



# Education Act 1996

## 1996 CHAPTER 56

### PART V

#### THE CURRICULUM

#### CHAPTER I

##### PRELIMINARY

#### **350 Meaning of “maintained school” etc. in Part V**

- (1) In this Part “maintained school” means—
- any county or voluntary school,
  - except where otherwise stated, any maintained special school which is not established in a hospital, and
  - except so far as that expression has effect in relation to a local education authority, any grant-maintained school.
- (2) In this Part “assess” includes examine and test, and related expressions shall be construed accordingly.

#### **351 General duties in respect of the curriculum**

- (1) The curriculum for a school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
- promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and
  - prepares pupils at the school for the opportunities, responsibilities and experiences of adult life.
- (2) The Secretary of State shall exercise his functions with a view to securing that the curriculum for every maintained school satisfies the requirements of this section.

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- (3) Every local education authority shall exercise their functions with a view to securing that the curriculum for every maintained school which they maintain satisfies the requirements of this section.
- (4) The governing body and head teacher of every maintained school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of this section.
- (5) The functions referred to in subsections (2) to (4) include in particular functions conferred by this Part in relation to religious education, religious worship and the National Curriculum.

### **352 Basic curriculum for every maintained school**

- (1) The curriculum for every maintained school shall comprise a basic curriculum which includes—
  - (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of sections 376 to 381 as apply in relation to the school),
  - (b) a curriculum for all registered pupils at the school of compulsory school age (known as “the National Curriculum”) which meets the requirements of section 353,
  - (c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and
  - (d) 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) Subsection (1)(a) does not apply in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 342(6)).
- (3) In this Act “sex education” includes education about—
  - (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
  - (b) any other sexually transmitted disease.

## **CHAPTER II**

### SECULAR EDUCATION

#### *The National Curriculum: general*

### **353 The National Curriculum**

The National Curriculum shall comprise the core and other foundation subjects and specify in relation to each of them—

- (a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of each key stage (referred to in this Part as “attainment targets”),

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- (b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during each key stage (referred to in this Part as “programmes of study”), and
- (c) the arrangements for assessing pupils in respect of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage (referred to in this Part as “assessment arrangements”).

### **354 The core subjects and other foundation subjects**

- (1) The core subjects are—
  - (a) mathematics, English and science, and
  - (b) in relation to schools in Wales which are Welsh-speaking schools, Welsh.
- (2) The other foundation subjects are—
  - (a) technology and physical education,
  - (b) in relation to the first, second and third key stages, history, geography, art and music,
  - (c) in relation to the third and fourth key stages, a modern foreign language specified in an order of the Secretary of State, and
  - (d) in relation to schools in Wales which are not Welsh-speaking schools, Welsh.
- (3) In relation to schools in England—
  - (a) a modern foreign language is not a foundation subject in relation to the fourth key stage until the relevant date; and
  - (b) technology is a foundation subject in relation to pupils who entered the first year of the fourth key stage in 1993 but otherwise is not a foundation subject in relation to that key stage until the relevant date.
- (4) In subsection (3) “the relevant date” means—
  - (a) 1st August 1996, in the case of pupils entering the first year of the fourth key stage in 1996; and
  - (b) 1st August 1997, in the case of all other pupils.
- (5) In relation to schools in Wales—
  - (a) a modern foreign language is not a foundation subject in relation to the fourth key stage; and
  - (b) technology is a foundation subject in relation to pupils who entered the first year of the fourth key stage in 1993 but otherwise is not a foundation subject in relation to that key stage.
- (6) The Secretary of State may by order amend subsections (1) to (5).
- (7) In this section “school” includes part of a school.
- (8) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh—
  - (a) religious education, and
  - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.

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### **355 The key stages**

- (1) The key stages in relation to a pupil are—
- (a) the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven (“the first key stage”),
  - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of 11 (“the second key stage”),
  - (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of 12 and ending at the same time as the school year in which the majority of pupils in his class attain the age of 14 (“the third key stage”), and
  - (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of 15 and ending with the expiry of the school year in which the majority of pupils in his class cease to be of compulsory school age (“the fourth key stage”).
- (2) The Secretary of State may by order—
- (a) amend subsection (1), or
  - (b) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there mentioned there were substituted such other ages (less than 11 and 12 respectively) as may be specified in the order.
- (3) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age.
- (4) If at any time, in the case of a pupil of compulsory school age, subsection (1) 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 attain a particular age were a reference to the school year in which that pupil attains 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 attains the age of 15 and ending when he ceases to be of compulsory school age.
- (5) In this section—
- “class”, in relation to a particular pupil and a particular subject, means—
- (a) the teaching group in which he is regularly taught that subject, or
  - (b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school; 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.

### **356 Establishment of the National Curriculum by order**

- (1) The Secretary of State shall so exercise the powers conferred by subsection (2) as to—

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- (a) establish a complete National Curriculum as soon as is reasonably practicable (taking first the core subjects and then the other foundation subjects), and
  - (b) revise the National Curriculum whenever he considers it necessary or expedient to do so.
- (2) The Secretary of State may by order specify in relation to each of the foundation subjects—
  - (a) such attainment targets,
  - (b) such programmes of study, and
  - (c) such assessment arrangements,as he considers appropriate for that subject.
- (3) An order made under subsection (2) may not require—
  - (a) the allocation of any particular period or periods of time during any key stage to the teaching of any programme of study or any matter, skill or process forming part of it, or
  - (b) the making in school timetables of provision of any particular kind for the periods to be allocated to such teaching during any such stage.
- (4) An order under subsection (2) may, instead of containing the provisions to be made, refer to provisions in a document published by Her Majesty's Stationery Office and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.
- (5) An order under subsection (2)(c)—
  - (a) may confer or impose such functions on—
    - (i) the governing body and the head teacher, and
    - (ii) (except in the case of grant-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) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (6), 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) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (5)(a)) as appear to the Secretary of State to be expedient; and any provisions made under such an order shall, on being published by Her Majesty's Stationery Office, have effect for the purposes of this Part as if made by the order.

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- (9) The Secretary of State shall, in exercising his power under subsection (2), ensure 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.

### **357 Implementation of the National Curriculum in schools**

- (1) In relation to any maintained school and any school year—
- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,
- that the National Curriculum as subsisting at the beginning of that year is implemented.
- (2) In relation to any time before the beginning of the school year following the establishment of the National Curriculum so far as relating to a particular subject and a particular key stage, subsection (1) shall have effect as if the Curriculum required that subject to be taught for a reasonable time during that stage.

#### *The School Curriculum and Assessment Authority*

### **358 The School Curriculum and Assessment Authority**

- (1) There shall continue to be a body corporate known as the School Curriculum and Assessment Authority.
- (2) The Authority shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
- (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority persons who appear to him—
- (a) to have experience of, and to have shown capacity in, the provision of education, or
  - (b) to have held, and to have shown capacity in, any position carrying responsibility for the provision of education.
- (5) Where, in carrying out his functions under subsection (4), the Secretary of State proposes to appoint a person who appears to him to have experience of, and to have shown capacity in, the provision of education, he shall have regard to the desirability of including persons engaged in the provision of primary or secondary education.
- (6) Schedule 29 has effect in relation to the Authority.

