



# Education Act 1993

## 1993 CHAPTER 35

### PART VI

#### MISCELLANEOUS

##### *Establishment, alteration etc. of maintained schools*

#### **229 Proposals for establishment, etc. of schools by local education authority**

- (1) In section 12 of the Education Act 1980 (establishment and alteration of county schools) in subsection (1), after “county school” in paragraph (d) there is inserted “or to transfer a county school to a new site in the area” and, after that subsection, there is inserted—

“(1A) Before publishing the proposals the local education authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection, the authority shall have regard to any guidance given from time to time by the Secretary of State.

(1B) The Secretary of State shall publish any guidance given by him for the purposes of subsection (1A) above in such manner as he thinks fit.”

- (2) In subsection (3) of that section—
- (a) “voluntary” is omitted, and
  - (b) after “affected by the proposals” there is inserted “by the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies)”.
- (3) Where—
- (a) an order under section 12 of this Act applies to the area of a local education authority, and
  - (b) the authority publish proposals under section 12 of that Act which affect the provision of relevant education in the area,

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the funding authority shall be included among the persons who may submit objections to the proposals.

**230 Proposals for establishment, etc. of voluntary schools by promoters, etc**

- (1) In section 13 of the Education Act 1980 (establishment and alteration of voluntary schools) in subsection (1), after “the school” in paragraph (b) there is inserted “or to transfer the school to a new site” and, after subsection (1A), there is inserted—

“(1B) Before publishing any proposals under this section, the persons concerned shall—

- (a) in the case of proposals under subsection (1)(a) above, consult the local education authority, and
- (b) in the case of proposals under subsection (1)(a) or (b) above, consult such other persons as appear to them to be appropriate;

and in discharging their duty under this subsection, they shall have regard to any guidance given from time to time by the Secretary of State.

(1C) The Secretary of State shall publish any guidance given by him for the purposes of subsection (1B) above in such manner as he thinks fit.”

- (2) In subsection (3) of that section—

- (a) “voluntary” is omitted, and
- (b) after “affected by the proposals” there is inserted “by the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies)”.

- (3) After subsection (3) of that section there is inserted—

“(3A) Where the proposals are to transfer a school to a site in a different area, objections under subsection (3) above to the proposals may also be made by any ten or more local government electors for that area.”

- (4) In subsection (6) of that section, after “below” there is inserted—

- “(a) in the case of any proposals approved by the Secretary of State to transfer a controlled school to a new site, it shall be the duty of the local education authority to implement the proposals (and any associated proposals for a change in the character of the school) so far as they involve the provision of premises or the removal or provision of equipment, and
- (b) in any other case”.

- (5) At the end of that section there is added—

“(8) Where proposals under this section for the transfer of a school to a site in a different area are approved—

- (a) in the case of any voluntary school—
  - (i) the references in subsection (6) above to the local education authority are to the authority for the new area, and
  - (ii) upon the transfer the duty to maintain the school shall transfer to that authority, and

- (b) in the case of any controlled school, the First Schedule to the Education Act 1946 (provision of premises by maintaining authority)

shall apply as if the duty to maintain the school had been transferred to the local education authority for the new area.”

- (6) Where—
- (a) an order under section 12 of this Act applies to the area of a local education authority, and
  - (b) any persons publish proposals under section 13 of that Act which affect the provision of relevant education in the area,
- the funding authority shall be included among the persons who may submit objections to the proposals.

#### *Nursery education*

### **231 Nursery education in grant-maintained schools**

- (1) No person may—
- (a) publish proposals under section 48 or 49 of this Act for the establishment of any nursery school, or
  - (b) publish proposals under section 96 or 97 of this Act, or give notice of proposals under section 183(3) or (4) of this Act, for a school to become a nursery school.
- (2) Subject to subsection (1) above, proposals under sections 48, 49, 96, 97 or 183(3) or (4) of this Act may, in particular, be made for the purpose of securing the provision of education for junior pupils who have not attained the age of five years.

#### *Rationalisation of school places*

### **232 Directions to bring forward proposals to remedy excessive provision**

- (1) Where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools in the area of any local education authority is excessive, then, for the purpose of remedying the excess—
- (a) he may by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any voluntary school in the area, he may by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (2) Where the Secretary of State is of the opinion that the provision for primary or secondary education in grant-maintained schools in the area of any local education authority is excessive and an order under section 12(1) of this Act applies to the area, he may by an order under this subsection direct the funding authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools for the purpose of remedying the excess.
- (3) An order under subsection (1) or (2) above shall—
- (a) require the proposals to be published or, as the case may be, notice of the proposals to be served not later than such date as may be specified in the order, and

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- (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under subsection (1)(a) or (2) above may not require the proposals to relate to any named school.

**233 Directions to bring forward proposals for additional provision in maintained schools**

- (1) The powers conferred by subsection (2) below are exercisable where—
  - (a) an order under section 12(1)(b) of this Act applies to the area of a local education authority, and
  - (b) the Secretary of State is of the opinion that the schools providing relevant education which are available for the area are not sufficient for the purposes of section 8 of the Education Act 1944 and that additional provision for relevant education should be made in maintained schools in the area.
- (2) The Secretary of State may—
  - (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any voluntary school in the area, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school,

in the case of any such order with a view to securing that provision is made for such additional number of pupils in the area as may be specified in the order.
- (3) An order under subsection (2) above shall—
  - (a) require the proposals to be published or, as the case may be, notice of the proposals to be served not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under subsection (2)(a) above may not require the proposals to relate to any named school.
- (5) Paragraph 7 of Schedule 2 to this Act does not apply in relation to the implementation of any proposals under section 12 of the Education Act 1980 where the Secretary of State has made an order under subsection (2) above.

**234 Publication of proposals by the Secretary of State**

- (1) Where—
  - (a) the Secretary of State has in relation to the area of any local education authority made an order under section 232(1) or (2) of this Act directing the local education authority, the funding authority or the governing body of a voluntary school to make proposals for the establishment, alteration or discontinuance of schools or, as the case may be, for the alteration of their school, and

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- (b) the time allowed under the order, and under any other order under that section relating to that area, for the publication of the proposals or, as the case may be, the service of notice of the proposals has expired,
- he may make in such manner as may be prescribed any such proposals as might have been made in accordance with the order or orders relating to that area by the person or persons to whom the directions were given.
- (2) Proposals made under this section shall—
- (a) include particulars of the proposed time or times of implementation of the proposals, and
- (b) except where they are proposals to cease to maintain or discontinue any school or relate to a special school—
- (i) include particulars of the number of pupils proposed to be admitted to the school to which the proposals relate in each relevant age group in the first school year in relation to which the proposals have been wholly implemented, and
- (ii) if, in the case of a grant-maintained school, pupils are proposed to be admitted for nursery education, give the prescribed information.
- (3) For the purposes of subsection (2)(b) above admission to a maintained school for nursery education shall be disregarded; and section 155(4) to (6) of this Act applies for the purposes of that subsection as it applies for the purposes of Part II of this Act.
- (4) Proposals made under this section shall be accompanied by a statement which—
- (a) describes any effect the implementation of the proposals would have on provision at the school for pupils who have special educational needs, and
- (b) explains the effect of subsection (5) below.
- (5) Within the period of one month beginning with the date on which the proposals are made, objections to the proposals may be made by any of the following—
- (a) if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council,
- (b) any ten or more local government electors for the area,
- (c) the governing body of any school affected by the proposals and, in the case of a voluntary school, the person or persons who are named in the school's instrument of government as being entitled to appoint foundation governors (within the meaning of the Education Act 1944), and
- (d) any local education authority concerned.
- (6) Where—
- (a) an order under section 12 of this Act applies to the area of a local education authority, and
- (b) the Secretary of State makes proposals under this section which affect the provision of relevant education in the area,
- the funding authority shall be included among the persons who may submit objections to the proposals.
- (7) The reference in subsection (5) above to the date on which the proposals are made is to the date on which the prescribed requirements in respect of the proposals are satisfied.

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### **235 Public inquiry into proposals**

- (1) This section applies where in relation to the area of any local education authority the Secretary of State has made proposals under section 234 of this Act, otherwise than in pursuance of section 236(1) of this Act, which he has not withdrawn.
- (2) If objections have been made under section 234(5) of this Act within the period allowed under that subsection, then, unless all objections so made have been withdrawn in writing within that period, the Secretary of State shall cause a local inquiry to be held to consider his proposals, any proposals he refers to the inquiry and any objections.
- (3) Any proposals referred to a local inquiry under this section require the approval of the Secretary of State (if they would not require such approval apart from this subsection).
- (4) Where the Secretary of State has a duty to cause a local inquiry to be held under this section, he shall refer to the inquiry any proposals—
  - (a) made by him in relation to the area of the local education authority (and not withdrawn) but in respect of which he is not required under this section to cause a local inquiry to be held,
  - (b) made by the local education authority, or made in relation to the area by the funding authority, in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), or
  - (c) made by the governing body of any voluntary school in the area in exercise of their powers to make proposals for the alteration of their school (and not withdrawn),which are not determined before he causes the inquiry to be held and appear to him to be related to the proposals made under section 234 of this Act in respect of which he is required under this section to cause the inquiry to be held.
- (5) Subsection (4) above does not require the Secretary of State to refer any proposals to the inquiry if, before he causes the inquiry to be held, he forms the opinion that the proposals ought to be implemented unless, before the proceedings on the inquiry are concluded or (if earlier) the proposals are determined, he subsequently forms a different opinion.
- (6) It shall not be open to the inquiry to question the principles specified in the order under section 232 or 233 of this Act.
- (7) Section 250(2) to (5) of the Local Government Act 1972 (giving evidence at and defraying costs of inquiries) applies to inquiries held under this section.
- (8) References in this section to the determination of any proposals are to any determination whether or not to approve, adopt or implement the proposals under section 12 or 13 of the Education Act 1980, Part II of this Act or section 184 of this Act.

### **236 Adoption of proposals and approval of related proposals**

- (1) Where the Secretary of State has made proposals under section 234 of this Act in respect of which he is required to cause a local inquiry to be held, he may when he has considered the report of the person appointed to hold the inquiry do one or more of the following—

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- (a) adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by him under that section which he referred to the inquiry,
  - (b) approve, with or without modifications, or reject any other proposals which he referred to the inquiry, and
  - (c) make any such further proposals under section 234 of this Act as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the person or persons to whom the directions were given.
- (2) Where the Secretary of State has made proposals under section 234 of this Act in respect of which he is not required to cause a local inquiry to be held and which he is not required to refer to such an inquiry, he may, after considering any objections made (and not withdrawn) under subsection (5) of that section within the period allowed under that subsection, adopt, with or without modifications, or determine not to adopt, the proposals.
- (3) Proposals adopted by the Secretary of State under this section shall have effect—
- (a) if they relate to a maintained school, as if they had been—
    - (i) made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or
    - (ii) in the case of a voluntary school, made by the governing body under their powers to make proposals for the alteration of their school, and approved by the Secretary of State under section 12 or 13 of the Education Act 1980 or, as the case may be, section 184 of this Act, and
  - (b) if they relate to a grant-maintained school, as if they had been made by the funding authority under those powers and approved by the Secretary of State under Part II of this Act or, as the case may be, section 184 of this Act;
- and the provisions of the Education Act 1980, or Part II or section 185 of this Act, relating to the approval of particulars of premises or proposed premises of schools shall have effect accordingly.

