

SCHEDULES

SCHEDULE 21

Section 215(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

Local Government Act 1972 (c. 70)

- 1 In section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176 of that Act) for subsection (1A) there is substituted—
- “(1A) Subsection (1) has effect without prejudice to the operation of—
- (a) regulations made by virtue of section 94(5C) or 95(3B) of the School Standards and Framework Act 1998 (allowances for admission appeal panels);
 - (b) paragraph 3 of Schedule 4 to that Act (allowances for school organisation committees); and
 - (c) regulations made by virtue of section 52(6) of the Education Act 2002 (allowances for exclusion appeal panels).”

Local Government Act 1974 (c. 7)

- 2 In section 25(5) of the Local Government Act 1974 (certain bodies to which Part 3 of that Act applies)—
- (a) for paragraph (c) there is substituted—

“(c) an admission appeal panel constituted in accordance with regulations under section 94(5) or 95(3) of that Act,” and
 - (b) at the end of paragraph (d) there is inserted “and
 - (e) an exclusion appeal panel constituted in accordance with regulations under section 52 of the Education Act 2002.”

Sex Discrimination Act 1975 (c. 65)

- 3 In Schedule 2 to the Sex Discrimination Act 1975 (transitional exemption orders for educational admissions)—
- (a) paragraph 4 is omitted, and
 - (b) after paragraph 4 there is inserted—

“4A Where, under section 113A of the Learning and Skills Act 2000, the Learning and Skills Council for England submit proposals to the Secretary of State for an alteration in the admission arrangements of a school such as is mentioned in section 27(1) of this Act, the submission of the proposals shall be treated as an application for the making by the Secretary of

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State of a transitional exemption order, and if he thinks fit the Secretary of State may make the order accordingly.”

Public Passenger Vehicles Act
1981 (c. 14)

- 4 In section 46(3) of the Public Passenger Vehicles Act 1981 (fare-paying passengers on school buses), for the definition of “free school transport” there is substituted—
- ““free school transport” means transport provided by a local education authority free of charge—
- (a) in pursuance of arrangements under section 509(1) or (1A) or section 509AA(7)(b) or (9)(a) of the Education Act 1996, or
- (b) otherwise, in the exercise of any function of the authority,
- for the purpose of facilitating the attendance of persons receiving education or training at any premises;”.

Education (Fees and Awards) Act
1983 (c. 40)

- 5 In section 1 of the Education (Fees and Awards) Act 1983 (fees at further and higher education institutions), subsection (6) is omitted.

Building Act
1984 (c. 55)

- 6 In section 4 of the Building Act 1984 (exemption of educational buildings from building regulations), for subsection (1)(a)(ii) there is substituted—
- “(ii) particulars submitted and approved under regulations made under section 544 of the Education Act 1996.”.

Education Act
1986 (c. 40)

- 7 In section 1(1) of the Education Act 1986 (payment of grant) for “either of them” there is substituted “that body”.

Education Reform Act
1988 (c. 40)

- 8 In section 124(1)(ba) of the Education Reform Act 1988 (power of higher education corporation to provide secondary education) for “to persons who would, if they were pupils at a school, be in the fourth key stage” there is substituted “suitable to the requirements of persons who have attained the age of fourteen years”.

Children Act
1989 (c. 14)

- 9 In Schedule 9A to the Children Act 1989 (child minding and day care for young children), for paragraph 4(2)(b) there is substituted—

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“(b) he is subject to a direction under section 142 of the Education Act 2002, given on the grounds that he is unsuitable to work with children;”.

*Environmental Protection Act
1990 (c. 43)*

10 In section 98(2) of the Environmental Protection Act 1990 (definition of “educational institution”), paragraph (c)(ii) is omitted.

*Further and Higher Education Act
1992 (c. 13)*

11 In section 18(1)(aa) of the Further and Higher Education Act 1992 (power of further education corporation to provide secondary education) for “to persons who would, if they were pupils at a school, be in the fourth key stage” there is substituted “suitable to the requirements of persons who have attained the age of fourteen years”.

12 In section 21 of the Further and Higher Education Act 1992 (initial instruments and articles), in subsection (3), for “Chapter III of Part II of the School Standards and Framework Act 1998” there is substituted “section 19 of the Education Act 2002”.

13 Section 23(4)(b) of the Further and Higher Education Act 1992 (institutions maintained by LEAs: Secretary of State must approve exclusion of any property etc. from initial transfer to FE corporation) shall cease to have effect.

14 In section 26 of the Further and Higher Education Act 1992 (transfer of staff to further education corporation), subsection (9) is omitted.

15 In section 37 of the Further and Higher Education Act 1992 (net expenditure of institution about to join further education sector), the following provisions are omitted—

- (a) subsection (1)(b) and the word “or” immediately preceding it,
- (b) subsection (8)(a), and
- (c) subsection (9).

16 Sections 39 to 42 of the Further and Higher Education Act 1992 (restrictions on powers of local authorities to dispose of land etc. in period before institution becomes institution within the further education sector) shall cease to have effect.

17 In section 43 of the Further and Higher Education Act 1992 (remuneration of employees in educational institutions), for subsection (3) there is substituted—

“(3) This section does not apply to remuneration determined in accordance with an order under section 122 of the Education Act 2002 (determination of school teachers' pay and conditions).”

18 Section 48 of the Further and Higher Education Act 1992 (transfer of institution to further education sector) shall cease to have effect.

19 (1) Section 52A of the Further and Higher Education Act 1992 (duty to safeguard pupils receiving secondary education) is amended as follows.

