



Education Act 1993

1993 CHAPTER 35

PART VI

MISCELLANEOUS

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—

Status: This is the original version (as it was originally enacted).

- (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,
 - (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.