### **237 Supplementary provisions**

- (1) An order under section 232 or 233 of this Act may not require any significant change to be made in the religious character of a voluntary school.
- (2) Where the governing body of a voluntary school make any proposals in pursuance of an order under section 232 or 233 of this Act—
- (a) the person or persons who are named in the school's instrument of government as being entitled to appoint foundation governors (within the meaning of the Education Act 1944) shall be included among the persons who may submit objections to the proposals, and
  - (b) the local education authority shall re-imburse any expenditure reasonably incurred by the governing body in making the proposals.
- (3) Proposals made in pursuance of an order under section 232 of this Act may not be withdrawn without the consent of the Secretary of State and such consent may be given on such conditions (if any) as the Secretary of State considers appropriate.
- (4) Where—

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- (a) proposals made by the governing body of a voluntary school in pursuance of an order under section 232 or 233 of this Act are approved, or
  - (b) proposals adopted by the Secretary of State under section 236 of this Act have effect as mentioned in subsection (3)(a)(ii) of that section,
- then, notwithstanding anything in section 13(5) of the Education Act 1980, the local education authority shall defray the cost of implementing the proposals.
- (5) Notwithstanding anything in section 23 of this Act, a county or voluntary school is not eligible for grant-maintained status—
- (a) if the local education authority have made any proposals in pursuance of an order under section 232 of this Act to cease to maintain the school which have not been withdrawn and no determination whether or not to approve or implement the proposals has been made under section 12 of the Education Act 1980 or section 236 of this Act, or
  - (b) if the Secretary of State has made any proposals under section 234 of this Act for the local education authority to cease to maintain the school which have not been withdrawn and no determination whether or not to adopt the proposals has been made under section 236 of this Act.
- (6) Section 273(4) and (5) of this Act does not apply in relation to any proposals under section 12(1)(d) or 13(1)(b) of the Education Act 1980 made in pursuance of an order under section 232 of this Act.
- (7) In sections 232 to 236 of this Act, “powers to make proposals for the alteration of their school”, in relation to the governing body of a voluntary school, means their powers to publish proposals under section 13(1)(b) of the Education Act 1980.
- (8) In sections 232 to 236 of this Act—
- (a) “powers to make proposals for the establishment, alteration or discontinuance of schools” means—
    - (i) in relation to the local education authority, all or any of the powers to publish proposals under section 12 of the Education Act 1980,
    - (ii) in relation to the funding authority, all or any of the powers to publish proposals under sections 48, 97 or 105 of this Act, and
    - (iii) in relation to either authority, the power to serve notice of proposals under section 183 of this Act,
  - (b) references to maintained schools include maintained special schools established in hospitals, and
  - (c) references to grant-maintained schools include grant-maintained special schools.

#### *Incorporation of governing bodies*

### **238 Incorporation of governing bodies**

- (1) A governing body constituted in pursuance of Part I of the Education (No. 2) Act 1986 (county, voluntary and maintained special schools) on or after the appointed day shall be constituted as a body corporate.
- (2) A governing body so constituted before that day shall, as constituted on that day, become on that day a body corporate.



- (3) On the incorporation of a governing body by virtue of subsection (2) above, any property, rights or liabilities attributable to the governing body immediately before incorporation shall be transferred to, and by virtue of this section vest in, the body corporate.
- (4) For the purposes of subsection (3) above, property, rights or liabilities are attributable to a governing body if—
- (a) in the case of any land or other property, it was held by or on behalf of any persons as members or former members of the governing body, and
  - (b) in the case of rights or liabilities, they were acquired or incurred by or on behalf of any such persons,
- and are so held or, as the case may be, they subsist immediately before the incorporation of the governing body.
- (5) A governing body incorporated by virtue of this section shall be known as “The governing body of ...” with the addition of the name of the school.
- (6) The application of the seal of any such governing body must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (7) Every document purporting to be an instrument made or issued by or on behalf of any such governing body and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.
- (8) References in subsections (1) and (2) above to a governing body do not include a temporary governing body constituted under arrangements made under that Act.
- (9) Schedule 13 to this Act (provisions supplementary to this section and section 239 of this Act) shall have effect.
- (10) In this and that section and that Schedule, “appointed day” means the day appointed under section 308(3) of this Act for the commencement of this section.

### **239 Powers of incorporated governing bodies**

- (1) A governing body incorporated by virtue of section 238 of this Act may do anything (including in particular the things referred to in the following subsections) which appears to them to be necessary or expedient for the purpose of or in connection with the exercise of any of the functions conferred on them under or in pursuance of any enactment.
- (2) A governing body so incorporated may—
- (a) acquire and dispose of land and other property,
  - (b) enter into contracts, other than contracts of employment,

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- (c) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,
  - (d) accept gifts of money, land and other property and apply it, or hold and administer it on trust, for any of those purposes, and
  - (e) do anything incidental to the conduct of the school.
- (3) Subsections (1) and (2) above have effect subject to—
- (a) any provisions of the instrument of government or articles of government for the school, and
  - (b) if the school has a delegated budget (defined in section 33(6)(b) of the Education Reform Act 1988), any provisions of the scheme under that section which covers the school.
- (4) The governing body so incorporated of an aided school may enter into contracts for the employment of teachers and other staff, subject to any provisions of the articles of government for the school other than any provisions for the time being excluded by section 45(2) of that Act (aided schools having delegated budgets) from applying to the school.

### *The curriculum*

#### **240 National Curriculum**

- (1) In section 2 of the Education Reform Act 1988 (the National Curriculum) in subsection (2)(c) (arrangements for assessing pupils at or near the end of each key stage) for “at or near the end” there is substituted “in respect”.
- (2) After section 3(5) of that Act (power of head teacher to determine key stage for a particular pupil) there is inserted—
- “(5A) If at any time, in the case of a pupil of compulsory school age, subsection (3) above does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—
- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil’s class attained a particular age were a reference to the school year in which that pupil attained that age, and
  - (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attained the age of fifteen and ending when he ceases to be of compulsory school age.”
- (3) At the end of section 3(6) of that Act (interpretation) there is added—
- “and
- “school year” means the period beginning with the first school term to begin after July and ending with the beginning of the next school year.”
- (4) In section 4 of that Act (duty to establish National Curriculum by order) for subsection (5) there is substituted—
- “(5) An order under subsection (2)(c) above—

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- (a) may confer or impose such functions on the governing body and the head teacher and (in the case of maintained schools) on the local education authority as appear to the Secretary of State to be required, and
  - (b) may specify any such assessment arrangements as may for the time being be made by a person specified in the order.
- (6) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (7) The duties that may be imposed by virtue of subsection (5)(a) above include, in relation to persons exercising power in pursuance of provision made by virtue of subsection (6) above, the duty to permit them—
- (a) to enter the premises of the school,
  - (b) to observe the implementation of the arrangements, and
  - (c) to inspect, and take copies of, documents and other articles.
- (8) 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 (other than provisions conferring or imposing functions as mentioned in subsection (5)(a) above) as appear to the Secretary of State to be expedient; and any provision 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) In section 117 of that Act (obligation to enter pupils for prescribed examinations), at the end of subsection (2) (exceptions) there is added “but this subsection does not apply to an examination which is part of the assessment arrangements for key stage four and applies in the case of that pupil; and in this subsection, in relation to that pupil, “assessment arrangements” has the meaning given by section 2(2)(c) of this Act and “key stage four” means the period referred to in section 3(3)(d) of this Act”.

## **241 Sex education**

- (1) In section 2(1) of the Education Reform Act 1988 (content of curriculum), after “school” in paragraph (a) there is inserted—
- “(aa) in the case of a secondary school, provision for sex education for all registered pupils at the school;
  - (ab) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education”.
- (2) In section 114(1) of the Education Act 1944 (interpretation), after the definition of “Senior pupil” there is inserted—
- ““Sex education” includes education about—
  - (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
  - (b) any other sexually transmitted disease”.

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(3) After section 17 of the Education Reform Act 1988 there is inserted—

**“17A Exemption from sex education**

If the parent of any pupil in attendance at any maintained school requests that he may be wholly or partly excused from receiving sex education at the school, the pupil shall, except so far as such education is comprised in the National Curriculum, be so excused accordingly until the request is withdrawn.”

(4) The Secretary of State shall so exercise the power conferred by section 4 of that Act to revise the National Curriculum as to secure that the subject of science does not include—

- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus,
- (b) any other sexually transmitted disease, or
- (c) aspects of human sexual behaviour, other than biological aspects,

and sections 20, 21 and 232(4) of that Act (procedure for making orders), and section 242 of this Act, shall not apply to any order made only for the purposes of this subsection.

(5) The governing body of every maintained or grant-maintained school and, in relation to pupils who are provided with secondary education, the governing body of every maintained special school shall—

- (a) make, and keep up to date, a separate written statement of their policy with regard to the provision of sex education, and
- (b) make copies of the statement available for inspection (at all reasonable times) by parents of registered pupils at the school and provide a copy of the statement free of charge to any such parent who asks for one.

(6) In relation to any county, or controlled, secondary school, and in relation to any pupils who are provided with secondary education in a maintained special school, section 18 of the Education (No. 2) Act 1986 (policy for curriculum in county etc. schools), shall have effect with the omission of subsections (2) and (6)(c)(i) and of the references to the matters mentioned in subsection (2) of that section.

**242 Temporary procedure for making certain orders**

(1) Where this section applies in relation to any proposals by the Secretary of State to make an order under section 3(4) or 4(2)(a) or (b) of the Education Reform Act 1988 (orders relating to foundation subjects, key stages and attainment targets), or regulations under section 17 of that Act (exceptions from National Curriculum)—

- (a) the Secretary of State shall make such arrangements for consultation about the proposals as he considers appropriate, and
- (b) sections 20 and 21 of that Act (procedure for representations in relation to England and Wales) shall not apply.

(2) Where, at any time after the commencement of this section and before 1st September 1996, the Secretary of State proposes to make such an order or such regulations, this section applies in relation to the proposals unless, at any time before the commencement of this section—

- (a) they were referred under section 20(2) of that Act, or

- (b) notice of them was given under section 21(2) of that Act.
- (3) Where the Secretary of State proposes, at any time on or after 1st September 1996, to make such an order or such regulations, this section applies in relation to the proposals if arrangements under this section for consultation about the proposals were made before that date.

