Catholic Church,in matters relating to the provision of education in grant-maintained schools having foundation governors.
- (6) Orders or regulations under this Act made by the Secretary of State, and orders made by the funding authority under section 57, 70 or 136 of this Act or paragraph 5 of Schedule 4 to this Act, may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the person making the order or regulations thinks fit.
- (7) Section 111 of the Education Act 1944 (revocation and variation) applies to directions given by the funding authority under this Act as it applies to directions given under that Act.

302 Financial provisions

There shall be paid out of money provided by Parliament—

- (a) any sums required for the payment by the Secretary of State of grants or other contributions under this Act,
- (b) any other expenses of the Secretary of State under this Act, and
- (c) any increase attributable to this Act in the sums so payable under any other enactment.

303 Construction of references to old and new law

- (1) Any reference, whether express or implied, in this Act or any other enactment, instrument or document to a provision of Parts II to IV of this Act is to be read, in relation to the times, circumstances or purposes in relation to which a corresponding provision of the repealed enactments had effect and so far as the nature of the reference permits, as including a reference to that corresponding provision.
- (2) Any reference, whether express or implied, in any enactment, instrument or document to a provision of the repealed enactments is to be read, in relation to the times, circumstances or purposes in relation to which a corresponding provision of Parts II to IV of this Act has effect and so far as the nature of the reference permits, as including a reference to that corresponding provision.
- (3) Any reference in any provision of the Education Acts to a funding authority, in relation to any function which, under a corresponding provision of the repealed enactments, was exercisable by the Secretary of State is to be read, in relation to the times, circumstances or purposes in relation to which the corresponding provision of the repealed enactments had effect and so far as the nature of the reference permits, as a reference to the Secretary of State.
- (4) In this section, “the repealed enactments” means the enactments specified in Part I of Schedule 21 to this Act.

304 Meaning of “school” in the Education Acts

- (1) In section 14(5) of the Further and Higher Education Act 1992 (“school” means an institution providing primary or secondary education, whether or not it also provides further education, etc.) before “further education” there is inserted “part-time education suitable to the requirements of junior pupils”.
- (2) In the definition of “primary school” in section 114(1) of the Education Act 1944 (“primary school” means, subject to regulations under section 1 of the Education Act 1964, a school for providing primary education, whether or not it also provides further education) before “further education” there is inserted “part-time education suitable to the requirements of junior pupils or”.

305 General interpretation

- (1) In this Act—
 - “alterations”, in relation to any school premises, includes improvements, extensions and additions and “alter” shall be read accordingly,
 - “Church in Wales school” means a school in the Province of Wales in which the religious education provided is provided in accordance with the faith and practice of the Church in Wales and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Finance for the diocese

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of the Church in Wales in which the school is situated or such other person as the Secretary of State may by order designate in respect of that diocese,

“Church of England school” means a school in the Province of Canterbury or York in which the religious education provided is provided in accordance with the faith and practice of the Church of England and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Education for the diocese of the Church of England in which the school is situated,

“contract of employment”, “employee” and “employer” have the same meaning as in the Employment Protection (Consolidation) Act 1978, and “employed” means employed under a contract of employment,

“financial year” means a period of twelve months ending with 31st March,

“functions” includes powers and duties,

“land” includes buildings and other structures, land covered with water, and any interest in land,

“liability” includes obligation,

“local authority” means a county council, a district council, a London borough council or the Common Council of the City of London,

“local education authority”—

(a) in relation to a school maintained or proposed to be maintained by a local education authority, means that authority, and

(b) in relation to a grant-maintained school, means the local education authority for the area in which the school is situated,

“maintained school” means any county school or voluntary school and any maintained special school which is not established in a hospital,

“modifications” includes additions, alterations and omissions and “modify” shall be construed accordingly,

“prescribed” means prescribed by regulations,

“regulations” means regulations made by the Secretary of State, and

“Roman Catholic Church school” means a school in which the religious education provided is provided in accordance with the faith and practice of the Roman Catholic Church and “appropriate diocesan authority”, in relation to such a school, means the bishop of the Roman Catholic diocese in which the school is situated.

- (2) References in this Act to an interest in land include any easement, right or charge in, to or over land.
- (3) This Act shall be construed as one with the Education Act 1944; but where an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of that Act, the meaning given for the purposes of that Act shall not apply for the purposes of that provision.
- (4) Before making an order in respect of any diocese in Wales in exercise of the power conferred by the definition of “appropriate diocesan authority”, the Secretary of State shall consult the bishop for the diocese.

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The expressions listed in the left-hand column below are respectively defined by or (as the case may be) are to be interpreted in accordance with the provisions of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
admission for nursery education (in Part II)	section 155(5)
admission to school (in Part II)	section 155(6)
alterations	section 305(1)
appropriate appointing authority (in Part V)	section 204(2)
appropriate authority (in Part V)	section 204(2)
appropriate diocesan authority (in relation to a Church of England, Church in Wales or Roman Catholic Church school)	section 305(1)
authority responsible for election arrangements under the Education (No. 2) Act 1986 (in Chapter V of Part II)	section 80(2)
capital grants	sections 83(1) and 89
the chairmen's panel (in Part III)	section 177(2)
change in character of a school (in Part II)	section 103(1)
character of school (in Part II)	section 155(3)
child (in Part III)	section 156(5)
Church in Wales school	section 305(1)
Church of England school	section 305(1)
contract of employment	section 305(1)
core governor	section 122 and Schedule 8
date of publication of proposals (in Part II)	section 155(7)
date of implementation of proposals for acquisition of grant-maintained status	section 37(2)
date of implementation of proposals for establishment of new grant-maintained school	section 54
dissolution date (in sections 111 to 116)	section 111(6)
education associations	section 218(2)
eligible governor (in Part II)	paragraph 4 of Schedule 7

