



# Education (No. 2) Act 1986

## 1986 CHAPTER 61

### PART III

#### ORGANISATION AND FUNCTIONS

##### *General*

#### **16 General responsibility for conduct of certain schools**

- (1) The articles of government for every county, voluntary and maintained special school shall provide for the conduct of the school to be under the direction of the governing body, but subject to any provision of the articles conferring specific functions on any person other than the governing body, and to the provision made (otherwise than in the articles) by or under this Act or any other enactment.
- (2) The Secretary of State may by regulations make provision as to the circumstances in which, in any case where—
  - (a) any provision of, or made under, this Act requires the governing body of a school to be consulted before a particular step is taken by the local education authority or the head teacher ; and
  - (b) the authority or head teacher require to take that step as a matter of urgency but are unable to contact the chairman or vice-chairman of the governing body ;the authority or (as the case may be) the head teacher may proceed without consulting the governing body.
- (3) Where a county, voluntary or maintained special school is organised in two or more separate departments, each with a head teacher, any provision made by or under this Act which confers functions on, or in relation to, the head teacher of the school shall, except where the articles of government provide otherwise, have effect as if each department were a separate school.

### *School curriculum*

#### **17 Duty of local education authority to state policy**

- (1) It shall be the duty of every local education authority—
  - (a) to determine, and keep under review, their policy in relation to the secular curriculum for the county, voluntary and special schools maintained by them ;
  - (b) to make, and keep up to date, a written statement of that policy; and
  - (c) to furnish the governing body and head teacher of every such school with a copy of the statement and publish it in such other manner as the authority consider appropriate.
- (2) In discharging their duty under subsection (1) above, an authority shall consider, in particular—
  - (a) the range of the secular curriculum ; and
  - (b) the balance between its different components.
- (3) In carrying out their functions under this Act or any other enactment, a local education authority shall have regard to their policy in relation to the secular curriculum for their schools, as expressed in their statement.
- (4) Every head teacher to whom any copy of a statement is furnished under this section shall make it available, at all reasonable times, to persons wishing to inspect it.

#### **18 County, controlled and maintained special schools**

- (1) The articles of government for every county, controlled and maintained special school shall provide for it to be the duty of the governing body to consider—
  - (a) the policy of the local education authority as to the secular curriculum for the authority's schools, as expressed in the statement made by the authority under section 17 of this Act;
  - (b) what, in their opinion, should be the aims of the secular curriculum for the school; and
  - (c) how (if at all) the authority's policy with regard to matters other than sex education should in their opinion be modified in relation to the school;and to make, and keep up to date, a written statement of their conclusions.
- (2) The articles of government for every such school shall provide for it to be the duty of the governing body—
  - (a) to consider separately (while having regard to the local education authority's statement under section 17 of this Act) the question whether sex education should form part of the secular curriculum for the school; and
  - (b) to make, and keep up to date, a separate written statement—
    - (i) of their policy with regard to the content and organisation of the relevant part of the curriculum ; or
    - (ii) where they conclude that sex education should not form part of the secular curriculum, of that conclusion.
- (3) The articles of government for every such school shall provide for it to be the duty of the governing body—
  - (a) when considering the matters mentioned in subsections (1) and (2) above, to do so in consultation with the head teacher and to have regard—

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- (i) to any representations which are made to them, with regard to any of those matters, by any persons connected with the community served by the school; and
    - (ii) to any such representations which are made to them by the chief officer of police and which are connected with his responsibilities ;
  - (b) to consult the authority before making or varying any statement under subsection (1) above ; and
  - (c) to furnish the authority and head teacher with an up to date copy of any statement under this section.
- (4) The articles of government for every such school shall provide for it to be the duty of the head teacher to make any statement furnished to him under this section available at all reasonable times, to persons wishing to inspect it.
- (5) The articles of government for every such school shall provide for the determination and organisation of the secular curriculum for the school to be the responsibility of the head teacher and for it to be his duty to secure that that curriculum is followed within the school.
- (6) The articles of government for every such school shall provide for it to be the duty of the head teacher, in discharging his duties in relation to the secular curriculum for the school—
  - (a) to consider the statement of the local education authority under section 17 of this Act and those of the governing body under this section ;
  - (b) to have regard—
    - (i) to any representations which are made to him, with regard to the determination or organisation of the secular curriculum, by any persons connected with the community served by the school; and
    - (ii) to any such representations which are made to him by the chief officer of police and which are connected with that officer's responsibilities; and
  - (c) to ensure that that curriculum—
    - (i) so far as it relates to sex education, is compatible with the governing body's policy (as expressed in their statement under subsection (2) above) except where that policy is incompatible with any part of the syllabus for a course which forms part of that curriculum and leads to a public examination ;
    - (ii) so far as it relates to other matters, is compatible with the authority's policy (as expressed in their statement) or, to the extent to which it is incompatible, is compatible with that policy as modified by the governing body's statement under subsection (1) above; and
    - (iii) is compatible with the enactments relating to education (including, in particular, those relating to children with special educational needs).
- (7) The articles of government for every such school shall provide for the governing body to have power to review their conclusions about the matters mentioned in subsections (1) and (2) above whenever they think fit, and for it to be their duty to do so immediately following—
  - (a) the implementation of any proposal under—
    - (i) section 16 of the 1944 Act (transfer of schools to new sites);
    - (ii) section 12 or 13 of the 1980 Act (establishment, alteration and discontinuance of schools); or