#### **243 Procedure for making certain orders: Wales**

In section 21 of the Education Reform Act 1988, for subsections (2) and (3) there are substituted—

“(2) The Secretary of State shall refer the proposal to the Curriculum Council for Wales (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;

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

(3A) 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.

(3B) 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.”

*Replacement of the National Curriculum Council and  
the School Examinations and Assessment Council*

#### **244 The School Curriculum and Assessment Authority**

- (1) There shall be a body corporate known as the School Curriculum and Assessment Authority.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Authority shall consist of not less than ten nor more than fifteen members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
  - (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority persons who appear to him—
  - (a) to have experience of, and to have shown capacity in, the provision of education, or
  - (b) to have held, and to have shown capacity in, any position carrying responsibility for the provision of education.
- (5) Where in carrying out his functions under subsection (4) above the Secretary of State proposes to appoint a person who appears to him to have experience of, and to have shown capacity in, the provision of education, he shall have regard to the desirability of including persons engaged in the provision of primary or secondary education.
- (6) Schedule 14 to this Act shall have effect with respect to the Authority.

## **245 Functions**

- (1) The School Curriculum and Assessment Authority shall, so far as relevant for the purposes of advancing education—
  - (a) keep under review all aspects of the curriculum for maintained schools in England and all aspects of school examinations and assessment,
  - (b) advise the Secretary of State on such matters concerned with the curriculum for maintained schools in England or with school examinations and assessment as he may refer to them or as they may see fit,
  - (c) 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 maintained schools in England or with school examinations and assessment,
  - (d) publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for maintained schools in England or to school examinations and assessment,
  - (e) make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements,
  - (f) advise the Secretary of State on the exercise of his powers under section 5(1) of the Education Reform Act 1988 (approval of external qualifications),
  - (g) advise the Secretary of State on such other matters connected with the provision of education in maintained schools in England, or in non-maintained special schools there, as the Secretary of State may specify by order, and
  - (h) carry out such ancillary activities as the Secretary of State may direct.
- (2) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as he may require.
- (3) In carrying out their functions, the Authority shall—
  - (a) comply with any directions given by the Secretary of State,
  - (b) act in accordance with any plans approved by him, and

- (c) so far as relevant, have regard to the requirements of section 1 of the Education Reform Act 1988 (requirements which curriculum for maintained school must satisfy).
- (4) For the purposes of paragraph (h) of subsection (1) above, activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under that subsection.
- (5) In this section—
  - “assessment arrangements” and “maintained school” have the same meanings as in Chapter I of Part I of the Education Reform Act 1988, and
  - “non-maintained special school” means a special school not maintained by a local education authority.

#### **246 Dissolution of existing Councils**

The National Curriculum Council and the School Examinations and Assessment Council are hereby dissolved.

#### **247 Transfer of property**

- (1) The Secretary of State may by order provide for the transfer to the School Curriculum and Assessment Authority of—
  - (a) such of the land or other property of the National Curriculum Council or the School Examinations and Assessment Council, and
  - (b) such of the rights and liabilities of either of those councils (other than rights and liabilities arising under contracts of employment),as, in his opinion, need to be transferred to enable the Authority to carry out their functions properly.
- (2) No order under subsection (1) above may be made after the end of the period of six months beginning with the day on which section 244 of this Act comes into force.
- (3) Any order under subsection (1) above made before the day on which section 244 of this Act comes into force shall come into force on that day.
- (4) Where immediately after the end of the period within which an order under subsection (1) above may be made any property, rights or liabilities remain vested in the National Curriculum Council or the School Examinations and Assessment Council, they shall forthwith vest in the Secretary of State.
- (5) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (2) above such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

#### **248 Transfer of staff**

- (1) This section applies to any person who—
  - (a) is employed by the National Curriculum Council or School Examinations and Assessment Council immediately before section 244 of this Act comes into force, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) is designated as respects the School Curriculum and Assessment Authority by order of the Secretary of State.
- (2) A contract of employment between a person to whom this section applies and the National Curriculum Council or School Examinations and Assessment Council shall have effect, from the day on which the order under subsection (1)(b) above comes into force, as if originally made between him and the Authority.
- (3) Without prejudice to subsection (2) above—
- (a) all the rights, powers, duties and liabilities of the National Curriculum Council or School Examinations and Assessment Council under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the Authority on the day on which the order under subsection (1)(b) above comes into force, and
  - (b) anything done before that day by or in relation to the National Curriculum Council or School Examinations and Assessment Council in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the Authority.
- (4) Subsections (2) and (3) 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 (2) above.
- (5) An order under subsection (1)(b) above may designate a person either individually or as falling within a class or description of employee.
- (6) No order under subsection (1)(b) above may be made after the end of the period of six months beginning with the day on which section 244 of this Act comes into force.
- (7) Any order under subsection (1)(b) above made before the day on which section 244 of this Act comes into force shall come into force on that day.
- (8) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (6) above such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

*Curriculum Council for Wales*

**249 Finance**

In Schedule 2 to the Education Reform Act 1988, for paragraph 11 there is substituted—

*“Finance*

- 11 (1) The Secretary of State may make grants to the Council of such amount as he thinks fit in respect of expenses incurred or to be incurred by it in carrying out its functions.
- (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.



- (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.”

## **250 Proceedings**

In that Schedule, there is inserted before paragraph 14—

“13A (1) The chairman of the School Curriculum and Assessment Authority, or a representative of his, shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Council or any committee of the Council.

- (2) The Council shall provide the chairman of the School Curriculum and Assessment Authority with such copies of any documents distributed to members of the Council or of any such committee as he may require.”

## **251 Accounts**

- (1) In that Schedule, paragraph 18 (accounts) shall be amended as follows.
- (2) In sub-paragraph (1)(b), “in such form as the Secretary of State may direct with the approval of the Treasury” is omitted.
- (3) After sub-paragraph (1) there is inserted—

“(1A) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—

- (a) the information to be contained in it;
- (b) the manner in which the information contained in it is to be presented; or
- (c) the methods and principles according to which the statement is to be prepared.”

## **252 Transfer of functions in relation to Wales**

- (1) The Secretary of State may by order transfer any function of the School Curriculum and Assessment Authority in relation to Wales to the body established by section 14(1) (b) of the Education Reform Act 1988 (Curriculum Council for Wales).
- (2) An order under this section may contain such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks fit, including provisions—
- (a) for the transfer of staff; and
- (b) for the transfer of property, rights and liabilities held, enjoyed or incurred in connection with any function transferred.

## **253 Change of name**

- (1) In section 14(1)(b) of the Education Reform Act 1988, for “the Curriculum Council for Wales” there is substituted “Awdurdod Cwricwlwm ac Asesu Cymru or the Curriculum and Assessment Authority for Wales”.
- (2) Schedule 15 to this Act (amendments consequential on the change of name) shall have effect.

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*Status: This is the original version (as it was originally enacted).*

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### *Religious education*

#### **254 Duty to reconvene conference on agreed syllabus of religious education**

- (1) Within six months of the commencement of this section the local education authority shall reconvene any conference—
  - (a) which they have convened for the purpose set out in paragraph 1 or 12 of the Fifth Schedule to the Education Act 1944 (procedure for preparing and bringing into operation an agreed syllabus of religious education) or section 11(8) of the Education Reform Act 1988 (standing advisory councils on religious education), and
  - (b) to which subsection (2) below applies.
- (2) This subsection applies to any conference—
  - (a) which has not made a recommendation under paragraph 9 or 13(2) of that Schedule, and
  - (b) in respect of which the authority have not made a report under paragraph 10 or 13(4) of that Schedule.
- (3) Where a conference is convened (or reconvened) after the commencement of this section, paragraph 2 of that Schedule shall have effect as if at the end of the proviso there were inserted “and the number of persons appointed to any committee under that sub-paragraph to represent each denomination or religion required to be represented shall, so far as consistent with the efficient discharge of the committee’s functions, reflect broadly the proportionate strength of that denomination or religion in the area”.

#### **255 Duty to constitute new standing advisory council on religious education**

- (1) Within six months of the commencement of this section the local education authority shall constitute a new council under section 11 of the Education Reform Act 1988 (standing advisory councils on religious education).
- (2) For the purposes of the constitution required by subsection (1) above (and of any subsequent constitution) that section shall have effect as if at the end of subsection (5) there were inserted “and the number of members appointed to any representative group under paragraph (a) of that subsection to represent each denomination or religion required to be represented shall, so far as consistent with the efficient discharge of the group’s functions, reflect broadly the proportionate strength of that denomination or religion in the area”.

#### **256 Reconsideration of agreed syllabus**

- (1) For paragraph 12 of the Fifth Schedule to the Education Act 1944 (reconsideration of agreed syllabus) there is substituted—
  - “12 (1) A local education authority shall cause a conference to be convened at any time required by sub-paragraph (2) or (3) of this paragraph for the purpose of reconsidering any agreed syllabus for the time being adopted by them which was adopted before the appointed day.
  - (2) Where they adopted the syllabus before 29th September 1988, they shall convene a conference within the period of one year beginning with the appointed day.

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- (3) Where they adopted the syllabus on or after 29th September 1988, they shall convene a conference—
  - (a) within the period of five years beginning with the date on which they adopted it, or
  - (b) within the period of one year beginning with the appointed day, whichever is the later.
- (4) A local education authority shall from time to time cause further conferences to be convened for the purpose of reconsidering any agreed syllabus for the time being adopted by them (whether adopted before, on or after the appointed day); and no such conference shall be convened later than the expiry of the period of five years beginning with the date on or after the appointed day on which—
  - (a) the authority adopted the syllabus, or
  - (b) the authority gave effect to a recommendation under paragraph 13 of this Schedule that the syllabus should continue to be the agreed syllabus.
- (5) In this paragraph—
  - (a) “appointed day” means the day appointed for the commencement of section 256 of the Education Act 1993, and
  - (b) references to the date on which a local education authority adopt a syllabus include a reference to the date which the Secretary of State directs is to be the date from which a syllabus prepared under paragraph 11 of this Schedule is to be deemed to be the agreed syllabus.”
- (2) In paragraph 13 of that Schedule (procedure on reconsideration of agreed syllabus)—
  - (a) in sub-paragraph (2), after “agreed syllabus” there is inserted “and it appears to the local education authority that the syllabus reflects the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Great Britain”, and
  - (b) in sub-paragraph (4)—
    - (i) “either” is omitted, and
    - (ii) after “unanimous agreement” there is inserted—
      - “(aa) the conference unanimously recommend that the existing syllabus should continue to be the agreed syllabus but the local education authority consider that sub-paragraph (2) of this paragraph prevents them from giving effect to the recommendation”.

