



Education Act 1996

1996 CHAPTER 56

PART II

SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

CHAPTER III

FUNDING OF VOLUNTARY SCHOOLS

Obligations of governing bodies

59 Obligations of governing bodies of voluntary schools

- (1) The governing body of a controlled school are (in accordance with section 34(3)) not responsible for any of the expenses of maintaining the school.
- (2) In the case of an aided or special agreement school, the expenses of discharging any liability incurred by or on behalf of—
 - (a) the governing body of the school,
 - (b) any former governors of the school, or
 - (c) any trustees of the school,in connection with the provision of premises or equipment for the purposes of the school are payable by the governing body of the school.
- (3) In addition, any expenses incurred—
 - (a) in making to the school buildings of an aided or special agreement school such alterations as may be required by the local education authority for the purpose of securing that the school premises conform to the standards prescribed under section 542, or
 - (b) in effecting repairs to the school buildings, other than repairs falling within subsection (4),are payable by the governing body of the school.

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- (4) The governing body of an aided or special agreement school are not responsible—
 - (a) for repairs to the interior of the school buildings, or
 - (b) for repairs to those buildings necessary in consequence of the use of the school premises, in pursuance of a direction or requirement of the local education authority, for purposes other than those of the school.
- (5) Where an order is made under section 47 authorising the transfer of an aided or special agreement school to a new site, the expenses of providing any school buildings to be provided on the new site are payable by the governing body of the school.

Obligations of LEAs as regards new sites and buildings

60 Obligation of LEAs to provide new sites and buildings for controlled schools

- (1) In the case of a controlled school, the local education authority shall provide—
 - (a) any new site which is to be provided in addition to, or instead of, the school's existing site (or part of its existing site), and
 - (b) any buildings which are to form part of the school premises, other than any site or buildings that persons other than the authority are under a duty to provide by virtue of proposals required to be implemented under section 45 (or, where a special agreement is in force in respect of the school, under that agreement).
- (2) Where a new site is provided for a school under this section, the local education authority shall convey their interest in the site, and in any buildings on the site which are to form part of the school premises, to the trustees of the school to be held on trust for the purposes of the school.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the conveyance, it shall be made to such persons as the Secretary of State thinks proper.
- (4) Where—
 - (a) an interest in premises which are to be used for the purposes of a school is conveyed under this section, and
 - (b) the conveyance is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
 those persons or their successors shall pay to the local education authority so much of that sum as the Secretary of State may determine to be just having regard to the value of the interest conveyed.
- (5) In subsection (4)(b) the reference to proceeds of the sale of other premises includes a reference to consideration for the creation or disposition of any kind of interest in other premises.
- (6) Any sum paid under subsection (4) shall be treated for the purposes of section 14 of the Schools Sites Act 1841 (which relates to the 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.
- (7) The Secretary of State shall not make a determination under subsection (4) in respect of any property subject to a trust which has arisen under section 1 of the Reverter of

Sites Act 1987 (right of reverter replaced by trust for sale) unless he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.

61 Obligation of LEAs to provide new sites for aided and special agreement schools

- (1) In the case of an aided or special agreement school, the local education authority shall provide any new site—
 - (a) which is to be provided in addition to or instead of the school’s existing site (or part of its existing site), and
 - (b) which is not a site that persons other than the authority are under a duty to provide by virtue of proposals required to be implemented under section 45 or under a special agreement.
- (2) Where a new site is provided for a school under this section, the local education authority shall convey their interest in the site, and in any buildings on the site which are to form part of the school premises, to the trustees of the school to be held on trust for the purposes of the school.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the conveyance, it shall be made to such persons as the Secretary of State thinks proper.
- (4) Where—
 - (a) a new site is provided for a school under this section, and
 - (b) work is required to be done to the site for the purpose of clearing it or making it suitable for building purposes,the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as will secure that the cost of the work is borne by the authority.
- (5) Where—
 - (a) a new site is provided for a school under this section, and
 - (b) there are buildings on the site which are of value for the purposes of the school,the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as appear to be desirable having regard to the governing body’s duties under section 59 with respect to the school buildings.
- (6) Where it appears to the Secretary of State that provision for any payment or other adjustment ought to have been made under subsection (4) or (5) but has not been made, he may give directions providing for the making of such payment or other adjustment as he thinks proper.

