



# Education Act 2005

## 2005 CHAPTER 18

An Act to make provision about the inspection of schools, child minding, day care, nursery education and careers services; to make other provision about school education; to make provision about the training of persons who work in schools and other persons who teach, about the supply of personal information for purposes related to education and about the attendance of children at educational provision outside schools; and for connected purposes. [7th April 2005]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act applied (1.4.2005) by [The Central Sussex College \(Government\) Regulations 2005 \(S.I. 2005/397\)](#), reg 2, [Sch. 2 para. 2](#)
- C2 Act modified (temp.) (1.4.2007.) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 70, 188, [Sch. 6 para. 3\(3\)](#); [S.I. 2007/935](#), [art. 5\(j\)\(bb\)](#)

## PART 1

### SCHOOL INSPECTIONS AND OTHER INSPECTIONS BY SCHOOL INSPECTORS

### Modifications etc. (not altering text)

- C3 Pt. 1 applied in part (with modifications) (E.) (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), reg. 3, [Sch. 1 para. 21](#)
- C4 Pt. 1 applied (with modifications) (W.) (23.4.2007) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(Wales\) Regulations 2007 \(S.I. 2007/1069\)](#), reg. 3, {Sch. 1 para. 11}

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**C5** Pt. 1 applied (with modifications) (E.) (1.9.2005) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2005 \(S.I. 2005/2039\)](#), reg. 3, [Sch. 1 para. 11](#)

## CHAPTER 1

### SCHOOL INSPECTORS AND SCHOOL INSPECTIONS: ENGLAND

#### *Her Majesty's Inspectorate for England*

### 1 Her Majesty's Inspectorate of Schools in England

- (1) Her Majesty may by Order in Council appoint a person to the office of Her Majesty's Chief Inspector of Schools in England (“the Chief Inspector”).
- (2) Her Majesty may by Order in Council appoint persons as Her Majesty's Inspectors of Schools in England.
- (3) Any person appointed as one of Her Majesty's Inspectors of Schools in England is to serve, in accordance with the terms and conditions on which he is appointed, as a member of the staff of the Chief Inspector.
- (4) The Chief Inspector holds and vacates office in accordance with the terms of his appointment, but—
  - (a) must not be appointed for a term of more than five years,
  - (b) may at any time resign by giving written notice to the Secretary of State, and
  - (c) may be removed from office by Her Majesty on the ground of incapacity or misconduct.
- (5) The previous appointment of a person as Chief Inspector does not affect his eligibility for appointment.
- (6) Schedule 1 makes further provision about the Chief Inspector and his staff.

### 2 Functions of Her Majesty's Chief Inspector of Schools in England

- (1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—
  - (a) the quality of the education provided by schools in England,
  - (b) how far that education meets the needs of the range of pupils at those schools,
  - (c) the educational standards achieved in those schools,
  - (d) the quality of the leadership in and management of those schools, including whether the financial resources made available to those schools are managed efficiently,
  - (e) the spiritual, moral, social and cultural development of pupils at those schools,
  - (f) the contribution made by those schools to the well-being of those pupils,
  - (g) the extent to which those schools are developing rigorous internal procedures of self-evaluation, and
  - (h) the behaviour and attendance of pupils at those schools.
- (2) When asked to do so by the Secretary of State, the Chief Inspector must—

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- (a) give advice to the Secretary of State on such matters as may be specified in the Secretary of State's request, and
  - (b) inspect and report on such school, or class of school, in England as may be so specified.
- (3) In addition, the Chief Inspector must keep under review the extent to which any requirement imposed by or under this Part, or any other enactment, on any local education authority, proprietor of a school or governing body in relation to inspections of schools in England is complied with.
- (4) The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with schools, or a particular school, in England.
- (5) The Chief Inspector is to have such other functions in connection with schools in England, including functions with respect to the training of teachers for such schools, as may be assigned to him by the Secretary of State.
- (6) In exercising his functions, the Chief Inspector must have regard to such aspects of government policy as the Secretary of State may direct.

### **3 Annual and other reports to Secretary of State**

The Chief Inspector—

- (a) must make an annual report to the Secretary of State, who must lay a copy of it before each House of Parliament,
- (b) may make such other reports to the Secretary of State, with respect to matters which fall within the scope of his functions, as he considers appropriate, and
- (c) may arrange for any report made by him under this section to be published in such manner as he considers appropriate.

### **4 Powers of entry etc. for purposes of section 2**

- (1) For the purposes of the exercise of any function conferred by or under section 2, the Chief Inspector has at all reasonable times, in relation to any school in England—
- (a) a right of entry to the premises of the school, and
  - (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for those purposes.
- (2) For the purposes of the exercise of any function conferred by or under section 2, the Chief Inspector has at all reasonable times—
- (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by a school in England, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,are provided with part of their education by any person (“the provider”),
  - (b) a right of entry to any premises of the provider used in connection with the provision by him of that education, and
  - (c) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of that education, and

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- (ii) any other documents containing information so relating,  
which the Chief Inspector requires for those purposes.
- (3) It is an offence intentionally to obstruct the Chief Inspector—
  - (a) in the exercise of his functions in relation to the inspection of a school for the purposes of section 2(2)(b), or
  - (b) in the exercise of any right under subsection (1) or (2) for the purposes of the exercise of any other function.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### *Inspections*

## **5 Duty to inspect certain schools at prescribed intervals**

- (1) It is the duty of the Chief Inspector—
  - (a) to inspect under this section every school in England to which this section applies, at such intervals as may be prescribed, and
  - (b) when the inspection has been completed, to make a report of the inspection in writing.
- (2) Subject to subsection (3), the schools to which this section applies are—
  - (a) community, foundation and voluntary schools,
  - (b) community and foundation special schools,
  - (c) maintained nursery schools,
  - (d) Academies,
  - (e) city technology colleges,
  - (f) city colleges for the technology of the arts, and
  - (g) special schools which are not community or foundation special schools but are for the time being approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of special schools).
- (3) This section does not apply to any school—
  - (a) which is a closing school (as defined by subsection (4)), and
  - (b) in respect of which the Chief Inspector has decided, having regard to the date on which the closure is to take effect, that no useful purpose would be served by the school being inspected under this section.
- (4) In subsection (3)(a) a “closing school” means—
  - (a) any community, foundation or voluntary school, community or foundation special school or maintained nursery school in respect of which proposals to discontinue the school have been approved, adopted or determined under any enactment,
  - (b) a foundation or voluntary school in respect of which the governing body have given notice of discontinuance under section 30 of the School Standards and Framework Act 1998 (c. 31),
  - (c) a community, foundation or voluntary or community or foundation special school in respect of which the Secretary of State has given a direction to discontinue the school under section 19 or 32 of that Act,

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- (d) a city technology college, city college for the technology of the arts or Academy in respect of which notice of termination of an agreement made under section 482 of the Education Act 1996 has been given, or
  - (e) a special school which is not a community or foundation special school but is for the time being approved by the Secretary of State under section 342 of the Education Act 1996 and which the proprietor has decided to close.
- (5) It is the general duty of the Chief Inspector, when conducting an inspection under this section, to report on—
- (a) the quality of the education provided in the school,
  - (b) how far the education provided in the school meets the needs of the range of pupils at the school,
  - (c) the educational standards achieved in the school,
  - (d) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed effectively,
  - (e) the spiritual, moral, social and cultural development of the pupils at the school, and
  - (f) the contribution made by the school to the well-being of those pupils.
- (6) Subsection (1) has effect subject to section 9.
- (7) An inspection which is required under this section must not extend to—
- (a) denominational education, or
  - (b) the content of collective worship which falls to be inspected under section 48.