**257 Power of Secretary of State to direct standing advisory council to revoke determination or discharge duty**

After section 12 of the Education Reform Act 1988 (determination by advisory councils) there is inserted—

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*Status: This is the original version (as it was originally enacted).*

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**“12A Power of Secretary of State to direct advisory council to revoke determination or discharge duty**

- (1) Where the Secretary of State is satisfied, either on complaint by any person or otherwise, that any standing advisory council on religious education—
  - (a) have acted, or are proposing to act, unreasonably in determining for the purposes of subsection (1) or (5) of section 12 of this Act whether it is appropriate for the requirement for Christian collective worship to apply in the case of any school or any class or description of pupils at a school, or
  - (b) have failed to discharge any duty imposed under that section,
 he may give the council such directions as to the revocation of the determination or the withdrawal of the proposed determination or (as the case may be) the discharge of the duty as appear to him to be expedient; and the council shall comply with the directions.
- (2) Directions under subsection (1) above may provide for the making by the council of a new determination to take effect in place of the determination or proposed determination to be revoked or withdrawn by them.
- (3) In this section, “requirement for Christian collective worship” means the requirement imposed by section 7(1) of this Act or, as the case may be, section 138(2) of the Education Act 1993.”

**258 Access to meetings and documents of standing advisory council and conference on agreed syllabus of religious education**

- (1) This section applies to—
  - (a) any conference convened for the purpose set out in paragraph 1 or 12 of the Fifth Schedule to the Education Act 1944 (procedure for preparing and bringing into operation an agreed syllabus of religious education) or section 11(8) of the Education Reform Act 1988 (standing advisory councils on religious education), and
  - (b) any standing advisory council constituted under that section of that Act.
- (2) Regulations may make provision—
  - (a) for meetings of conferences or councils to be, subject to prescribed exceptions, open to members of the public,
  - (b) requiring conferences or councils to give notice, in such manner as may be prescribed, of the time and place of such meetings, and
  - (c) requiring conferences or councils, at such time or times as may be prescribed,
    - (i) to make available for inspection, or
    - (ii) to provide on payment of such fee as they think fit (not exceeding the cost of supply),
 copies of the agendas and reports for such meetings to members of the public.
- (3) Regulations made under subsection (2) above may apply to—
  - (a) committees appointed by local education authorities under paragraph 2 of the Fifth Schedule to the Education Act 1944,
  - (b) sub-committees appointed by conferences under that Schedule, and

- (c) representative groups on councils appointed under section 12(4) of the Education Reform Act 1988,  
as they apply to conferences and councils.

## **259 Inspection of religious education**

- (1) Section 13 of the Education (Schools) Act 1992 (religious education) is amended as follows.

- (2) For subsections (1) to (3) there is substituted—

- “(1) It shall be the duty of the governing body of—

- (a) any voluntary school, or
    - (b) any grant-maintained school,

- in which denominational education is given to any pupils to secure that that education is inspected under this section.

- (2) It shall be the duty of the governing body of—

- (a) any voluntary school, or
    - (b) any grant-maintained school falling within subsection (3) below,

- to secure that the content of the school’s collective worship is inspected under this section.

- (3) A grant-maintained school falls within this subsection if—

- (a) it was a voluntary school immediately before it became grant-maintained,
    - (b) it was established in pursuance of proposals published under section 49 of the Education Act 1993 and either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 3 to that Act makes provision as to the religious education for pupils at the school, or
    - (c) it is a school in respect of which proposals for the required provision for religious education to be provision for religious education in accordance with the tenets of a particular religion or religious denomination are approved under section 98 of that Act.

- (3A) In this section—

- (a) “denominational education”, in relation to a school, means any religious education which—
      - (i) is required by section 2(1)(a) of the Education Reform Act 1988 to be included in the school’s basic curriculum, but
      - (ii) is not required by any enactment to be given in accordance with an agreed syllabus,
    - (b) “the required provision for religious education” means the provision for religious education for pupils at the school which is required as mentioned in paragraph (a)(i) above, and
    - (c) references to collective worship are references to collective worship required by section 6 of that Act.”

- (3) For subsection (7) there is substituted—

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- “(7) It shall be the general duty of a person conducting an inspection under this section—
- (a) if the inspection is conducted by virtue of subsection (1) above, to report on the quality of the denominational education provided by the school for pupils to whom denominational education is given by the school, or
  - (b) if the inspection is conducted by virtue of subsection (2) above, to report on the content of the school’s collective worship,
- and any such person may report on the spiritual, moral, social and cultural development of pupils at the school.”

*Admissions and exclusions*

**260 Arrangements for admissions**

- (1) In this section “co-ordinated arrangements for admissions”, in relation to any two or more maintained or grant-maintained schools, means arrangements under an agreement to which this section applies for the purpose of co-ordinating arrangements for admitting pupils to the schools concerned.
- (2) Co-ordinated arrangements for admissions, if—
  - (a) contained in an agreement approved by the Secretary of State under this section, or
  - (b) made in pursuance of a scheme under this section,
 and any provision contained in any other arrangements for admitting pupils to any maintained or grant-maintained school in pursuance of a scheme under this section, shall have effect in the case of any school to which they relate notwithstanding anything in section 6(2) of the Education Act 1980 (parental preferences) or in the instrument or articles of government for the school.
- (3) This section applies to an agreement made in relation to any two or more maintained or grant-maintained schools to which each authority responsible for determining the arrangements for admitting pupils to any of the schools is a party, whether or not any local education authority for any area in which any of the schools are situated is also a party.
- (4) The Secretary of State may make a scheme under this section for the purpose of co-ordinating arrangements, or assisting in the co-ordination of arrangements, for admitting pupils to any maintained or grant-maintained schools to which the scheme applies.
- (5) A scheme under this section may in particular require each authority responsible for determining the arrangements for admitting pupils to any of the schools to which the scheme applies—
  - (a) to include in their arrangements for admitting pupils such provisions as may be required by the scheme,
  - (b) to secure the making in accordance with the scheme of an agreement for the purpose of co-ordinating arrangements for admitting pupils to the schools to which the scheme applies, or
  - (c) to secure the modification in accordance with the scheme of any such agreement to which they are party.

- (6) Before making a scheme under this section the Secretary of State shall, in respect of each school which appears to him to be a school to which the scheme will apply, consult—
- (a) the governing body, and
  - (b) in the case of any maintained school, the local education authority.
- (7) A scheme under this section may apply to—
- (a) all schools which for the time being are maintained or grant-maintained schools,
  - (b) all schools which for the time being are maintained or grant-maintained schools falling within any category of such schools specified in the scheme, or
  - (c) any maintained or grant-maintained school so specified.
- (8) Section 111 of the Education Act 1944 (revocation and variation) applies to a scheme under this section as it applies to directions under that Act.

## **261 Restrictions on power to exclude pupils**

- (1) The head teacher of any school maintained by a local education authority or grant-maintained school may not—
- (a) exclude a pupil from the school for an indefinite period, or
  - (b) so exercise the power to exclude a pupil from the school for one or more fixed periods that the pupil is so excluded for more than fifteen school days in any one term.
- (2) Subsection (1) above has effect, in the case of a school having articles of government, notwithstanding anything in the articles.
- (3) Where, on the day on which this section comes into force, a pupil stands excluded from such a school for an indefinite period—
- (a) he shall be treated as if he had been excluded from the school by the head teacher until the expiry of the period of one month beginning with that day and as if, in the case of a county, controlled or maintained special school, the local education authority had been so informed, and
  - (b) any direction given before that day—
    - (i) under section 24(c)(ii) or 25(d)(ii) of the Education (No. 2) Act 1986 (pupil to be reinstated within period specified in direction), or
    - (ii) by a committee of the governing body of a grant-maintained school to the head teacher under a corresponding provision of the articles of government,which specifies a period ending later than the expiry of the period of one month beginning with that day shall have effect as if it specified a period ending with that expiry.
- (4) Subsection (1)(b) above does not apply to any exclusion of a pupil which has taken effect before the day on which this section comes into force; but in exercising on or after that day the power referred to in that subsection, account shall be taken of any school days on which the pupil was excluded from the school in the same term in pursuance of one or more exclusions which took effect before that day.
- (5) In this section, “grant-maintained school” includes a grant-maintained special school.

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*Status: This is the original version (as it was originally enacted).*

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## **262 Exclusion of pupils: funding**

- (1) Subsection (2) below applies where a pupil is permanently excluded from any school maintained by a local education authority or any grant-maintained school and, in the financial year in which the exclusion first takes effect—
  - (a) he is subsequently provided with education at a school maintained by a local education authority, education otherwise than at school provided by such an authority or education at a grant-maintained school, and
  - (b) the person accountable for that education (referred to below as “the new provider”) is not the same as the person accountable for the education provided for him immediately before his exclusion (referred to below as “the former provider”).
- (2) The former provider shall pay to the new provider an amount determined in accordance with regulations as the appropriate amount of funding to be transferred to the new provider in respect of that pupil for that financial year.
- (3) Every local education authority shall, where any scheme made by them under section 33 of the Education Reform Act 1988 (financing county and voluntary schools) does not make the provision required by subsection (4) below, exercise their powers to revise the scheme so that it makes such provision.
- (4) The provision required by this subsection, in relation to a local education authority, is—
  - (a) provision requiring the authority, where a pupil is permanently excluded from a school and the exclusion first takes effect in a financial year in which the school is required to be covered by the scheme, to reduce the school’s budget share for that year by an amount determined in accordance with regulations as the appropriate amount of funding in respect of that pupil for that year to be subtracted from the school’s budget share, and
  - (b) provision requiring the authority, where a pupil admitted to a school in a financial year in which the school is required to be covered by the scheme has been permanently excluded from a school maintained by them or any other local education authority or any grant-maintained school and the exclusion (as well as the admission) first took effect in that year, to allocate for the purposes of the school in that year an amount determined in accordance with regulations as the appropriate amount of funding in respect of that pupil for that year to be allocated for those purposes.
- (5) Expressions used in subsection (4) above and in Chapter III of Part I of the Education Reform Act 1988 have the same meaning in that subsection as in that Chapter.
- (6) Subject to subsection (7) below, for the purposes of this section—
  - (a) the local education authority are accountable for education provided at any school maintained by them or education provided by them otherwise than at school, and
  - (b) the governing body are accountable for education provided at a grant-maintained school.
- (7) Where a pupil is permanently excluded from any school maintained by a local education authority or grant-maintained school and, in the financial year in which the exclusion first takes effect, the following events subsequently occur—
  - (a) he is first provided with education for which a different local education authority or, in the case of exclusion from a grant-maintained school, any



local education authority are accountable (referred to below as “the first new provider”) and which is provided in a pupil referral unit or otherwise than at school, and, at any time afterwards

- (b) he is provided with education at a grant-maintained school or for which a local education authority other than the first new provider are accountable,

then, in relation to the education mentioned in paragraph (b) above, the first new provider is to be treated as accountable for the education provided for the pupil immediately before the exclusion first took effect.