62 Provisions supplementary to sections 60 and 61

- (1) In sections 60(1) and (2) and 61 “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.
- (2) Where, after premises have been conveyed to the trustees of a school under section 60 or 61, a person acquires the premises or part of them from the trustees (whether compulsorily or otherwise), the Secretary of State may require the trustees or their successors to pay to the local education authority by whom the premises were

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conveyed so much of the compensation or purchase money paid in respect of the acquisition as he thinks just having regard—

- (a) to the value of the premises conveyed by the authority, and
- (b) to any sums received by the authority in respect of the premises under section 60 or 61.

- (3) In subsection (2) “premises” includes any interest in premises.
- (4) Subsection (2) does not apply in the case of an institution which is, or has at any time been, within the further education sector.

Financial assistance for controlled schools

63 Payment by LEA of expenses of establishing controlled school

- (1) Where—
 - (a) proposals for the establishment of a school are submitted to the Secretary of State under section 41(1),
 - (b) no application is made under section 48 for an order directing that the school shall be an aided school, and
 - (c) the persons submitting the proposals and the local education authority satisfy the Secretary of State that subsection (3) below applies,
 the Secretary of State may by order direct that the whole or a specified part of the promoters' expenses of establishment shall be defrayed by the local education authority.
- (2) In subsection (1) “the promoters' expenses of establishment” means so much of the cost incurred in establishing the school as would, but for the order, fall to be defrayed by the persons who establish it.
- (3) This subsection applies if the establishment of the school is required for the purpose of providing accommodation for pupils for whom, or for a substantial proportion of whom, accommodation would have been provided in some other school—
 - (a) which is or was a voluntary school, or
 - (b) which is or was a grant-maintained school, having been a voluntary school immediately before it became grant-maintained,
 if that other school had not been discontinued or had not otherwise ceased to be available for the purpose.

64 Payment by LEA of expenses of enlarging controlled school

- (1) Where the Secretary of State—
 - (a) is satisfied, on an application made to him by the governing body of a controlled school and the local education authority—
 - (i) that there should be a significant enlargement of the school premises, and
 - (ii) that subsection (2) or subsection (3) applies, and
 - (b) approves proposals for the enlargement under section 43,
 he may by order direct that the cost of implementing the proposals shall be defrayed by the local education authority.

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- (2) This subsection applies if the enlargement is wholly or mainly required for the purpose of providing accommodation for pupils for whom accommodation would have been provided in another voluntary school if that other school had not been discontinued or had not otherwise ceased to be available for the purpose.
- (3) This subsection applies if the enlargement is desirable for either or both of the following reasons—
 - (a) for the better provision of primary or secondary education at the premises to be enlarged;
 - (b) for securing that enough suitable primary or secondary schools are available for the area of the authority.

Financial assistance by Secretary of State for aided and special agreement schools

65 Grants in respect of expenditure on premises or equipment

- (1) The Secretary of State may—
 - (a) in the case of any aided school or special agreement school, or
 - (b) where proposals have been approved under section 43 for a school or proposed school to be maintained as a voluntary school and the Secretary of State has made an order under section 48 directing that the school is to be an aided school,make grants to the governing body in respect of qualifying expenditure incurred by them.
- (2) In subsection (1) “qualifying expenditure” means expenditure in respect of the provision, alteration or repair of premises or equipment for the school or proposed school.
- (3) The amount of any grant paid under this section to the governing body in respect of any such expenditure—
 - (a) shall not exceed 85 per cent. of the expenditure, and
 - (b) in the case of any prescribed class or description of such expenditure, shall be such as may be determined in accordance with regulations.
- (4) The times at which, and the manner in which, payments are made in respect of grant under this section shall be such as may be determined from time to time by the Secretary of State.
- (5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this section to make grants in respect of expenditure on—
 - (a) such alterations to school buildings as are referred to in section 59(3)(a), or
 - (b) the repair of school buildings,give priority to paying grant in respect of expenditure which is necessary for the performance by governing bodies of their duties; and the amount of any grant paid in the exercise of that power in respect of such expenditure on the repair of school buildings shall be 85 per cent. of the expenditure.
- (6) A governing body to whom any payment is made in respect of grant under this section shall comply with such requirements determined by the Secretary of State as he may from time to time impose.