(2) In subsection (1)—

- (a) for “persons who would, if they were pupils at a school, be in the fourth key stage” there is substituted “persons of compulsory school age”, and

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- (b) in paragraph (a), for “in pursuance of arrangements falling within section 18(1)(aa) of this Act” there is substituted “by virtue of section 18(1)(aa) or (ab) of this Act”.
- (3) In subsection (2) for “such pupils” there is substituted “persons of compulsory school age”.
- 20 In section 54(1) of the Further and Higher Education Act 1992 (duty of certain bodies to give to the Learning and Skills Council for England or National Council for Education and Training for Wales information required for the purposes of the exercise of their functions under Part 1 of that Act), for “this Part of this Act” there is substituted “any enactment”.
- 21 Section 60 of the Further and Higher Education Act 1992 (saving as to persons detained by order of a court) shall cease to have effect.

Tribunals and Inquiries Act
1992 (c. 53)

- 22 In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under general supervision of Council on Tribunals) for paragraphs (b) and (c) there is substituted—
 - “(b) exclusion appeal panels constituted in accordance with regulations under section 52 of the Education Act 2002;
 - (c) admission appeal panels constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998;”.

Education Act
1994 (c. 30)

- 23 In section 4 of the Education Act 1994 (qualifying activities and eligible institutions), subsection (4) shall cease to have effect.
- 24 In section 14 of the Education Act 1994 (qualification of teachers, &c.), subsections (1), (3) and (4) are omitted.
- 25 In section 19(1) of the Education Act 1994 (interpretation), for the definition of “governing body” there is substituted—
 - ““governing body”, in relation to an institution conducted by a company, shall be construed in accordance with any order under section 4(3);”.

Disability Discrimination Act
1995 (c. 50)

- 26 In section 28D of the Disability Discrimination Act 1995 (accessibility strategies and plans), in subsection (14) after “maintained school” there is inserted “or maintained nursery school”.
- 27 (1) Section 28L of the Disability Discrimination Act 1995 (exclusions) is amended as follows.
 - (2) In subsections (2)(a) and (5)(a) for “section 67(1) of the School Standards and Framework Act 1998” there is substituted “section 52(3)(c) of the Education Act 2002”.

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- (3) In subsection (6), for “paragraph 4 of Schedule 11 to the School Standards and Framework Act 1998” there is substituted “section 19 of the Education Act 2002”.
- 28 In section 28Q of the Disability Discrimination Act 1995 (interpretation of Chapter 1), in subsection (7)—
- (a) for “Schedule 9 to the School Standards and Framework Act 1998” there is substituted “regulations under section 19 of the Education Act 2002”, and
 - (b) for “section 36 of that Act” there is substituted “that section”.
- 29 In Schedule 4A to the Disability Discrimination Act 1995, in the Table in paragraph 1—
- (a) in paragraph 1, in the first column, after “Maintained school” there is inserted “or maintained nursery school”, and
 - (b) paragraph 3 is omitted.

*Employment Rights Act
1996 (c. 18)*

- 30 In section 134(1) of the Employment Rights Act 1996 (teachers in aided schools) for “section 55(5) of the School Standards and Framework Act 1998” there is substituted “paragraph 7 of Schedule 2 to the Education Act 2002”.
- 31 In section 139 of the Employment Rights Act 1996 (redundancy), in subsection (3), for “governors” there is substituted “governing bodies”.
- 32 In section 218 of the Employment Rights Act 1996 (change of employer), in subsection (7) for “governors” (in both places) there is substituted “governing body”.

*Education Act
1996 (c. 56)*

- 33 In section 2 of the Education Act 1996 (definition of primary, secondary and further education), in subsection (4), after “subsection (2)(b)” there is inserted “or (2A)”.
- 34 (1) Section 3 of the Education Act 1996 (definition of pupil etc) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) A person is not for the purposes of this Act to be treated as a pupil at a school merely because any education is provided for him at the school in the exercise of the powers conferred by section 27 of the Education Act 2002 (power of governing body of maintained school to provide community facilities etc).”
- (3) In subsection (3) for “Subsection (1) also applies” there is substituted “Subsections (1) and (1A) also apply”.
- 35 In section 29 of the Education Act 1996 (provision of information by local education authorities), subsection (6) is omitted.
- 36 In section 313 of the Education Act 1996 (Code of Practice), in subsection (1), after “maintained schools” there is inserted “and maintained nursery schools”.
- 37 In section 315 of the Education Act 1996 (review of arrangements), in subsection (2) after “special schools” there is inserted “and maintained nursery schools”.