- (8) Any dispute as to whether any local education authority or governing body of a grant-maintained school are entitled to be paid any amount under this section by any such other person shall be determined by the Secretary of State.
- (9) For the purposes of this section the permanent exclusion of a pupil does not take effect until—
- (a) any review under the articles of government of the decision to exclude him has been completed, and
- (b) either any time for appealing under section 26 of the Education (No. 2) Act 1986 or those articles has expired without such an appeal being made or such an appeal has been finally concluded.
- (10) In this section, “grant-maintained school” includes a grant-maintained special school.

### *Information*

#### **263 Provision of information about CTCs and CCTAs**

In section 16(7) of the Education (Schools) Act 1992 (power to require governing body of school or local education authority to provide information) after “grant-maintained school” there is inserted—

- “(aa) the proprietor of any city technology college or city college for the technology of the arts”.

#### **264 Distribution of information about certain schools by other schools**

- (1) Where the governing body of any school providing primary education receive a request which—
- (a) is made by the governing body of any school providing secondary education, and
- (b) relates to the distribution of information about the school providing secondary education to parents of pupils at the school providing primary education without charge to those parents,
- the governing body of that school shall secure that the request is treated no less favourably (whether as to services provided or as to the terms on which they are provided) than any such request made by the governing body of any other school providing secondary education.
- (2) In this section, “school” means any maintained school, grant-maintained school or grant-maintained special school.

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*Status: This is the original version (as it was originally enacted).*

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## **265 Distribution of information about further education institutions by schools**

- (1) The Secretary of State may by regulations require—
- (a) the governing body of any maintained, grant-maintained or grant-maintained special school which provides secondary education, and
  - (b) the proprietor of any city technology college or city college for the technology of the arts,
- to provide such persons as may be prescribed with such categories of information falling within subsection (2) below as may be prescribed.
- (2) Information falls within this subsection if it is—
- (a) published under section 50 of the Further and Higher Education Act 1992 (information with respect to institutions within the further education sector), and
  - (b) made available to governing bodies and proprietors for distribution.
- (3) Information provided under subsection (1) above shall be provided in such form and manner as may be prescribed.

### *Appeal committees*

## **266 Lay members for admission appeal committees**

Schedule 16 to this Act (introduction of lay members into certain committees hearing appeals against admission decisions) shall have effect.

## **267 Duty to advertise for lay members for appeal committees**

- (1) This section applies—
- (a) in the case of an appeal committee constituted in accordance with Part I of Schedule 2 to the Education Act 1980, to the local education authority or governing body of an aided or special agreement school required by section 7 of that Act or section 26 of the Education (No. 2) Act 1986 to make arrangements for enabling appeals to be made to that committee, and
  - (b) in the case of an appeal committee constituted for the purposes of paragraph 5(1) of Schedule 6 to this Act, to the governing body of a grant-maintained school required by the articles of government for the school to make arrangements for appeals to that committee.
- (2) The Secretary of State may by regulations require any local education authority or governing body to which this section applies—
- (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal committee required to be constituted for the purposes of arrangements made by that authority or body to apply to the authority or body for appointment as such members, and
  - (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the authority or body in response to an advertisement placed in pursuance of paragraph (a) above.

## **268 Indemnity for legal costs and expenses of members of appeal committees**

- (1) This section applies—

- (a) in the case of an appeal committee constituted in accordance with Part I of Schedule 2 to the Education Act 1980, to the local education authority or governing body of an aided or special agreement school required by section 7 of that Act or section 26 of the Education (No. 2) Act 1986 to make arrangements for enabling appeals to be made to that committee, and
  - (b) in the case of an appeal committee constituted for the purposes of paragraph 5(1) of Schedule 6 to this Act, to the governing body of a grant-maintained school required by the articles of government for the school to make arrangements for appeals to that committee.
- (2) It shall be the duty of any local education authority or governing body to which this section applies to indemnify the members of any appeal committee required to be constituted for the purposes of arrangements made by that authority or body against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that committee.

#### **269 Investigation by Local Commissioner of decisions of certain appeal committees**

In section 25(5) of the Local Government Act 1974 (certain appeal committees to be subject to investigation by Local Commissioner)—

- (a) for “paragraph 1” there is substituted “paragraphs 1 and 2”, and
- (b) at the end there is added “or for the purposes of paragraph 5 of Schedule 6 to the Education Act 1993”.

#### *Admission arrangements for aided etc. schools*

#### **270 Arrangements under section 6(6) of the Education Act 1980: modification or replacement**

In section 6 of the Education Act 1980 (under subsection (6) of which governors of an aided or special agreement school may require the local education authority to enter into admission arrangements which override the duty to comply with any expressed parental preference) there is inserted at the end—

- “(7) If one of the parties to arrangements under subsection (6) above proposes that the arrangements should be modified or replaced by substitute arrangements but the other party does not agree, the party making the proposal may refer the matter to the Secretary of State.
- (8) On a reference under subsection (7) above, the Secretary of State may—
    - (a) direct that the arrangements shall remain as they are;
    - (b) direct that they shall be modified or replaced as proposed; or
    - (c) direct that they shall be modified in such other manner, or replaced by such other substitute arrangements, as may be specified in the direction.
  - (9) Where the Secretary of State directs as mentioned in subsection (8)(b) or (c) above, the modification or, as the case may be, the substitute arrangements shall have effect, from such date as may be specified in the direction, as if agreed between the parties.”

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*Status: This is the original version (as it was originally enacted).*

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*Sponsor governors*

**271 Sponsor governors for aided secondary schools**

- (1) After section 4 of the Education (No. 2) Act 1986 (governing bodies for aided etc. schools) there is inserted—

**“4A Sponsor governors for aided secondary schools**

- (1) The instrument of government for any aided secondary school shall, if a direction under this section so requires—
- (a) name as a sponsor of the school a person specified in the direction, and
  - (b) provide for the governing body of the school to include such number of governors appointed by the sponsor, not exceeding four, as is so specified.
- (2) A direction under this section in respect of a school, other than a direction under subsection (4) or (5) below—
- (a) may only be given at the request, or with the consent, of the governing body, and
  - (b) may make provision (including the modification of any provision made by or under this Act) as to the time by which a new instrument of government is to be made and the consent and consultation which is to be required before it is made.
- (3) A direction under this section varying or revoking a previous direction—
- (a) may only be made after consulting the governing body, and
  - (b) may make provision (including the modification of any provision made by or under this Act) as to the time by which a new instrument of government is to be made and the consent and consultation which is to be required before it is made.
- (4) Where proposals approved under section 13 of the Education Act 1980 (establishment and alteration of voluntary schools)—
- (a) provide for a secondary school to be maintained by the local education authority as a voluntary school,
  - (b) name a person as a sponsor of the school, and
  - (c) provide for the governing body of the school to include a specified number of governors, not exceeding four, appointed by the sponsor,
- the Secretary of State shall, if he makes an order under section 15 of the Education Act 1944 (classification of schools) directing that the school be an aided school, give a direction under this section for the purpose of implementing the proposals.
- (5) Where an order under section 54 of this Act directs that a secondary school be an aided school and the proposals published by the governing body under that section—
- (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body of the school to include a specified number of governors, not exceeding four, appointed by the sponsor,

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*Status: This is the original version (as it was originally enacted).*

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the Secretary of State shall give a direction under this section for the purpose of implementing the proposals.

- (6) Where the instrument of government for any aided secondary school names two or more persons as sponsors of the school—
    - (a) the number of governors appointed under the instrument by virtue of this section may not exceed four, and
    - (b) the instrument may not provide for any of those governors to be appointed by two or more sponsors acting jointly.
  - (7) Where in pursuance of this section the instrument of government for a school names a person as a sponsor of the school, section 4(3)(a) of this Act shall have effect as if it required the instrument to provide for such number of foundation governors as will lead to their outnumbering the other governors by two.
  - (8) In this section “direction” means a direction contained in an order made by the Secretary of State; but section 63(1) of this Act shall not apply to the power of the Secretary of State to make orders under this section.”
- (2) At the end of section 8(2) of that Act (term of office) there is added “or in the case of governors appointed by a person named in the instrument as a sponsor of the school, for such term (not being less than five nor more than seven years) as may be specified in the instrument.”
  - (3) In section 9 of that Act (grouping)—
    - (a) after subsection (1) there is inserted—

“(1A) A local education authority may not make such a resolution if the instrument of government of any of the schools names a person as a sponsor of the school unless all the schools are secondary schools”,  
and
    - (b) in subsection (7)(b) after “such school” there is inserted “but the instrument of government does not name any person as a sponsor of the school

*Proposals for alteration etc. of schools eligible for grant-maintained status*

## **272 Power of governing body of county school to propose change of character etc**

- (1) This section applies where—
  - (a) the governing body of a county school (referred to in this section as the “school proposed for grant-maintained status”) have published proposals for acquisition of grant-maintained status which have not been withdrawn or determined,
  - (b) the local education authority have published proposals for the purpose mentioned in section 12(1)(d) of the Education Act 1980 (alteration, etc. of county school) in respect of one or more schools in the area, and
  - (c) the governing body of the school proposed for grant-maintained status intend to make a significant change in the character, or significant enlargement of the premises, of the school, being a change or enlargement to be made for the purpose of ensuring consistency in the provision made in the area of the local education authority if the proposals made by the authority are implemented.

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- (2) The governing body of the school proposed for grant-maintained status may publish in such manner as may be required by regulations proposals for a significant change in the character, or significant enlargement of the premises, of the school for the purpose mentioned in subsection (1)(c) above.
- (3) Chapter VII of Part II of this Act shall apply in relation to proposals published under this section as it applies in relation to proposals published under section 96 of this Act but—
  - (a) as if the governing body of the school proposed for grant-maintained status were the governing body of a grant-maintained school, and
  - (b) with the modifications in subsections (4) and (5) below.
- (4) The particulars of the proposals shall not give as the time or any of the times of implementation of the proposals a time earlier than the date of implementation of the proposals for acquisition of grant-maintained status.
- (5) The statement accompanying the proposals shall (in addition to the matters referred to in section 96(5) of this Act)—
  - (a) state that the proposals are published in connection with the proposed acquisition of grant-maintained status,
  - (b) state the circumstances in which the governing body are authorised under this section to publish such proposals, and
  - (c) describe the proposals published by the local education authority in connection with which the proposals under this section are published.
- (6) Expressions used in this section or section 273 of this Act and in Part II of this Act have the same meaning as in that Part.