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- (iii) section 15 of the 1980 Act (reduction of school places);  
 which materially affects the school; or
  - (b) in the case of a maintained special school, any change in any of the arrangements made for pupils at the school and their special educational needs which must be complied with (by virtue of regulations made under section 12 of the 1981 Act) for the school to be approved as a maintained special school under section 9(5) of the 1944 Act.
- (8) The article of government for every such school shall provide for it to be the duty of the governing body, where—
- (a) they have completed such a review; and
  - (b) they consider it appropriate to make a fresh written statement of their conclusions ;
- to do so and to furnish the local education authority and the head teacher with a copy of it.

## **19 Aided and special agreement schools**

- (1) The articles of government for every aided and special agreement school shall provide—
- (a) for the content of the secular curriculum for the school to be under the control of the governing body ;
  - (b) for the governing body to have regard to the policy of the local education authority as to the curriculum for the authority's schools, as expressed in the statement made by the authority under section 17 of this Act; and
  - (c) for the head teacher to be allocated by the governing body such functions as will, subject to the resources available, enable him to determine and organise the curriculum and secure that it is followed within the school.
- (2) The articles of government for every such school shall provide for it to be the duty of the governing body, when considering the content of the secular curriculum for the school, to have regard—
- (a) to any representations which are made to them, with regard to that curriculum, by any persons connected with the community served by the school; and
  - (b) to any such representations which—
    - (i) are made to them by the chief officer of police ; and
    - (ii) are connected with his responsibilities.
- (3) Where the governing body of any such school make any statement in writing of their policy as to the secular curriculum for the school they shall furnish a copy of it to the head teacher; and the head teacher shall make it available, at all reasonable times, to persons wishing to inspect it.

## **20 Information for parents**

The Secretary of State shall make regulations requiring the governing body of every county, voluntary and maintained special school to make available to parents of registered pupils at the school, in such form and manner and at such times as may be prescribed—

- (a) such information as to any syllabuses to be followed by those pupils ; and

- (b) such other information as to the educational provision made for them by the school;
- as may be prescribed.

*School terms etc.*

## **21 Terms, sessions and holidays**

- (1) The articles of government for every county, controlled and maintained special school shall provide for it to be the duty of the local education authority to determine—
  - (a) the times at which the school session is to begin and end on any day ; and
  - (b) the dates and times at which the school terms and holidays are to begin and end.
- (2) The articles of government for every such school shall provide for the local education authority to have power to require pupils in attendance at the school to attend at any place outside the school premises for the purpose of receiving any instruction or training included in the secular curriculum for the school.
- (3) The articles of government for every aided and special agreement school shall make the same provision as is required by subsections (1) and (2) above, but in relation to the governing body in place of the local education authority.

*Discipline*

## **22 Discipline: general duties**

The articles of government for every county, voluntary and maintained special school shall provide—

- (a) for it to be the duty of the head teacher to determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
  - (i) promoting, among pupils, self-discipline and proper regard for authority ;
  - (ii) encouraging good behaviour on the part of pupils;
  - (iii) securing that the standard of behaviour of pupils is acceptable ; and
  - (iv) otherwise regulating the conduct of pupils ;
- (b) for it to be the duty of the head teacher, in determining any such measures—
  - (i) to act in accordance with any written statement of general principles provided for him by the governing body; and
  - (ii) to have regard to any guidance that they may offer in relation to particular matters;
- (c) for it to be the duty of the head teacher to make any such measures generally known within the school;
- (d) for the standard of behaviour which is to be regarded as acceptable at the school to be determined by the head teacher, so far as it is not determined by the governing body;
- (e) for it to be the duty of the governing body and the head teacher to consult the local education authority, before determining any such measures, on

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any matter arising from the proposed measures which can reasonably be expected—

- (i) to lead to increased expenditure by the authority; or
- (ii) to affect the responsibilities of the authority as an employer;
- (f) for the power to exclude a pupil from the school (whether by suspension, expulsion or otherwise) to be exercisable only by the head teacher.