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- (7) Such requirements—
- (a) may be imposed on, or at any time after, the making of any payment by reference to which they are imposed, and
 - (b) may at any time be waived, removed or varied by the Secretary of State.
- (8) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the Secretary of State of the whole or any part of the following amount.
- (9) That amount is—
- (a) the amount of the payments made in respect of the grant under this section, or
 - (b) so much of the value of any premises or equipment in respect of which grant was paid under this section as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
- whichever is the greater.
- (10) No such requirement as is referred to in subsection (8) may be imposed where any payment is made in respect of grant under this section if—
- (a) the grant is made in respect of the provision, alteration or repair of premises for a school or proposed school, and
 - (b) any freehold interest in the premises in respect of which the grant is made is, or is to be, held on trust for the purposes of the school.
- (11) No grant may be paid under this section—
- (a) in respect of any expenses incurred in the provision of any premises which it is the duty of the local education authority to provide, or
 - (b) in the case of a special agreement school, in respect of expenses incurred in the execution of proposals to which the special agreement relates or of repairs or alterations for the execution of which provision is made by the agreement.
- (12) In relation to a proposed school, the references in this section to the governing body, in relation to any time before such a body are constituted, are to the persons who propose to establish the school; and where requirements are imposed in relation to grant paid under this section to such persons, the requirements shall be complied with by the governing body, when they are constituted, as well as by those persons.
- (13) In this section “repair” does not include repair falling within section 59(4).

66 Grants in respect of preliminary expenditure

- (1) The Secretary of State may pay grants to the governing body of an aided or special agreement school in respect of any preliminary expenditure incurred by them for the purposes of a scheme for the transfer of the school to a new site or the enlargement or alteration of the school premises.
- (2) Where any persons propose or are considering whether to propose—
 - (a) that a school established by them, or by persons whom they represent, should be maintained by a local education authority as an aided school, or
 - (b) that a school which may be so established should be so maintained,
 the Secretary of State may pay grants to them in respect of any preliminary expenditure incurred by them for the purposes of a scheme for the provision of a site for the school or of any buildings which would be school buildings.

- (3) Grants under subsection (1) or (2) may be paid in respect of a scheme such as is mentioned in that subsection whether or not—
- (a) the details of such a scheme had been formulated at the time when the expenditure was incurred,
 - (b) where such details were not formulated at that time, they are subsequently formulated,
 - (c) the governing body or persons in question had determined to proceed with such a scheme at that time, or
 - (d) where they had not determined to proceed with such a scheme at that time, they subsequently determine to proceed with such a scheme.
- (4) Expenditure in respect of which such grants are payable includes, in particular, costs incurred in connection with—
- (a) the preparation of plans and specifications for any proposed construction, enlargement or alteration of buildings which are or would be school buildings, and
 - (b) estimating the sums which would be expended if any such works were carried out,
- but does not include any sums expended in carrying out any such works.
- (5) A grant under subsection (1) or (2) shall not exceed 85 per cent. of the expenditure in respect of which it is paid.
- (6) Where—
- (a) a grant is paid under subsection (1) in the case of any school, or
 - (b) a grant is paid under subsection (2) in the case of any school which becomes, or is established as, a voluntary school,
- the grant shall for the purposes of section 173 be treated as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the school premises.

67 Loans in respect of initial expenses

- (1) Where, on the application of the governing body of an aided or special agreement school and after consulting persons representing the governing body, the Secretary of State—
- (a) is satisfied that the governing body's share of any initial expenses required in connection with the school premises will involve capital expenditure, and
 - (b) having regard to all the circumstances of the case, considers that that expenditure ought properly to be met by borrowing,
- he may make a loan to the governing body for the purpose of helping them meet that expenditure.
- (2) The amount, rate of interest and other terms and conditions applicable to the loan shall be such as may be specified in an agreement made between the Secretary of State and the governing body with the consent of the Treasury.
- (3) For the purposes of this section “initial expenses” are expenses of any of the following categories—
- (a) expenses to be incurred in pursuance of a special agreement;