**273 Power to make and deal with proposals in the case of schools eligible for grant-maintained status**

- (1) Before formulating in respect of any school which is eligible for grant-maintained status any proposals for a purpose mentioned in section 12(1)(c) (ceasing to maintain schools) or (d) of the Education Act 1980, the local education authority shall consult the governing body of the school.
- (2) No proposals shall be published under section 12 or 13 of that Act in respect of any school in respect of which proposals for acquisition of grant-maintained status have been approved; and where the procedure for acquisition of grant-maintained status is pending (within the meaning of Chapter III of Part II of this Act) in respect of any voluntary school, no notice of the governing body's intention to discontinue the school may be served under section 14 of the Education Act 1944.
- (3) This subsection applies in any case where either—
  - (a) after proposals for acquisition of grant-maintained status have been published in respect of any school which is eligible for grant-maintained status but before those proposals are withdrawn or determined proposals under section 12 or 13 of that Act in respect of the school are first published for the purposes of that section or proposals in respect of the school are published under section 272 of this Act, or
  - (b) after proposals under section 12 or 13 of that Act in respect of any such school have first been published for the purposes of that section but before

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those proposals are withdrawn or determined the governing body of the school publish proposals for acquisition of grant-maintained status for the school.

- (4) In any case where subsection (3) above applies—
- (a) any proposals under section 12 of that Act shall require the approval of the Secretary of State where they would not do so apart from this subsection, and
  - (b) the Secretary of State shall consider the proposals under section 12 or 13 of that Act or section 272 of this Act and the proposals for acquisition of grant-maintained status together but shall not determine the proposals under section 12 or 13 of that Act or section 272 of this Act until he has made his determination with respect to the proposals for acquisition of grant-maintained status.
- (5) If in any case where subsection (3) above applies the Secretary of State approves the proposals for acquisition of grant-maintained status—
- (a) where there are proposals under section 12 of that Act, he may approve them if they were made under subsection (1)(d) of that section and the governing body incorporated under section 34 of this Act give their consent, but shall otherwise reject them,
  - (b) where there are proposals under section 13 of that Act, he may approve them if they were made for the purpose referred to in section 272(1)(c) of this Act, but shall otherwise reject them, and
  - (c) where there are proposals under section 272 of this Act, he may approve them.
- (6) If in any case where subsection (5) above applies proposals under section 12 or 13 of that Act are approved, the proposals shall be treated for the purposes of Part II of this Act as if they had been published under section 96, and approved under section 98, of this Act; and section 99 of this Act shall apply accordingly.
- (7) If subsection (3) above applies in a case where—
- (a) there are proposals under section 272 of this Act, and
  - (b) the Secretary of State rejects the proposals for acquisition of grant-maintained status,
- the Secretary of State shall reject the proposals under section 272 of this Act.

#### *Local management of schools*

### **274 Revision of schemes for financing schools maintained by local education authorities**

- (1) For section 34(4) of the Education Reform Act 1988 (duty to consult before preparing a scheme) there is substituted—
- “(4) Before preparing such a scheme a local education authority shall consult—
- (a) the governing body and the head teacher of every county, voluntary or special school maintained by the authority,
  - (b) the governing body of every grant-maintained school in the area of the authority, and
  - (c) the governing body of every grant-maintained special school which—
    - (i) is established under section 183 of the Education Act 1993 in the authority’s area, or

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(ii) before becoming a grant-maintained special school was a special school maintained by the authority,

but the Secretary of State may, by notice in writing to the authority, dispense with the duty imposed under paragraphs (b) and (c) above in respect of such schools, or class or description of schools, as are specified in the notice.”

(2) For section 35 of that Act (replacement and variation of schemes) there is substituted—

**“35 Revision of schemes**

(1) Subject to the following provisions of this section, a local education authority may revise the whole or any part of any scheme made by them under section 33 of this Act.

(2) Section 34(2) and (3) of this Act shall apply where the local education authority are preparing any revision under this section as they apply where they are preparing a scheme under section 33 of this Act.

(3) Where the local education authority propose to make a significant variation of the scheme—

(a) they shall first consult every governing body and head teacher whom they are obliged to consult under section 34(4) of this Act, and

(b) they shall then submit a copy of their proposals to the Secretary of State for his approval,

and where the proposals are so submitted section 34(5) of this Act shall apply to the scheme as revised as it applies to a scheme prepared under section 33.

(4) A revision which does not make a significant variation of the scheme is referred to in this section as a “minor revision”; and the Secretary of State may by order specify what descriptions of variation are to be regarded as significant for the purposes of this section.

(5) Where a local education authority propose to revise a scheme and the revision is in their opinion a minor revision, the authority shall give the Secretary of State notice in writing of their proposal, giving brief particulars of the nature of the revision proposed to be made.

(6) In any such case the authority shall, if so required by the Secretary of State before the end of the period of two months beginning with the date on which he receives notice under subsection (5) above of the authority’s proposal, send to him a copy of the scheme as proposed to be revised; and it shall be for the Secretary of State to determine whether or not any revision is a minor revision.

(7) The Secretary of State may by a direction revise the whole or any part of a scheme made under section 33 of this Act, as from such date as may be specified in the direction.

(8) Before giving such a direction the Secretary of State shall consult the local education authority concerned and such other persons as he thinks fit.”

(3) In section 40(2) of that Act (initial implementation), after “the scheme” there is inserted “as first made under section 33 of this Act”.

(4) In section 51(2)(a)(i) (interpretation), after “Act” there is inserted “as from time to time revised under section 35 of this Act”.



- (5) In the case of a scheme made before the commencement of this section, subsection (3) above shall not have effect so as to alter the date which, immediately before commencement, is the date by reference to which the beginning of the initial period of the scheme is determined to an earlier date.

## **275 Publication and auditing of financial statements**

- (1) In section 42 of the Education Reform Act 1988 (publication of schemes and financial statements etc.)—

- (a) in subsection (4), paragraphs (f) to (i) are omitted,
- (b) subsection (5)(b) is omitted,
- (c) in subsection (6) after “with respect to” there is inserted—
  - “(aa) the planned financial provision in that year specified in the statement prepared by the authority under subsection (3) above”, and
- (d) for subsection (8) there is substituted—

“(8) The authority shall furnish—

- (a) the governing body of each school required to be covered by the scheme in any financial year, and
- (b) the governing bodies of such grant-maintained schools in the authority’s area and grant-maintained special schools mentioned in section 34(4)(c) of this Act as may be prescribed,

with a copy of each statement prepared by the authority under this section in relation to that year or, in such circumstances as may be prescribed, with such part or parts of it as may be prescribed.”

- (2) After that section there is inserted—

### **“42A Certification of statements by Audit Commission**

- (1) This section applies where in the case of any local education authority the authority’s financial provision for county and voluntary schools is subject to regulation by a scheme.
- (2) Any such local education authority shall, if directed to do so by the Secretary of State, require the Audit Commission for Local Authorities and the National Health Service in England and Wales to make arrangements in accordance with section 29(1)(d) of the Local Government Finance Act 1982 for certifying such statement or statements prepared by the authority under section 42 of this Act as may be specified in the directions; and any statement under that section shall be treated for the purposes of section 29(1)(d) of that Act as a return by the authority.
- (3) The arrangements made by the Audit Commission in pursuance of subsection (2) above shall include arrangements for sending a copy of any such statement or statements as so certified to the Secretary of State.
- (4) Directions given under subsection (2) above may relate to any local education authority or to local education authorities generally or to any class or description of such authorities.”

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- (3) In Schedule 4 to that Act (financing of new schools) in paragraph 2, sub-paragraphs (3)(b) and (c) and (4)(b) and (c) are omitted.

## **276 Application of schemes to special schools**

For section 43 of the Education Reform Act 1988 (application of schemes to special schools) there is substituted—

### **“43 Application of schemes to special schools**

- (1) The Secretary of State may by regulations require or authorise schemes to cover special schools maintained by local education authorities.
- (2) Sections 39(1) and (10) and 40 of this Act shall not apply to schools required to be covered by a scheme by virtue of regulations under subsection (1) above.
- (3) Regulations under subsection (1) above may require or authorise schemes to include provision for requiring the delegation by the local education authority concerned to the governing body of the school of the management of the school’s budget share for the year—
  - (a) in the case of all schools required to be covered by a scheme in any financial year by virtue of the regulations; or
  - (b) in the case of such schools required to be covered by a scheme in any financial year by virtue of the regulations as the Secretary of State may direct.
- (4) The Secretary of State may by regulations—
  - (a) make in any provisions of this Chapter such amendments as appear to him to be required in consequence of any provision made in regulations under subsection (1) above; and
  - (b) provide that any scheme shall have effect with such modifications as appear to him to be appropriate in consequence of any provision so made.”

### *School leaving date*

## **277 Compulsory school age**

- (1) Subsections (2) and (3) below apply to determine for the purposes of any enactment whether a person is of compulsory school age.
- (2) A person begins to be of compulsory school age when he attains the age of five years.
- (3) A person ceases to be of compulsory school age at the end of the day which is the school leaving date for any calendar year if—
  - (a) he attains the age of sixteen years after that day but before the beginning of the school year next following,
  - (b) he attains that age on that day, or
  - (c) subject to paragraph (a) above, if that day is the school leaving date next following his attaining that age.

- (4) The Secretary of State may by order determine the day in any calendar year which is to be the school leaving date for that year.

*Local education authority finance*

**278 Grants for education support and training**

- (1) Section 1 of the Education (Grants and Awards) Act 1984 (education support grants) is amended as follows.
- (2) For “education support grants” and “education support grant”, in each place where one of those expressions appears, there is substituted “grants for education support and training” or, as the case may be, “grant for education support and training”.
- (3) In subsection (3)(b) “not exceeding 70 per cent. of the expenditure so approved” is omitted.
- (4) After subsection (4) there is inserted—
- “**(4A)** Conditions and requirements determined under subsection (4)(b) and (c) above may include conditions and requirements obliging the local education authority to delegate decisions about the spending of—
- (a) grant for education support and training, and
- (b) amounts allocated by the authority to meet prescribed expenditure which is approved by the Secretary of State,
- to such persons as may be determined by or in accordance with the regulations.”
- (5) In section 3 of that Act (regulations), subsections (2) and (5) and, in subsection (3), the words “not being regulations to which subsection (2) above applies” are omitted.
- (6) In section 50(1) of the Education (No. 2) Act 1986 (grants for teacher training, etc.)—
- (a) for “local education authorities and other persons” there is substituted “persons other than local education authorities”, and
- (b) for the words from the end of paragraph (a) to the end of the subsection there is substituted—
- “and
- (b) such other classes of person as may be prescribed”.