### **23 Exclusion of pupils: duty to inform parents etc.**

The articles of government for every county, voluntary and maintained special school shall provide—

- (a) for it to be the duty of the head teacher—
  - (i) where he excludes from the school a pupil who is under eighteen, to take (without delay) reasonable steps to inform a parent of the pupil of the period of the exclusion and the reasons for it;
  - (ii) where he decides that any exclusion of such a pupil from the school which was originally for a fixed or indefinite period should be made permanent, to take (without delay) reasonable steps to inform a parent of the pupil of his decision and of the reasons for it; and
  - (iii) where he excludes any pupil from the school to take (without delay) reasonable steps to inform the pupil, if he is aged eighteen or over, or a parent of his, if he is under eighteen, that the pupil or (as the case may be) parent may make representations about the exclusion to the governing body and the local education authority;
- (b) for it to be the duty of the head teacher, where he excludes a pupil from the school—
  - (i) for more than five school days (in the aggregate) in any one term ; or
  - (ii) in circumstances in which the pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination;
 to inform the local education authority and the governing body (without delay) of the period of the exclusion and of the reasons for it and where he decides that any exclusion of a pupil from the school which was originally for a fixed or indefinite period should be made permanent, to inform them (without delay) of his decision and of the reasons for it.

### **24 Reinstatement of excluded pupils: county controlled and maintained special schools**

The articles of government for every county, controlled and maintained special school shall provide—

- (a) for it to be the duty of the local education authority, where they have been informed of the permanent exclusion of a pupil from the school—
  - (i) to consider, after consulting the governing body, whether he should be reinstated immediately, reinstated by a particular date or not reinstated ;
  - (ii) where they consider that he should be reinstated, to give the appropriate direction to the head teacher; and
  - (iii) where they consider that he should not be reinstated, to inform the pupil (if he is aged eighteen or over) or a parent of his (if he is under eighteen) of their decision;

- (b) for it to be the duty of the head teacher, where he has excluded a pupil from the school—
  - (i) for more than five school days (in the aggregate) in any one term; or
  - (ii) in circumstances in which the pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination ;to comply with any direction for the reinstatement of the pupil given by the governing body or the local education authority, in the case of an exclusion for a fixed period, or by the governing body, in the case of an exclusion which is for an indefinite period or is permanent ;
- (c) for it to be the duty of the local education authority, where they have been informed of the indefinite exclusion of a pupil from the school, to consult the governing body and, where the governing body do not intend to direct the head teacher to reinstate the pupil or the authority consider that he should be reinstated by a date which is earlier than that determined by the governing body as the date by which he is to be reinstated—
  - (i) to direct that he be reinstated immediately; or
  - (ii) to direct that he be reinstated within such period as may be specified in the direction;
- (d) for it to be the duty of the local education authority where—
  - (i) they have been informed of the exclusion of a pupil from the school for a fixed period ; and
  - (ii) they propose to give a direction for his reinstatement ;to consult the governing body before doing so ;
- (e) for any direction given by virtue of paragraph (c) above to cease to have effect (without prejudice to any subsequent direction given by virtue of any other provision made by the articles in accordance with this section) if the head teacher decides that the exclusion of the pupil concerned should be made permanent;
- (f) for it to be the duty of the head teacher to comply with any direction given in exercise of the duty imposed on the local education authority by virtue of paragraph (a) or (c) above;
- (g) for it to be the duty of the head teacher, where conflicting directions for the reinstatement of a pupil are given by the governing body and the local education authority, to comply with that direction which will lead to the earlier reinstatement of the pupil; and
- (h) for it to be the duty of the governing body and the local education authority to inform each other and—
  - (i) the pupil concerned, if he is aged eighteen or over; or
  - (ii) a parent of his, if he is under eighteen ; of any direction, of a kind mentioned in this section, which is given by them.

## **25 Reinstatement of excluded pupils: aided and special agreement schools**

The articles of government for every aided and special agreement school shall provide—

- (a) for it to be the duty of the governing body, where they have been informed of the permanent exclusion of a pupil from the school—
  - (i) to consider whether he should be reinstated immediately, reinstated by a particular date or not reinstated;

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- (ii) where they consider that he should be reinstated, to give the appropriate direction to the head teacher; and
- (iii) where they consider that he should not be reinstated, to inform (without delay) the local education authority and either the pupil, if he is aged eighteen or over, or a parent of his, if he is under eighteen, of their decision;
- (b) for it to be the duty of the head teacher where he has excluded a pupil from the school—
  - (i) for more than five school days (in the aggregate) in any one term ; or
  - (ii) in circumstances in which the pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination;
 to comply with any direction for the reinstatement of the pupil given by the governing body or, in the case of an exclusion for a fixed period, by the governing body or the local education authority ;
- (c) for it to be the duty of the local education authority to consult the governing body before giving any direction by virtue of paragraph (b) above ;
- (d) for it to be the duty of the local education authority, where they have been informed of the indefinite exclusion of a pupil from the school, to consult the governing body and, where the governing body do not intend to direct the head teacher to reinstate the pupil or the authority consider that he should be reinstated by a date which is earlier than that determined by the governing body as the date by which he is to be reinstated—
  - (i) to direct that he be reinstated immediately; or
  - (ii) to direct that he be reinstated within such period as may be specified in the direction ;
- (e) for any direction given by virtue of paragraph (d) above to cease to have effect (without prejudice to any direction given by virtue of any other provision made by the articles in accordance with this section) if the head teacher decides that the exclusion of the pupil concerned should be made permanent;
- (f) for it to be the duty of the head teacher to comply with any direction given in exercise of the duty imposed on the local education authority by virtue of paragraph (d) above;
- (g) for it to be the duty of the head teacher, where conflicting directions for the reinstatement of a pupil are given by the governing body and the local education authority, to comply with that direction which will lead to the earlier reinstatement of the pupil; and
- (h) for it to be the duty of the governing body and the local education authority to inform each other and—
  - (i) the pupil concerned, if he is aged eighteen or over; or
  - (ii) a parent of his, if he is under eighteen ;
 of any direction, of a kind mentioned in this section, which is given by them.