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- 38 In section 316A of the Education Act 1996 (duty to educate children with special educational needs in mainstream school), in subsection (11)—
- (a) in paragraph (a), after “maintained school” there is inserted “or maintained nursery school”, and
 - (b) in paragraph (b), the words “a maintained nursery school or” are omitted.
- 39 (1) Section 317 of the Education Act 1996 (duties in relation to pupils with special educational needs) is amended as follows.
- (2) In subsection (1), for the words from the beginning to “shall” there is substituted “The governing body of a community, foundation or voluntary school or a maintained nursery school shall”.
 - (3) For subsection (2) there is substituted—
 - “(2) In subsection (1)(b) “the responsible person” means the head teacher or the appropriate governor (that is, the chairman of the governing body or, where the governing body have designated another governor for the purposes of this subsection, that other governor).”
 - (4) In subsection (3)—
 - (a) in paragraph (a), after “voluntary schools” there is inserted “and maintained nursery schools”, and
 - (b) paragraph (b) and the word “and” preceding it are omitted.
 - (5) In subsection (7) for “section 42(1) of the School Standards and Framework Act 1998” there is substituted “section 30(1) of the Education Act 2002”.
- 40 In section 317A(1) of the Education Act 1996 (duty to inform parent where special educational provision made), in paragraph (a)(i) after “school” there is inserted “or a maintained nursery school”.
- 41 (1) Section 318 of the Education Act 1996 (provision of goods and services in connection with special educational needs) is amended as follows.
- (2) In subsection (1), after “voluntary schools” there is inserted “or maintained nursery schools”.
 - (3) In subsection (2), after “voluntary schools” there is inserted “, maintained nursery schools”.
- 42 In section 321 of the Education Act 1996 (general duty of local education authority towards children for whom they are responsible), in subsection (3), in paragraphs (a) and (b), after “maintained school” there is inserted “or maintained nursery school”.
- 43 In section 324 of the Education Act 1996 (statement of special educational needs), in subsection (5)(b) after “maintained school” there is inserted “or maintained nursery school”.
- 44 In section 329A of the Education Act 1996 (review or assessment of educational needs at request of responsible body), in subsection (13)(a), the words “a maintained nursery school or” are omitted.
- 45 In section 402 of the Education Act 1996 (obligation to enter pupils for public examinations) in subsection (6), for “and” at the end of paragraph (a) there is substituted—
- “(aa) “assessment arrangements” and “fourth key stage”—

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- (i) in relation to a school maintained by a local education authority in England, have the same meaning as in Part 6 of the Education Act 2002 (the curriculum in England), and
 - (ii) in relation to a school maintained by a local education authority in Wales, have the same meaning as in Part 7 of that Act (the curriculum in Wales); and”.
- 46 (1) Section 408 of the Education Act 1996 (provision of information) is amended as follows.
 - (2) In subsection (1)(a) after “the Learning and Skills Act 2000” there is inserted “or the relevant provisions of the Education Act 2002”.
 - (3) Subsection (4)(a) is omitted.
 - (4) After subsection (4) there is inserted—
 - “(4A) For the purposes of subsection (1) the relevant provisions of the Education Act 2002 are—
 - (a) Part 6 (the curriculum in England), and
 - (b) sections 97 to 117 (the curriculum in Wales).”
 - (5) In subsection (6) for “this Part” there is substituted “Part 6 or 7 of the Education Act 2002”.
 - (6) After subsection (8) there is inserted—
 - “(9) In this section “maintained school” includes a maintained nursery school.”
- 47 (1) Section 409 of the Education Act 1996 (complaints and enforcement: maintained schools) is amended as follows.
 - (2) In subsection (1), the words “with the approval of the Secretary of State and” are omitted.
 - (3) In subsection (2), after “by the authority” there is inserted “, any maintained nursery school so maintained”.
 - (4) In subsection (3), before the “and” at the end of paragraph (a) there is inserted—
 - “(aa) any provision which by virtue of section 408(4A) is a relevant provision of the Education Act 2002 for the purposes of section 408(1),”.
- 48 (1) Section 451 of the Education Act 1996 (prohibition of charges for provision of education) is amended as follows.
 - (2) In subsection (3)(b) for “section 357(1) (implementation of National Curriculum)” there is substituted “section 88 or 109 of the Education Act 2002 (implementation of National Curriculum for England or National Curriculum for Wales)”.
 - (3) In subsection (4)(b) for “section 357(1)” there is substituted “section 88 or 109 of the Education Act 2002”.
- 49 (1) Section 484 of the Education Act 1996 (education standards grants) is amended as follows.
 - (2) For any reference to the Secretary of State there is substituted a reference to the National Assembly for Wales.

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- (3) In subsection (1), after “local education authorities” there is inserted “in Wales”.
- (4) In subsection (2) the words “England and” are omitted.
- (5) Subsection (6) is omitted.
- 50 In section 499 of the Education Act 1996 (power to direct appointment of members of education committees) for subsection (9) there is substituted—
- “(9) In subsections (6) and (8)—
- (a) “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, and
- (b) “parent governor” means a governor elected or appointed as a parent governor under regulations made under section 19 of the Education Act 2002 (governing bodies).”
- 51 In section 509 of the Education Act 1996 (provision of transport etc), in subsection (4)(b), for the words from “with” to “provided” there is substituted “with education or training at a school or institution in which the religious education provided”.
- 52 In section 512A of the Education Act 1996 (transfer of functions under section 512 to governing bodies) in subsection (7) for the definitions of “delegated budget” and “maintained school” there is substituted—
- ““delegated budget” has the same meaning as in the School Standards and Framework Act 1998;
- “maintained school” means a maintained school as defined by section 20(7) of the School Standards and Framework Act 1998 or a maintained nursery school;”.
- 53 In section 530 of the Education Act 1996 (compulsory purchase of land), in subsection (3), at the end there is inserted “(including that provision as applied by any enactment)”.
- 54 In section 533 of the Education Act [1996 \(c. 56\)](#) (duties of governing bodies with respect to provision of school meals etc), for subsection (3)(b) and (c) there is substituted “and
- (b) charge every person the same price for the same quantity of the same item.”
- 55 In section 545 of the Education Act 1996 (exemption of educational buildings from building byelaws), in subsection (2)(a) the words “or section 218(7) of the Education Reform Act 1988” are omitted.
- 56 In section 578 of the Education Act 1996 (meaning of “the Education Acts”), the reference to the School Teachers' Pay and Conditions Act 1991 is omitted.
- 57 In section 579(1) of the Education Act 1996 (general interpretation)—
- (a) after the definition of “local government elector” there is inserted—
- ““maintained nursery school” has the meaning given by section 22(9) of the School Standards and Framework Act 1998;”,
- (b) after the definition of “modifications” there is inserted—

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- “the National Curriculum” (without more) means—
 - (a) in relation to England, the National Curriculum for England, and
 - (b) in relation to Wales, the National Curriculum for Wales;”, and
 - (c) after the definition of “regulations” there is inserted—
 - “sex education” includes education about—
 - (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
 - (b) any other sexually transmitted disease;”.
- 58 In Schedule 27 to the Education Act 1996—
 - (a) in paragraph 3A(1), after the words “maintained school”, in each place where they occur, there is inserted “or maintained nursery school”, and
 - (b) in paragraph 8(1)(a), after “maintained school” there is inserted “or maintained nursery school”.

