



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER I

THE CURRICULUM

Special cases

16 Development work and experiments

- (1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct as respects a particular maintained school that, for such period as may be specified in the direction, the provisions of the National Curriculum—
 - (a) shall not apply; or
 - (b) shall apply with such modifications as may be so specified.
- (2) A direction under subsection (1) above may apply either generally or in such cases as may be specified in the direction.
- (3) A direction shall not be given under subsection (1) above except—
 - (a) in the case of a county, controlled or maintained special school, on an application—
 - (i) by the governing body with the agreement of the local education authority;
 - (ii) by the local education authority with the agreement of the governing body; or
 - (iii) by the Curriculum Council with the agreement of both the local education authority and the governing body;

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- (b) in the case of a grant-maintained, aided or special agreement school, on an application by the governing body or by the Curriculum Council with the agreement of the governing body.
- (4) The Secretary of State may make it a condition of a direction under subsection (1) above that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Secretary of State on any matters specified by him.
- (5) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1) above.

17 Exceptions by regulations

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

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

18 Pupils with statements of special educational needs

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

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

19 Temporary exceptions for individual pupils

- (1) The Secretary of State may make regulations enabling the head teacher of any maintained school, in such cases or circumstances and subject to such conditions as may be prescribed—
 - (a) to direct as respects a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the provisions of the National Curriculum—
 - (i) shall not apply; or
 - (ii) shall apply with such modifications as may be so specified; and
 - (b) to revoke any direction given by him under the regulations and to vary any such direction except so as to extend its operative period.
- (2) The conditions prescribed by the regulations shall, in particular, limit the period that may be specified in any direction given under the regulations to a maximum period specified in the regulations; and any maximum period specified in the regulations in relation to directions given under the regulations or in relation to directions so given in any circumstances so specified—
 - (a) shall be either—
 - (i) a fixed period not exceeding six months; or
 - (ii) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning; and

- (b) may (without prejudice to section 232(5) of this Act) differ according to whether or not the direction in question is given in respect of a period beginning immediately after the end of the operative period of a previous direction or within such period after the end of the operative period of a previous direction as may be specified in the regulations.
- (3) Where a head teacher gives a direction under regulations made under this section in the case of any pupil or varies any direction so given, he shall give the information mentioned in subsection (4) below, in such manner as may be prescribed—
- (a) to the governing body; and
- (b) where the school is a county, voluntary or maintained special school, to the local education authority;
- and shall take such steps as may be prescribed to give that information also to a parent of the pupil.
- (4) That information is the following—
- (a) the fact that he has taken the action in question, its effect and his reasons for taking it;
- (b) the provision that is being or is to be made for the pupil's education during the operative period of the direction; and
- (c) either—
- (i) a description of the manner in which he proposes to secure the full implementation in relation to the pupil after the end of that period of the provisions of the National Curriculum; or
- (ii) an indication of his opinion that the pupil has or probably has special educational needs by virtue of which the local education authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs the authority are for the time being required under section 7 of the 1981 Act to maintain).
- (5) Where the head teacher of a grant-maintained school includes such an indication of opinion as is mentioned in subsection (4)(c)(ii) above in information given to the governing body under subsection (3) above, he shall also give that information, in such manner as may be prescribed, to the local education authority.
- (6) It shall be the duty of a local education authority, on receiving information given to the authority under this section by the head teacher of any maintained school which includes such an indication of opinion with respect to a pupil, to consider whether any action on their part is required in the case of that pupil under section 5 of the 1981 Act (assessment of special educational needs).
- (7) Where the head teacher of a maintained school—
- (a) gives, revokes or varies any direction with respect to a pupil under regulations made under this section;
- (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed, by the parent of a registered pupil at the school; or
- (c) fails within such period as may be prescribed following the making of such a request to give, revoke or vary such a direction in accordance with the request;
- the parent of the pupil concerned may appeal to the governing body.

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- (8) On any such appeal the governing body may—
- (a) confirm the head teacher’s action; or
 - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances;
- and it shall be the duty of the head teacher to comply with any directions of the governing body under paragraph (b) above.
- (9) The governing body shall notify the appellant and the head teacher in writing of their decision on any such appeal.
- (10) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.