## 26 Appeals

- (1) Every local education authority shall make arrangements for enabling—
  - (a) a registered pupil at a county, controlled or maintained special school who is aged eighteen or over, or a parent of his, in the case of a pupil at such a school who is under eighteen, to appeal against any decision not to reinstate the pupil following his permanent exclusion from the school; and



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- (b) any governing body of such a school, the head teacher of which has been directed by the authority to reinstate any registered pupil at the school who has been permanently excluded, to appeal against the direction.
- (2) The governing body of every aided or special agreement school shall make arrangements for enabling a registered pupil at the school who is aged eighteen or over, or a parent of a pupil at such a school who is under eighteen to appeal against any decision not to reinstate the pupil following his permanent exclusion from the school.
- (3) Joint arrangements may be made under subsection (2) above by the governing bodies of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Any appeal by virtue of this section shall be to an appeal committee constituted in accordance with Part I of Schedule 2 to the 1980 Act; and Schedule 3 to this Act shall have effect, in place of Part II of Schedule 2 to the 1980 Act, in relation to any such appeal.
- (5) The decision of an appeal committee on any such appeal shall be binding on the persons concerned; and where the committee determines that the pupil in question should be reinstated it shall direct that he be reinstated immediately or direct that he be reinstated by such date as is specified in the direction.

## **27 Additional provision for appeals**

Where the articles of government for any county, voluntary or maintained special school provide—

- (a) for the parents of any pupil who is excluded from the school in circumstances in which no right of appeal is given by section 26 of this Act to have the right to appeal against his exclusion to a person specified by the articles; and
- (b) for the procedure to be followed on such an appeal;

any decision on such an appeal that the pupil should be reinstated, or that he should be reinstated earlier than would otherwise be the case, shall be binding on the head teacher.

## **28 Local education authority's reserve power**

- (1) Every local education authority shall have power, in the circumstances mentioned in subsection (3) below, to take such steps in relation to any county, controlled or special school maintained by them as they consider are required to prevent the breakdown, or continuing breakdown, of discipline at the school.
- (2) The governing body and the head teacher of every aided and special agreement school shall, in the circumstances mentioned in subsection (3) below, consider any representations made to them by the local education authority.
- (3) The circumstances are that—
  - (a) in the opinion of the authority—
    - (i) the behaviour of registered pupils at the school; or
    - (ii) any action taken by such pupils or their parents;is such that the education of any such pupils is, or is likely in the immediate future to become, severely prejudiced; and
  - (b) the governing body have been informed in writing of the authority's opinion.

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- (4) Steps taken by an authority under subsection (1) above may include the giving of any direction to the governing body or head teacher.

### *Finance*

## **29 Finance**

- (1) The articles of government for every county, voluntary and maintained special school shall provide—
- (a) for it to be the duty of the local education authority (with a view to assisting the governing body to judge whether expenditure in relation to their school represents the economic, efficient and effective use of resources) to furnish the governing body, once in every year, with a statement of—
    - (i) expenditure incurred or proposed to be incurred by the authority in meeting the day to day cost of running the school (itemised as the authority think appropriate); and
    - (ii) such expenditure of a capital nature, incurred or proposed to be incurred by the authority, as they consider appropriate;
  - (b) for it to be the duty of the local education authority to make available, in every year, a sum of money which the governing body are to be entitled to spend at their discretion (but subject to paragraph (c) below) on books, equipment, stationery and such other heads of expenditure (if any) as may be specified by the authority or prescribed by the Secretary of State ;
  - (c) for it to be the duty of the governing body, in spending any such sum, to comply with such reasonable conditions as the authority think fit to impose ;
  - (d) for the governing body to have power to delegate to the head teacher, to such extent as they may specify, their powers in relation to the sum so made available ; and
  - (e) for it to be the duty of the governing body not to incur any expenditure under any of the heads of expenditure mentioned in paragraph (b) above which, in the opinion of the head teacher, would be inappropriate in relation to the curriculum for the school.
- (2) Before making any regulations under subsection (1)(6) above, the Secretary of State shall consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.

