



# Education Act 1993

## 1993 CHAPTER 35

### PART VI

#### MISCELLANEOUS

##### *The curriculum*

#### **240 National Curriculum**

- (1) In section 2 of the Education Reform Act 1988 (the National Curriculum) in subsection (2)(c) (arrangements for assessing pupils at or near the end of each key stage) for “at or near the end” there is substituted “in respect”.
- (2) After section 3(5) of that Act (power of head teacher to determine key stage for a particular pupil) there is inserted—

“(5A) If at any time, in the case of a pupil of compulsory school age, subsection (3) above does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—

- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil’s class attained a particular age were a reference to the school year in which that pupil attained that age, and
  - (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attained the age of fifteen and ending when he ceases to be of compulsory school age.”
- (3) At the end of section 3(6) of that Act (interpretation) there is added—

“and

“school year” means the period beginning with the first school term to begin after July and ending with the beginning of the next school year.”

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*Status: This is the original version (as it was originally enacted).*

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(4) In section 4 of that Act (duty to establish National Curriculum by order) for subsection (5) there is substituted—

“(5) An order under subsection (2)(c) above—

- (a) may confer or impose such functions on the governing body and the head teacher and (in the case of maintained schools) on the local education authority as appear to the Secretary of State to be required, and
- (b) may specify any such assessment arrangements as may for the time being be made by a person specified in the order.

(6) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.

(7) The duties that may be imposed by virtue of subsection (5)(a) above include, in relation to persons exercising power in pursuance of provision made by virtue of subsection (6) above, the duty to permit them—

- (a) to enter the premises of the school,
- (b) to observe the implementation of the arrangements, and
- (c) to inspect, and take copies of, documents and other articles.

(8) An order under subsection (2)(c) above may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provisions conferring or imposing functions as mentioned in subsection (5)(a) above) as appear to the Secretary of State to be expedient; and any provision made under such an order shall, on being published by Her Majesty’s Stationery Office, have effect for the purposes of this Chapter as if made by the order.”

(5) In section 117 of that Act (obligation to enter pupils for prescribed examinations), at the end of subsection (2) (exceptions) there is added “but this subsection does not apply to an examination which is part of the assessment arrangements for key stage four and applies in the case of that pupil; and in this subsection, in relation to that pupil, “assessment arrangements” has the meaning given by section 2(2)(c) of this Act and “key stage four” means the period referred to in section 3(3)(d) of this Act”.

## **241 Sex education**

(1) In section 2(1) of the Education Reform Act 1988 (content of curriculum), after “school” in paragraph (a) there is inserted—

- “(aa) in the case of a secondary school, provision for sex education for all registered pupils at the school;
- (ab) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education”.

(2) In section 114(1) of the Education Act 1944 (interpretation), after the definition of “Senior pupil” there is inserted—

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

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““Sex education” includes education about—

- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
- (b) any other sexually transmitted disease”.

(3) After section 17 of the Education Reform Act 1988 there is inserted—

**“17A Exemption from sex education**

If the parent of any pupil in attendance at any maintained school requests that he may be wholly or partly excused from receiving sex education at the school, the pupil shall, except so far as such education is comprised in the National Curriculum, be so excused accordingly until the request is withdrawn.”

(4) The Secretary of State shall so exercise the power conferred by section 4 of that Act to revise the National Curriculum as to secure that the subject of science does not include—

- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus,
- (b) any other sexually transmitted disease, or
- (c) aspects of human sexual behaviour, other than biological aspects,

and sections 20, 21 and 232(4) of that Act (procedure for making orders), and section 242 of this Act, shall not apply to any order made only for the purposes of this subsection.

(5) The governing body of every maintained or grant-maintained school and, in relation to pupils who are provided with secondary education, the governing body of every maintained special school shall—

- (a) make, and keep up to date, a separate written statement of their policy with regard to the provision of sex education, and
- (b) make copies of the statement available for inspection (at all reasonable times) by parents of registered pupils at the school and provide a copy of the statement free of charge to any such parent who asks for one.

(6) In relation to any county, or controlled, secondary school, and in relation to any pupils who are provided with secondary education in a maintained special school, section 18 of the Education (No. 2) Act 1986 (policy for curriculum in county etc. schools), shall have effect with the omission of subsections (2) and (6)(c)(i) and of the references to the matters mentioned in subsection (2) of that section.

**242 Temporary procedure for making certain orders**

(1) Where this section applies in relation to any proposals by the Secretary of State to make an order under section 3(4) or 4(2)(a) or (b) of the Education Reform Act 1988 (orders relating to foundation subjects, key stages and attainment targets), or regulations under section 17 of that Act (exceptions from National Curriculum)—

- (a) the Secretary of State shall make such arrangements for consultation about the proposals as he considers appropriate, and
- (b) sections 20 and 21 of that Act (procedure for representations in relation to England and Wales) shall not apply.

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

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- (2) Where, at any time after the commencement of this section and before 1st September 1996, the Secretary of State proposes to make such an order or such regulations, this section applies in relation to the proposals unless, at any time before the commencement of this section—
- (a) they were referred under section 20(2) of that Act, or
  - (b) notice of them was given under section 21(2) of that Act.
- (3) Where the Secretary of State proposes, at any time on or after 1st September 1996, to make such an order or such regulations, this section applies in relation to the proposals if arrangements under this section for consultation about the proposals were made before that date.

### **243 Procedure for making certain orders: Wales**

In section 21 of the Education Reform Act 1988, for subsections (2) and (3) there are substituted—

“(2) The Secretary of State shall refer the proposal to the Curriculum Council for Wales (in this section referred to as “the Council”) and give to it directions as to the time within which it is to report to him.

(3) The Council shall give notice of the proposal—

- (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to it to be concerned; and
- (b) to any other persons with whom consultation appears to it to be desirable;

and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.

(3A) The report of the Council to the Secretary of State shall contain—

- (a) a summary of the views expressed during the consultations;
- (b) its recommendations as to the proposal; and
- (c) such other advice relating to the proposal as it thinks fit;

and the Council shall, after submitting its report to the Secretary of State, arrange for the report to be published.

(3B) Where the Council has reported to the Secretary of State, he shall—

- (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
  - (i) a draft of the proposed order or regulations and any associated document; and
  - (ii) a statement explaining his reasons for any failure to give effect to the recommendations of the Council;
- (b) send copies of the documents mentioned in paragraph (a) above to the Council and to each of the persons consulted by the Council; and
- (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.”