



# Education Act 1996

## 1996 CHAPTER 56

### PART IV

#### SPECIAL EDUCATIONAL NEEDS

### CHAPTER II

#### SCHOOLS PROVIDING FOR SPECIAL EDUCATIONAL NEEDS

#### *Special schools*

#### [<sup>F1</sup>337 **Special schools.**

- (1) A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs.
- (2) There are the following categories of special school—
  - (a) special schools maintained by local education authorities, comprising—
    - (i) community special schools, and
    - (ii) foundation special schools; and
  - (b) special schools which are not so maintained but are for the time being approved by the Secretary of State under section 342.]

#### **Textual Amendments**

- F1** S. 337 substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.80** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.1**

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*Establishment etc. of special schools*

**F<sup>2</sup>338** .....

**Textual Amendments**

**F2** S. 338 omitted (1.4.1999) by virtue of 1998 c. 31, s. 140(1), **Sch. 30 para. 81** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**; ss. 338-341 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 81, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F<sup>3</sup>339** .....

**Textual Amendments**

**F3** S. 339 repealed (1.4.1999 so far as relating to the omission of s. 339(2) and certain words in s. 339(4) (a) and 1.9.1999 otherwise) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 81, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**; S.I. 1999/2323, art. 2(1), **Sch. 1**

**F<sup>4</sup>340** .....

**Textual Amendments**

**F4** S. 340 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para.81, **Sch. 31** (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/704, **regs. 7, 8, 14(2)(g)**); S.I. 1999/2323, art. 2(1), **Sch. 1**

**F<sup>5</sup>341** .....

**Textual Amendments**

**F5** S. 341 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 81, **Sch.31** (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/704, **regs. 8, 14(2)(g)** and S.I. 1999/2323, **art. 17(b)**); S.I. 1999/2323, art. 2(1), **Sch. 1**

*[<sup>F6</sup> Approval of non-maintained special schools]*

**Textual Amendments**

**F6** S. 342 and crossheading substituted for s. 342 (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 82** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

**[<sup>F7X1</sup>342 Approval of non-maintained special schools.**

(1) The Secretary of State may approve under this section any school which—

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- (a) is specially organised to make special educational provision for pupils with special educational needs, and
  - (b) is not a community or foundation special school,  
and may give his approval before or after the school is established.
- (2) Regulations may make provision as to the requirements which are to be complied with as a condition of approval under subsection (1) above.
- (3) Any school which was a special school immediately before 1st April 1994 shall be treated, subject to subsection (4) below, as approved under this section.
- (4) Regulations may make provision as to—
- (a) the requirements which are to be complied with by a school while approved under this section, and
  - (b) the withdrawal of approval from a school (including approval treated as given under subsection (3)) at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (5) Without prejudice to the generality of subsections (2) and (4), the requirements which may be imposed by the regulations include requirements—
- (a) which call for arrangements to be approved by the Secretary of State, or
  - (b) as to the organisation of any special school as a primary school or as a secondary school.
- (6) Regulations shall make provision for securing that, so far as practicable, every pupil attending a special school approved under this section—
- (a) receives religious education and attends religious worship, or
  - (b) is withdrawn from receiving such education or from attendance at such worship in accordance with the wishes of his parent.]

#### Editorial Information

**X1** S. 342: With effect from 1.9.1999 s. 342 became subsumed by new cross-heading "Approval of non-maintained special schools". Versions of this provision as it stood at any time before that date cannot be accessed directly by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 1.9.1999 or navigate via the Chapter II heading.

#### Textual Amendments

**F7** S. 342 and cross-heading substituted for s. 342 (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 82** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

X2F8 343 .....

#### Editorial Information

**X2** S. 343: With effect from 1.9.1999, a new cross-heading "Approval of non-maintained special schools" was inserted before s. 342. Versions of s. 343 as it stood at any time before that date cannot now be accessed directly by navigation from this version. To view those versions, it is recommended that users either conduct an 'advanced search' specifying an 'as at' date earlier than 1.9.1999 or navigate via the Chapter II heading.