## **6 Duty to notify parents of section 5 inspection**

- (1) If the appropriate authority for a school to which section 5 applies is notified by, or under arrangements made by, the Chief Inspector that the Chief Inspector is proposing to inspect the school under that section, the appropriate authority must take such steps as are reasonably practicable to notify—
- (a) the registered parents of registered pupils at the school, and
  - (b) such other persons as may be prescribed,
- of the time when the inspection is to take place.
- (2) Any notification given under subsection (1)(a) must include a statement, in a form approved by the Chief Inspector, inviting the registered parents of registered pupils to inform the Chief Inspector of their views on matters relating to the school.
- (3) In subsection (1) “appropriate authority” means—
- (a) in relation to a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, the school's governing body or, if the school does not have a delegated budget, the local education authority, and
  - (b) in relation to a school falling within any of paragraphs (d) to (g) of section 5(2), the proprietor of the school.

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## 7 Duty to have regard to views of certain persons

In conducting an inspection of a school under section 5, the matters to which the Chief Inspector must have regard include any views expressed to him by any of the following persons—

- (a) the head teacher,
- (b) in the case of a maintained school, the governing body,
- (c) in the case of any other school, the proprietor of the school,
- (d) any person prescribed for the purposes of section 6(1)(b),
- (e) members of the staff of the school,
- (f) registered pupils at the school, and
- (g) the registered parents of registered pupils.

## 8 Inspection at discretion of Chief Inspector

The Chief Inspector may inspect any school in England, in circumstances where he is not required by section 2(2)(b) or 5 to do so.

## 9 Power of Chief Inspector to treat other inspection as section 5 inspection

If the Chief Inspector so elects in the case of any inspection under section 2(2)(b) or 8 of a school to which section 5 applies, that inspection is to be treated for the purposes of section 5(1) and of Chapter 2 as if it were an inspection under section 5.

## 10 Power of entry etc. for purposes of inspection under section 5 or 8

- (1) When inspecting a school under section 5 or 8, the Chief Inspector has at all reasonable times—
  - (a) a right of entry to the premises of the school,
  - (b) a right of entry to any other premises on which, by virtue of arrangements made by the school, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,
 are receiving part of their education from any person (“the provider”),
  - (c) a right of entry to any premises of the provider used in connection with the provision by him of that education,
  - (d) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions, and
  - (e) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
    - (ii) any other documents containing information relating to the provision of such education by the provider,
 which the Chief Inspector considers relevant to the discharge of his functions.
- (2) It is an offence intentionally to obstruct the Chief Inspector in relation to the inspection of a school for the purposes of section 5 or 8.

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- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Modifications etc. (not altering text)**

- C6** S. 10(1)(a) applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), reg. 2, [Sch. para. 4\(2\)\(b\)](#)
- C7** S. 10(1)(d) applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), reg. 2, [Sch. para. 4\(2\)\(b\)](#)

*Publication of inspection reports*

**11 Publication of inspection reports**

- (1) The Chief Inspector may arrange for any report of an inspection carried out by him under any provision of this Chapter (whether the report is required by any such provision or is otherwise made in pursuance of his functions under that provision) to be published in such manner as he considers appropriate.
- (2) Without prejudice to the generality of—
- (a) section 3(c), or
  - (b) subsection (1),
- the Chief Inspector may arrange for a report to which that provision applies to be published by electronic means.
- (3) For the purposes of the law of defamation any report published by the Chief Inspector under either of those provisions is privileged unless the publication is shown to have been made with malice.
- (4) Subsection (3) does not limit any privilege subsisting apart from that subsection.

**Modifications etc. (not altering text)**

- C8** S. 11(2)-(4) applied (prosp.) by [Childcare Act 2006 \(c. 21\)](#), [ss. 50\(4\)](#), 109 (but the said s. 50(4) was repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, Sch. 14 para. 112, [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5](#))
- C9** S. 11(2)-(4) applied (prosp.) by [Childcare Act 2006 \(c. 21\)](#), [ss. 61\(4\)](#), 109 (but the said s. 61(4) was repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, Sch. 14 para. 111, [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5](#))
- C10** S. 11(2)-(4) applied (3.10.2005 for E. and 1.9.2006 for W.) by [1998 c. 31](#), [Sch. 26 para. 13A\(4\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 53, 119, 125, [Sch. 7 para. 20](#)); [S.I. 2005/2034](#), [art. 6](#), [S.I. 2006/1338](#), {art. 3}, Sch. 1
- C11** S. 11(2)-(4) applied (3.10.2005 for E. and 1.9.2006 for W.) by [1998 \(c. 31\)](#), [Sch. 26 para. 13A\(4\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 53, 119, 125, [Sch. 7 para. 20](#)); [S.I. 2005/2034](#), [art. 6](#), [S.I. 2006/1338](#), {art. 3}, Sch. 1
- C12** S. 11(2)-(4) applied (3.10.2005 for E. and 1.9.2006 for W.) by [1998 c. 31](#), [Sch. 26 para. 13A\(4\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 53, 119, 125, [Sch. 7 para. 20](#)); [S.I. 2005/2034](#), [art. 6](#), [S.I. 2006/1338](#), {art. 3}, Sch. 1

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VALID FROM 28/03/2007

## *<sup>F1</sup>Investigation of complaints*

### Textual Amendments

**F1** Ss. 11A-11C and preceding cross-heading inserted (28.3.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 160, 188](#); [S.I. 2007/935](#), [art. 3](#)

### **11A Power of Chief Inspector to investigate complaints about schools**

- (1) The Chief Inspector may investigate a qualifying complaint if he thinks it is appropriate to do so—
  - (a) for the purpose of determining whether it is or may be appropriate to have regard to the matters raised by the complaint in carrying out any of his functions in relation to schools in England, and
  - (b) in particular, for the purpose of determining, in the light of the complaint—
    - (i) when to carry out an inspection under section 5 (insofar as the timing of such an inspection is within his discretion), and
    - (ii) whether it would be appropriate to carry out an inspection under section 8(2).
- (2) A complaint is a qualifying complaint if—
  - (a) it is about a matter relating to a relevant school and that matter—
    - (i) falls within a prescribed description, and
    - (ii) does not fall within any prescribed exception,
  - (b) it is made in writing to the Chief Inspector, and
  - (c) it is made by a person who satisfies prescribed conditions.
- (3) The conditions prescribed for the purposes of subsection (2)(c) may, in particular, require that the person has, before making the complaint to the Chief Inspector, taken advantage of other procedures of a prescribed description for dealing with the complaint.
- (4) Regulations may enable the Chief Inspector to determine that a condition prescribed for the purposes of subsection (2)(c) by virtue of subsection (3) is not to apply in relation to a person making a complaint.
- (5) In this section, “relevant school” means any of the schools mentioned in paragraphs (a) to (g) of section 5(2).