School Inspections Act
1996 (c. 57)

- 59 In section 10 of the School Inspections Act 1996 (inspection of certain schools), in subsection (4B)(a)—
 - (a) after “foundation special school” there is inserted “or maintained nursery school”, and
 - (b) for the words from “Schedule 6” to the end there is substituted “any enactment”.
- 60 (1) Section 11 of the School Inspections Act 1996 (application of provisions of Chapter 2 of Part 1 of that Act) is amended as follows.
- (2) In subsection (2), after “foundation special schools” there is inserted “or maintained nursery schools”.
- (3) In subsection (4), in the definition of “appropriate authority”, after “foundation special school” there is inserted “or a maintained nursery school”.
- (4) In subsection (5)—
 - (a) at the end of paragraph (a), there is inserted “and”, and
 - (b) paragraph (b) is omitted.
- 61 In section 15 of the School Inspections Act 1996 (timing of section 10 inspections by registered inspectors)—
 - (a) in subsection (3)(b), after “foundation special school” there is inserted “or maintained nursery school”, and
 - (b) in subsection (4)(c), the words “except where the school is a maintained nursery school” are omitted.
- 62 In section 16 of the School Inspections Act 1996 (destination of reports), in subsections (1)(b) and (3)(c), after “foundation special school” there is inserted “or maintained nursery school”.
- 63 In section 17 of the School Inspections Act 1996 (special measures by appropriate authority)—

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- (a) in subsections (3)(b) and (4), after “foundation special school” there is inserted “or maintained nursery school”,
 - (b) in subsection (7), for “under section 42 of the School Standards and Framework Act 1998 (governors' reports)” there is substituted “under section 30 of the Education Act 2002 (governors' reports)”.
- 64 In section 18(1)(a) of the School Inspections Act 1996 (additional special measures by local education authority), after “community or foundation special school” there is inserted “or maintained nursery school”.
- 65 In section 21(3)(b) of the School Inspections Act 1996 (duty to send Secretary of State copies of statement prepared under section 21(1) of that Act), the words “except in the case of a maintained nursery school” are omitted.
- 66 In section 23 of the School Inspections Act 1996 (inspection of religious education) in subsection (4)(a) for “section 352(1)(a) of the Education Act 1996” there is substituted “section 80(1)(a) or 101(1)(a) of the Education Act 2002”.
- 67 In Schedule 3 to the School Inspections Act 1996 (inspections under section 10), in the definition of “appropriate authority” in paragraph 1—
- (a) in paragraph (a), after “foundation special school” there is inserted “or a maintained nursery school”, and
 - (b) paragraph (b) is omitted.
- 68 In Schedule 4 to the School Inspections Act 1996 (inspections of denominational education), in paragraph 3(5), for “means the governors' report under section 42 of the School Standards and Framework Act 1998” there is substituted “means the governors' report under section 30 of the Education Act 2002”.

Education Act
1997 (c. 44)

- 69 In section 26 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications and Curriculum Authority of their functions), in subsection (1)(c)(i) for “section 351 of the Education Act 1996” there is substituted “section 78 of the Education Act 2002”.
- 70 In section 32 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications, Curriculum and Assessment Authority for Wales of their functions) in subsection (1)(c)(i) for “section 351 of the Education Act 1996” there is substituted “section 99 of the Education Act 2002”.
- 71 Section 49 of the Education Act 1997 (regulations about access to children) shall cease to have effect.

Police Act
1997 (c. 50)

- 72 (1) Section 113 of the Police Act 1997 (criminal record certificates) is amended as follows.
- (2) In subsection (3A)—
- (a) in paragraph (a), sub-paragraphs (ii) and (iii) are omitted,
 - (b) for paragraph (b) there is substituted—

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- 77 In section 4 of the Teaching and Higher Education Act 1998 (regulations relating to registration with General Teaching Council), for subsection (3)(a) there is substituted—
- “(a) a direction given under section 142 of the Education Act 2002 (prohibition from teaching, &c.),”.
- 78 In section 7 of the Teaching and Higher Education Act 1998 (additional functions of General Teaching Council), in subsection (3), for the words from “the exercise” to the end there is substituted “the specification of requirements of regulations under section 132 of the Education Act 2002 (qualified teacher status)”.
- 79 Section 10 of the Teaching and Higher Education Act 1998 (further functions of General Teaching Council for Wales in relation to teachers) shall cease to have effect.
- 80 Section 11 of the Teaching and Higher Education Act 1998 (registration requirement for school teachers) shall cease to have effect.
- 81 In section 12 of the Teaching and Higher Education Act 1998 (deduction from teachers' salaries of fees for registration with General Teaching Council)—
- (a) for subsection (2)(b) there is substituted—
- “(b) required to be registered in the register by virtue of section 134 of the Education Act 2002”, and
- (b) in subsection (4), for the definition of “schools” there is substituted—
- ““school” means a school maintained by a local education authority or a special school not so maintained”.
- 82 Section 13 of the Teaching and Higher Education Act 1998 (consultation about qualified teacher status) shall cease to have effect.
- 83 For section 15 of the Teaching and Higher Education Act 1998 (supply of information relating to dismissal or resignation of teachers, &c.) there is substituted—

“15 Supply of information following dismissal, resignation, &c.