### **359 Functions**

- (1) The School Curriculum and Assessment Authority shall have, in relation to England, the following general functions so far as relevant for the purpose of advancing education—
  - (a) to keep under review all aspects of the curriculum for maintained schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for maintained schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for maintained schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements;
  - (f) to advise the Secretary of State on the exercise of his powers under section 400 (approval of external qualifications);
  - (g) to advise the Secretary of State on such other matters connected with the provision of education in maintained schools, or in non-maintained special schools, as the Secretary of State may specify by order; and
  - (h) to carry out such ancillary activities as the Secretary of State may direct.
- (2) For the purposes of paragraph (h) of subsection (1), activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under that subsection.
- (3) In carrying out their functions, the Authority shall—
  - (a) comply with any directions given by the Secretary of State,
  - (b) act in accordance with any plans approved by him, and
  - (c) so far as relevant, have regard to the requirements of section 351.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as he may require.
- (5) In this section “non-maintained special school” means a special school not maintained by a local education authority.

#### *The Curriculum and Assessment Authority for Wales*

### **360 The Curriculum and Assessment Authority for Wales**

- (1) There shall continue to be a body corporate known as Awdurdod Cwricwlwm ac Aesu Cymru or the Curriculum and Assessment Authority for Wales.
- (2) The Authority shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—

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- (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority persons having relevant knowledge or experience in education.
- (5) Schedule 30 has effect in relation to the Authority.

### **361 Functions**

- (1) The Curriculum and Assessment Authority for Wales shall have, in relation to Wales, the following general functions so far as relevant for the purpose of advancing education—
- (a) to keep under review all aspects of the curriculum for maintained schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for maintained schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for maintained schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements;
  - (f) to advise the Secretary of State on the exercise of his powers under section 400 (approval of external qualifications);
  - (g) to advise the Secretary of State on such other matters connected with the provision of education in maintained schools, or in non-maintained special schools, as the Secretary of State may specify by order;
  - (h) to carry out such ancillary activities as the Secretary of State may direct.
- (2) For the purposes of paragraph (h) of subsection (1), activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under that subsection.
- (3) In carrying out their functions, the Authority shall—
- (a) comply with any directions given by the Secretary of State,
  - (b) act in accordance with any plans approved by him, and
  - (c) so far as relevant, have regard to the requirements of section 351.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as he may require.
- (5) In this section “non-maintained special school” means a special school not maintained by a local education authority.



*The National Curriculum: special cases*

**362 Development work and experiments**

- (1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct in respect of a particular maintained school that, for such period as may be specified in the direction, the National Curriculum—
  - (a) shall not apply, or
  - (b) shall apply with such modifications as may be specified in the direction.
- (2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.
- (3) In the case of a county, controlled or maintained special school, a direction shall not be given under subsection (1) except on an application—
  - (a) by the governing body with the agreement of the local education authority,
  - (b) by the local education authority with the agreement of the governing body, or
  - (c) by the appropriate curriculum authority with the agreement of both the local education authority and the governing body.
- (4) In the case of a grant-maintained, aided or special agreement school, a direction shall not be given under subsection (1) except on an application by the governing body or by the appropriate curriculum authority with the agreement of the governing body.
- (5) The Secretary of State may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Secretary of State on any matters specified by him.
- (6) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1).
- (7) In this section “the appropriate curriculum authority” means—
  - (a) in relation to England, the School Curriculum and Assessment Authority, and
  - (b) in relation to Wales, the Curriculum and Assessment Authority for Wales.

**363 Exceptions by regulations**

Regulations may provide that the National Curriculum, or such of the provisions of the National Curriculum as may be specified in the regulations—

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the regulations, in such cases or circumstances as may be specified in the regulations.

**364 Pupils with statements of special educational needs**

The special educational provision for any pupil specified in a statement under section 324 of his special educational needs may include provision—

- (a) excluding the application of the National Curriculum, or
- (b) applying the National Curriculum with such modifications as may be specified in the statement.

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### **365 Temporary exceptions for individual pupils**

- (1) Regulations may enable the head teacher of a maintained school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the National Curriculum—
  - (a) shall not apply, or
  - (b) shall apply with such modifications as may be specified in the direction.
- (2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.
- (3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either—
  - (a) a fixed period not exceeding six months, or
  - (b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning.
- (4) Any maximum period so specified may, without prejudice to the generality of section 569(4) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning—
  - (a) immediately after the end of the operative period of a previous direction, or
  - (b) within such period after the end of the operative period of a previous direction as may be specified in the regulations.
- (5) The regulations may enable the head teacher of a maintained school, in such cases or circumstances and subject to such conditions as may be prescribed—
  - (a) to revoke any direction given by him under the regulations, and
  - (b) to vary such a direction, except so as to extend its operative period.
- (6) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

### **366 Information concerning directions under section 365**

- (1) Where a head teacher gives or varies a direction under regulations made under section 365, he shall, in such manner as may be prescribed, give the information mentioned in subsection (2)—
  - (a) to the governing body, and
  - (b) where the school is a county, voluntary or maintained special school, to the local education authority by whom the school is maintained,
 and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.
- (2) That information is—
  - (a) the fact that he has taken the action in question, its effect and his reasons for taking it;
  - (b) the provision that is being or is to be made for the pupil’s education during the operative period of the direction; and

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- (c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3).
- (3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs which the authority are for the time being required under section 324 to maintain).
- (4) Where—
  - (a) the head teacher of a county, voluntary or maintained special school includes an indication of any such opinion in information given under subsection (1), and
  - (b) the local education authority by whom the school is maintained are not the responsible authority in relation to pupil in question,the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (5) Where the head teacher of a grant-maintained school includes an indication of any such opinion in information given to the governing body under subsection (1), he shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (6) Where the responsible authority receive information given to them under subsection (1), (4) or (5) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on their part is required in the case of the pupil concerned under section 323 (assessment of special educational needs).
- (7) In this section “the responsible authority”, in relation to a pupil, means the local education authority responsible for him for the purposes of Part IV.

### **367 Appeals against directions under section 365 etc**

- (1) Where a head teacher—
  - (a) gives, revokes or varies a direction under regulations made under section 365,
  - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or
  - (c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,the parent of the pupil concerned may appeal to the governing body.
- (2) On such an appeal, the governing body may—
  - (a) confirm the head teacher’s action, or
  - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances.
- (3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).

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- (4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal.