### **11B Investigations under section 11A**

- (1) This section applies where a qualifying complaint is made to the Chief Inspector by a person who is a registered parent of a registered pupil at the school to which the complaint relates.
- (2) If the Chief Inspector so requests for the purposes of an investigation of the complaint, the governing body of the school to which the complaint relates must provide him with—



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- (a) such information held by them as may be specified or described in the Chief Inspector's request, and
  - (b) such other information held by them as they consider may be relevant to the investigation.
- (3) If the complaint relates to a maintained school and the Chief Inspector so requests for the purposes of an investigation of the complaint, the local education authority who maintain the school must provide him with—
- (a) such information held by them as may be specified or described in the Chief Inspector's request, and
  - (b) such other information held by them as they consider may be relevant to the investigation.
- (4) If, for the purposes of an investigation of the complaint, it appears to the Chief Inspector to be appropriate to hold a meeting for registered parents of registered pupils at the school to which the complaint relates—
- (a) he must give notice to that effect to—
    - (i) the governing body of the school (unless the school falls within subparagraph (ii)), or
    - (ii) if the school is a maintained school which does not have a delegated budget, the local education authority who maintain the school, and
  - (b) on being so notified, the governing body or (as the case may be) the local education authority must co-operate with the Chief Inspector in the making of arrangements for the meeting.
- (5) In particular, the governing body or (as the case may be) the local education authority must if so requested by the Chief Inspector—
- (a) allow the meeting to be held on the premises of the school,
  - (b) fix a date for the meeting which is consistent with any request made by the Chief Inspector for that purpose, and
  - (c) take such steps as are specified by the Chief Inspector to give—
    - (i) the registered parents of registered pupils at the school, and
    - (ii) if the school is a maintained school which has a delegated budget, the local education authority who maintain the school,
 such notice as the Chief Inspector may specify of the date, time and place of the meeting and of its purpose.
- (6) The following persons (in addition to the registered parents of registered pupils at the school) may attend a meeting held in pursuance of subsection (5)—
- (a) a representative of the governing body of the school, and
  - (b) if the school is a maintained school, a representative of the local education authority who maintain the school.
- (7) In this section—
- “governing body”, in relation to a relevant school which is not a maintained school, means the proprietor of the school;
  - “maintain”, in relation to school, has the same meaning as in the School Standards and Framework Act 1998;
  - “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
  - “qualifying complaint” is to be read in accordance with section 11A(2);

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“relevant school” has the meaning given by section 11A(5).

### **11C Reports of investigations**

- (1) This section applies where, for the purposes of an investigation of a qualifying complaint to which section 11B applies the Chief Inspector—
  - (a) requests information as mentioned in subsection (2) or (3) of that section, or
  - (b) gives notice in pursuance of subsection (4)(a) of that section that he considers it appropriate to hold a meeting for registered parents of registered pupils at the school to which the complaint relates.
- (2) The Chief Inspector may, if he considers it appropriate to do so, prepare a report of the outcome of the investigation by him of the complaint.
- (3) If the Chief Inspector prepares a report under subsection (2) he must send a copy of the report to—
  - (a) the governing body of the school (unless the school falls within paragraph (b)), or
  - (b) if the school is a maintained school which does not have a delegated budget, the local education authority who maintain the school.
- (4) The body to whom a report is sent under subsection (3) must, if so requested by the Chief Inspector, provide a copy of the report to the registered parents of registered pupils at the school to which the complaint relates.
- (5) In this section, “governing body” and “qualifying complaint” have the same meaning as in section 11B.]

### *Interpretation of Chapter*

## **12 Interpretation of Chapter 1**

In this Chapter—

“the Chief Inspector” means Her Majesty's Chief Inspector of Schools in England;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State under this Chapter;

“well-being”, in relation to pupils at a school, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004 (c. 31).

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## CHAPTER 2

### PROCEDURE FOR INSPECTIONS UNDER CHAPTER 1

#### *Inspections and reports: all schools*

#### **13 Duties of Chief Inspector where school causes or has caused concern**

- (1) If, on completion of a section 5 inspection of a school, the Chief Inspector is of the opinion—
  - (a) that special measures are required to be taken in relation to the school, or
  - (b) that the school requires significant improvement,he must comply with subsections (2) and (3).
- (2) The Chief Inspector must—
  - (a) send a draft of the report of the inspection—
    - (i) in the case of a maintained school, to the governing body, and
    - (ii) in the case of any other school, to the proprietor of the school, and
  - (b) consider any comments on the draft that are made to him within the prescribed period by the governing body or proprietor, as the case may be.
- (3) If, after complying with subsection (2), the Chief Inspector is of the opinion that the case falls within paragraph (a) or (b) of subsection (1)—
  - (a) he must without delay give a notice in writing, stating that the case falls within paragraph (a) or (b) of subsection (1)—
    - (i) to the Secretary of State,
    - (ii) in the case of a maintained school, to the local education authority, and
    - (iii) in the case of any other school, to the proprietor of the school, and
  - (b) he must state his opinion in the report of the inspection.
- (4) If a report of a section 5 inspection is made in circumstances where—
  - (a) in the latest report of an inspection of the school, the Chief Inspector stated that in his opinion special measures were required to be taken in relation to the school, but
  - (b) the Chief Inspector is of the opinion that special measures are not required to be taken in relation to the school,he must state his opinion in the report (whether or not he is required by subsection (3) (b) also to state the opinion that the school requires significant improvement).
- (5) If a report of a section 5 inspection is made in circumstances where—
  - (a) in the latest report of an inspection of the school, the Chief Inspector stated that in his opinion the school required significant improvement, but
  - (b) the Chief Inspector is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school,he must state his opinion in the report.

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**Modifications etc. (not altering text)**

- C13** S. 13(1)-(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- C14** S. 13(1)-(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C15** S. 13(1)-(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1

*Destination of reports and measures required: maintained schools*

**14 Destination of reports: maintained schools**

- (1) The Chief Inspector must ensure that a copy of the report of any section 5 inspection of a maintained school is sent without delay to the appropriate authority for the school.
- (2) The Chief Inspector must ensure that copies of the report are sent—
  - (a) to the head teacher of the school,
  - (b) to whichever of the local education authority and the governing body are not the appropriate authority,
  - (c) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority, and
  - (d) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (3) If the school provides full-time education suitable to the requirements of pupils over compulsory school age, the Chief Inspector must ensure that a copy of the report is also sent to the Learning and Skills Council for England.
- (4) The appropriate authority must—
  - (a) make a copy of any report sent to the authority under subsection (1) available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the report within such period following receipt of the report by the authority as may be prescribed.

