



Education Act 1996

1996 CHAPTER 56

PART VII

INDEPENDENT SCHOOLS

CHAPTER I

PRELIMINARY

463 Meaning of “independent school”

In this Act “independent school” means any school at which full-time education is provided for five or more pupils of compulsory school age (whether or not such education is also provided at it for pupils under or over that age) and which is not—

- (a) a school maintained by a local education authority,
- (b) a special school not so maintained, or
- (c) a grant-maintained school.

CHAPTER II

REGISTRATION OF INDEPENDENT SCHOOLS

Registration

464 Separate registration for England and for Wales

- (1) A register of all independent schools in England shall be kept by an officer of the Secretary of State who is appointed by the Secretary of State to be Registrar of Independent Schools for England.

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- (2) A register of all independent schools in Wales shall be kept by an officer of the Secretary of State who is appointed by the Secretary of State to be Registrar of Independent Schools for Wales.
- (3) Each register shall be open to public inspection at all reasonable times.
- (4) In this Part “the Registrar of Independent Schools” (or “the Registrar”) means—
 - (a) in relation to a school in England, the Registrar of Independent Schools for England, and
 - (b) in relation to a school in Wales, the Registrar of Independent Schools for Wales,
 and references, in relation to a school, to the register or to registration are to the register kept by the relevant Registrar or to registration in that register.

465 Provisional and final registration of a school

- (1) Subject to subsection (2), the Registrar of Independent Schools shall enter in the register the name of any independent school whose proprietor—
 - (a) makes an application for registration in such manner as may be prescribed, and
 - (b) provides such particulars as may be prescribed.
- (2) A school shall not be registered if—
 - (a) by virtue of an order made under section 470 or 471, the proprietor is disqualified from being the proprietor of an independent school or the school premises are disqualified from being used as a school, or
 - (b) the school premises are used or proposed to be used for any purpose for which they are disqualified by virtue of such an order.
- (3) The registration of a school shall initially be provisional only, and shall remain so until such time as the Secretary of State, after the school has been inspected on his behalf under Part I of the School Inspections Act 1996, gives notice to the proprietor that the registration is final.
- (4) In this Part—
 - “provisionally registered school” means an independent school whose registration is provisional only, and
 - “registered school” means an independent school whose registration is final.
- (5) In this section “proprietor”, in relation to a school, includes any person or body of persons proposing to be the proprietor.

466 Enforcement of registration: offences

- (1) Subject to subsection (2), a person is guilty of an offence if he conducts an independent school which is not a registered school or a provisionally registered school.
- (2) A person is not guilty of an offence under subsection (1) by reason of conducting a school at any time within the period of one month from the date on which it was first conducted (whether by that person or another) if an application for the registration of the school has been duly made under section 465 within that period.

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- (3) The proprietor of an independent school is guilty of an offence if, while it is a provisionally registered school, he does any act calculated to lead to the belief that it is a registered school.

467 Provision of information about registered and provisionally registered schools

- (1) Regulations may make provision for requiring the proprietor of a registered or provisionally registered school to provide the Registrar of Independent Schools from time to time with such particulars relating to the school as may be prescribed.
- (2) Regulations made under this section may in particular require the proprietor of a school to furnish the Registrar with such information as is required by the local authority for the purpose of determining whether the school is a children's home (within the meaning of the Children Act 1989).
- (3) Regulations may make provision for enabling the Secretary of State to order the deletion from the register of the name of any school in respect of which any requirement imposed by or under regulations made under this section is not complied with.
- (4) Subsection (9) of section 537 (general power of Secretary of State to require information from governing bodies etc.) confers power on the Secretary of State to make similar provision in relation to non-compliance with any requirement imposed by or under regulations under that section.

468 School may be struck off for contravention of regulations about employment of teachers

Where the Secretary of State is satisfied that a person whose employment is prohibited or restricted by virtue of regulations under section 218(6) of the Education Reform Act 1988 (employment prohibited or restricted on medical grounds or for misconduct etc.)—

- (a) is employed in a registered or provisionally registered school in contravention of those regulations, or
- (b) is the proprietor of such a school,

he may order that the school be struck off the register or (as the case may be) that the Registrar is not to register the school.