*The National Curriculum: supplementary provisions*

**368 Procedure for making certain orders and regulations**

- (1) Subject to subsection (9), this section applies where the Secretary of State proposes to make—
- (a) an order under section 354(6), 355(2) or 356(2)(a) or (b), or
  - (b) regulations under section 363.
- (2) The Secretary of State shall refer the proposal to the appropriate curriculum authority and shall give them directions as to the time within which they are to report to him.
- (3) The authority 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 the authority to be concerned, and
  - (b) to any other persons with whom consultation appears to the authority to be desirable,
- and shall give them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (4) The report of the authority to the Secretary of State shall contain—
- (a) a summary of the views expressed during the consultations,
  - (b) the authority's recommendations as to the proposal, and
  - (c) such other advice relating to the proposal as the authority think fit.
- (5) The authority shall, after submitting their report to the Secretary of State, arrange for the report to be published.
- (6) Where the authority have reported to the Secretary of State, he shall publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
- (a) a draft of the proposed order or regulations and any associated document, and
  - (b) a statement explaining his reasons for any failure to give effect to the recommendations of the authority,
- and shall send copies of the documents mentioned in paragraphs (a) and (b) to the authority and to each of the persons consulted by the authority.
- (7) The Secretary of State shall allow a period of not less than one month for the submission of evidence and representations as to the issues arising.
- (8) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.
- (9) This section does not apply where—
- (a) the Secretary of State proposes to make such an order as is, or such regulations as are, referred to in subsection (1), and
  - (b) arrangements for consultation about the proposed order or regulations were made before 1st September 1996 under section 242 of the Education Act 1993,

(and accordingly, the arrangements for consultation applicable in the case of the proposed order or regulations shall be those mentioned in paragraph (b) above).

- (10) In subsection (2) “the appropriate curriculum authority” means—
- (a) in relation to an order or regulations relating to maintained schools in England or pupils at such schools, the School Curriculum and Assessment Authority, and
  - (b) in relation to an order or regulations relating to maintained schools in Wales or pupils at such schools, the Curriculum and Assessment Authority for Wales.

### **369 Programmes of research etc. in relation to Wales**

The Secretary of State may incur expenses in connection with the commissioning by him of such work, including programmes of research, development and dissemination, as he may require to be carried out for the purpose of facilitating the discharge, in relation to Wales, of any of his functions under sections 354 to 356.

*General functions of LEA, governing body and head teacher in relation to curriculum*

### **370 Duty of local education authority to state policy**

- (1) A local education authority shall—
- (a) determine, and keep under review, their policy in relation to the secular curriculum for the county, voluntary and special schools maintained by them, and
  - (b) make, and keep up to date, a written statement of that policy.
- (2) In discharging their duty under subsection (1), the authority shall consider, in particular—
- (a) the range of the secular curriculum, and
  - (b) the balance between its different components.
- (3) In carrying out their functions under this Act or any other enactment, the authority shall have regard to their policy as expressed in their statement.

### **371 Functions of governing body: county, controlled and maintained special schools**

- (1) This section applies to the articles of government for a county, controlled or maintained special school.
- (2) The articles shall require the governing body to consider—
- (a) the policy of the local education authority as expressed in the statement made by the authority under section 370,
  - (b) what, in the governing body’s opinion, should be the aims of the secular curriculum for the school, and
  - (c) how (if at all) the authority’s policy with regard to matters other than sex education should in their opinion be modified in relation to the school,
- and to make, and keep up to date, a written statement of their conclusions.
- (3) The articles shall require the governing body—

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- (a) to consider separately (while having regard to the local education authority's statement under section 370) the question whether sex education should form part of the secular curriculum for the school, and
  - (b) to make, and keep up to date, a separate written statement—
    - (i) of their policy with regard to the content and organisation of the relevant part of the curriculum, or
    - (ii) where they conclude that sex education should not form part of the secular curriculum, of that conclusion.
- (4) The articles shall require the governing body—
- (a) when considering the matters mentioned in subsections (2) and (3), to do so in consultation with the head teacher and to have regard to any representations—
    - (i) which are made to them by any persons connected with the community served by the school, or
    - (ii) which are made to them by the chief officer of police and are connected with his responsibilities; and
  - (b) to consult the local education authority before making or varying any statement under subsection (2).
- (5) The articles shall provide that the governing body may review their conclusions about the matters mentioned in subsection (2) or (3) whenever they think fit, and that they shall do so immediately following—
- (a) the implementation of any proposals of a kind mentioned in subsection (7) which materially affect the school, or
  - (b) the implementation of any proposal under section 339 (establishment, alteration and discontinuance of maintained special school).
- (6) The articles shall require the governing body, where they have completed such a review and consider it appropriate to make a fresh statement, to do so.
- (7) The kinds of proposals referred to in subsection (5) are—
- (a) proposals under section 35 (establishment, alteration etc. of a county school) or section 41 (establishment, alteration etc. of a voluntary school); and
  - (b) proposals for a voluntary school to be transferred to a new site in pursuance of an order under section 47;
- and the reference above to proposals under section 35 includes a reference to proposals which would fall to be published by virtue of that section but for subsection (2)(b) of that section.
- (8) In relation to sex education, this section has effect subject to section 404(3).

### **372 Functions of head teacher: county, controlled and maintained special schools**

- (1) The articles of government for a county, controlled or maintained special school shall—
- (a) provide for the determination and organisation of the secular curriculum for the school to be the responsibility of the head teacher, and
  - (b) require the head teacher to secure that that curriculum is followed within the school.
- (2) The articles shall provide that, in discharging his duties in relation to the secular curriculum for the school, the head teacher shall consider the statement made by the

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local education authority under section 370 and those made by the governing body by virtue of section 371.

- (3) The articles shall also provide that, in discharging those duties, the head teacher shall have regard to any representations with regard to the determination or organisation of the secular curriculum—
- (a) which are made to him by any persons connected with the community served by the school, or
  - (b) which are made to him by the chief officer of police and are connected with that officer's responsibilities.
- (4) The articles shall also provide that, in discharging those duties, the head teacher shall ensure that the secular curriculum—
- (a) so far as it relates to sex education, is compatible with the governing body's policy (as expressed in the statement made by them by virtue of section 371(3)) except where that policy is incompatible with any part of the syllabus for a course which forms part of that curriculum and leads to a public examination;
  - (b) so far as it relates to other matters, is compatible with the policy of the local education authority (as expressed in the statement made by them under section 370) as modified by the statement made by the governing body by virtue of section 371(2), and
  - (c) is compatible with the provisions of this Act and any other enactments relating to education (including, in particular, provisions relating to children with special educational needs).
- (5) In relation to sex education subsection (4) has effect subject to section 404(3).

### **373 Functions of governing body and head teacher: aided and special agreement schools**

- (1) The articles of government for an aided or special agreement school shall provide—
- (a) for the content of the secular curriculum for the school to be under the control of the governing body,
  - (b) for the governing body to have regard to the policy of the local education authority as expressed in the statement made by the authority under section 370, and
  - (c) for the head teacher to be allocated by the governing body such functions as will, subject to the resources available, enable him to determine and organise the curriculum and secure that it is followed within the school.
- (2) The articles shall require the governing body, when considering the content of the secular curriculum for the school, to have regard to any representations with regard to that curriculum—
- (a) which are made to them by any persons connected with the community served by the school, or
  - (b) which are made to them by the chief officer of police and are connected with his responsibilities.

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**374 Functions of governing body and head teacher: grant-maintained schools**

Paragraph 4 of Schedule 23 has effect for securing the discharge by the governing body and the head teacher of a grant-maintained school of duties imposed on them under the provisions of this Part mentioned in paragraph 4(1).