**Modifications etc. (not altering text)**

- C16** S. 14(2) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(i) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1

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- C17** S. 14(2) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(i) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C18** S. 14(4) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(ii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1
- C19** S. 14(4) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(ii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2005/2034, art. 4, S.I. 2006/1338, {art. 3}, Sch. 1

## 15 Measures to be taken by local education authority

- (1) This section applies where, in a report of a section 5 inspection of a maintained school, the Chief Inspector stated either—
- that in his opinion special measures were required to be taken in relation to the school, or
  - that in his opinion the school required significant improvement.
- (2) The local education authority must—
- prepare a written statement of any action they propose to take in the light of the report, and the period within which they propose to take such action, or, if they do not propose to take such action, of their reasons for not doing so, and
  - send a copy of the statement prepared under paragraph (a) to the Chief Inspector and, in the case of a voluntary aided school—
    - to the person who appoints the foundation governors, and
    - (if different) to the appropriate appointing authority.
- (3) It is the duty of the local education authority to prepare the statement within the period allowed by this subsection, that is—
- such period as may be prescribed, or
  - if—
    - the report states that the Chief Inspector is of the opinion that special measures are required to be taken in relation to the school, and
    - the Secretary of State is of the opinion that the urgency of the case requires a shorter period,such shorter period as the Secretary of State may direct;
- but this subsection does not relieve the local education authority of any duty to prepare a statement which has not been performed within that period.

### Modifications etc. (not altering text)

- C20** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- C21** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- C22** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(14)(c)); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

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**C23** S. 15(2)(3) applied (with modifications) (1.9.2005 for E. and 1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(a)(iii) (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(8)(c)); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1

*Destination of reports and measures required: non-maintained schools*

## 16 Destination of reports: non-maintained schools

- (1) The Chief Inspector must ensure that a copy of the report of any section 5 inspection of a school other than a maintained school is sent without delay to the proprietor of the school.
- (2) In the case of a special school which is not a community or foundation special school, the proprietor must without delay send a copy of any report sent to him under subsection (1) to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.
- (3) The proprietor of the school must—
  - (a) make any report sent to him under subsection (1) available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the report within such period following receipt of the report by the proprietor as may be prescribed.

## 17 Statement to be prepared by proprietor of school

- (1) Where there is sent to the proprietor of a school other than a maintained school a report of a section 5 inspection in which the Chief Inspector states—
  - (a) that he is of the opinion that special measures are required to be taken in relation to the school, or
  - (b) that he is of the opinion that the school requires significant improvement,
 the proprietor of the school must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (2) It is the duty of the proprietor of the school to prepare the statement within the period allowed by this subsection, that is—
  - (a) such period as may be prescribed, or
  - (b) if—
    - (i) the report states that the Chief Inspector is of the opinion that special measures are required to be taken in relation to the school, and
    - (ii) the Secretary of State is of the opinion that the urgency of the case requires a shorter period,
 such shorter period as the Secretary of State may direct;
 but this subsection does not relieve the proprietor of the school of any duty to prepare a statement which has not been performed within that period.

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- (3) Where such a statement has been prepared by the proprietor of the school, he must, before the end of the prescribed period, send copies of it—
  - (a) to the Chief Inspector, and
  - (b) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) In the case of a special school which is not a community or foundation special school, the proprietor of the school must, before the end of the prescribed period, send a copy of any such statement prepared by him to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.

### *Interpretation of Chapter*

## **18 Interpretation of Chapter 2**

In this Chapter—

“the appropriate appointing authority”, in relation to a voluntary aided school, means—

- (a) the appropriate diocesan authority, if it is a Church of England school, a Church in Wales school or a Roman Catholic Church school, or
- (b) in any other case, the person who appoints the foundation governors;

“the appropriate authority”, in relation to a maintained school, means the school's governing body or, if the school does not have a delegated budget, the local education authority;

“the Chief Inspector” means Her Majesty's Chief Inspector of Schools in England;

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State under this Chapter;

“section 5 inspection” means an inspection under section 5.

## **CHAPTER 3**

### SCHOOL INSPECTORS AND SCHOOL INSPECTIONS: WALES

#### *Her Majesty's Inspectorate for Wales*

## **19 Her Majesty's Inspectorate of Education and Training in Wales**

- (1) Her Majesty may by Order in Council appoint a person to the office of Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru (“the Chief Inspector”).
- (2) Her Majesty may by Order in Council appoint persons as Her Majesty's Inspectors of Education and Training in Wales or Arolgwyr Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

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- (3) Any person appointed as one of Her Majesty's Inspectors of Education and Training in Wales is to serve, in accordance with the terms and conditions on which he is appointed, as a member of the staff of the Chief Inspector.
- (4) The Chief Inspector holds and vacates office in accordance with the terms of his appointment, but—
  - (a) must not be appointed for a term of more than five years,
  - (b) may at any time resign by giving written notice to the Assembly, and
  - (c) may be removed from office by Her Majesty on the ground of incapacity or misconduct.
- (5) The previous appointment of a person as Chief Inspector does not affect his eligibility for appointment.
- (6) If the Assembly considers that any of the powers conferred by subsection (1), (2) and (4)(c) ought to be exercised, the Assembly must advise the Secretary of State on any recommendation to be made to Her Majesty as to the exercise of the power.
- (7) The terms of a person's appointment under subsection (2) are to be determined by the Chief Inspector with the approval of the Assembly.
- (8) Schedule 2 makes further provision about the Chief Inspector and his staff.

## **20 Functions of Chief Inspector**

- (1) The Chief Inspector has the general duty of keeping the Assembly informed about—
  - (a) the quality of the education provided by schools in Wales,
  - (b) how far that education meets the needs of the range of pupils at those schools,
  - (c) the educational standards achieved in those schools,
  - (d) the quality of the leadership in and management of those schools, including whether the financial resources made available to those schools are managed efficiently,
  - (e) the spiritual, moral, social and cultural development of pupils at those schools, and
  - (f) the contribution made by those schools to the well-being of those pupils.
- (2) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters as may be specified in the Assembly's request, and
  - (b) inspect and report on such school, or class of school, in Wales as may be so specified.
- (3) In addition, the Chief Inspector has the following specific duties—
  - (a) establishing and maintaining the register mentioned in section 25(1);
  - (b) giving guidance to inspectors registered in that register, and such other persons as he considers appropriate, in connection with inspections of schools in Wales under section 28 and the making of reports of such inspections;
  - (c) keeping under review the system of inspecting schools under that section and, in particular, the standard of such inspections and of the reports made by registered inspectors;
  - (d) keeping under review the extent to which any requirement imposed by or under this Part, or any other enactment, on any registered inspector, local



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- education authority, proprietor of a school or governing body in relation to inspections of schools in Wales is complied with;
- (e) promoting efficiency in the conduct and reporting of inspections of schools in Wales by encouraging competition in the provision of services by registered inspectors.
- (4) The Chief Inspector may at any time give advice to the Assembly on any matter connected with schools, or a particular school, in Wales.
- (5) The Chief Inspector is to have such other functions in connection with schools in Wales, including functions with respect to the training of teachers for such schools, as may be assigned to him by the Assembly.
- (6) In exercising his functions, the Chief Inspector must have regard to such aspects of policy adopted or formulated by the Assembly as the Assembly may direct.
- (7) This section does not apply in relation to education which is brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21).