### *Reports and meetings*

## **30 Governors' annual report to parents**

- (1) The articles of government for every county, voluntary and maintained special school shall provide for it to be the duty of the governing body to prepare, once in every school year, a report (" the governors' report") containing—
- (a) a summary of the steps taken by the governing body in the discharge of their functions during the period since their last report; and
  - (b) such other information as the articles may require.
- (2) The articles of government for every such school shall, in particular, require the governors' report—

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- (a) to be as brief as is reasonably consistent with the requirements as to its contents;
  - (b) where there is an obligation on the governing body (by virtue of section 31 of this Act) to hold an annual parents' meeting—
    - (i) to give details of the date, time and place for the next such meeting and its agenda ;
    - (ii) to indicate that the purpose of that meeting will be to discuss both the governors' report and the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school; and
    - (iii) to report on the consideration which has been given to any resolutions passed at the previous such meeting;
  - (c) to give the name of each governor and indicate whether he is a parent, teacher or foundation governor or was co-opted or otherwise appointed as a governor or is an ex officio governor;
  - (d) to say, in the case of an appointed governor, by whom he was appointed;
  - (e) to give, in relation to each governor who is not an ex officio governor, the date on which his term of office comes to an end;
  - (f) to name, and give the address of, the chairman of the governing body and their clerk;
  - (g) to give such information as is available to the governing body about arrangements for the next election of parent governors;
  - (h) to contain a financial statement—
    - (i) reproducing or summarising the latest financial statement provided for the governing body by the local education authority (by virtue of paragraph (a) of section 29(1) of this Act);
    - (ii) indicating, in general terms, how any sum made available to the governing body by the authority (by virtue of paragraph (b) of that section), in the period covered by the report, was used; and
    - (iii) giving details of the application of any gifts made to the school in that period;
  - (i) to give, in the case of a secondary school, such information in relation to public examinations as is required to be published by virtue of section 8(5) of the 1980 Act;
  - (j) to describe what steps have been taken by the governing body to develop or strengthen the school's links with the community (including links with the police); and
  - (k) to draw attention to the information made available by the governing body in accordance with the regulations made under section 20 of this Act.
- (3) The articles of government for every such school shall—
- (a) enable the governing body to produce their report in such language or languages (in addition to English) as they consider appropriate ; and
  - (b) require them to produce it in such language or languages (in addition to English and any other language in which the governing body propose to produce it) as the local education authority may direct.
- (4) The articles of government for every such school shall provide for it to be the duty of the governing body of any such school to take such steps as are reasonably practicable to secure that—

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- (a) the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the governors' report;
- (b) copies of the report are available for inspection (at all reasonable times and free of charge) at the school; and
- (c) where there is an obligation on the governing body (by virtue of section 31 of this Act) to hold an annual parents' meeting, copies of the report to be considered at that meeting are given to parents not less than two weeks before that meeting.

### **31 Annual parents' meeting**

- (1) Subject to subsections (7) and (8) below, the articles of government for every county, voluntary and maintained special school shall provide for it to be the duty of the governing body to hold a meeting once in every school year (" the annual parents' meeting ") which is open to—
  - (a) all parents of registered pupils at the school;
  - (b) the head teacher ; and
  - (c) such other persons as the governing body may invite.
- (2) The purpose of the meeting shall be to provide an opportunity for discussion of—
  - (a) the governors' report; and
  - (b) the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school.
- (3) No person who is not a parent of a registered pupil at the school may vote on any question put to the meeting.
- (4) The articles of government for every such school shall provide—
  - (a) for the proceedings at any annual parents' meeting to be under the control of the governing body ;
  - (b) for any annual parents' meeting, at which the required number of parents of registered pupils at the school are present, to be entitled to pass (by a simple majority) resolutions on any matters which may properly be discussed at the meeting ;
  - (c) for it to be the duty of the governing body—
    - (i) to consider any resolution which is duly passed at such a meeting and which they consider is a matter for them;
    - (ii) to send to the head teacher a copy of any such resolution which they consider is a matter for him; and
    - (iii) to send to the local education authority a copy of any such resolution which they consider is a matter for the authority ; and
  - (d) for it to be the duty of the head teacher, and of the local education authority, to consider any such resolution a copy of which has been sent to him, or them, by the governing body and to provide the governing body with a brief comment on it (in writing) for inclusion in their next governors' report.
- (5) The articles of government for every county, controlled and maintained special school shall provide for any question whether any person is to be treated as the parent of a registered pupil at the school, for the purposes of any provision of the articles relating to the annual parents' meeting, to be determined by the local education authority.

- (6) The articles of government for every aided or special agreement school shall provide for any such question to be determined by the governing body.
- (7) The articles of government for every special school established in a hospital shall provide that where the governing body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year they may refrain from holding such a meeting in that year.
- (8) The articles of government for every county, voluntary and maintained special school (other than a special school established in a hospital), the proportion of registered pupils at which who are boarders is, or is likely to be, at least fifty per cent., shall provide that where—
  - (a) the governing body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year; and
  - (b) at least fifty per cent, of the registered pupils at the school are boarders at the time when the governing body form that opinion ;they may refrain from holding such a meeting in that year.
- (9) In subsection (4)(b) above " the required number", in relation to any school, means any number equal to at least twenty per cent, of the number of registered pupils at the school.