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<i>Expression</i>	<i>Relevant provision</i>
employed, employee, employer	section 305(1)
employed to work at a school (in Part II)	section 155(9)
employed to work solely at a school (in Part II)	section 155(10)
financial year	section 305(1)
first governor (in Part II)	paragraphs 7 and 12 of Schedule 7
foundation governor (in Part II)	paragraphs 8 and 13 of Schedule 7
functions	section 305(1)
funding authority	section 5
governing body (during transition to grant-maintained status)	sections 34(2)
governing body in liquidation (in sections 111 to 116)	section 111(3)
governor of an elected category (in Part II)	paragraph 3 of Schedule 7
grant-maintained school	sections 22(1) and 221(4)
grant-maintained school formerly conducted by a governing body in liquidation (in sections 111 to 116)	section 111(5)
grant-maintained special school	sections 182(3) and 187(3)(b)
grant regulations (in Chapter VI of Part II)	section 81(2)
incorporation date (in Part II)	sections 37(5) and 54
incorporation date (in Part III)	section 183(8) and 186(3)
initial governor (in Part II)	paragraph 2 of Schedule 7
inspection by a member of the Inspectorate (in Part V)	section 204(2)
interest in land	section 305(2)
land	section 305(1)
the lay panel (in Part III)	section 177(2)
learning difficulty	section 156(2)
liabilities incurred by a local education authority (in Part II)	section 155(8)
liability	section 305(1)
local authority	section 305(1)
local education authority	section 305(1)
maintained school	section 305(1)

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<i>Expression</i>	<i>Relevant provision</i>
maintained special school	section 182(2)
maintenance grants	sections 81(1) and 87(1)
member of the Inspectorate (in Part V)	section 204(2)
modifications	section 305(1)
new governing body (in Part II)	section 34(2)
parent governor (in Part II)	paragraphs 5 and 10 of Schedule 7
pending (in relation to proposals for the acquisition of grant-maintained status published under section 32)	section 32(4)
pending (in relation to the procedure for acquisition of grant-maintained status)	section 40(1)
premises (in Part II)	section 155(1)
prescribed	section 305(1)
the President (in Part III)	section 177(2)
procedure applicable under the Education (No. 2) Act 1986 (in Chapter V of Part II)	section 80(3)
promoters (in Part II)	section 49(1)
proposals (in Chapter VII of Part II)	section 103(3)
proposals for acquisition of grant-maintained status	section 22(2)
proposals for the establishment of a new grant-maintained school	section 22(2)
prospectively disqualified (in Chapter V of Part II)	section 80(4)
pupil referral unit	section 298(2)
the purposes of the school (in Chapter VI of Part II)	section 81(4)
reception class (in Part II)	section 155(1)
registered, in relation to parents or pupils, etc. (in Part II)	section 155(1)
regulations	section 305(1)
relevant age group (in Part II)	section 155(4)
relevant education	section 12(7)
relevant particulars (in relation to a proposed initial governor of a grant-maintained school)	section 37(4)
Roman Catholic Church school	section 305(1)

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<i>Expression</i>	<i>Relevant provision</i>
school attendance order	section 192(3)
school property (in sections 111 to 116)	section 111(4)
school which is eligible for grant-maintained status (in Part II)	section 23
schools the governing bodies of which are incorporated under Chapter II of Part II	section 221(5)
schools the governing bodies of which are incorporated under Chapter IV of Part II	section 221(7)
section 9 inspection (in Part V)	section 204(2)
section 105 loan liabilities (in sections 111 to 116)	section 111(7)
special educational needs	section 156(1)
special educational provision	section 156(4)
special measures (in Part V)	section 204(3)
special purpose grants	sections 82(1) and 88
special school	section 182(1)
sponsor governor (in Part II)	paragraphs 9 and 14 of Schedule 7
teacher governor (in Part II)	paragraphs 6 and 11 of Schedule 7
transfer date (in Part V)	section 220(2)
the Tribunal (in Part III)	section 177(1)

307 Amendments etc

- (1) Schedule 19 to this Act (which makes minor and consequential amendments) shall have effect.
- (2) Schedule 20 to this Act (which makes transitional provisions and savings) shall have effect.
- (3) The enactments mentioned in Schedule 21 to this Act are repealed to the extent mentioned in the third column.

308 Short title, commencement, etc

- (1) This Act may be cited as the Education Act 1993.
- (2) The Education Acts 1944 to 1992 and this Act may be cited together as the Education Acts 1944 to 1993 (referred to in this Act as “the Education Acts”).
- (3) This Act (other than sections 240, 301 to 303, 305, 306 and this section) shall come into force on such day as the Secretary of State may by order appoint and different days may be appointed for different provisions and for different purposes.

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- (4) Subject to subsection (5) below, this Act extends to England and Wales only.
- (5) The amendment or repeal by this Act of an enactment which extends to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.