## 21 Annual and other reports to Assembly

- (1) The Chief Inspector—
- (a) must make an annual report to the Assembly,
- (b) may make such other reports to the Assembly, with respect to matters which fall within the scope of his functions, as he considers appropriate, and
- (c) may arrange for any report made by him under this section to be published in such manner as he considers appropriate.
- (2) The Assembly must publish any report that is made to it under subsection (1)(a).

### Modifications etc. (not altering text)

C24 S. 21(1)(b) modified (1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 14(2) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 21); S.I. 2006/1338, art. 3, Sch. 1

## 22 Power of Assembly to establish advisory panel

- (1) The Assembly may by regulations—
- (a) establish a panel for the purpose of providing advice to the Assembly on matters relating to the functions that are at any time exercisable by the Chief Inspector under this Part or any other enactment, and
- (b) make provision as to the functions of the panel.
- (2) The regulations may in particular—
- (a) make provision about the appointment of members of the panel,
- (b) make provision for remuneration and allowances to be paid to members of the panel,
- (c) require the panel and the Chief Inspector to co-operate with each other,
- (d) require the panel to make reports to the Assembly.

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### **23 Powers of entry etc. of Chief Inspector**

- (1) For the purposes of the exercise of any function conferred by or under section 20, the Chief Inspector has at all reasonable times, in relation to any school in Wales—
  - (a) a right of entry to the premises of the school, and
  - (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for those purposes.
- (2) For the purposes of the exercise of any function conferred by or under section 20, the Chief Inspector has at all reasonable times—
  - (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by a school in Wales, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,
 are provided with part of their education by any person (“the provider”),
  - (b) a right of entry to any premises of the provider used in connection with the provision by him of that education, and
  - (c) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of that education, and
    - (ii) any other documents containing information so relating,
 which the Chief Inspector requires for those purposes.
- (3) It is an offence intentionally to obstruct the Chief Inspector—
  - (a) in the exercise of his functions in relation to the inspection of a school for the purposes of section 20(2)(b), or
  - (b) in the exercise of any right under subsection (1) or (2) for the purposes of the exercise of any other function.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **24 Power of Chief Inspector to arrange for inspections**

- (1) The Chief Inspector may cause any school in Wales to be inspected by one or more of Her Majesty's Inspectors of Education and Training in Wales (in this section referred to as “Inspectors”).
- (2) Where an inspection of a school in Wales is being conducted by a registered inspector under section 28, the Chief Inspector may arrange for that inspection to be monitored by one or more Inspectors.
- (3) An Inspector inspecting a school, or monitoring an inspection, under this section has at all reasonable times—
  - (a) a right of entry to the premises of the school,
  - (b) a right of entry to any other premises on which, by virtue of arrangements made by the school, any pupils who—
    - (i) are registered at the school, and
    - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,

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- are receiving part of their education from any person (“the provider”),
- (c) a right of entry to any premises of the provider used in connection with the provision by him of that education,
  - (d) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he considers relevant to the discharge of his functions, and
  - (e) a right to inspect and take copies of—
    - (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
    - (ii) any other documents containing information relating to the provision of such education by the provider,which the Inspector considers relevant to the discharge of his functions.
- (4) It is an offence intentionally to obstruct any Inspector in the exercise of any of his functions under this section.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) An inspection of a school conducted under subsection (1) may not extend to any education of a kind brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21) that is provided by the school.

### *Registered inspectors*

## **25 Registration of inspectors in Wales**

- (1) No person may conduct an inspection of any school in Wales under section 28 unless—
- (a) he is a member of the Inspectorate, or
  - (b) he is registered as an inspector in a register kept by the Chief Inspector for the purposes of this Chapter.
- (2) The Chief Inspector may not register a person under this section unless, having regard to any conditions that he proposes to impose under subsection (4)(c), it appears to him that that person—
- (a) is a fit and proper person for discharging the functions of a registered inspector, and
  - (b) will be capable of conducting inspections under this Chapter competently and effectively,
- and no person may be so registered if he falls within a category of persons prescribed for the purposes of this subsection.
- (3) An application for registration under this section—
- (a) must be made in such manner, and be accompanied by such particulars, as the Chief Inspector may direct, and
  - (b) must be accompanied by the prescribed fee.
- (4) On an application duly made under this section the Chief Inspector may—
- (a) register the applicant,
  - (b) refuse to register him, or

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- (c) register him subject to such conditions as the Chief Inspector considers it appropriate to impose.
- (5) The matters to which the Chief Inspector may have regard in deciding whether to register the applicant include, in particular—
  - (a) the extent to which the Chief Inspector proposes to exercise his discretion under subsection (1) of section 28 to secure that inspections under that section are conducted by members of the Inspectorate rather than registered inspectors, and
  - (b) the extent to which there is a need for registered inspectors in Wales.
- (6) Conditions under subsection (4)(c) may be conditions applying generally in relation to all cases, or particular classes of case, or such conditions together with specific conditions applying in the particular case.
- (7) Where a person is registered subject to conditions imposed under subsection (4)(c), he is to be taken to be authorised to act as a registered inspector only so far as those conditions permit.
- (8) The period for which any registration is to have effect is to be determined by the Chief Inspector and must be entered in the register kept by him.
- (9) Nothing in subsection (8) is to be taken as preventing a registered inspector from applying for a fresh registration to take effect immediately on the expiry of his current registration.

## **26 Removal from register and imposition or variation of conditions**

- (1) If the Chief Inspector is satisfied that any of the conditions mentioned in subsection (2) is satisfied with respect to an inspector registered in the register, he may remove the name of that inspector from the register.
- (2) The conditions are that—
  - (a) he is no longer a fit and proper person for discharging the functions of a registered inspector under this Chapter;
  - (b) he is no longer capable of conducting inspections under this Chapter competently and effectively;
  - (c) there has been a significant failure on his part to comply with any condition imposed under section 25(4)(c) and subject to which his registration has effect;
  - (d) he has, without reasonable explanation, produced a report of an inspection which is, in whole or in part, seriously misleading.
- (3) If the Chief Inspector is satisfied—
  - (a) that he is authorised by subsection (2) to remove the name of an inspector from the register, or
  - (b) that it would otherwise be in the public interest to act under this subsection,
 he may vary any condition subject to which the registration of that inspector has effect or vary that registration by imposing a condition subject to which it will have effect.