Complaints about registered and provisionally registered schools

469 Notice of complaint by Secretary of State

- (1) This section applies where the Secretary of State is satisfied that one or more of the following grounds of complaint apply in relation to a registered or provisionally registered school—
- (a) the school premises or any parts of them are unsuitable for a school;
- (b) the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages, and sex of the pupils attending the school;
- (c) efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending it;

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- (d) the proprietor of the school or any teacher or other employee employed in the school is not a proper person to be the proprietor of an independent school or (as the case may be) to be a teacher or other employee in any school;
 - (e) there has been a failure, in relation to a child provided with accommodation by the school, to comply with the duty imposed by section 87 of the Children Act 1989 (welfare of children accommodated in independent schools).
- (2) The Secretary of State shall serve on the proprietor of the school a notice of complaint stating the grounds of complaint which apply together with full particulars of the matters complained of.
- (3) Unless any of those matters are stated in the notice to be in the opinion of the Secretary of State irremediable, the notice shall specify—
- (a) the measures necessary in the opinion of the Secretary of State to remedy those matters, and
 - (b) the time, not being less than six months after the service of the notice, within which those measures are required to be taken.
- (4) If it is alleged by the notice that a person employed as a teacher or other employee at the school is not a proper person to be a teacher or other employee in any school—
- (a) that person shall be named in the notice,
 - (b) the particulars given in the notice shall specify the grounds of the allegation, and
 - (c) a copy of the notice shall be served on him.
- (5) Any notice of complaint, or copy of a notice of complaint, served under this section shall limit the time, not being less than one month after the service of the notice or copy, within which the complaint may be referred to an Independent Schools Tribunal under section 470.
- (6) In this section and sections 470 to 473 “employee” means a person employed in work which brings him regularly into contact with persons who have not attained the age of 19.

470 Determination of complaint by an Independent Schools Tribunal

- (1) Any person on whom a notice of complaint or copy of a notice of complaint is served under section 469 may, within the time limited by the notice or copy, appeal against the notice by referring the complaint to an Independent Schools Tribunal.
- (2) On the complaint being so referred, the tribunal, after giving all parties concerned an opportunity of being heard and after considering such evidence as may be tendered by them or on their behalf, may—
- (a) order that the complaint be annulled;
 - (b) order that the school to which the complaint relates be struck off the register;
 - (c) order that the school be so struck off unless the requirements of the notice (subject to such modifications, if any, as may be specified in the order) are complied with to the satisfaction of the Secretary of State before the expiry of such time as may be specified in the order;
 - (d) if satisfied—
 - (i) that any premises alleged by the notice to be unsuitable for use as a school are in fact unsuitable for such use, or

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- (ii) that any part of such premises is in fact unsuitable for such use, by order disqualify the premises, or that part, from being so used;
- (e) if satisfied that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school, by order disqualify the premises from being used as a school for pupils exceeding such number or of such age or sex as may be specified in the order;
- (f) if satisfied that any person alleged by the notice of complaint to be a person who is not proper to be the proprietor of an independent school or to be a teacher or other employee in any school is in fact such a person, by order disqualify that person from being the proprietor of any independent school or (as the case may be) from being a teacher or other employee in any school.

471 Determination of complaint by Secretary of State

(1) Where—

- (a) a notice of complaint has been served on the proprietor of a school under section 469, and
- (b) the complaint is not referred by him to an Independent Schools Tribunal under section 470 within the time limited by the notice,

the Secretary of State may (subject to subsection (2)) make any order which such a tribunal would have had power to make if the complaint had been so referred.

(2) If—

- (a) it is alleged by the notice that a person employed as a teacher or other employee at the school is not a proper person to be a teacher or other employee in any school, and
- (b) that person has, within the time limited by the copy of the notice served on him, referred the complaint to an Independent Schools Tribunal under section 470,

the Secretary of State may not make an order disqualifying him from being a teacher or other employee in any school.

472 Effect of personal disqualification

Where, by virtue of an order made—

- (a) by an Independent Schools Tribunal under section 470, or
- (b) by the Secretary of State under section 471,

a person is disqualified either from being the proprietor of an independent school or from being a teacher or other employee in any school, then (unless the order otherwise directs) he shall by virtue of the order be disqualified both from being the proprietor of an independent school and from being a teacher or other employee in any school.

473 Enforcement of disqualification

(1) A person is guilty of an offence if he uses any premises for purposes for which they are disqualified by virtue of an order made under section 470 or 471.

(2) A person is guilty of an offence if he—

- (a) acts as the proprietor of an independent school, or

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- (b) accepts or endeavours to obtain employment as a teacher or other employee in any school,

while he is disqualified from so acting or from being so employed by virtue of an order made under section 470 or 471.