**CHAPTER III**

RELIGIOUS EDUCATION AND WORSHIP

*Agreed syllabuses*

**375 Agreed syllabuses of religious education**

- (1) Subject to the provisions of Schedule 31, any agreed syllabus in force immediately before the commencement of this Act shall continue to have effect.
- (2) In this Act “agreed syllabus” means a syllabus of religious education—
  - (a) prepared before the commencement of this Act in accordance with Schedule 5 to the Education Act 1944 or after commencement in accordance with Schedule 31, and
  - (b) adopted by a local education authority under that Schedule, whether it is for use in all the schools maintained by them or for use in particular such schools or in relation to any particular class or description of pupils in such schools.
- (3) Every agreed syllabus shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.
- (4) Any reference in this Act to an agreed syllabus adopted by a local education authority includes a reference to an agreed syllabus deemed to be adopted by such an authority by virtue of paragraph 11 of Schedule 5 to the Education Act 1944 or paragraph 14 of Schedule 31; and accordingly, in relation to an agreed syllabus deemed to be so adopted, any reference to the date on which an agreed syllabus was adopted is a reference to the date of deemed adoption specified by the Secretary of State in a direction under that paragraph.
- (5) Subsection (3) does not apply to any agreed syllabus adopted before 29th September 1988.

*Required provision for religious education*

**376 Religious education: county schools**

- (1) In the case of a county school, the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school’s basic curriculum is provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.
- (2) No agreed syllabus shall provide for religious education to be given to pupils at a county school by means of any catechism or formulary which is distinctive of a



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particular religious denomination (but this is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies).

- (3) If, in the case of a county secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 389 to receive religious education elsewhere, the local education authority are satisfied—

- (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
- (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the authority,

the authority shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.

### **377 Religious education: controlled schools**

- (1) In the case of a controlled school, the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum shall be provision for religious education—

- (a) in accordance with any arrangements made under subsection (2), or
- (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.

- (2) Where the parents of any pupils at a controlled school request that they may receive religious education—

- (a) in accordance with any provisions of the trust deed relating to the school, or
- (b) where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a controlled school,

the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.

### **378 Religious education: aided and special agreement schools**

- (1) In the case of an aided or special agreement school, the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education—

- (a) in accordance with any provisions of the trust deed relating to the school, or
- (b) where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a voluntary school, or
- (c) in accordance with any arrangements made under subsection (2).

- (2) Where the parents of any pupils at an aided or special agreement school—

- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority, and

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- (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,  
 arrangements shall be made (unless the authority are satisfied that because of any special circumstances it would be unreasonable to do so) for religious education in accordance with that syllabus to be given to those pupils in the school.
- (3) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum by virtue of section 352(1)(a).
- (4) Any arrangements under subsection (2) shall be made by the governing body, unless the local education authority are satisfied that the governing body are unwilling to make them, in which case they shall be made by the authority.
- (5) Subject to subsection (4), the religious education given to pupils at an aided or special agreement school shall be under the control of the governing body.

**379 Religious education: grant-maintained schools (former county schools and certain new schools)**

- (1) Subject to section 383, this section applies in relation to a grant-maintained school if—
- (a) it was a county school immediately before it became grant-maintained,
  - (b) it was established in pursuance of proposals published under section 211, or
  - (c) it was established in pursuance of proposals published under section 212 and neither any trust deed relating to the school nor the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) The provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education in accordance with the appropriate agreed syllabus.
- (3) That syllabus shall not provide for religious education to be given to pupils at the school by means of any catechism or formulary which is distinctive of a particular religious denomination (but this is not to be taken as prohibiting provision in the syllabus for the study of such catechisms or formularies).
- (4) If, in the case of a secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 389 to receive religious education elsewhere, the governing body are satisfied—
- (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
  - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall upon the governing body,
- the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.

**380 Religious education: grant-maintained schools (former controlled schools)**

- (1) Subject to section 383, this section applies in relation to a grant-maintained school which was a controlled school immediately before it became grant-maintained.
- (2) The provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education—
  - (a) in accordance with any arrangements made under subsection (3), or
  - (b) subject to any such arrangements, in accordance with the appropriate agreed syllabus.
- (3) Where the parents of any pupils at the school have requested (whether before or after the school became grant-maintained) that the pupils may receive religious education—
  - (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the practice observed in the school before it became a grant-maintained school,

the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.

**381 Religious education: grant-maintained schools (former aided or special agreement schools and certain new schools)**

- (1) Subject to section 383, this section applies in relation to a grant-maintained school if—
  - (a) it was an aided or special agreement school immediately before it became grant-maintained, or
  - (b) it was established in pursuance of proposals published under section 212 and either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) The provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school's basic curriculum is provision for religious education—
  - (a) in accordance with any provisions of any trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with—
    - (i) the practice observed in the school before it became a grant-maintained school, if it is a former aided or special agreement school, or
    - (ii) the statement required by paragraph 8 of Schedule 20, if it is a school established in pursuance of proposals published under section 212, or
  - (c) in accordance with any arrangements made under subsection (3).
- (3) Where the parents of any pupils at the school—
  - (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority for the area in which the school is situated for use in schools maintained by the authority, and

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- (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,  
the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for religious education in accordance with that syllabus to be given to those pupils in the school.
- (4) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school’s basic curriculum by virtue of section 352(1)(a).
- (5) The head teacher of a school to which this section applies shall give notice in writing of any agreed syllabus which is in use at the school in accordance with subsection (3) to the standing advisory council on religious education constituted by the local education authority in whose area the school is situated.

### **382 Meaning of “the appropriate agreed syllabus” in sections 379 and 380**

- (1) For the purposes of sections 379(2) and 380(2) “the appropriate agreed syllabus”, in relation to a grant-maintained school or to any pupils at it, is—
- (a) the agreed syllabus adopted for the time being by the local education authority for the area in which the school is situated for use in the schools maintained by the authority;
  - (b) if there is more than one such syllabus, such one of them as the governing body shall determine; or
  - (c) if the governing body select for the school or those pupils an agreed syllabus which—
    - (i) was adopted on or after 29th September 1988 by a local education authority other than the authority in whose area the school is situated, and
    - (ii) has not been replaced by a new agreed syllabus, that syllabus.
- (2) In relation to a school in Wales, in subsection (1)(c) “local education authority” means a local education authority in Wales.

### **383 Changes in religious education and worship**

- (1) Subsection (2) applies where, in the case of a grant-maintained school in relation to which section 379 or 380 for the time being applies, proposals that the required provision for religious education should be provision for religious education in accordance with the tenets of a particular religion or religious denomination are approved under section 261.
- (2) From the time at which the proposals fall to be implemented—
- (a) the required provision for religious education shall (subject to subsection (3)) be provision for religious education either in accordance with the tenets of that religion or religious denomination or in accordance with any arrangements made under section 381(3) (as applied by paragraph (b)),
  - (b) section 381(3) to (5) shall apply in relation to the school, and
  - (c) any provisions of section 379, 380, 385(4), 386 or 387 which apply in relation to the school shall cease to apply in relation to it.