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**Textual Amendments**

**F8** S. 343 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

*Government etc. of special schools*

**F9**<sup>344</sup> .....

**Textual Amendments**

**F9** S. 344 repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch. 31** (with ss. 138(9), 144(6) and subject to savings in S.I. 1999/2323, art. 5, Sch. 7 paras. 2, **10**); S.I. 1999/2323, art. 2(1), Sch. 1

*Maintained special school becoming grant-maintained*

**F10**<sup>345</sup> .....

**Textual Amendments**

**F10** S. 345 repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

*Grouping of grant-maintained special schools*

**F11**<sup>346</sup> .....

**Textual Amendments**

**F11** S. 346 repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 83, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt.I**

*Independent schools providing special education*

**347 Approval of independent schools.**

- (1) The Secretary of State may approve an independent school as suitable for the admission of children for whom statements are maintained under section 324.
- (2) Regulations may make provision as to—
  - (a) the requirements which are to be complied with by a school as a condition of its approval under this section,

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- (b) the requirements which are to be complied with by a school while an approval under this section is in force in respect of it, and
  - (c) the withdrawal of approval from a school at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (3) An approval under this section may be given subject to such conditions (in addition to those prescribed) as the Secretary of State sees fit to impose.
- (4) In any case where there is a failure to comply with such a condition imposed under subsection (3), the Secretary of State may withdraw his approval.
- (5) No person shall so exercise his functions under this Part that a child with special educational needs is educated in an independent school unless—
- (a) the school is for the time being approved by the Secretary of State as suitable for the admission of children for whom statements are maintained under section 324, or
  - (b) the Secretary of State <sup>F12</sup> is satisfied that there is a place available for the child at the school and <sup>F13</sup> consents to the child being educated there.
- <sup>F13</sup>(5A) But that does not apply to a local education authority deciding, for the purposes of section 324(5), whether a parent has made suitable arrangements.]

#### Textual Amendments

- F12** Words in s. 347(5)(b) inserted (1.9.2003 for E., 1.1.2004 for W.) by Education Act 2002 (c. 32), ss. 174, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2003/2961, art. 6, Sch. Pt. III
- F13** S. 347(5A) inserted (1.1.2002 (E.) and 1.4.2002 (W.)) by 2001 c. 10, s. 42(1), Sch. 8 para. 12 (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (as amended by S.I. 2001/2614, art. 4); S.I. 2002/74, art. 5, Sch. Pt. II

### 348 Provision of special education at non-maintained schools.

- (1) This section applies where—
- (a) special educational provision in respect of a child with special educational needs is made at a school which is not a maintained school, and
  - (b) either the name of the school is specified in a statement in respect of the child under section 324 or the local education authority are satisfied—
    - (i) that his interests require the necessary special educational provision to be made for him at a school which is not a maintained school, and
    - (ii) that it is appropriate for the child to be provided with education at the particular school.
- (2) Where this section applies, the local education authority shall pay the whole of the fees payable in respect of the education provided for the child at the school, and if—
- (a) board and lodging are provided for him at the school, and
  - (b) the authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless the board and lodging are also provided,
- the authority shall pay the whole of the fees payable in respect of the board and lodging.

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[<sup>F14</sup>(3) In this section “maintained school” means a school maintained by a local education authority.]

**Textual Amendments**

**F14** S. 348(3) substituted (1.9.1999) for s. 348(3)(a)-(c) by 1998 c. 31, s. 140(1), **Sch. 30 para.84** (with ss. 138(9), 144(6))

*Variation of deeds*

**349 Variation of trust deeds etc. by order.**

- (1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to a school as, after consultation with the governing body or other proprietor of the school, appear to him to be necessary to enable the governing body or proprietor to meet any requirement imposed by regulations under section 342 or 347.
- (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.

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