474 Removal of disqualification

- (1) If on the application of any person the Secretary of State is satisfied that any disqualification imposed by an order made under section 470 or 471 is, by reason of any change of circumstances, no longer necessary, he may by order remove the disqualification.
- (2) Any person who is aggrieved by the refusal of the Secretary of State to remove any such disqualification may appeal to an Independent Schools Tribunal within such time after the refusal has been communicated to him as may be limited by rules made under section 476.

475 Duty of Registrar to comply with order for the deletion of a school from the register

Where an order directing that a school be struck off the register is made—

- (a) by the Secretary of State under section 468 or 471, or
- (b) by an Independent Schools Tribunal under section 470,

the Registrar of Independent Schools shall strike the school off the register as from the date on which the direction takes effect.

Independent Schools Tribunals

476 Constitution and proceedings of Independent Schools Tribunals

- (1) Schedule 34 has effect in relation to the constitution of Independent Schools Tribunals and the remuneration of their members.
- (2) The Lord Chancellor may, with the concurrence of the Lord President of the Council, make rules as to—
 - (a) the practice and procedure to be followed with respect to the constitution of Independent Schools Tribunals;
 - (b) the manner of making appeals to such tribunals; and
 - (c) proceedings before such tribunals and matters incidental to or consequential on such proceedings.
- (3) The rules may, in particular, make provision—
 - (a) requiring such a tribunal to sit at such places as may be directed in accordance with the rules; and
 - (b) as to appearance before such tribunals by counsel or a solicitor.
- (4) Part I of the Arbitration Act 1996 shall not apply to any proceedings before an Independent Schools Tribunal, except so far as any provisions of that Act may be applied, with or without modifications, to such proceedings by the rules.
- (5) Every order of an Independent Schools Tribunal shall be registered by the Registrar of Independent Schools and shall be open to public inspection at all reasonable times.

Supplementary

477 Disqualification in Scotland

For the purposes of this Part, except section 474, a person who is disqualified by an order made (or having effect as if made) under section 100 of the Education (Scotland) Act 1980—

- (a) from being the proprietor of an independent school within the meaning of that Act, or
- (b) from being a teacher in any school,

shall be taken to be disqualified from being the proprietor of an independent school within the meaning of this Act, or (as the case may be) from being a teacher in any school, by virtue of an order made under section 470 or 471.

478 Offences: institution of proceedings and punishment

- (1) No proceedings shall be instituted for an offence under section 466 or 473 except by or on behalf of the Secretary of State.
- (2) A person guilty of an offence under section 466 or 473 is liable on summary conviction—
 - (a) to a fine not exceeding level 4 on the standard scale, or
 - (b) to imprisonment for a term not exceeding three months, or both.

CHAPTER III

ASSISTED PLACES AT INDEPENDENT SCHOOLS

479 The assisted places scheme

- (1) For the purpose of enabling pupils who might otherwise not be able to do so to benefit from education at independent schools, the Secretary of State shall continue to operate a scheme (referred to in this Part as “the assisted places scheme”) whereby—
 - (a) participating schools remit fees that would otherwise be chargeable in respect of pupils selected for assisted places under the scheme, and
 - (b) the Secretary of State reimburses the schools for the fees that are remitted.
- (2) In this Part “participating school” means an independent school providing secondary education with which the Secretary of State makes an agreement (referred to in this Part as a “participation agreement”) for the purposes of the assisted places scheme.
- (3) The fees in relation to which the assisted places scheme has effect are—
 - (a) tuition and other fees the payment of which is a condition of attendance at a participating school but excluding boarding fees and such other fees, if any, as may be excluded by the participation agreement, and
 - (b) entrance fees for public examinations paid by a participating school in respect of candidates from the school.
- (4) In determining whether to make a participation agreement with any school, the Secretary of State shall have regard to the desirability of securing an equitable

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distribution of assisted places throughout England and Wales and between boys and girls.

- (5) A participation agreement—
- (a) shall contain provisions as to the number of assisted places to be available at the school, and
 - (b) may contain conditions to be complied with by the school in addition to those prescribed under section 480;
- and Schedule 35 has effect with respect to the termination of a participation agreement.
- (6) In this section “independent school” means a registered school that is conducted for charitable purposes only.
- (7) Except where the context otherwise requires, references in this section and sections 480 and 481 to a school include the proprietors of the school and persons acting with their authority.