**279 Inter-authority recoupment**

- (1) In section 51 of the Education (No. 2) Act 1986 (recoupment), for subsections (1) to (4) there is substituted—
- “(1) The Secretary of State may by regulations provide, in relation to cases where any provision for education to which this section applies is made by a local education authority in respect of a person who belongs to the area of another such authority, for requiring or authorising the other authority to pay to the providing authority—
- (a) such amount as the authorities may agree; or

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- (b) failing agreement, such amount as may be determined by or under the regulations.
- (2) This section applies to primary, secondary and further education and to part-time education for those who have not attained the age of five years.
- (3) The regulations may provide for the amounts payable by one authority to another—
  - (a) to reflect the whole or any part of the average costs incurred by local education authorities in the provision of education (whether in England and Wales as a whole or in any particular area or areas); and
  - (b) to be based on figures for average costs determined by such body or bodies representing local education authorities, or on such other figures relating to costs so incurred, as the Secretary of State considers appropriate.
- (4) The regulations may provide for the amounts so payable, in such cases as may be specified in or determined in accordance with the regulations, to be such amounts as may be determined by the Secretary of State.”
- (2) In section 63 of that Act (orders and regulations)—
  - (a) in subsection (2) after “section” there is inserted “51 or”, and
  - (b) after that subsection there is inserted—
    - “(2A) No regulations may be made under section 51 of this Act unless a draft has been laid before and approved by resolution of each House of Parliament.”

*Charges in maintained schools*

**280 Musical instrument tuition**

In section 106(3) of the Education Reform Act 1988 (exceptions from the prohibition of charges in maintained schools) for paragraph (a) there is substituted—

- “(a) tuition in playing any musical instrument, where the tuition is provided either individually or to a group of no more than four pupils; or”.

*Assistance for voluntary schools*

**281 Grants by Secretary of State in respect of aided and special agreement schools**

- (1) The Secretary of State may—
  - (a) in the case of any aided school or special agreement school, or
  - (b) where proposals have been approved under section 13 of the Education Act 1980 (establishment etc. of voluntary schools) for a school or proposed school to be maintained as a voluntary school and the Secretary of State has made an order under section 15 of the Education Act 1944 (classification of schools) directing that the school be an aided school,
 make grants to the governing body in respect of expenditure falling within subsection (2) below incurred by them.

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- (2) The expenditure referred to in subsection (1) above is expenditure in respect of the provision, alteration or repair of premises or equipment for the school or proposed school.
- (3) The amount of any grant paid under this section to the governing body in respect of any such expenditure—
  - (a) shall not exceed 85 per cent. of the expenditure, and
  - (b) in the case of any prescribed class or description of such expenditure, shall be such as may be determined in accordance with regulations.
- (4) The times at which, and the manner in which, payments are made in respect of grant under this section shall be such as may be determined from time to time by the Secretary of State.
- (5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this section to make grants in respect of expenditure on—
  - (a) such alterations to school buildings as are referred to in section 15(3)(a) of the Education Act 1944 (alterations required by local education authority in order to comply with prescribed standards), and
  - (b) the repair of school buildings,give priority to paying grant in respect of expenditure which is necessary for the performance by governing bodies of their duties; and the amount of any grant paid in the exercise of that power in respect of such expenditure on the repair of school buildings shall be 85 per cent. of the expenditure.
- (6) A governing body to whom any payment is made in respect of grant under this section shall comply with such requirements determined by the Secretary of State as he may from time to time impose.
- (7) Such requirements—
  - (a) may be imposed on or at any time after the making of any payment by reference to which they are imposed, and
  - (b) may at any time be waived, removed or varied by the Secretary of State.
- (8) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the Secretary of State of the whole or any part of the following amount.
- (9) That amount is—
  - (a) the amount of the payments made in respect of the grant under this section, or
  - (b) so much of the value of any premises or equipment in respect of which grant was paid under this section as is determined in accordance with the requirements to be properly attributable to the payment of such grant,whichever is the greater.
- (10) No such requirement as is referred to in subsection (8) above may be imposed where any payment is made in respect of grant under this section if—
  - (a) the grant is made in respect of the provision, alteration or repair of premises for a school or proposed school, and
  - (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.

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*Status: This is the original version (as it was originally enacted).*

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- (11) No grant may be paid under this section—
- (a) in respect of any expenses incurred in the provision of any premises which it is the duty of the local education authority to provide, or
  - (b) in the case of a special agreement school, in respect of expenses incurred in the execution of proposals to which the special agreement relates or of repairs or alterations for the execution of which provision is made by the agreement.
- (12) In relation to a proposed school, the references in this section to the governing body, in relation to any time before such a body are constituted, are to the persons who propose to establish the school; and where requirements are imposed in relation to grant paid under this section to such persons, the governing body, when they are constituted, as well as those persons shall comply with the requirements.
- (13) In this section “repair” does not include repair falling within section 15(3)(b) of the Education Act 1944 (repair for which governing body are not responsible).

## **282 Power of LEA to assist governors of aided or special agreement school**

- (1) A local education authority may give to the governors of an aided or special agreement school such assistance as the authority think fit in relation to the carrying out by the governors of any obligation under—
- (a) section 15(3)(a) of the Education Act 1944 (duty to defray certain maintenance expenses),
  - (b) paragraph 2 of the First Schedule to the Education Act 1946 (duty to defray expenses of providing school buildings on site to which school transferred under section 16 of the Education Act 1944), or
  - (c) section 13(5) of the Education Act 1980 (duty to implement proposal to alter, etc. school).
- (2) In section 15 of the Education Act 1944, after subsection (4) there is inserted—
- “(4A) For the purposes of subsection (4) of this section, the governors of an aided school or a special agreement school shall not be regarded as unable to carry out their obligations under subsection (3)(a) of this section if they are able to carry them out with the benefit of assistance under section 282(1) of the Education Act 1993 (power of local education authority to give assistance).”
- (3) In section 90 of the Education Act 1944 (compulsory purchase of land by local education authority) after subsection (1) there is inserted—
- “(1A) The proviso in subsection (1) of this section shall not apply where the local education authority propose that expenditure to be incurred in connection with the purchase should ultimately be borne by them under section 282(1) of the Education Act 1993 (power of local education authority to give assistance).”
- (4) In paragraph 2 of the First Schedule to the Education Act 1946, the existing provision becomes sub-paragraph (1) and after that sub-paragraph there is inserted—
- “(2) For the purposes of paragraph (c) of sub-paragraph (1) of this paragraph, the governors of an aided school or a special agreement school shall not be regarded as unable to carry out their obligations under this paragraph if they are able to carry them out with the benefit of assistance under section 282(1) of the Education Act 1993 (power of local education authority to give assistance).”

### **283 Power of LEA to assist promoters of voluntary school**

A local education authority may give to persons required under section 13(5) of the Education Act 1980 to implement proposals involving the establishment of a school such assistance as the authority think fit in relation to the carrying out by those persons of their obligations under that provision.

### **284 Duty to convey interest in premises provided under section 282(1) or 283**

- (1) Where assistance under section 282(1) or 283 of this Act consists of the provision of any premises for use for the purposes of a school, the local education authority shall convey their interest in the premises to the trustees of the school to be held on trust for the purposes of the school.
- (2) If any doubt or dispute arises as to the persons to whom a local education authority are required to make a conveyance under subsection (1) above, the conveyance shall be made to such persons as the Secretary of State thinks proper.
- (3) Where trustees make a disposal of an interest conveyed to them by a local education authority under subsection (1) above, they shall be liable to pay to that authority an amount equal to the net proceeds of the disposal.
- (4) In subsection (3) above—
  - “disposal” includes part disposal, and
  - “net proceeds”, in relation to a disposal, means the amount accruing on the disposal less any expenditure reasonably incurred for the purposes of making it.

### **285 Disapplication of section 123(2) of the Local Government Act 1972**

Subsection (2) of section 123 of the Local Government Act 1972 (which prohibits a local authority from making a disposal of land under that section below market value without the consent of the Secretary of State) shall not apply in the case of a disposal—

- (a) to the governors of an aided or special agreement school, or
- (b) to persons proposing to establish a school which is proposed to be maintained by a local education authority as a voluntary school and to be an aided school.

### **286 Repeal of section 3(4) of the Education Act 1968**

Section 3(4) of the Education Act 1968 (power of local education authority to provide, or assist in providing, temporary accommodation at voluntary school) shall cease to have effect.

#### *Voluntary and grant-maintained schools: endowments*

### **287 Religious educational trusts: adoption of statutory trusts**

- (1) This section applies to endowments which are—
  - (a) regulated by an existing scheme under the Endowed Schools Acts 1869 to 1948 as applied by section 86(1) of the Education Act 1944 or by an order, whenever made, under section 2 of the Education Act 1973; and

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- (b) held under any such scheme or order on trusts which provide for capital or income or both to be applicable for or in connection with—
- (i) the provision of religious education at relevant schools, or relevant schools of any description (but not only at a particular school or schools) in a diocese or other geographical area; or
  - (ii) the provision of premises for relevant schools, or relevant schools of any description (but not only at a particular school or schools) at which religious education is or is to be provided in a diocese or other geographical area;
- but this section does not apply to an endowment if or in so far as it constitutes a religious education fund.
- (2) The trustees of any endowments to which this section applies may, by resolution complying with subsection (6) below, adopt the uniform statutory trusts as the trusts on which those endowments are to be held.
  - (3) The uniform statutory trusts are those set out in Schedule 17 to this Act.
  - (4) On the adoption by trustees of the uniform statutory trusts in respect of any endowments the scheme or order which regulates the endowments shall have effect as if the uniform statutory trusts are incorporated in the scheme or order to the exclusion of the corresponding provisions of the scheme or order.
  - (5) The trustees of two or more endowments which are held on the uniform statutory trusts may, by resolution complying with subsection (6) below, consolidate all or any of those endowments and, where they do so, the endowments shall be treated, for all purposes, as held for the purposes of a single charity.
  - (6) For a resolution to comply with this subsection—
    - (a) it must be passed by a simple majority of the trustees or, if the trustees are a body corporate or a company, by a simple majority of the members of the body corporate or an ordinary resolution of the company; and
    - (b) it must be recorded in the records of the decisions of the trustees affecting the endowments of the trust.
  - (7) Where trustees pass a resolution under subsection (2) above it shall be their duty to send a copy of the resolution to the Secretary of State.
  - (8) The uniform statutory trusts applicable to endowments to which this section applies shall not affect—
    - (a) the rights of any person under the third proviso to section 2 of the School Sites Act 1841, section 86(3) of the Education Act 1944 or section 1 of the Reverter of Sites Act 1987 (rights replacing certain reversionary interests in land); or
    - (b) the rights of any local education authority which have arisen or may arise under paragraph 7 or 8 of the First Schedule to the Education Act 1946 (rights in relation to school sites provided by such authorities);

except in so far as any right falling within paragraph (a) above is extinguished by an order under section 2 of the Education Act 1973 made by virtue of section 5 of the Reverter of Sites Act 1987.
  - (9) In this section—
 

“company” means a company formed under the Companies Acts;



“the Companies Acts” means the Companies Act 1985, the Companies Act 1948 or any Act repealed by that Act of 1948;

“endowment” includes property not subject to any restriction on the expenditure of capital;

“existing” means in force on the day on which this section comes into force;

“provision”, in relation to premises, means provision by the purchase of a site, the erection of premises or the maintenance, improvement or enlargement of premises;

“relevant school” means a voluntary school or a grant-maintained school.