## **27 Appeals in relation to registration**

- (1) Any person who is aggrieved by—

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- (a) the refusal of the Chief Inspector to renew his registration under section 25,
  - (b) the imposition or variation of any condition subject to which he is registered under that section, or
  - (c) the removal of his name from the register under section 26,
- may appeal against the Chief Inspector's decision to a tribunal constituted in accordance with Schedule 3.
- (2) Where—
- (a) a decision to refuse to renew a person's registration under section 25 is expressed to be based on the ground—
    - (i) that there is a reduced need for registered inspectors in Wales, or
    - (ii) that there is no longer any need for registered inspectors in Wales, and
  - (b) the tribunal is satisfied that the decision was based on one of those grounds, the tribunal must confirm the decision to refuse renewal.
- (3) No decision of the Chief Inspector falling within (1)(b) or (c) is to have effect until—
- (a) the disposal of any appeal against the decision which is duly made under this section, or
  - (b) the period within which an appeal may be made has expired without an appeal having been made.
- (4) Subsection (3) does not apply where the Chief Inspector—
- (a) is satisfied that the circumstances of the case justify the decision in question taking effect immediately, or earlier than would otherwise be the case, and
  - (b) notifies the person concerned to that effect.
- (5) On determining any appeal under this section, the tribunal may—
- (a) confirm, reverse or vary the decision appealed against, or
  - (b) remit the case to the Chief Inspector with directions as to the action to be taken by him.
- (6) Schedule 3 makes further provision with respect to tribunals constituted to hear appeals under this section.

**Modifications etc. (not altering text)**

**C25** S. 27 applied (with modifications) (16.5.2006) by [S.I. 2006/1338](#), art. 6, [Sch. 4 para. 5](#)

*Inspections by registered inspectors and members of the Inspectorate*

**28 Duty to arrange regular inspections of certain schools**

- (1) It is the duty of the Chief Inspector to secure that every school in Wales to which this section applies is inspected under this section, at such intervals as may be prescribed, by an inspector registered under section 25 or by a member of the Inspectorate.
- (2) Subject to subsection (3), the schools to which this section applies are—
- (a) community, foundation and voluntary schools,
  - (b) community and foundation special schools,
  - (c) maintained nursery schools, and

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- (d) special schools which are not community or foundation special schools but are for the time being approved by the Assembly under section 342 of the Education Act 1996 (c. 56) (approval of special schools).
- (3) This section does not apply to any school—
- (a) which is a closing school (as defined by subsection (4)), and
  - (b) in respect of which the Chief Inspector has decided, having regard to the date on which the closure is to take effect, that no useful purpose would be served by the school being inspected under this section.
- (4) In subsection (3)(a) a “closing school” means—
- (a) any community, foundation or voluntary school, community or foundation special school or maintained nursery school in respect of which proposals to discontinue the school have been approved, adopted [<sup>F2</sup>, confirmed] or determined under any enactment,
  - (b) a foundation or voluntary school in respect of which the governing body have given notice of discontinuance under section 30 of the School Standards and Framework Act 1998 (c. 31),
  - (c) a community, foundation or voluntary or community or foundation special school in respect of which the Assembly has given a direction to discontinue the school under section 19 or 32 of that Act, or
  - (d) a special school which is not a community or foundation special school but is for the time being approved by the Assembly under section 342 of the Education Act 1996 (c. 56) and which the proprietor has decided to close.
- (5) It is the general duty of any inspector conducting an inspection under this section to report on—
- (a) the quality of the education provided in the school,
  - (b) how far the education provided in the school meets the needs of the range of pupils at the school,
  - (c) the educational standards achieved in the school,
  - (d) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed effectively,
  - (e) the spiritual, moral, social and cultural development of the pupils at the school, and
  - (f) the contribution made by the school to the well-being of those pupils.
- (6) Subsection (1) has effect subject to section 32.
- (7) An inspection which is required under this section must not extend to—
- (a) denominational education,
  - (b) education which is brought within the remit of the Chief Inspector by Part 4 of the Learning and Skills Act 2000 (c. 21), or
  - (c) the content of collective worship which falls to be inspected under section 50.
- (8) Schedule 4 makes further provision with respect to inspections under this section.

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### Textual Amendments

- F2** Word in s. 28(4)(a) inserted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 96** (with art. 7)

## *Publication of inspection reports*

### 29 Publication of inspection reports

- (1) The Chief Inspector may, in the case of—
- (a) any report by a member of the Inspectorate of an inspection carried out by him under any provision of this Chapter (whether the report is required by any such provision or is otherwise made in pursuance of his functions under that provision), or
  - (b) any report of an inspection under section 28 made by a registered inspector, arrange for the report to be published in such manner as the Chief Inspector considers appropriate.
- (2) Without prejudice to the generality of—
- (a) section 21(1)(c), or
  - (b) subsection (1),
- the Chief Inspector may arrange for a report to which that provision applies to be published by electronic means.
- (3) For the purposes of the law of defamation any report published by the Chief Inspector under either of those provisions is privileged unless the publication is shown to have been made with malice.
- (4) Subsection (3) does not limit any privilege subsisting apart from that subsection.

### Modifications etc. (not altering text)

- C26** S. 29(2)-(4) applied ( 1.9.2006 for W.) by 1998 c. 31, [Sch. 26 para. 13B\(4\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 53, 119, 125, **Sch. 7 para. 20**); S.I. 2006/1338, **art. 3**, Sch. 1
- C27** S. 29(2)-(4) applied (1.9.2006 for W.) by 1998 c. 31, [Sch. 26 para. 13B\(4\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 53, 119, 125, **Sch. 7 para. 20**); S.I. 2006/1338, **art. 3**, Sch. 1
- C28** S. 29(2)-(4) applied (1.9.2006 for W.) by 1998 c. 31, [Sch. 26 para. 13B\(4\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 53, 119, 125, **Sch. 7 para. 20**); S.I. 2006/1338, **art. 3**, Sch. 1

## *Receipts*

### 30 Payment of fees into Consolidated Fund

- (1) Any sums received by the Chief Inspector under—
- (a) section 25(3)(b), or
  - (b) paragraph 4(3) or 5(2) of Schedule 4,
- must be paid into the Consolidated Fund.

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- (2) Subsection (1) has effect subject to paragraph 4 of Schedule 6 to the Government of Wales Act 1998 (c. 38) (Treasury power to direct that requirement for payment into Consolidated Fund not to apply in relation to specified sums received by the Chief Inspector).

### *Interpretation of Chapter*

## **31 Interpretation of Chapter 3**

- (1) In this Chapter—

“the Chief Inspector” means Her Majesty's Chief Inspector of Education and Training in Wales;

“member of the Inspectorate” means the Chief Inspector, any of Her Majesty's Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Assembly under this Chapter;

“well-being”, in relation to pupils at a school, is a reference to their well-being having regard to the matters mentioned in section 25(2) of the Children Act 2004 (c. 31).

