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.

(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 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).

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 Schools Sites 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 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.

102 Variation of trust deeds relating to grant-maintained schools, etc

(1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to any school as, after consultation with the governing body of the school and the trustees (if any), appear to him to be requisite—

(a) in consequence of the approval of proposals for acquisition of grant-maintained status for the school;

(b) for removing any inconsistency between the provisions of that trust deed or other instrument and any provisions included or proposed to be included in any instrument or articles of government made for the school under this Chapter which it appears to him to be expedient to remove in the interests of the school; or

(c) in consequence of any proposals with respect to a change in the character or an enlargement of the premises of the school which fall to be implemented under section 89 of this Act.

(2) Any modification made by an order under this section may be made to have permanent effect or to have effect for such period as may be specified in the order.

(3) Any provision of any instrument relating to any land held for the purposes of any voluntary school which—

(a) confers on any person an option to acquire an interest in that land; or

(b) provides (in whatever terms) for the determination or forfeiture of any such interest;

in the event of the school's ceasing to be a voluntary school or (as the case may be) ceasing to be maintained by a specified local education authority shall, if the school becomes a grant-maintained school, have effect as if the event referred to were the school's ceasing to be a school which is either a grant-maintained school or a voluntary school.

103 Publication of information and reports and returns by governing bodies of grant-maintained schools

(1) The governing body of every grant-maintained school shall publish, at such times and in such manner as may be required by regulations made by the Secretary of State, such information with respect to the school as may be so required.

(2) The governing body of every such school shall make such reports and returns, and give such information, to the Secretary of State as he may require.

(3) The governing body of every such school shall make such reports and returns, and give such information, to any local education authority by whom any functions are exercisable—

(a) in relation to the school; or

(b) in relation to registered pupils at the school;

as the authority may require for the purpose of the exercise of those functions.

104 Interpretation of Chapter IV

(1) In this Chapter—

(a) references to the proposed date of implementation are references—

(i) in relation to any school in respect of which proposals for acquisition of grant-maintained status are required to be published under section 62 of this Act, to the date specified in accordance with section 61(4)(f) of this Act in the information given for the purposes of the originating ballot to persons eligible to vote in that ballot (within the meaning of section 61); and

(ii) in relation to any school in respect of which such proposals are pending, to the date specified in the proposals as the proposed date of implementation;

(b) references, in relation to any school in respect of which such proposals have been approved, to the proposals are references to the proposals as approved, subject to any modifications of those proposals under section 68 of this Act;

(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;

(f) references to a governor of an elected category are references to a person who is a parent or teacher governor within the meaning of the 1986 Act or this Chapter (as the context may require);

(g) references, in relation to a vacancy for a governor of an elected category on the existing governing body of a school in respect of which proposals are required to be or have been published under section 62 of this Act, to the procedure applicable under the 1986 Act in relation to filling the vacancy are references—

(i) except where any provision made by virtue of section 5 of that Act (appointment of parent governors by governing body) applies, to the holding of an election under that Act; and

(ii) where any such provision applies, to the making of an appointment in accordance with that provision;

(h) references to the authority responsible for election arrangements under the 1986 Act in relation to a school are references to the authority or body by whom all necessary arrangements for any election of parent governors or teacher governors to the governing body of the school fall to be made under section 15(2) of that Act (which imposes responsibility for those arrangements on the local education authority in relation to county, controlled and maintained special schools and on the governing body of the school concerned in relation to aided and special agreement schools);

(i) references, in relation to a grant-maintained school, to the former maintaining authority shall be read, in any case where—

(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.

(2) In relation to any proposals for acquisition of grant-maintained status required to be published under section 62 of this Act in respect of any school, the reference in subsection (1)(a) above to the originating ballot is a reference—

(a) where subsection (1) of that section applies, to the ballot by reference to which it applies; and

(b) where the proposals are required to be published by virtue of a requirement imposed by the Secretary of State under subsection (4) or (12) of that section, to the last ballot held in accordance with section 61 of this Act in relation to the school before that requirement was imposed.

(3) In this Chapter—

"incorporation date" means, in relation to a grant-maintained school, the date on which the initial governing body of the school is incorporated under this Chapter; and

"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)
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.