“religious education” means religious education in accordance with the tenets of a particular religion or religious denomination; and

“religious education fund” includes a Sunday school fund.

(10) In Schedule 17 to this Act as incorporated in any scheme or order—

“the area” means the diocese or other geographical area within which the trust assets may be applied under the scheme or order, as the case may be;

“relevant school” means a relevant school at which the religious education provided for in the scheme or order, as the case may be, is or is to be provided; and

“the relevant trust assets” means the endowments in respect of which the trustees have adopted the uniform statutory trusts, including the income derived therefrom.

## **288 Religious educational trusts: supplementary provision**

(1) Section 2 of the Education Act 1973 (special powers as to certain trusts for religious education) is amended as follows.

(2) In subsection (4), at the end (definition of “use for appropriate educational purposes”) there is inserted “including, in particular, but without prejudice to the generality of the foregoing words, use for any purpose specified in Schedule 17 to the Education Act 1993.”

(3) In subsection (3), after “dwelling-house” there is inserted “and may consolidate any endowments to be dealt with by the scheme”.

(4) After subsection (5) there is inserted—

“(5A) Where a scheme given effect under this section provides for the endowments dealt with by the order or any part of them to be used for the purposes specified in Schedule 17 to the Education Act 1993, any such scheme may provide for the endowments thereby dealt with or any part of them to be added to any existing endowment applicable for those purposes (whether it is so applicable by virtue of a scheme given effect under this section or otherwise).”

### *Voluntary and grant-maintained schools: teachers' pay and conditions*

## **289 Employment of certain teachers: pay and conditions**

After section 3 of the School Teachers' Pay and Conditions Act 1991 (special provisions as to grant-maintained schools) there is inserted—

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### **“3A Special provisions for teachers on transfer of employment**

- (1) This section applies where a school teacher employed to teach at an independent school—
  - (a) which becomes a county or voluntary school in pursuance of proposals published under section 12(1)(b) or, as the case may be, 13(1)(a) of the Education Act 1980, or
  - (b) in place of which a grant-maintained school is established in pursuance of proposals published under section 49 of the Education Act 1993, becomes employed (in the case of a county or voluntary school) by the local education authority or the governing body or (in the case of a grant-maintained school) by the governing body in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981.
- (2) A pay and conditions order shall not apply to the statutory conditions of employment of such a teacher unless he gives notice in writing to the new employer that the order is to so apply.
- (3) Where the governing body of an aided school receive notice given under subsection (2) above, they shall inform the local education authority.”

#### *Independent schools*

### **290 Independent schools: employment of teachers etc**

- (1) At the end of section 71 of the Education Act 1944 (independent schools: complaints) there is added—
  - “(4) If at any time the Secretary of State is satisfied that a person whose employment is prohibited or restricted by virtue of regulations under section 218(6) of the Education Reform Act 1988—
    - (a) is employed in a registered or provisionally registered school in contravention of those regulations, or
    - (b) is the proprietor of such a school,
 he may order that the school be struck off the register or, as the case may be, that the Registrar is not to register the school.
  - (5) In this section, and in sections 72 and 73 of this Act, “employee” means a person employed in work which brings him regularly into contact with persons who have not attained the age of nineteen years.”
- (2) In sections 71(1)(d) and (2), 72(2)(e), (3) and (4) and 73(3) of that Act, after “teacher” in each place where it occurs there is inserted “or other employee”.
- (3) In section 218 of the Education Reform Act 1988 (school etc. regulations)—
  - (a) at the end of subsection (6)(b) “or” is omitted,
  - (b) after subsection (6)(c) there is added “or
    - (d) by the proprietors of independent schools or at such schools as teachers or in any such work”, and
  - (c) in subsection (12) after “section” there is inserted “other than in subsection (6)(d) above”.

## **291 Training for unqualified teachers in CTCs or CCTAs**

In section 218 of the Education Reform Act 1988 (school etc. regulations), after subsection (2) there is inserted—

“(2A) The regulations may impose requirements on persons carrying on city technology colleges or city colleges for the technology of the arts as to the training and teaching experience of persons employed as teachers at such colleges who seek to become (in relation to schools) qualified teachers; and such requirements shall have effect for the purposes of section 105 of this Act as requirements of the agreements under which the colleges are maintained.”

## **292 Independent schools that are children’s homes**

(1) In section 63 of the Children Act 1989 (children not to be cared for and accommodated in unregistered children’s homes) for subsection (6) there is substituted—

“(6) An independent school is a children’s home at any time if at that time accommodation is provided for children at the school and either—

(a) in each year that fell within the period of two years ending at that time accommodation was provided for more than three of the children at the school, or under arrangements made by the proprietor of the school, for more than 295 days in that year, or

(b) it is intended to provide accommodation for more than three of the children at the school, or under arrangements made by the proprietor of the school, for more than 295 days in any year,

unless the school is approved by the Secretary of State under section 189(1) of the Education Act 1993 (approval of independent schools for children with statements); and in this subsection “year” means a period of twelve months and “proprietor” has the same meaning as in the Education Act 1944.”

(2) In section 70 of the Education Act 1944 (registration of independent schools) after subsection (4) there is inserted—

“(4A) Regulations made under subsection (4) above may in particular require the proprietor of a school to furnish the Registrar with such information as is required by the local authority for the purpose of determining whether the school is a children’s home (within the meaning of the Children Act 1989).”

## **293 Corporal punishment**

(1) Section 47 of the Education (No. 2) Act 1986 (corporal punishment) is amended as follows.

(2) In subsection (1), after “pupil” there is inserted “to whom this subsection applies” and after that subsection there is inserted—

“(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.

(1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.”

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- (3) In subsection (5)—
- (a) for the words preceding paragraph (a) there is substituted “Subsection (1) above applies to a pupil”, and
  - (b) for “but” there is substituted “and in this section “pupil””.

## **294 Corporal punishment: Scotland**

- (1) Section 48A of the Education (Scotland) Act 1980 (corporal punishment) is amended as follows.
- (2) In subsection (1), after “pupil” there is inserted “to whom this subsection applies” and after that subsection there is inserted—
- “(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.
- (1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.”
- (3) In subsection (5) for the words preceding paragraph (a) there is substituted “In this section “pupil” means a person for whom education is provided at a school or for whom school education is provided by an education authority otherwise than at a school.
- (5A) Subsection (1) above applies to a pupil-”
- (4) In subsection (8)(a) for “(5)(a)(iii)” there is substituted “(5A)(a)(iii)”.

*Goods and services for grant-maintained or grant-maintained special schools*

## **295 Provision of goods and services by local education authorities**

- (1) Where the Secretary of State by order provides for this section to apply to a local education authority, the functions of the authority shall include the supply by the authority of such goods or services as may be specified in the order to the governing bodies of grant-maintained or grant-maintained special schools in such area as may be so specified.
- (2) The area specified in the order may not extend beyond the area which comprises—
- (a) the area of the authority, and
  - (b) the area of any other local education authority which shares any boundary with the authority.
- (3) The terms on which goods and services are supplied by a local education authority in the exercise of a function exercisable by virtue of this section shall be such as can reasonably be expected to secure that the full cost of exercising the function is recovered by the authority.
- (4) This section may not apply to a local education authority after the expiry of the period of two years beginning when it first applies to the authority.

- (5) This section is without prejudice to the generality of any other enactment conferring functions on local education authorities.

*Local education authorities: education committees*

**296 Abolition of requirement to establish education committees**

Section 6(2) of, and Part II of the First Schedule to, the Education Act 1944 (education committees) are omitted.

**297 Power of Secretary of State to direct appointment of members of committees**

- (1) Subsection (2) below applies to any local authorities which in accordance with section 102(1) of the Local Government Act 1972 have appointed any committees wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities.
- (2) The Secretary of State may by directions to any local authorities to which this subsection applies require every such committee, or any such committee of a description specified in the direction, to include persons appointed, in accordance with the directions, for securing the representation on the committee of persons who appoint foundation governors for voluntary schools in the area for which the committee acts.
- (3) Subsection (4) below applies to any two or more local authorities which in accordance with section 102(1) of the Local Government Act 1972 have appointed any committees wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities.
- (4) The Secretary of State may by directions to any local authorities to which this subsection applies require every such committee, or any such committee of a description specified in the direction, to include persons appointed, in accordance with the directions, for securing the representation on the committee of persons who appoint foundation governors for voluntary schools in the area for which the committee acts or in such area as may be specified in the direction.
- (5) The power of the Secretary of State to give directions under subsection (2) or (4) above shall be exercisable in relation to any sub-committees which are—
- (a) appointed by the authorities concerned or any such committee as is mentioned in that subsection, and
  - (b) so appointed wholly or partly for the purpose of discharging the authorities' functions as mentioned in that subsection or the committee's functions with respect to education,
- as it is exercisable in relation to the committees themselves.

*Exceptional provision*

**298 Exceptional provision of education in school or elsewhere**

- (1) Each local education authority shall make arrangements for the provision of suitable full-time or part-time education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or

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otherwise, may not for any period receive suitable education unless such arrangements are made for them.

- (2) A school established (whether before or after the commencement of this section) and maintained by a local education authority which—
  - (a) is specially organised to provide education for such children, and
  - (b) is not a county school or special school,
 shall be known as a “pupil referral unit”.
- (3) A local education authority may secure the provision of boarding accommodation at any pupil referral unit.
- (4) A local education authority may make arrangements for the provision of suitable full-time or part-time education otherwise than at school for those young persons who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
- (5) Section 9(2) of the Education Act 1944 (schools, other than nursery schools or special schools, established by LEAs to be known as county schools) shall have effect subject to subsection (2) above.
- (6) Any child for whom education is provided otherwise than at school in pursuance of this section, and any young person for whom full-time education is so provided in pursuance of this section, shall be treated for the purposes of the Education Acts as a pupil.
- (7) In this section “suitable education”, in relation to a child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (8) Schedule 18 to this Act (pupil referral units) shall have effect.

### *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 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.

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- (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 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.

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- (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.

### 306 Index

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)

*Status: This is the original version (as it was originally enacted).*

<i>Expression</i>	<i>Relevant provision</i>
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
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)

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*Status: This is the original version (as it was originally enacted).*

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<i>Expression</i>	<i>Relevant provision</i>
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)
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)

*Status: This is the original version (as it was originally enacted).*

<i>Expression</i>	<i>Relevant provision</i>
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)
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.

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*Status: This is the original version (as it was originally enacted).*

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**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.
- (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.