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- (3) Where, in the case of any grant-maintained school, proposals that the required provision for religious education should be provision for religious education otherwise than in accordance with the tenets of a particular religion or religious denomination are approved under section 261—
  - (a) sections 379 and 386 shall apply in relation to the school from the time at which the proposals fall to be implemented, and
  - (b) any provisions of section 380 or 381 which apply in relation to the school shall cease to apply in relation to it from that time.
- (4) In this section “the required provision for religious education”, in relation to a school, means the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school’s basic curriculum.

**384 Duty to secure religious education is given in accordance with required provision in curriculum**

Subject to section 389, in relation to any maintained school (other than a maintained special school)—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

that religious education is given in accordance with the provision for such education included in the school’s basic curriculum by virtue of section 352(1)(a).

*Religious worship*

**385 Collective worship**

- (1) Subject to section 389, all pupils in attendance at a maintained school other than a maintained special school shall on each school day take part in an act of collective worship.
- (2) The arrangements for the collective worship in a school required by this section may, in respect of each school day, provide for a single act of worship for all pupils or for separate acts of worship for pupils in different age groups or in different school groups.
- (3) For the purposes of subsection (2) a “school group” is any group in which pupils are taught or take part in other school activities.
- (4) Subject to subsection (6), the arrangements for the collective worship required by this section shall be made—
  - (a) in the case of a county school or a grant-maintained school in relation to which section 379 applies, by the head teacher after consultation with the governing body; and
  - (b) in the case of a voluntary school or a grant-maintained school other than one in relation to which section 379 applies, by the governing body after consultation with the head teacher.
- (5) Subject to subsection (6), the collective worship in a school required by this section shall take place on the school premises.

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- (6) If the governing body of an aided, special agreement or grant-maintained school are of the opinion that it is desirable that any act of collective worship in the school required by this section should, on a special occasion, take place elsewhere than on the school premises, they may, after consultation with the head teacher, make such arrangements for that purpose as they think appropriate.
- (7) The powers of a governing body under subsection (6) shall not be exercised so as to derogate from the rule that the collective worship in the school required by this section must normally take place on the school premises.

**386 Collective worship in county schools and certain grant-maintained schools to be broadly Christian**

- (1) Subsections (2) to (6) apply—
  - (a) (subject to section 387) in relation to a county school, and
  - (b) (subject to sections 383 and 387) in relation to a grant-maintained school in relation to which section 379 applies,
- (2) The collective worship required in the school by section 385 shall be wholly or mainly of a broadly Christian character.
- (3) For the purposes of subsection (2), collective worship is of a broadly Christian character if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.
- (4) Not every act of collective worship in the school required by section 385 need comply with subsection (2) provided that, taking any school term as a whole, most such acts which take place in the school do comply with that subsection.
- (5) Subject to subsections (2) and (4)—
  - (a) the extent to which (if at all) any acts of collective worship required by section 385 which do not comply with subsection (2) take place in the school,
  - (b) the extent to which any act of collective worship in the school which complies with subsection (2) reflects the broad traditions of Christian belief, and
  - (c) the ways in which those traditions are reflected in any such act of collective worship,
 shall be such as may be appropriate having regard to any relevant considerations relating to the pupils concerned which fall to be taken into account in accordance with subsection (6).
- (6) Those considerations are—
  - (a) any circumstances relating to the family backgrounds of the pupils which are relevant for determining the character of the collective worship which is appropriate in their case, and
  - (b) their ages and aptitudes.
- (7) In subsections (2) to (6) as they apply in relation to a grant-maintained school, references to acts of collective worship in the school include such acts which by virtue of section 385(6) take place otherwise than on the school premises.

**387 Disapplication of requirement for Christian collective worship**

- (1) Subsection (2) applies where—

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- (a) a standing advisory council on religious education determine (under section 394) that it is not appropriate for the requirement imposed by section 386(2) to apply in the case of a school or in the case of any class or description of pupils at a school, or
  - (b) such a council had so determined in the case of a grant-maintained school, or pupils at such a school, before the school became grant-maintained.
- (2) While the determination has effect—
- (a) section 386 shall not apply in relation to the school or (as the case may be) pupils in question, and
  - (b) the collective worship required by section 385 in the case of the school or pupils shall not be distinctive of any particular Christian or other religious denomination;
- but paragraph (b) shall not be taken as preventing that worship from being distinctive of any particular faith.
- (3) In this section references to a school are references to a county school or to a grant-maintained school in relation to which section 379 applies.

### **388 Duty to secure participation in collective worship**

Subject to section 389, in relation to any maintained school (other than a maintained special school)—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

that all pupils in attendance at the school take part in the daily collective worship required by section 385.

#### *Exceptions and special arrangements*

### **389 Exceptions and special arrangements**

- (1) If the parent of a pupil at a maintained school requests that he may be wholly or partly excused—
- (a) from receiving religious education given in the school in accordance with the school's basic curriculum,
  - (b) from attendance at religious worship in the school, or
  - (c) both from receiving such education and from such attendance,
- the pupil shall be so excused until the request is withdrawn.
- (2) In subsection (1)—
- (a) the reference to religious education given in accordance with the school's basic curriculum is to such education given in accordance with the provision included in the school's basic curriculum by virtue of section 352(1)(a), and
  - (b) the reference to religious worship in the school includes religious worship which by virtue of section 385(6) takes place otherwise than on the school premises.

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- (3) Where in accordance with subsection (1) a pupil has been wholly or partly excused from receiving religious education or from attendance at religious worship and the responsible authority are satisfied—
- (a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused,
  - (b) that the pupil cannot with reasonable convenience be sent to another maintained school where religious education of the kind desired by the parent is provided, and
  - (c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere,
- the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.
- (4) A pupil may not be withdrawn from school under subsection (3) unless the responsible authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of a school session (or, if there is only one, the school session) on that day.
- (5) Where the parent of a pupil who is a boarder at a maintained school requests that the pupil be permitted—
- (a) to receive religious education in accordance with the tenets of a particular religion or religious denomination outside school hours, or
  - (b) to attend worship in accordance with such tenets on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs,
- the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so.
- (6) Arrangements under subsection (5) may provide for making facilities for such education or worship available on the school premises, but the arrangements shall not entail expenditure by the responsible authority.
- (7) In this section—
- “maintained school” does not include a maintained special school, and
- “the responsible authority”, in relation to a county or voluntary school, means the local education authority, and, in relation to a grant-maintained school, means the governing body.