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- (b) expenses to be incurred in providing school buildings on a site to which the school is to be transferred pursuant to an order under section 47;
 - (c) expenses to be incurred in providing a site or school buildings on a significant enlargement of the school premises or on the transfer of the school to a new site, being expenses in respect of which grants may be paid under section 65;
 - (d) expenses to be incurred in providing a site or school buildings for a new school, being expenses in respect of which grants may be paid under section 65.
- (4) For the purposes of this section the governing body's share of any initial expenses shall be taken to be so much of the expenses as remains to be borne by the governing body after taking into account the amount of any grant under section 65 or under a special agreement that may be paid or payable in respect of them.

Assistance by LEAs for governing bodies of aided and special agreement schools

68 Assistance in respect of maintenance and other obligations of governing body

A local education authority may give to the governing body of an aided or special agreement school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation under—

- (a) section 45(1), or
- (b) section 59.

Assistance by LEAs for promoters of new voluntary schools

69 Assistance for promoters of new voluntary school

A local education authority may give to persons required under section 45(1) to implement proposals involving the establishment of a school such assistance as the authority think fit in relation to the carrying out by those persons of their obligations under that provision.

Miscellaneous and supplemental

70 Duty to convey interest in premises provided under section 68 or 69

- (1) Where assistance under section 68 or 69 consists of the provision of any premises for use for the purposes of a school, the local education authority shall convey their interest in the premises to the trustees of the school to be held on trust for the purposes of the school.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the conveyance, it shall be made to such persons as the Secretary of State thinks proper.
- (3) Where trustees make a disposal of an interest conveyed to them by a local education authority under subsection (1), they shall be liable to pay to that authority an amount equal to the net proceeds of the disposal.
- (4) In subsection (3)—

“disposal” includes part disposal; and
“net proceeds”, in relation to a disposal, means the amount accruing on the disposal less any expenditure reasonably incurred for the purposes of making it.

71 Powers of Secretary of State where LEA make default in maintaining voluntary school

- (1) Where it appears to the Secretary of State that a local education authority have made default in the discharge of their duties relating to the maintenance of a voluntary school, he may—
 - (a) direct that any act done by or on behalf of the school’s governing body for the purpose of securing the proper maintenance of the school shall be taken to have been done by or on behalf of the authority, and
 - (b) reimburse to the governing body any sums which in his opinion they have properly expended for that purpose.
- (2) The amount of any sum reimbursed under subsection (1) shall be recoverable by the Secretary of State as a debt due to him from the authority; and without prejudice to any other method of recovery the whole or any part of any such sum may be deducted from any sums payable to the authority by the Secretary of State in pursuance of any regulations relating to the payment of grants.

72 Endowments for maintenance of voluntary schools

Where any sums accruing in respect of the income of an endowment are required by virtue of the provisions of a trust deed to be applied towards the maintenance of a voluntary school, those sums shall not be payable to the local education authority but shall be applied by the governing body of the school—

- (a) towards the discharge of their obligations, if any, under section 59, or
- (b) in such other manner, if any, as may be determined by a scheme for the administration of the endowment made after 1st April 1945.

73 Sums paid for letting or hiring of premises of voluntary schools

Any sum which is paid to the governing body or trustees of a voluntary school in respect of the letting or hiring of any part of the school premises other than school buildings shall be paid over to the local education authority.

74 Execution by LEA of certain works in case of controlled schools

- (1) Where a local education authority are liable to defray the cost of carrying out any building work, repair work or work of a similar character which is required for the purposes of a controlled school, the work shall, if the authority so determine, be carried out by employees of theirs.
- (2) If the authority make such a determination, the governing body and any trustees of the school shall provide the authority and the authority’s employees with all such facilities as they may reasonably require for the purpose of securing that the work is carried out properly.

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75 Disapplication of restriction on local authority disposals

Subsection (2) of section 123 of the Local Government Act 1972 (local authority prohibited from making disposal of land under that section below market value without consent of the Secretary of State) shall not apply in the case of a disposal—

- (a) to the governors of an aided or special agreement school, or
- (b) to persons proposing to establish a school which is proposed to be maintained by a local education authority as a voluntary school and to be an aided school.