- (1) This section applies where a relevant employer—
- (a) has ceased to use a person's services on a ground mentioned in section 142 of the Education Act 2002, or
- (b) might have ceased to use a person's services on a ground mentioned in that section had the person not ceased to provide those services.
- (2) In the case of a person who was providing services to a relevant employer in England, the employer shall provide prescribed information to such of the following as may be prescribed—
- (a) the Secretary of State, and
- (b) where the person is a registered teacher, the Council.
- (3) In the case of a person who was providing services to a relevant employer in Wales, the employer shall provide prescribed information to such of the following as may be prescribed—
- (a) the National Assembly for Wales, and
- (b) where the person is a registered teacher, the General Teaching Council for Wales.

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- (4) For the purposes of this section, a reference to a ground mentioned in section 142 of the Education Act 2002 shall be read as if subsection (4)(e) was not limited to the case of a direction given by virtue of subsection (2)(d).
- (5) In this section—
“relevant employer” has the meaning given by section 142 of the Education Act 2002, and
“services” includes professional and voluntary services.

15A Supply of information by contractor, agency, &c.

- (1) This section applies to arrangements made by one person (the “agent”) for another person (the “worker”) to carry out work at the request of or with the consent of a relevant employer (whether or not under a contract).
- (2) Subsections (3) and (4) apply where an agent—
(a) has terminated the arrangements on a ground mentioned in section 142 of the Education Act 2002,
(b) might have terminated the arrangements on a ground mentioned in that section if the worker had not terminated them, or
(c) might have refrained from making new arrangements for a worker on a ground mentioned in that section if he had not ceased to make himself available for work.
- (3) In the case of arrangements for a worker to carry out work in England, the agent shall provide prescribed information to such of the following as may be prescribed—
(a) the Secretary of State, and
(b) where the person is a registered teacher, the Council.
- (4) In the case of arrangements for a worker to carry out work in Wales, the agent shall provide prescribed information to such of the following as may be prescribed—
(a) the National Assembly for Wales, and
(b) where the person is a registered teacher, the General Teaching Council for Wales.
- (5) If the Secretary of State thinks that an agent has failed or is likely to fail to comply with a duty arising under subsection (3), the Secretary of State may direct the person to comply with the duty.
- (6) If the National Assembly thinks that an agent has failed or is likely to fail to comply with a duty arising under subsection (4), the National Assembly may direct the person to comply with the duty.
- (7) A direction under subsection (5) shall be enforceable, on the application of the Secretary of State, by mandatory order.
- (8) A direction under subsection (6) shall be enforceable, on the application of the National Assembly, by a mandatory order.
- (9) Subsections (4) and (5) of section 15 shall apply for the purposes of this section as they apply for the purposes of that section.”

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

- 84 Section 18 of the Teaching and Higher Education Act 1998 (qualifications of head teachers) shall cease to have effect.
- 85 In section 19 of the Teaching and Higher Education Act 1998 (requirement for school teacher to serve induction period)—
- (a) in subsection (7), for “section 49 of the Education (No. 2) Act 1986” there is substituted “section 131 of the Education Act 2002”,
 - (b) in subsection (8), after “local education authorities” there is inserted “in Wales”, and
 - (c) for subsection (10)(b) there is substituted—
 - “(b) “relevant school” means a school maintained by a local education authority or a special school not so maintained.”.
- 86 (1) Schedule 2 to the Teaching and Higher Education Act 1998 (disciplinary powers of the General Teaching Council) is amended as follows.
- (2) In paragraph 1(4) for the words from “of any powers” to the end there is substituted “of the powers exercisable by him, in cases which he considers concern the safety and welfare of persons aged under 18, under section 142 of the Education Act 2002 —
- (a) on the grounds that a person is unsuitable to work with children, or
 - (b) on grounds relating to a person’s misconduct or health.”
- (3) Paragraph 1(5) is omitted.

School Standards and Framework Act
1998 (c. 31)

- 87 In section 1 of the School Standards and Framework Act 1998 (duty to set limit on infant class sizes), for “qualified teacher” there is substituted “school teacher”.
- 88 In section 4 of the School Standards and Framework Act 1998 (interpretation) for the definition of “qualified teacher” there is substituted—
- ““school teacher” means a person who is a school teacher for the purposes of section 122 of the Education Act 2002 (determination of school teachers’ pay and conditions)”.
- 89 In section 7 of the School Standards and Framework Act 1998 (approval, modification and review of statement of proposals) subsection (10) is omitted.
- 90 In section 12 of the School Standards and Framework Act 1998 (functions of Education Action Forum), in subsection (4) for the words from “under sections” to “Schedule 17,” there is substituted “under sections 35 to 37 of, or Schedule 2 to, the Education Act 2002 or under regulations made under those sections,”.
- 91 Section 13 of the School Standards and Framework Act 1998 (disapplication of school teachers’ pay and conditions order) shall cease to have effect.
- 92 In section 14 of the School Standards and Framework Act 1998 (powers of intervention exercisable by LEAs), after subsection (1) there is inserted—
- “(1A) In this Chapter “maintained school” includes a maintained nursery school.”
- 93 (1) Section 16 of the School Standards and Framework Act 1998 (power of local education authority to appoint additional governors) is amended as follows.