- (2) For the purposes of this Chapter any reference to a condition imposed under section 25(4)(c) includes a reference to a condition imposed under section 26(3).

## **CHAPTER 4**

### PROCEDURE FOR INSPECTIONS UNDER CHAPTER 3

#### *Introductory*

## **32 Inspections by members of the Inspectorate**

- (1) If the Chief Inspector so elects in the case of any inspection of a school by a member of the Inspectorate under section 20(2)(b) or 24(1), that inspection is to be treated for the purposes of the relevant provisions as if it were an inspection under section 28.
- (2) In subsection (1) “the relevant provisions” means sections 28(1) and (5) and 35 and—
- (a) (in the case of an inspection of a maintained school) sections 38 to 40, and
  - (b) (in the case of an inspection of a school other than a maintained school), sections 41 and 42.

#### *Inspections and reports: all schools*

## **33 Duty to report on section 28 inspections**

Where a section 28 inspection by a registered inspector or a member of the Inspectorate has been completed, the inspector must make in writing a report of the inspection and a summary of the report.



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### 34 Section 28 inspections by registered inspectors

- (1) Where a section 28 inspection was conducted by a registered inspector and he is of the opinion—
  - (a) that special measures are required to be taken in relation to the school, or
  - (b) that the school requires significant improvement,he must submit a draft of the report of the inspection to the Chief Inspector.
- (2) If the Chief Inspector so requests, an inspector who has submitted a draft under subsection (1) must provide the Chief Inspector with such further information as the Chief Inspector may specify.
- (3) The Chief Inspector must inform an inspector who has submitted a draft under subsection (1) whether he agrees or disagrees with the inspector's opinion.
- (4) Where—
  - (a) the Chief Inspector informs the inspector that he disagrees with the inspector's opinion, but
  - (b) the inspector remains of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,the inspector may not make a report stating that opinion unless the terms in which he makes the report are substantially the same (except as to the statement required by subsection (6)(b)) as the draft or as a subsequent draft submitted to the Chief Inspector under this subsection.
- (5) Where a subsequent draft is submitted under subsection (4), the Chief Inspector must inform the inspector whether he agrees or disagrees with the inspector's opinion.
- (6) A report made by a registered inspector who is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement must—
  - (a) state his opinion, and
  - (b) state whether the Chief Inspector agrees or disagrees with his opinion.
- (7) If a report of an inspection of a school by a registered inspector is made in circumstances where—
  - (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school the person making the report stated that in his opinion such measures were required to be taken and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,the registered inspector must state his opinion in the report (whether or not he is required by subsection (6) also to state the opinion that the school requires significant improvement).
- (8) If a report of an inspection of a school by a registered inspector is made in circumstances where—
  - (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but

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- (b) in the latest report of an inspection of the school the person making the report stated that in his opinion the school did require significant improvement and either—
  - (i) that person was a member of the Inspectorate, or
  - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the registered inspector must state his opinion in the report.

**Modifications etc. (not altering text)**

**C29** S. 34(1)-(6) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 7(2)(b) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(9\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)

### 35 Reports of inspections by members of the Inspectorate

- (1) Where on the completion of any inspection of a school under section 20(2)(b) or 24(1) by a member of the Inspectorate, that person is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, he must—
  - (a) prepare in writing a report of the inspection and a summary of the report, and
  - (b) state his opinion in the report.
- (2) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
  - (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken in relation to the school and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the member of the Inspectorate must prepare a report of the inspection and a summary of the report and state his opinion in the report (whether or not he is required by subsection (1)(b) also to state the opinion that the school requires significant improvement).
- (3) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
  - (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion the school did require significant improvement and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the member of the Inspectorate must prepare a report of the inspection and a summary of the report and state his opinion in the report.

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- (4) A report of a section 28 inspection of a school by a member of the Inspectorate must, if he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, state his opinion.
- (5) If a report of a section 28 inspection of a school by a member of the Inspectorate is made in circumstances where—
  - (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must state his opinion in the report (whether or not he is required by subsection (4) also to state the opinion that the school requires significant improvement).
- (6) If a report of a section 28 inspection of a school by a member of the Inspectorate is made in circumstances where—
  - (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion the school did require significant improvement and either—
    - (i) that person was a member of the Inspectorate, or
    - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must state his opinion in the report.

**Modifications etc. (not altering text)**

**C30** S. 35(1) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 7 (as substituted by Education Act 2005 (c. 18), ss. 46, 125, Sch. 5 para. 3(9)); S.I. 2006/1338, art. 3, Sch. 1

### **36 Timing of section 28 inspections by registered inspectors**

- (1) The carrying out of a section 28 inspection must be completed by the time allowed under subsection (2), and the making of the report required by section 33 must be completed within the period allowed under that subsection.
- (2) The time, and the period, allowed are such as may be prescribed, subject to any such extension of the period as the Chief Inspector may consider necessary to make; but the total period allowed must not exceed the prescribed period extended by three months.
- (3) In the case of an inspection of a maintained school, the Chief Inspector must give notice of any extension under subsection (2) to—
  - (a) the inspector,
  - (b) the local education authority in the case of a maintained school, and
  - (c) the governing body.

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- (4) In the case of an inspection of a school falling within section 28(2)(d), the Chief Inspector must give notice of any extension under subsection (2) to—
- (a) the inspector,
  - (b) the proprietor of the school, and
  - (c) the Assembly.
- (5) This section does not apply to a section 28 inspection carried out by a member of the Inspectorate.

*Destination of reports and measures required: maintained schools*

### **37 Duty to notify where inspection shows maintained school causing concern**

- (1) Subsection (2) applies in relation to a maintained school where—
- (a) following an inspection of the school under Chapter 3 by a member of the Inspectorate, that member has informed the Chief Inspector of his opinion—
    - (i) that special measures are required to be taken in relation to the school, or
    - (ii) that the school requires significant improvement, or
  - (b) the Chief Inspector agrees with the opinion of a registered inspector, expressed in a draft report submitted to the Chief Inspector under section 34(1)—
    - (i) that special measures are required to be taken in relation to the school, or
    - (ii) that the school requires significant improvement.
- (2) Where this subsection applies, the Chief Inspector must without delay give the Assembly and the local education authority notice in writing stating that the case falls within paragraph (a) or (b) of subsection (1).

### **38 Destination of reports: maintained schools**

- (1) In the case of a report of a section 28 inspection of a maintained school, the person making the report must without delay send a copy of the report together with a summary of it to the appropriate authority for the school.
- (2) In a case where—
- (a) a report of an inspection of a maintained school is made by a member of the Inspectorate, and
  - (b) he is required by section 35 to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
- the member of the Inspectorate must send a copy of the report together with the summary of it to the appropriate authority for the school.
- (3) In any case, copies of the report and summary referred to in subsection (1) or (2) must be sent by the person who made the report—
- (a) to the Chief Inspector (unless the report was made by a member of the Inspectorate),
  - (b) to the head teacher of the school,

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- (c) to whichever of the local education authority and the governing body are not the appropriate authority,
  - (d) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority, and
  - (e) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) The appropriate authority must—
- (a) make a copy of any report and summary sent to the authority under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary within such period following receipt of the report by the authority as may be prescribed.
- (5) Subsection (6) applies to a report of an inspection of a maintained school if—
- (a) the inspection was a section 28 inspection or was carried out by a member of the Inspectorate, and
  - (b) the school provides full-time education suitable to the requirements of pupils over compulsory school age.
- (6) The person making the report must send a copy (together with a copy of the summary, if there is one) to the [<sup>F3</sup>Assembly] .