*Constitution of standing advisory councils on religious education*

**390 Constitution of advisory councils**

- (1) A local education authority shall constitute a standing advisory council on religious education for the purposes mentioned in section 391(1).
- (2) The council shall consist of—
  - (a) such groups of persons appointed by the authority as representative members (“representative groups”) as are required by subsection (4), and



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- (b) a person appointed as a member by the governing bodies of the grant-maintained schools within the area of the authority in relation to which section 379 or 380 applies.
- (3) The council may also include co-opted members (that is, persons co-opted as members of the council by members of the council who have not themselves been so co-opted).
- (4) The representative groups required by this subsection are—
  - (a) a group of persons to represent such Christian denominations and other religions and denominations of such religions as, in the opinion of the authority, will appropriately reflect the principal religious traditions in the area;
  - (b) except in the case of an area in Wales, a group of persons to represent the Church of England;
  - (c) a group of persons to represent such associations representing teachers as, in the opinion of the authority, ought to be represented, having regard to the circumstances of the area; and
  - (d) a group of persons to represent the authority.
- (5) Where a representative group is required by subsection (4)(b), the representative group required by subsection (4)(a) shall not include persons appointed to represent the Church of England.
- (6) The number of representative members appointed to any representative group under subsection (4)(a) to represent each denomination or religion required to be represented shall, so far as consistent with the efficient discharge of the group's functions, reflect broadly the proportionate strength of that denomination or religion in the area.
- (7) On any question to be decided by the council only the representative groups on the council shall be entitled to vote, and each representative group shall have a single vote.

### **391 Functions of advisory councils**

- (1) The purposes referred to in section 390(1) are—
  - (a) to advise the local education authority upon such matters connected with religious worship in county schools and the religious education to be given in accordance with an agreed syllabus as the authority may refer to the council or as the council may see fit, and
  - (b) to carry out the functions conferred on them by section 394.
- (2) The matters referred to in subsection (1)(a) include, in particular, methods of teaching, the choice of materials and the provision of training for teachers.
- (3) The representative groups on the council required by section 390(4), other than the group consisting of persons appointed to represent the authority, may at any time require a review of any agreed syllabus for the time being adopted by the authority.
- (4) Each representative group concerned shall have a single vote on the question of whether to require such a review.
- (5) Paragraph 3 of Schedule 31 has effect to require the authority, on receiving written notification of any such requirement, to cause a conference constituted in accordance with that Schedule to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.

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- (6) The council shall in each year publish a report as to the exercise of their functions and any action taken by representative groups on the council under subsection (3) during the last preceding year.
- (7) The council's report shall in particular—
  - (a) specify any matters in respect of which the council have given advice to the authority,
  - (b) broadly describe the nature of the advice given, and
  - (c) where any such matter was not referred to the council by the authority, give the council's reasons for offering advice on that matter.
- (8) The council shall send to the head teacher of any grant-maintained school to which section 379 applies and which is in the area of the authority a copy of advice which they give to the authority upon matters connected with religious worship.
- (9) The council shall send a copy of advice which they give to the authority on the religious education to be given in accordance with an agreed syllabus to the head teacher of any grant-maintained school which is in the area of the authority and which—
  - (a) is required, by virtue of section 379 or 381, to provide religious education in accordance with an agreed syllabus, or
  - (b) was a controlled school immediately before it became grant-maintained.
- (10) The council shall send a copy of each report published by them under subsection (6)—
  - (a) in the case of a council for an area in England, to the School Curriculum and Assessment Authority, and
  - (b) in the case of a council for an area in Wales, to the Curriculum and Assessment Authority for Wales.

### **392 Advisory councils: supplementary provisions**

- (1) In this section “the council” means the standing advisory council on religious education constituted by a local education authority under section 390.
- (2) Before appointing a person to represent any religion, denomination or associations as a member of the council, the authority shall take all reasonable steps to assure themselves that he is representative of the religion, denomination or associations in question.
- (3) A member of the council who was appointed by the authority may be removed from membership by the authority if, in their opinion, he ceases to be representative of the religion, denomination or associations which he was appointed to represent or (as the case may be) he ceases to be representative of the authority.
- (4) A member of the council required by section 390(2)(b) may at any time be removed from membership by the governing body or (as the case may be) by the governing bodies of the grant-maintained school or schools concerned.
- (5) A person co-opted as a member of the council shall hold office on such terms as may be determined by the members co-opting him.
- (6) A member of the council may at any time resign his office.

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- (7) Subject to section 390(7), the council and, in relation to any question falling to be decided by members of the council of any particular category, the members of that category, may regulate their own proceedings.
- (8) The validity of proceedings of the council or of the members of the council of any particular category shall not be affected—
  - (a) by a vacancy in the office of any member of the council required by section 390(2), or
  - (b) on the ground that a member of the council appointed to represent any religion, denomination or associations does not at the time of the proceedings represent the religion, denomination or associations in question.

### **393 Duty to constitute new standing advisory council**

- (1) This section has effect in respect of the area of a local education authority if an order under section 27(1)(b) (allocation to funding authority of responsibility for providing school places) applies to the area.
- (2) Within six months of the date of the first such order the local education authority shall constitute a new standing advisory council on religious education under section 390.
- (3) For the purposes of the constitution required by subsection (2) (and of any subsequent constitution)—
  - (a) section 390 shall have effect as if—
    - (i) subsection (2)(b) were omitted, and
    - (ii) subsection (4) required the appointment of a representative group, in addition to those listed in paragraphs (a) to (d) of that subsection, comprising persons representing relevant grant-maintained schools, and
  - (b) section 391 shall have effect as if, in subsection (3), for “the group consisting of persons appointed to represent the authority” there were substituted “the groups consisting of persons appointed to represent the authority or relevant grant-maintained schools”.
- (4) For this purpose “relevant grant-maintained schools” means the grant-maintained schools within the area of the local education authority in relation to which section 379 or 380 applies.
- (5) Before appointing a person to represent relevant grant-maintained schools in accordance with subsection (3) the local education authority shall take all reasonable steps to assure themselves that he is acceptable as such to the governing bodies of the majority of such schools; but the validity of the council’s proceedings shall not be affected because the person was not so acceptable unless it is shown that the local education authority failed to take such steps.
- (6) A person appointed to represent relevant grant-maintained schools in accordance with subsection (3) may be removed from membership of the council if in the opinion of the local education authority he ceases to be acceptable as such to the governing bodies of the majority of such schools.

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*Determinations by standing advisory councils*

**394 Determination of cases in which requirement for Christian collective worship is not to apply**

- (1) The council constituted by a local education authority under section 390 shall, on an application made by the head teacher of—
  - (a) any county school maintained by the authority, or
  - (b) any grant-maintained school which is in the authority's area and in relation to which section 379 applies,consider whether it is appropriate for the requirement imposed by section 386(2) to apply in the case of the school or in the case of any class or description of pupils at the school.
- (2) In determining whether it is appropriate for that requirement to apply as mentioned in subsection (1), the council shall have regard to any circumstances relating to the family backgrounds of the pupils at the school, or of the pupils of the particular class or description in question, which are relevant for determining the character of the collective worship appropriate in their case.
- (3) The council shall give the head teacher written notification of their decision on the application.
- (4) Where the council determine that it is not appropriate for the requirement to apply as mentioned in subsection (1), the determination shall take effect for the purposes of section 387 on such date as may be specified in the notification of the council's decision under subsection (3).
- (5) Before making an application under subsection (1), the head teacher of a school shall consult the governing body.
- (6) On being consulted by the head teacher, the governing body may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (7) An application under subsection (1) shall be made in such manner and form as the council may require.
- (8) Where an application is made under subsection (1)(a) in respect of a school which becomes a grant-maintained school before the application is determined, it shall, unless withdrawn by the head teacher, continue as if made under subsection (1)(b).