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

- (2) In subsection (5) for “(despite anything in Part II of Schedule 9)” there is substituted “(despite anything in regulations under section 19 of the Education Act 2002)”.
- (3) In subsection (10) for “(despite paragraph 14 of Schedule 9)” there is substituted “(despite anything in regulations under section 19 of the Education Act 2002)”.
- 94 (1) Section 18 of the School Standards and Framework Act 1998 (power of Secretary of State to appoint additional governors) is amended as follows.
- (2) In subsection (5) for “(despite anything in Part II of Schedule 9)” there is substituted “(despite anything in regulations under section 19 of the Education Act 2002).”
- (3) In subsection (6)(b) for “paragraph 14 of Schedule 9” there is substituted “regulations under section 19 of the Education Act 2002.”
- 95 In section 20 of the School Standards and Framework Act 1998 (new categories of maintained schools), in subsection (2)(b), for “section 28 or 31” there is substituted “any enactment”.
- 96 (1) Section 22 of the School Standards and Framework Act 1998 (maintenance of schools) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), the words “under section 28 or 31” are omitted, and
- (b) in paragraph (c), the words “under section 28” are omitted.
- (3) In subsection (4)(b), for the words from “under paragraph 2” to the end there is substituted “under any enactment of providing new premises for the school”.
- (4) In subsection (5)(b), for the words from “under paragraph 4” to the end there is substituted “under any enactment of providing new premises for the school”.
- 97 (1) Section 28 of the School Standards and Framework Act 1998 (proposals for establishment or alteration of community, foundation or voluntary school) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) Subsection (1)(a) does not apply to any proposal of a local education authority in England to establish a community or foundation school which is an additional secondary school within the meaning of section 70 of the Education Act 2002.”
- (3) In subsection (2)(a) (promoters to publish proposals to establish new foundation or voluntary school), after “voluntary school” there is inserted “(otherwise than pursuant to a notice under section 70 of the Education Act 2002)”.
- 98 (1) Section 33 of the School Standards and Framework Act 1998 (provisions relating to establishment etc of schools) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “paragraph 5” to “2000” there is substituted “any enactment”,
- (b) in paragraph (c), after “shall be” there is inserted “established or”, and
- (c) after that paragraph there is inserted “; and

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- (d) no prescribed alteration shall be made to any maintained nursery school which is maintained by a local education authority in Wales.”
- (3) After subsection (4) there is inserted—
- “(5) For the purposes of this Part proposals for the establishment of a maintained school shall be taken to be implemented on the school opening date.
- (6) In this Part “school opening date”, in relation to a new maintained school, means the date when the school first admits pupils.”
- 99 (1) Section 45 of the School Standards and Framework Act 1998 (budget shares of maintained schools) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) In this Chapter “maintained school” means—
- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.”
- (3) In subsection (3)—
- (a) in paragraph (a), for the words from “schools which” to “section 20(7)” there is substituted “pupil referral units”, and
- (b) in paragraph (b)(i), for the words “section 28 or 31 or paragraph 5 of Schedule 7” there is substituted “any enactment”.
- 100 (1) Section 49 of the School Standards and Framework Act 1998 (maintained schools to have delegated budgets) is amended as follows.
- (2) In subsection (4) for “local schools budget” there is substituted “LEA budget or schools budget”.
- (3) In subsection (6)(b), for “or paragraph 14(2) of Schedule 6” there is substituted “, paragraph 14(2) of Schedule 6, paragraph 3(3) of Schedule 7A to the Learning and Skills Act 2000 or paragraph 8 of Schedule 8 to the Education Act 2002”.
- 101 In section 50 of the School Standards and Framework Act 1998 (effect of financial delegation), in subsection (5) for the words from “under paragraph 6” onwards there is substituted “under section 19 of the Education Act 2002 (or, in the case of temporary governors of a new school, regulations under section 34(5) of that Act).”
- 102 In section 61 of the School Standards and Framework Act 1998 (responsibility of governing body and head teacher for discipline) after subsection (7) there is inserted—
- “(8) In this section “maintained school” includes a maintained nursery school.”
- 103 In section 62 of the School Standards and Framework Act 1998 (reserve power of local education authority to prevent a breakdown of discipline) after subsection (4) there is inserted—
- “(5) In this section “maintained school” includes a maintained nursery school.”
- 104 (1) Section 69 of the School Standards and Framework Act 1998 (duty to secure provision of religious education) is amended as follows.

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- (2) In subsection (1), for “section 352(1)(a) of the Education Act 1996” there is substituted “section 80(1)(a) or 101(1)(a) of the Education Act 2002”.
- (3) In subsection (2), for “section 352(1)(a)” there is substituted “section 80(1)(a) or 101(1)(a)”.
- 105 In section 71 of the School Standards and Framework Act 1998 (exceptions and special arrangements etc.) in subsection (2)(a) for “section 352(1)(a) of the Education Act 1996” there is substituted “section 80(1)(a) or 101(1)(a) of the Education Act 2002”.
- 106 In section 72 of the School Standards and Framework Act 1998 (further provisions relating to new schools), in subsection (3)(a) for “section 44” there is substituted “section 34 of the Education Act 2002”.
- 107 In section 81 of the School Standards and Framework Act 1998 (application of employment law during financial delegation), in subsection (1) for the words from “sections” to the end there is substituted “sections 35 to 37 of the Education Act 2002 or of regulations under those sections”.
- 108 In section 82 of the School Standards and Framework Act 1998 (modification of trust deeds), in subsection (1), after “provision of this Act” there is inserted “, the Learning and Skills Act 2000 or the Education Act 2002”.
- 109 In section 101 of the School Standards and Framework Act 1998 (permitted selection), in subsection (4), for the words from “under” to the end there is substituted “, and fallen to be implemented, under any enactment”.
- 110 (1) Section 127 of the School Standards and Framework Act 1998 (code of practice for securing effective relationships between local education authorities and maintained schools) is amended as follows.
- (2) In subsection (2), after “maintained school” there is inserted “or maintained nursery school”.
- (3) In subsection (6)—
- (a) after paragraph (c) there is inserted—
- “*(cc)* section 16A(1),”
- (b) paragraphs (e), (f), (h), (i) and (k) are omitted, and
- (c) after paragraph (l) there is inserted—
- “*(m)* regulations under section 19 of the Education Act 2002, so far as relating to the appointment of persons as local education authority governors,
- (n) regulations under section 30(3) of that Act (governors' reports),
- (o) regulations under section 31 of that Act (control of school premises),
- (p) sections 35 and 36 of that Act (staffing) and regulations under those sections, and
- (q) Schedule 2 to that Act (effect on staffing of suspension of delegated budget),”.
- 111 In section 138 of the School Standards and Framework Act 1998 (orders and regulations) in subsection (4)(a), after “20(7)” there is inserted “45C(2),”.