### **32 Reports by governing body and head teacher**

- (1) The articles of government for every county, voluntary and maintained special school shall provide—
  - (a) for the governing body to furnish to the local education authority such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time); and
  - (b) for the head teacher to furnish to the governing body or (as the case may be) local education authority such reports in connection with the discharge of his functions as the governing body or authority may so require.
- (2) The articles of government for every aided school shall provide—
  - (a) for the local education authority to notify the governing body of any requirement of a kind mentioned in subsection (1)(b) above which is imposed by them on the head teacher; and
  - (b) for the head teacher to furnish the governing body with a copy of any report which he makes in complying with the requirement.

### *Admissions*

### **33 Admissions**

- (1) Where the governing body of any county or voluntary school are responsible for determining the arrangements for admitting pupils to the school, they shall—
  - (a) at least once in every school year, consult the local education authority as to whether those arrangements are satisfactory; and
  - (b) consult the authority before determining, or varying, any of them.

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- (2) Where the local education authority are responsible for determining the arrangements for admitting pupils to any such school they shall—
- (a) at least once in every school year, consult the governing body as to whether those arrangements are satisfactory ; and
  - (b) consult the governing body before determining, or varying, any of them.

*Appointment and dismissal of staff*

**34 Determination of staff complement for schools**

- (1) Every county, controlled, special agreement and maintained special school shall have a complement of teaching and non-teaching posts determined by the local education authority.
- (2) The complement for any such school shall include—
  - (a) all full-time teaching posts; and
  - (b) all part-time teaching posts which are to be filled by persons whose only employment with the authority will be at the school.
- (3) The complement for any such school shall not include any staff employed by the authority solely in connection with either or both of the following—
  - (a) the provision of meals ;
  - (b) the supervision of pupils at midday.

**35 Appointment and dismissal of staff: introductory**

- (1) The appointment and dismissal of staff (including teachers) at every county, controlled, special agreement and maintained special school shall be under the control of the local education authority, but—
  - (a) the appointment of a head teacher shall be subject to the provision made by the articles of government for the school in accordance with section 37 of this Act;
  - (b) the appointment of a deputy head teacher shall be subject to the provision made by the articles in accordance with section 39 of this Act;
  - (c) the appointment and dismissal of the clerk to the governing body shall be subject to section 40 of this Act and to any provision made by the articles in accordance with that section;
  - (d) the appointment of any other staff (including any teacher), to a post which is part of the school's complement, shall be subject to the provision made by the articles in accordance with section 38 of this Act;
  - (e) the dismissal of staff shall be subject to the provision made by the articles in accordance with section 41 of this Act;
  - (f) the appointment and dismissal of staff at any school for which there is a temporary governing body shall be subject to the provisions of Schedule 2 to this Act; and
  - (g) this section is subject to the provisions of sections 27 and 28 of the 1944 Act (which relate to religious education).
- (2) The articles of government for every such school shall provide for it to be the duty of the local education authority to consult the governing body and the head teacher before appointing any person to work solely at the school otherwise than—

- (a) in a teaching post;
- (b) in a non-teaching post which is part of the complement of the school; or
- (c) solely in connection with either or both of the following—
  - (i) the provision of meals ;
  - (ii) the supervision of pupils at midday.

### **36 The selection panel**

- (1) The articles of government for every county, controlled, special agreement and maintained special school shall provide—
- (a) for the constitution of a selection panel whenever such a panel is required, by virtue of section 37 or 39 of this Act, in relation to the appointment of a head teacher or deputy head teacher;
  - (b) for the selection panel to consist of a specified number of persons appointed to it by the local education authority and a specified number of governors appointed to it by the governing body, the number so specified being—
    - (i) in each case, not less than three ; and
    - (ii) in relation to appointments made by the governing body, not less than the number specified in relation to appointments made by the authority; and
  - (c) for the governing body and the authority to have power to replace, at any time, any member of the selection panel whom they have appointed.
- (2) The Secretary of State may by regulations make provision as to the meetings and proceedings of selection panels.

### **37 Appointment of head teacher**

- (1) The articles of government for every county, controlled, special agreement and maintained special school shall provide—
- (a) for it to be the duty of the local education authority not to appoint a person to be the head teacher of the school unless his appointment has been recommended by a selection panel constituted in accordance with the articles;
  - (b) for it to be the duty of the authority, in the event of the post of head teacher being vacant, to appoint an acting head teacher after consulting the governing body;
  - (c) for it to be the duty of the authority, before appointing a head teacher, to advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate;
  - (d) for it to be the duty of the selection panel constituted in relation to the appointment of a head teacher to interview such applicants for the post as they think fit;
  - (e) in the event of a failure of the panel to agree on the applicants whom they wish to interview—
    - (i) for those members of the panel appointed by the governing body to have the right to nominate not more than two applicants to be interviewed by the panel; and
    - (ii) for the other members of the panel to have the right to nominate not more than two other applicants to be so interviewed ;