**395 Review of determinations under section 394**

- (1) Any determination by a council under section 394 by virtue of which the requirement imposed by section 386(2) does not for the time being apply in the case of a school or a class or description of pupils at a school shall be reviewed by the council—
  - (a) at any time on an application made by the head teacher, and
  - (b) in any event not later than the end of the period of five years beginning with the date on which the determination first took effect or (where it has since been reviewed under this section) with the effective date of the decision on the last review.

- (2) On any review under subsection (1)(b) the council shall give the head teacher an opportunity of making representations as to the determination under review.
- (3) On a review under this section, the council may—
  - (a) confirm the determination, with or without variation, or
  - (b) revoke it (without prejudice to any further determination under section 394).
- (4) The council shall give the head teacher written notification of their decision, specifying the effective date of that decision for the purposes of subsection (1)(b).
- (5) Any determination which is required to be reviewed under subsection (1)(b) shall cease to have effect, if not confirmed on such a review, at the end of the period there mentioned.
- (6) The head teacher of a school shall consult the governing body before making an application under subsection (1)(a) or any representations under subsection (2).
- (7) On being consulted by the head teacher, the governing body may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (8) An application under subsection (1)(a) shall be made in such manner and form as the council may require.

**396 Power of Secretary of State to direct advisory council to revoke determination or discharge duty**

- (1) Where the Secretary of State is satisfied, either on complaint by any person or otherwise, that any standing advisory council on religious education constituted by a local education authority under section 390—
  - (a) have acted, or are proposing to act, unreasonably in determining for the purposes of section 394 or 395 whether it is appropriate for the requirement imposed by section 386(2) to apply in the case of any school or any class or description of pupils at a school, or
  - (b) have failed to discharge any duty imposed under section 394 or 395,he may give the council such directions as to the revocation of the determination, or the withdrawal of the proposed determination or (as the case may be) the discharge of the duty as appear to him to be expedient; and the council shall comply with the directions.
- (2) Directions under subsection (1) may provide for the making by the council of a new determination to take effect in place of the determination or proposed determination to be revoked or withdrawn by them.

*Access to meetings and documents*

**397 Religious education: access to meetings and documents**

- (1) This section applies to—
  - (a) any conference convened under any of paragraphs 1 to 3 of Schedule 31, and
  - (b) any standing advisory council on religious education constituted under section 390.

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- (2) Regulations may make provision—
- (a) for meetings of conferences or councils to be, subject to prescribed exceptions, open to members of the public,
  - (b) requiring conferences or councils to give notice, in such manner as may be prescribed, of the time and place of such meetings, and
  - (c) requiring conferences or councils, at such time or times as may be prescribed—
    - (i) to make available for inspection, or
    - (ii) to provide on payment of such fee as they think fit (not exceeding the cost of supply),
 copies of the agendas and reports for such meetings to members of the public.
- (3) Regulations made under subsection (2) may apply to—
- (a) committees appointed by local education authorities under paragraph 4 of Schedule 31,
  - (b) sub-committees appointed by conferences under that Schedule, and
  - (c) representative groups on councils appointed under section 390(4),
- as they apply to conferences and councils.

#### *Miscellaneous*

### **398 No requirement of attendance at Sunday school etc**

It shall not be required, as a condition of—

- (a) a pupil attending a maintained school, or
- (b) a person attending such a school to receive further education or teacher training,

that he must attend or abstain from attending a Sunday school or a place of religious worship.

### **399 Determination of question whether religious education in accordance with trust deed**

Where any trust deed relating to a voluntary or grant-maintained school makes provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide whether the religious education given in the school which purports to be in accordance with the provisions of the trust deed does or does not accord with those provisions, that question shall be determined in accordance with the provisions of the trust deed.

## CHAPTER IV

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### *Courses leading to external qualifications*

#### **400 Courses leading to external qualifications**

- (1) No course of study leading to a qualification authenticated by an outside person shall be provided for pupils of compulsory school age by or on behalf of a maintained school unless—
  - (a) the qualification is for the time being approved by the Secretary of State or by a designated body, and
  - (b) subsection (2) is satisfied.
- (2) This subsection is satisfied if either—
  - (a) a syllabus provided by the outside person for the purposes of the course is for the time being approved by a designated body, or
  - (b) criteria provided by the outside person for determining a syllabus for the purposes of the course are for the time being so approved.
- (3) An approval under this section may be given either generally or in relation to particular cases.
- (4) In relation to any maintained school—
  - (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,that subsection (1) is not contravened.
- (5) In this section—

“designated” means designated by the Secretary of State, and  
“outside person”, in relation to a school, means a person other than a member of staff of the school.

#### **401 Power to extend section 400 to senior pupils and FE students**

- (1) The Secretary of State may by order direct that the provisions of section 400 shall have effect as if—
  - (a) any reference to pupils of compulsory school age included a reference to—
    - (i) senior pupils who are of or over that age, and
    - (ii) persons in full-time further education who are of or over that age but have not attained the age of 19 (referred to in this section as “FE students”);
  - (b) any reference to a maintained school (except in relation to a local education authority) included a reference to—
    - (i) any institution (other than a university or an institution within the higher education sector) which provides further education and is a grant-aided institution, and
    - (ii) any institution within the further education sector; and

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- (c) any reference to the head teacher of such a school included a reference to the principal or other head of such an institution.
- (2) An order under this section may make such consequential modifications of section 359(1) as appear to the Secretary of State to be necessary or expedient.
- (3) In relation to FE students in relation to whom section 400 has effect by virtue of an order under this section, section 408 shall have effect—
  - (a) with the modifications mentioned in subsection (1)(b) and (c) above;
  - (b) as if the information referred to in subsection (1)(a) of that section were information with respect to the following matters—
    - (i) the qualifications authenticated by outside persons (within the meaning of section 400) for which courses of study are to be provided by or on behalf of the institution concerned for such students;
    - (ii) the courses of study leading to such qualifications which are to be so provided;
    - (iii) the syllabuses which have been provided or determined for the purposes of those courses, and
    - (iv) the results of the assessments of such students for the purposes of those qualifications;
  - (c) as if in subsection (6)—
    - (i) the reference to the results of an individual pupil’s assessment (whether under this Part or otherwise) included a reference to the results of an individual student’s assessment for the purposes of any such qualification, and
    - (ii) any reference to the pupil concerned included a reference to the student concerned; and
  - (d) with the omission of subsections (1)(b), (2) and (3).
- (4) Before making an order under this section the Secretary of State shall consult any persons with whom consultation appears to him to be desirable.
- (5) For the purposes of this section an institution is at any time a grant-aided institution if it is maintained by persons who have received any grants under regulations made under section 485 in respect of expenditure incurred or to be incurred for the academic year of the institution current at that time.