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- 112 In section 142 of the School Standards and Framework Act 1998 (general interpretation) in subsection (1) after the definition of “employment” there is inserted

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““exclude”, in relation to the exclusion of a child from a school, means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly);

“foundation governor”, in relation to a foundation school, a foundation special school or a voluntary school, means a person appointed as a foundation governor in accordance with regulations under section 19 of the Education Act 2002;”.

- 113 In section 143 of the School Standards and Framework Act 1998 (index)—

- (a) in the entry beginning “exclude, exclusion (in relation to the exclusion of a child from a school)” for “section 64(4)” there is substituted “section 142(1)”,
- (b) in the entry beginning “foundation governor”, for “paragraph 2 of Schedule 9” there is substituted “section 142(1)”,
- (c) in the entry beginning “individual schools budget”, for “section 46(2)” there is substituted “section 45A(3)”,
- (d) after the entry beginning “land” there is inserted—

“LEA budget (in Part 2) section 45A(1)”,

- (e) in the entry beginning “qualified teacher” for “qualified teacher” there is substituted “school teacher”,
- (f) in the entry beginning “school opening date” for “section 44(9)” there is substituted “section 33(6)”, and
- (g) after the entry beginning “school which has selective admission arrangements” there is inserted—

“schools budget (in Part 2) section 45A(2)”.

- 114 In Schedule 3 to the School Standards and Framework Act 1998 (funding of foundation, voluntary and foundation special schools), in paragraph 4(2)(a), for the words from “Part III” to “proposals)” there is substituted “any enactment”.

- 115 (1) Schedule 6 to the School Standards and Framework Act 1998 (establishment etc of schools) is amended as follows.

- (2) In paragraph 3, after sub-paragraph (2) there is inserted—

“(2A) The requirement to make a decision under sub-paragraph (2) in the case of proposals of a prescribed description only applies if, at the time when the decision falls to be made under that sub-paragraph, the committee are satisfied that the proposals do not relate to any relevant proposals.

(2B) In sub-paragraph (2A), “relevant proposals” means proposals of a description prescribed for the purposes of this sub-paragraph.

(2C) In deciding for the purposes of sub-paragraph (2A) whether any proposals are related the relevant committee shall have regard to any guidance given from time to time by the Secretary of State.”

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- (3) In paragraph 4(3)—
- (a) in paragraph (b), after “body of a” there is inserted “community”, and
 - (b) after paragraph (e) there is inserted—
 - “(f) any undetermined proposals published under section 113A of the Learning and Skills Act 2000, if those proposals are relevant proposals for the purposes of paragraph 3(2A);
 - (g) any undetermined proposals made under section 51 of the Further and Higher Education Act 1992, if those proposals are relevant proposals for those purposes; or
 - (h) any direction under section 71 of the Education Act 2002”.
- (4) In paragraph 4(4)—
- (a) in paragraph (a), after “or under Schedule 7” there is inserted “or 7A”, and
 - (b) after paragraph (b) there is inserted “or
 - (c) the Secretary of State has not made a decision as to whether or not to make an order under section 16 or 27 of the Further and Higher Education Act 1992.”.
- (5) In paragraph 12 (implementation of proposals relating to community or maintained nursery schools)—
- (a) in sub-paragraph (1), for the words from “proposed” to the end there is substituted “maintained nursery school or a proposed such school”, and
 - (b) in sub-paragraph (2) there is inserted at the end “or, in the case of proposals published by the governing body of a community school under section 28(2) (b), by the local education authority who maintain the school”.
- 116 In Schedule 7 to the School Standards and Framework Act 1998 (rationalisation of school places), in paragraph 8(7)(c) (approval of proposals), after “body of any” there is inserted “community”.
- 117 (1) Schedule 19 to the School Standards and Framework Act 1998 (required provision for religious education) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1), for “section 352(1)(a) of the Education Act 1996” there is substituted “section 80(1)(a) or 101(1)(a) of the Education Act 2002”, and
 - (b) in sub-paragraph (2), for “that Act” there is substituted “the Education Act 1996”.
- (3) In sub-paragraph 4(4), for “section 352(1)(a) of the Education Act 1996” there is substituted “section 80(1)(a) or 101(1)(a) of the Education Act 2002”.
- 118 (1) Schedule 22 to the School Standards and Framework Act 1998 (disposal of land) is amended as follows.
- (2) In paragraph 1(1)(a) (disposals of land by governing body of foundation, voluntary or foundation special school), after “Schedule 6” there is inserted “(including that provision as applied by any enactment)”.
- (3) In paragraph 2(1)(a) (disposals of land by foundation body)—
- (a) after “Schedule 6” there is inserted “(including that provision as applied by any enactment)”, and