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- (f) for it to be the duty of the panel, where they consider that it is appropriate to do so, to recommend to the authority for appointment as head teacher one of the applicants interviewed by them ;
- (g) for it to be the duty of the panel, where they are unable to agree on a person to recommend to the authority—
  - (i) to repeat (with a view to reaching agreement) such of the steps which they are required to take by virtue of paragraphs (d) to (f) above as they think fit;
  - (ii) where they have repeated any of those steps and remain unable to agree, or have decided that it is not appropriate to repeat any of them, to require the authority to re-advertise the vacancy; and
  - (iii) where the vacancy is re-advertised, to repeat all of those steps ;
- (h) for it to be the duty of the panel, where the authority decline to appoint a person recommended by them—
  - (i) where there are applicants for the post whom they have not interviewed, to interview such of those applicants (if any) as they think fit;
  - (ii) to recommend another of the applicants interviewed by them, if they think fit;
  - (iii) to ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised ; and
  - (iv) where the vacancy is re-advertised, to repeat the steps which they are required to take by virtue of paragraphs (d) to (f);
- (i) for it to be the duty of the authority to re-advertise the post of head teacher where they are required to do so by the panel; and for the authority to have power to do so, where—
  - (i) the post has been duly advertised;
  - (ii) the selection panel have failed to make either a recommendation which is acceptable to the authority or a request that the post be re-advertised; and
  - (iii) the authority are of the opinion that the panel have had sufficient time in which to carry out their functions; and
- (j) for the chief education officer of the authority, or a member of his department nominated by him, to have the right to attend all proceedings of the panel (including interviews) for the purpose of giving advice to members of the panel.

(2) In this section " head teacher " does not include an acting head teacher.

### **38 Appointment of certain other staff**

- (1) The articles of government for every county, controlled, special agreement and maintained special school shall provide for it to be the duty of the local education authority, where there is a vacancy in any post which is part of the complement of the school—
  - (a) to decide whether, in the case of a post which is not a new one, it should be retained ;
  - (b) to advertise the vacancy, and fill it in accordance with the procedure laid down by virtue of subsection (3) below, unless they have the intention mentioned in paragraph (c) below; and



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- (c) to fill the vacancy in accordance with the procedure laid down by virtue of subsection (4) below, if they intend to appoint a person who, at the time when they form that intention, is an employee of theirs or has been appointed to take up employment with them at a future date.
- (2) This section does not apply in relation to the appointment of a head teacher or deputy head teacher or to any temporary appointment made pending—
- (a) the return to work of the holder of the post in question; or
  - (b) the taking of any steps required by the articles of government in relation to the vacancy in question.
- (3) The articles of government for every such school shall provide
- (a) for it to be the duty of the authority, where they decide to advertise the vacancy, to do so in a manner likely in their opinion to bring it to the notice of persons (including employees of theirs) who are qualified to fill the post;
  - (b) for it to be the duty of the governing body, where the vacancy is advertised—
    - (i) to interview such applicants for the post as they think fit; and
    - (ii) where they consider that it is appropriate to do so, to recommend to the authority for appointment to the post one of the applicants interviewed by them ;
  - (c) for it to be the duty of the governing body, where they are unable to agree on a person to recommend to the authority—
    - (i) to repeat the steps which they are required to take by virtue of paragraph (b) above, if they consider that to do so might lead to their reaching agreement;
    - (ii) where they have repeated those steps and remain unable to agree, or have decided that it is not appropriate to repeat them, to ask the authority to re-advertise the vacancy; and
    - (iii) where the vacancy is re-advertised, to repeat those steps;
  - (d) for it to be the duty of the governing body, where the authority decline to appoint a person recommended by them—
    - (i) where there are applicants for the post whom they have not interviewed, to interview such of those applicants (if any) as they think fit;
    - (ii) to recommend another of the applicants interviewed by them, if they think fit;
    - (iii) to ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised ; and
    - (iv) where the vacancy is re-advertised, to repeat the steps which they are required to take by virtue of paragraph (b) above;
  - (e) for it to be the duty of the authority, where they are asked by the governing body to re-advertise the vacancy, to do so unless they decide—
    - (i) that the post is to be removed from the complement of the school; or
    - (ii) to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date; and
  - (f) for—
    - (i) the head teacher, where he would not otherwise be entitled to be present; and
    - (ii) such person (if any) as the authority appoint to represent them,

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to be entitled to be present, for the purpose of giving advice, whenever governors meet to discuss the appointment or an applicant is interviewed.

- (4) The articles of government for every such school shall provide—
- (a) in the event of the vacancy not being advertised, for the governing body to be entitled to determine a specification for the post in consultation with the head teacher;
  - (b) where the governing body have determined such a specification, for it to be their duty to send a copy of it to the authority;
  - (c) for it to be the duty of the authority—
    - (i) to have regard to the specification, and consult the governing body and the head teacher, when considering whom to appoint to the post; and
    - (ii) if they make an appointment to a teaching post with which the governing body disagree, to report the fact to the next meeting of their appropriate education committee.
- (5) No local education authority shall appoint a person to a post which they have advertised in accordance with requirements imposed by virtue of subsection (3) above unless—
- (a) his appointment has been recommended in accordance with those requirements ; or
  - (b) the authority decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.
- (6) The articles of government for every such school shall provide
- (a) for the governing body to have power to delegate any of the functions which are theirs by virtue of this section, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, to—
    - (i) one or more governors ;
    - (ii) the head teacher ; or
    - (iii) one or more governors and the head teacher acting together; and
  - (b) for the provision made in the articles by virtue of subsection (3)(e) or (4)(c)
    - (ii) to apply in such a case with the substitution of references to the person or persons to whom the functions are delegated for references to the governing body.

