



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER IV

##### GRANT-MAINTAINED SCHOOLS

##### *Miscellaneous and supplementary*

#### **100 Provision of benefits and services for pupils by local education authorities.**

(1) Where—

- (a) a local education authority are under a duty, or have power (whether by virtue of this section or otherwise), to provide any benefits or services for pupils; and
- (b) the duty is to be performed, or the power may be exercised, both in relation to pupils at schools maintained by a local education authority and in relation to pupils at grant-maintained schools;

the authority shall in performing the duty, or exercising the power, treat pupils at grant-maintained schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than pupils at schools maintained by a local education authority.

[<sup>F1</sup>(1A) Where—

- (a) a local education authority are under a duty, or have power, to provide any benefits or services for persons, other than pupils, receiving education at a school; and
- (b) the duty is to be performed, or the power may be exercised, both in relation to such persons at schools maintained by a local education authority and in relation to such persons at grant-maintained schools;

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the authority shall in performing the duty, or in exercising the power, treat such persons at grant-maintained schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than such persons at schools maintained by a local education authority.]

- (2) In section 50(1) of the 1944 Act (power of local education authority to provide board and lodging for pupils) after the words “voluntary school” there shall be inserted the words “grant-maintained school”.
- (3) In section 55 of the 1944 Act (provision of transport and other facilities), after subsection (3) there shall be inserted the following subsection—
- “(4) Arrangements made by a local education authority under subsection (1) above shall make provision for pupils at grant-maintained schools which is no less favourable than the provision made in pursuance of the arrangements for pupils at schools maintained by a local education authority.”

This subsection is without prejudice to the generality of subsection (1) above.

- (4) In section 5 of the <sup>M1</sup>Education (Miscellaneous Provisions) Act 1948 (power of local education authority to provide clothing for pupils)—
- (a) in subsection (1), the words “or at a grant-maintained school” shall be inserted at the end of paragraphs (a) and (c); and
- (b) the words “or a grant-maintained school” shall be inserted at the end of subsection (2)(a), after the words “maintained by them” in subsection (3)(a) and after the words “special school” in subsection (4).

#### Textual Amendments

**F1** S. 100(1A) inserted (1.8.1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. I para.29; S.I. 1992/831, art. 2, Sch.4.

#### Modifications etc. (not altering text)

**C1** Ss. 100-101 modified (1.1.1994) by 1993/3103, reg. 3, Sch.2

#### Marginal Citations

**M1** 1948 c. 40.

## 101 Application of proceeds of disposal of premises.

- (1) Where—
- (a) the Secretary of State pays capital grant in respect of any transfer of a grant-maintained school to a new site authorised under section 91 of this Act; and
- (b) the governing body or any trustees of the school possess, or are or may become entitled to, any sum representing the proceeds of disposal of other premises which have been used for the purposes of the school;
- the governing body or (as the case may be) the trustees or their successors shall pay to the Secretary of State the whole of that sum, if it is equal to or less than the amount of the capital grant, and otherwise so much of it as is required to repay that amount.

Any sum so paid shall, in a case where any interest in the new site has vested in any trustees of the school, be treated for the purposes of section 14 of the <sup>M2</sup>Schools Sites

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Act 1841 (sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.

- (2) Subject to subsection (4) below, where the governing body of any grant-maintained school apply to the Secretary of State for his consent to the disposal of—
- (a) any premises transferred to the governing body under section 74 of this Act from the former maintaining authority; or
  - (b) any premises acquired wholly or partly from the proceeds of the disposal of any premises so transferred or of any premises so acquired;
- he may require the premises or any part of the premises to be transferred to that authority, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Subject to subsection (4) below, where the governing body dispose of any premises within subsection (2)(a) or (b) above the Secretary of State may require the governing body to pay to the former maintaining authority the whole or any part of the proceeds of disposal in any case where he does not impose any requirement under subsection (2) above.
- (4) Subsection (2) above shall not apply where the occasion of any disposal of premises by the governing body is a transfer of the school to a new site in respect of which the Secretary of State has paid capital grant; and in relation to any disposal occasioned by such a transfer the reference in subsection (3) above to the proceeds of disposal shall be read as a reference to such part (if any) of those proceeds as remains after repayment of the amount of that capital grant in accordance with subsection (1) above.
- (5) For the purposes of this section the Secretary of State is to be regarded as paying capital grant in respect of the transfer of a grant-maintained school to a new site if he pays such grant in respect of the acquisition of the new site or the provision on that site of the school buildings or of any other buildings forming part of the new school premises.
- (6) For the purposes of this section—
- (a) the governing body or trustees of a grant-maintained school are to be regarded as disposing of any premises if those premises are acquired from them, whether compulsorily or otherwise; and
  - (b) references to the proceeds of disposal are references, in relation to any disposal of premises by any such governing body or trustees, to the compensation or purchase money paid in respect of the acquisition from them of those premises.
- (7) In subsection (6) above—
- (a) references to the acquisition of premises from the governing body or the trustees of a grant-maintained school include, in the case of any premises held under a tenancy to which Part II of the <sup>M3</sup>Landlord and Tenant Act 1954 applies, the termination of that tenancy under that Part of that Act; and
  - (b) the reference to the purchase money paid in respect of such an acquisition includes a reference to any compensation paid by the landlord on the quitting of any such premises by the governing body or the trustees of the school (whether or not the compensation is required to be paid by section 37 of that Act).