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- (b) after “Schedule 8” there is inserted “or acquired under paragraph 8(5) of Schedule 8 to the Education Act 2002”.
- (4) In paragraph 3 (disposal of land by trustees)—
 - (a) in sub-paragraph (1)(a)—
 - (i) after “Schedule 6” there is inserted “(including that provision as applied by any enactment)”, and
 - (ii) after “Schedule 8” there is inserted “or acquired under paragraph 8(5) of Schedule 8 to the Education Act 2002”, and
 - (b) in sub-paragraph (8)(b)(ii), for “section 28 or 31” there is substituted “any enactment”.
- (5) In paragraph 5 (discontinuance of schools)—
 - (a) for sub-paragraph (1)(a) there is substituted—
 - “(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted or determined to be implemented under any enactment, or”, and
 - (b) in sub-paragraph (4)(c) for “section 28 or 31 or paragraph 5 of Schedule 7” there is substituted “any enactment”.
- (6) In paragraph 7 (disposal of property held by governing body of maintained school on their dissolution), in sub-paragraph (1) for “paragraph 4 of Schedule 10” there is substituted “paragraph 5 of Schedule 1 to the Education Act 2002”.
- 119 In Schedule 32 to the School Standards and Framework Act 1998 (transitional provisions), paragraph 7 is omitted.

Protection of Children Act
1999 (c. 14)

- 120 Section 5 of the Protection of Children Act 1999 (prohibiting or restricting employment of teachers, &c.) shall cease to have effect.
- 121 (1) Section 7 of the Protection of Children Act 1999 (effect of inclusion in lists of individuals unsuitable to work with children) is amended as follows.
 - (2) In subsection (1)—
 - (a) in paragraph (a), sub-paragraphs (ii) and (iii) are omitted,
 - (b) in paragraph (b), for “any of those lists” there is substituted “that list”, and
 - (c) after paragraph (b) there is inserted—
 - “(c) shall ascertain whether he is subject to a direction under section 142 of the Education Act 2002, given on the grounds that he is unsuitable to work with children; and
 - (d) if he is subject to a direction under that section given on those grounds, shall not offer him employment in a child care position”.
 - (3) In subsection (2)—
 - (a) in paragraph (a), for “any of the lists mentioned in subsection (1) above” there is substituted “the list kept under section 1 above or subject to a direction under section 142 of the Education Act 2002, given on the grounds that he is unsuitable to work with children”,

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- (b) the word “and” immediately preceding paragraph (c) is omitted,
 - (c) in paragraph (c), for “any of those lists” there is substituted “the list kept under section 1 above”, and
 - (d) after paragraph (c) there is inserted “; and
 - (d) if the individual was subject to a direction under section 142 of the Education Act 2002, given on the grounds that he is unsuitable to work with children, does not offer him employment in a child care position”.
- (4) Subsection (4) is omitted.
- 122 In section 9(2) of the Protection of Children Act 1999 (proceedings of the Tribunal)
—
- (a) for paragraph (b) there is substituted—
 - “(b) on an appeal, application for leave or review under section 144 of the Education Act 2002;”, and
 - (b) at the end there is inserted “or
 - (f) on an appeal under section 166 of the Education Act 2002;”.
- 123 (1) Section 12 of the Protection of Children Act 1999 (interpretation) is amended as follows.
- (2) In subsection (1), the definition of “the 1988 Act” is omitted.
 - (3) In subsection (3), for paragraph (a) there is substituted—
 - “(a) it involves work to which section 142 of the Education Act 2002 applies;”.

*Learning and Skills Act
2000 (c. 21)*

- 124 (1) Section 7 of the Learning and Skills Act 2000 (funding of school sixth-forms by Learning and Skills Council for England) is amended as follows.
- (2) In subsection (1)(a) for “local schools budget” there is substituted “schools budget”.
 - (3) In subsection (3) for “Local schools budget” there is substituted “Schools budget”.
- 125 (1) Section 36 of the Learning and Skills Act 2000 (funding of school sixth-forms by National Council for Education and Training for Wales) is amended as follows.
- (2) In subsection (1)(a) for “local schools budget” there is substituted “schools budget”.
 - (3) In subsection (3) for “Local schools budget” there is substituted “Schools budget”.
- 126 (1) Schedule 7 to the Learning and Skills Act 2000 (inadequate sixth forms) is amended as follows.
- (2) In each of paragraphs 17, 21, 25 and 29 (procedure on proposals for closure of sixth form), in sub-paragraph (2), for “copy and information mentioned in sub-paragraph (1)(a) and (b)” there is substituted “copy mentioned in sub-paragraph (1) (a)”.

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- (3) In paragraphs 32 and 39 (implementation of proposals relating to schools in England or Wales), in sub-paragraph (1), after “schools” there is inserted “maintained by a local education authority”.

Freedom of Information Act
2000 (c. 36)

127 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), for paragraph 52 there is substituted—

“52 The governing body of—

- (a) a maintained school, as defined by section 20(7) of the School Standards and Framework Act 1998, or
- (b) a maintained nursery school, as defined by section 22(9) of that Act.”

Criminal Justice and Court Services Act
2000 (c. 43)

128 (1) Section 35 of the Criminal Justice and Court Services Act 2000 (persons disqualified from working with children: offences) is amended as follows.

(2) For subsection (4)(b) there is substituted—

“(b) he is subject to a direction under section 142 of the Education Act 2002 (prohibition from teaching, &c.), given on the grounds that he is unsuitable to work with children.”

(3) Subsection (5) is omitted.