*Obligation to enter pupils for public examinations*

**402 Obligation to enter pupils for public examinations**

- (1) Subject to subsections (2) and (3), the governing body of a maintained school shall secure that each registered pupil at the school is entered, at such time as they consider appropriate, for each prescribed public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.
- (2) The governing body are not required to secure that a pupil is entered for any examination, or for an examination in any syllabus for that examination, if either—
  - (a) they consider that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus, or



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- (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus;
- but this subsection does not apply to an examination which is part of the assessment arrangements for the fourth key stage and applies in the case of that pupil.
- (3) The governing body are not required to secure that a pupil is entered for any examination in any syllabus for that examination if they have secured his entry for another prescribed public examination in a corresponding syllabus.
- (4) For the purposes of subsection (3) a syllabus for a prescribed public examination shall be regarded as corresponding to a syllabus for another prescribed public examination if the same course of study is provided at the school in preparation for both syllabuses.
- (5) As soon as practicable after determining whether or not to secure the entry of any pupil for a prescribed public examination in any syllabus for which he is being prepared at the school, the governing body shall notify the pupil's parent in writing of their determination in relation to each such syllabus.
- (6) In this section—
- (a) “maintained school” includes a maintained special school established in a hospital; and
- (b) references to a prescribed public examination shall be construed in accordance with section 462.

### *Sex education*

#### **403 Sex education: manner of provision**

- (1) The local education authority, governing body and head teacher shall take such steps as are reasonably practicable to secure that where sex education is given to any registered pupils at a maintained school, it is given in such a manner as to encourage those pupils to have due regard to moral considerations and the value of family life.
- (2) In subsection (1) “maintained school” includes a maintained special school established in a hospital.

#### **404 Sex education: statements of policy**

- (1) The governing body of a maintained 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.
- (2) In subsection (1) “maintained school” includes, in relation to pupils who are provided with secondary education, a maintained special school established in a hospital.
- (3) In relation to—
- (a) a county, or controlled, secondary school, and
- (b) pupils who are provided with secondary education in a maintained special school,

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section 371 shall have effect with the omission of subsection (3) of that section and of the references to the matters mentioned in that subsection, and section 372 shall have effect with the omission of subsection (4)(a) of that section.

#### **405 Exemption from sex education**

If the parent of any pupil in attendance at a 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.

#### *Politics*

#### **406 Political indoctrination**

- (1) The local education authority, governing body and head teacher shall forbid—
  - (a) the pursuit of partisan political activities by any of those registered pupils at a maintained school who are junior pupils, and
  - (b) the promotion of partisan political views in the teaching of any subject in the school.
- (2) In the case of activities which take place otherwise than on the school premises, subsection (1)(a) applies only where arrangements for junior pupils to take part in the activities are made by—
  - (a) any member of the school’s staff (in his capacity as such), or
  - (b) anyone acting on behalf of the school or of a member of the school’s staff (in his capacity as such).
- (3) In this section “maintained school” includes a maintained special school established in a hospital.

#### **407 Duty to secure balanced treatment of political issues**

- (1) The local education authority, governing body and head teacher shall take such steps as are reasonably practicable to secure that where political issues are brought to the attention of pupils while they are—
  - (a) in attendance at a maintained school, or
  - (b) taking part in extra-curricular activities which are provided or organised for registered pupils at the school by or on behalf of the school,
 they are offered a balanced presentation of opposing views.
- (2) In this section “maintained school” includes a maintained special school established in a hospital.

#### *Information*

#### **408 Provision of information**

- (1) Regulations may require, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally

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- or to prescribed persons, in such form and manner and at such times as may be prescribed—
- (a) such information (including information as to the matters mentioned in subsection (2)) relevant for the purposes of any of the relevant provisions of this Part, and
  - (b) such copies of the documents mentioned in subsection (3),
- as may be prescribed.
- (2) The matters referred to in subsection (1)(a) are—
- (a) the curriculum for maintained schools,
  - (b) the educational provision made by the school for pupils at the school and any syllabuses to be followed by those pupils,
  - (c) the educational achievements of pupils at the school (including the results of any assessments of those pupils, whether under this Part or otherwise, for the purpose of ascertaining those achievements), and
  - (d) the educational achievements of pupils at such categories of school as may be prescribed (including results of the kind mentioned in paragraph (c)).
- (3) The documents referred to in subsection (1)(b) are—
- (a) any written statement made by the local education authority under section 370,
  - (b) any written statement made by the governing body in pursuance of provision made under section 371,
  - (c) any written statement made by the governing body of their policy as to the curriculum for the school, and
  - (d) any report prepared by the governing body under section 161 or paragraph 7 of Schedule 23 (governors' annual reports).
- (4) For the purposes of subsection (1) the relevant provisions of this Part are—
- (a) sections 350 to 368;
  - (b) sections 375(3) and 384;
  - (c) sections 385 and 388 and, so far as relating to county schools, sections 386 and 387;
  - (d) sections 389 to 392;
  - (e) sections 394 to 396;
  - (f) sections 398, 400, 401 and 405; and
  - (g) section 409.
- (5) Before making any regulations under this section, the Secretary of State shall consult any persons with whom consultation appears to him to be desirable.
- (6) Regulations under this section shall not require information as to the results of an individual pupil's assessment (whether under this Part or otherwise) to be made available to any persons other than—
- (a) the parents of the pupil concerned,
  - (b) the pupil concerned,
  - (c) in the case of a pupil who has transferred to a different school, the head teacher of that school,
  - (d) the governing body of the school, or
  - (e) the local education authority;

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and shall not require such information to be made available to the governing body, the head teacher or the local education authority except where relevant for the purposes of the performance of any of their functions.

- (7) Regulations under this section may authorise local education authorities, governing bodies and head teachers to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.
- (8) In relation to any maintained school, the local education authority and the governing body shall exercise their functions with a view to securing that the head teacher complies with any regulations made under this section.

### *Complaints and enforcement*

#### **409 Complaints and enforcement: county, voluntary and maintained special schools**

- (1) A local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies of aided schools and of special agreement schools, make arrangements for the consideration and disposal of any complaint to which subsection (2) applies.
- (2) This subsection applies to any complaint which is to the effect that the authority, or the governing body of any county or voluntary school maintained by the authority or of any special school so maintained which is not established in a hospital—
  - (a) have acted or are proposing to act unreasonably in relation to the exercise of a power conferred on them by or under a relevant enactment, or
  - (b) have acted or are proposing to act unreasonably in relation to the performance of, or have failed to discharge, a duty imposed on them by or under a relevant enactment.
- (3) In subsection (2) “relevant enactment” means—
  - (a) any provision which by virtue of section 408(4) is a relevant provision of this Part for the purposes of section 408(1), and
  - (b) any other enactment (whether contained in this Part or otherwise) so far as relating to the curriculum for, or religious worship in, maintained schools other than grant-maintained schools.
- (4) The Secretary of State shall not entertain under section 496 (power to prevent unreasonable exercise of functions) or 497 (powers where a local education authority or governing body fail to discharge their duties) any complaint to which subsection (2) applies, unless a complaint concerning the same matter has been made and disposed of in accordance with arrangements made under subsection (1).

### *Nursery education*

#### **410 Application of Part V in relation to nursery education**

Nothing in this Part applies in relation to a nursery school or in relation to a nursery class in a primary school.