In this subsection expressions to which a meaning is given for the purposes of that Act have the same meaning as in that Act.

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**Modifications etc. (not altering text)**  
**C2** Ss. 100-101 modified (1.1.1994) by 1993/3103, reg. 3, Sch.2

**Marginal Citations**  
**M2** 1841 c. 38.  
**M3** 1954 c. 56.

**F2**102 .....

**Textual Amendments**  
**F2** S. 102 repealed (1.1.1994) by 1993 c. 35, s. 307(3), **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**F3**103 .....

**Textual Amendments**  
**F3** S. 103 repealed (1.1.1994) by 1993 c. 35, s. 307(3), **Sch. 21 Pt.I**; S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5, Sch. 2 ) (as amended by S.I. 1994/436, **art.2**).

**[104 Interpretation of Chapter IV.**

- (1) In this Chapter—
- F4**(a) .....
  - F4**(b) .....
  - (c) references to the character of a school are references to the kind of school it is determined by reference to any matter relating to—
    - (i) the provision of education at the school; or
    - (ii) the arrangements for admission of pupils to the school;
 the alteration of which would amount to a change in the character of the school;
  - (d) references to a change in the character of a school include, in particular, changes in character resulting from education beginning or ceasing to be provided for pupils above or below a particular age, for boys as well as girls or for girls as well as boys, or from the making or alteration of arrangements for the admission of pupils by reference to ability or aptitude;
  - (e) references to a relevant age group are references to an age group in which pupils are or will normally be admitted to the school in question;
  - F4**(f) .....
  - F4**(g) .....
  - F4**(h) .....
  - (i) references, in relation to a grant-maintained school, to the former maintaining authority shall be read, in any case where—

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- (i) the school was maintained by ILEA immediately before it became a grant-maintained school; and
- (ii) the functions formerly exercisable by ILEA in relation to, or in relation to registered pupils at, the school are by virtue of section 166(7) of this Act exercisable by an inner London council or any other local education authority;  
as references to that council or authority; and
- (j) references, in relation to such a school, to school property include, in the case of such property as is mentioned in section 94(7)(b)(iii) of this Act, references to any right to such property.

<sup>F4</sup>(2) .....

(3) In this Chapter—

<sup>F4</sup> . . .

“premises” includes any interest in or easement, right or charge in, to or over premises.

(4) The following table shows provisions defining or otherwise explaining expressions used in this Chapter (other than provisions defining or explaining an expression used only in the same section)—

dissolution date	section 94(3)(b)
eligible governor of an elected category	section 71
first governor	section 53(8) or 64(5) (as the context may require)
former maintaining authority	section 74(8) and subsection (1)(i) above.
foundation governor	section 53(8) or 64(5) (as the context may require)
governing body and initial governing body of a grant-maintained school	section 53(11) and (12)
governing body in liquidation	section 94(3)(a)
grant-maintained school formerly conducted by a governing body in liquidation	section 94(7)(c)
grant regulations	section 79(2)
parent governor	section 53(8) or 64(5) (as the context may require)
proposals for acquisition of grant-maintained status	section 52(4)(a)
pending proposals for acquisition of grant-maintained status	section 68(2)
the relevant particulars	section 62(16)
section 105 loan liabilities	section 94(7)(a)

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school property	section 94(7)(b) and subsection (1)(j) above
a school which is eligible for grant-maintained status	section 52(5) to (9)
teacher governor	section 53(8) or 64(5) (as the context may require)

- (5) Any notification to the governing body of a school for the purposes of any provision of this Chapter may be given, and withdrawn, in such manner as the governing body may require.
- (6) In subsection (1)(i) above, “ILEA” and “inner London council” have the same meanings as in Part III of this Act.]

#### **Textual Amendments**

**F4** S. 104 repealed (1.1.1994 in respect of s. 104(1)(a)(b)(f)-(h),(2) and in subsection (3) the definition of “incorporation tax” and otherwise *prosp.*) by 1993 c. 35 ss. 307(1)(3), 308(3), Sch. 19 para. 126, Sch. 21Pt. I; S.I. 1993/3106, art. 4, Sch. 1 Appendix (with art. 5, Sch. 2) (as amended by S.I. 1994/436, art.2).

#### **Modifications etc. (not altering text)**

**C3** S. 104(1)(c)-(e)(3)-(5) modified (1.1.1994) by S.I. 1993/3103, reg. 3, Sch.2

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**Changes to legislation:**

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