### **39 Appointment of deputy head teacher**

- (1) The articles of government for every county, controlled, special agreement and maintained special school shall, in relation to the appointment of a deputy head teacher for the school, make—
- (a) the same provision, modified in accordance with subsections (2) and (3) below, as that made by the articles (in accordance with section 37 of this Act) in relation to the appointment of a head teacher for the school; or
  - (b) the same provision as that made by the articles (in accordance with section 38 of this Act) in relation to the appointment of other teachers at the school.
- (2) Articles of government which, in accordance with subsection (1) above, provide for the appointment of a deputy head teacher for the school to be on the recommendation

of a selection panel shall provide for the head teacher, where he is not a member of the panel—

- (a) to be entitled to be present, for the purpose of giving advice, at any proceedings of the panel (including interviews); and
  - (b) whether or not he attends any such proceedings, to be consulted by the panel before it makes any recommendation to the local education authority.
- (3) No provision shall be required in the articles of government similar to that mentioned in section 37(1)(b) of this Act.
- (4) In subsection (1) above " head teacher " does not include an acting head teacher.

#### **40 Appointment and dismissal of clerk to governing body**

- (1) The articles of government for every county and maintained special school shall provide for the clerk to the governing body to be appointed by the local education authority in accordance with arrangements to be determined by them in consultation with the governing body.
- (2) The clerk to the governing body of any controlled or special agreement school shall be appointed—
  - (a) where the articles of government make provision in relation to his appointment, in accordance with that provision;
  - (b) in every other case, by the authority in accordance with arrangements determined by them in consultation with the governing body.
- (3) Arrangements determined in respect of any school under subsections (1) or (2)(6) above may be varied by the authority in consultation with the governing body.
- (4) The articles of government for every county and maintained special school shall provide for it to be the duty of the authority not to dismiss the clerk except in accordance with arrangements determined by them in consultation with the governing body.
- (5) The articles of government for every county, controlled, special agreement and maintained special school shall provide for the governing body to have power, where the clerk fails to attend any meeting of theirs, to appoint one of their number to act as clerk for the purposes of that meeting, but without prejudice to his position as a governor.
- (6) The clerk to the governing body of any controlled or special agreement schools may not be dismissed except—
  - (a) where the articles of government make provision in relation to his dismissal, in accordance with that provision ; or
  - (b) in any other case, in accordance with arrangements determined by the local education authority in consultation with the governing body.
- (7) The articles of government for every county, controlled, special agreement and maintained special school shall provide for it to be the duty of the local education authority to consider any representations made to them by the governing body as to the dismissal of their clerk.

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

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#### **41 Dismissal, etc. of staff**

- (1) The articles of government for every county, controlled, special agreement and maintained special school shall provide—
- (a) for it to be the duty of the local education authority to consult the governing body and the head teacher (except where he is the person concerned) before—
    - (i) dismissing (otherwise than under section 27(5) or 28(4) of the 1944 Act, which allow foundation governors to require the authority to dismiss a reserved teacher) any person to whom subsection (3) below applies;
    - (ii) otherwise requiring any such person to cease to work at the school; or
    - (iii) permitting any such person to retire in circumstances in which he would be entitled to compensation for premature retirement;
  - (b) for it to be the duty of the local education authority, where a teacher at the school is required to complete an initial period of probation, to consult the governing body and the head teacher before—
    - (i) extending his period of probation ; or
    - (ii) deciding whether he has completed it successfully ;
  - (c) for it to be the duty of the local education authority, where the governing body recommend to them that a person should cease to work at the school, to consider their recommendation;
  - (d) for both the governing body and the head teacher to have power to suspend any person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required ; and
  - (e) for it to be the duty of the governing body, or head teacher, when exercising that power—
    - (i) to inform the local education authority and the head teacher or (as the case may be) governing body forthwith; and
    - (ii) to end the suspension if directed to do so by the authority.
- (2) In this section " suspend " means suspend without loss of emoluments.
- (3) This subsection applies to any person who is employed—
- (a) in a post which is part of the complement of the school in question; or
  - (b) to work solely at the school in any other post, otherwise than solely in connection with either or both of the following—
    - (i) the provision of meals ;
    - (ii) the supervision of pupils at midday.

#### *School premises*

#### **42 School premises**

The articles of government for every county and maintained special school shall provide—

- (a) for the use of the school premises at all times other than during any school session, or break between sessions on the same day, to be under the control of the governing body;

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- (b) for the governing body to exercise control subject to any direction given to them by the local education authority and in so doing to have regard to the desirability of the premises being made available (when not required by or in connection with the school) for use by members of the community served by the school.