480 Assisted places: further provision by regulations

- (1) Regulations shall prescribe—
- (a) the requirements as to age, residence or otherwise which are to be the conditions of eligibility for selection for an assisted place under the assisted places scheme;
 - (b) the conditions subject to which, the extent to which, and the arrangements in accordance with which, fees are to be remitted by participating schools;
 - (c) the time and manner in which participating schools are to claim and receive reimbursements from the Secretary of State;
 - (d) conditions to be complied with by participating schools with respect to the selection of pupils for assisted places, the admission of pupils, the fees to be charged, the keeping and auditing of accounts and the provision of information to the Secretary of State; and
 - (e) such other matters as appear to the Secretary of State to be requisite for the purposes of the scheme.
- (2) Regulations under this section may authorise the Secretary of State to make provision for any purpose specified in the regulations.
- (3) Regulations made under subsection (1)(b) shall be reviewed by the Secretary of State at intervals of not more than two years.
- (4) The Secretary of State shall—
- (a) before making regulations under this section, or
 - (b) when conducting any review under subsection (3),
- consult such bodies as appear to him to be appropriate and to be representative of participating schools.

481 Incidental expenses of pupils holding assisted places

- (1) Regulations may require or enable participating schools to make grants in respect of such incidental expenses, and to remit such incidental charges, as may be specified in the regulations.

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For this purpose expenses or charges are “incidental” if they are in respect of matters incidental to or arising out of the attendance at the schools of pupils holding assisted places under the assisted places scheme.

- (2) Any regulations made under this section shall require any amounts granted or remitted by a school in accordance with the regulations to be reimbursed to the school by the Secretary of State.
- (3) Regulations under this section may in particular prescribe—
 - (a) the conditions subject to which, the extent to which, and the arrangements in accordance with which, grants and remissions are to be made, and
 - (b) the time and manner in which schools are to claim and receive reimbursements from the Secretary of State.
- (4) Regulations under this section may authorise the Secretary of State to make provision for any purpose specified in the regulations.

CHAPTER IV

CITY COLLEGES

482 City technology colleges and city colleges for the technology of the arts

- (1) The Secretary of State may enter into an agreement with any person under which—
 - (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school with such characteristics as are specified in the agreement and in subsection (2), and
 - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
 - (a) is situated in an urban area,
 - (b) provides education for pupils of different abilities who have attained the age of 11 and who are wholly or mainly drawn from the area in which the school is situated, and
 - (c) has a broad curriculum with an emphasis either on science and technology or on technology in its application to the performing and creative arts.
- (3) A school to which an agreement under this section relates shall be known—
 - (a) as a city technology college, if the emphasis of its curriculum is on science and technology, or
 - (b) as a city college for the technology of the arts, if the emphasis of its curriculum is on technology in its application to the performing and creative arts.
- (4) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
 - (a) conditions and requirements imposed for the purpose of securing that no charge is made in respect of admission to the school or, subject to such exceptions as may be specified in the agreement, in respect of education provided at the school, and

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- (b) such other conditions and requirements in relation to the school as are specified in the agreement.
- (5) Any requirements having effect in relation to the school by virtue of section 218(2B) of the Education Reform Act 1988 (requirements as to the training and teaching experience of teachers at city colleges who seek to become qualified teachers) shall have effect for the purposes of this section and section 483 as requirements falling within subsection (4).

483 City colleges: financial provisions

- (1) Payments under an agreement under section 482 may be in respect of capital or current expenditure.
- (2) In so far as such payments relate to current expenditure, the agreement shall provide for their continuance (subject to the fulfilment of the conditions and requirements falling within section 482(4))—
 - (a) for a period of not less than seven years, or
 - (b) for an indefinite period terminable by the Secretary of State by not less than seven years' written notice.
- (3) Where such payments relate to capital expenditure, the agreement shall provide for the repayment to the Secretary of State, in the event of the school at any time discontinuing or ceasing to have the characteristics specified in the agreement and in section 482(2), of sums determined by reference to—
 - (a) the value at that time of the school premises and other assets held for the purposes of the school, and
 - (b) the extent to which expenditure incurred in providing those assets was met by payments under the agreement.
- (4) Without prejudice to subsection (1), an agreement under section 482 may provide for indemnifying a person, in the event of the agreement being terminated by the Secretary of State, for expenditure—
 - (a) incurred by that person in carrying out the undertakings mentioned in section 482(1), or
 - (b) incurred by that person (otherwise than by virtue of subsection (3)) in consequence of the termination of the agreement.