#### Textual Amendments

- F3** Word in s. 38(6) substituted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 97** (with art. 7)

#### Modifications etc. (not altering text)

- C31** S. 38(2) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(b)(i) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C32** S. 38(2) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(b)(i) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C33** S. 38(4) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(b)(ii) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C34** S. 38(4) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(b)(ii) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1

### 39 Statement to be prepared by appropriate authority for school

- (1) Where there is sent to the appropriate authority for a maintained school either—

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- (a) a report of a section 28 inspection of the school, or
- (b) a report of an inspection of the school by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,

the appropriate authority must prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.

(2) It is the duty of the appropriate authority to prepare the statement within the period allowed by this subsection, that is—

- (a) such period as may be prescribed, or
- (b) if—
  - (i) the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
  - (ii) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
  - (iii) the Assembly is of the opinion that the urgency of the case requires a shorter period,

such shorter period as the Assembly may direct;

but this subsection does not relieve the appropriate authority of any duty to prepare a statement which has not been performed within that period.

(3) Subject to subsection (4), where such a statement has been prepared by the appropriate authority, they must, before the end of the prescribed period, send copies of it—

- (a) to the Chief Inspector,
- (b) to whichever of the governing body and the local education authority are not the appropriate authority, and
- (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.

(4) Where the report in question is a report of a section 28 inspection of a school, subsection (3)(a) does not require a copy of the statement to be sent to the Chief Inspector unless the report states that the person making it is of the opinion—

- (a) that special measures are required to be taken in relation to the school, or
- (b) that the school requires significant improvement.

(5) If in the case of a maintained school—

- (a) the statement is prepared in response to a report of an inspection of the school in which the person who made the report states that in his opinion special measures are required to be taken in relation to the school or that the school requires significant improvement, and
- (b) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion,

the appropriate authority must, before the end of the prescribed period, send a copy of the statement to the Assembly.

(6) In the case of a school having foundation governors, the appropriate authority must also send a copy of the statement to the person who appoints them and (if different) to the appropriate appointing authority.

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- (7) The appropriate authority must—
- (a) make any statement prepared by them under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
  - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (8) The duty under subsection (7)(c) is to be taken to be satisfied by the appropriate authority if they—
- (a) take such steps as are reasonably practicable to secure that every registered parent of a pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by them which—
    - (i) summarises the statement, and
    - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
  - (b) provide a copy of the statement to every registered parent of a registered pupil at the school who asks for one.
- (9) Where the governing body of a school have prepared a statement under this section, they must in the report under section 30 of the Education Act 2002 (c. 32) (governors' reports) state the extent to which the proposals set out in the statement (or, if there is more than one, the most recent statement) have been carried into effect.

**Modifications etc. (not altering text)**

- C35** S. 39 applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 13(3)(b)(iii) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(14\)\(c\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)
- C36** S. 39 applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 6(3)(b)(iii) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(8\)\(c\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)

#### **40 Statement to be prepared by local education authority**

- (1) This section applies in circumstances where—
- (a) in a report of an inspection of a maintained school the governing body of which have a delegated budget, the person who made the report stated that in his opinion—
    - (i) special measures were required to be taken in relation to the school, or
    - (ii) the school required significant improvement, and
  - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion, and
  - (c) either—
    - (i) the local education authority have received a copy of a statement prepared under section 39 in response to the report, or

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- (ii) the period prescribed for the purposes of subsection (3) of that section has expired.
- (2) The local education authority must—
- (a) prepare a written statement of any action they propose to take in the light of the report, and the period within which they propose to take such action, or, if they do not propose to take any such action, of their reasons for not doing so, and
  - (b) send a copy of the statement prepared under paragraph (a), together with their comments on any statement prepared under section 39 of which they have received a copy, to the Assembly and the Chief Inspector and, in the case of a voluntary aided school—
    - (i) to the person who appoints the foundation governors, and
    - (ii) (if different) to the appropriate appointing authority.
- (3) It is the duty of the local education authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if the Assembly is of the opinion that the urgency of the case requires a shorter period, such shorter period as the Assembly may direct;
- but this subsection does not relieve the local education authority of any duty to prepare a statement which has not been performed within that period.

**Modifications etc. (not altering text)**

- C37** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 13(3)(b)(iv) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(14\)\(c\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)
- C38** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 6(3)(b)(iv) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(8\)\(c\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)
- C39** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 13(3)(b)(iv) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(14\)\(c\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)
- C40** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21 Sch. 7 para. 6(3)(b)(iv) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, [Sch. 5 para. 3\(8\)\(c\)](#)); S.I. 2006/1338, [art. 3](#), [Sch. 1](#)

*Destination of reports and measures required: non-maintained schools*

**41 Destination of reports: non-maintained schools**

- (1) In the case of a report of a section 28 inspection of a school other than a maintained school, the person making the report must without delay—
- (a) send a copy of the report together with the summary of it—
    - (i) to the proprietor of the school, and
    - (ii) (unless the person making it is a member of the Inspectorate) to the Chief Inspector, and



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- (b) if the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement and either—
  - (i) that person is a member of the Inspectorate, or
  - (ii) the report states that the Chief Inspector agrees with his opinion,send a copy of the report and summary to the Assembly.
- (2) In a case where—
  - (a) a report of an inspection of a school other than a maintained school is made by a member of the Inspectorate, and
  - (b) he is required by section 35(1)(b) to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,he must send a copy of the report together with the summary of it to the proprietor of the school and to the Assembly.
- (3) In the case of a special school which is not a community or foundation special school, the proprietor of the school must without delay send a copy of any report and summary sent to him under subsection (1) or (2) to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.
- (4) The proprietor of the school must—
  - (a) make any report and summary sent to him under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary within such period following receipt of the report by the authority as may be prescribed.

#### Commencement Information

- II** S. 41 partly in force; s. 41 not in force at Royal Assent, see s. 125; s. 41 in force for certain purposes at 1.9.2006 by [S.I. 2006/1338](#), [art. 4\(1\)](#), [Sch. 2](#) (subject to [art. 4\(2\)](#))

## 42 Statement to be prepared by proprietor of school

- (1) Where there is sent to the proprietor of a school other than a maintained school—
  - (a) a report of a section 28 inspection of the school, or
  - (b) a report of an inspection of the school made by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,the proprietor of the school must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.

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- (2) It is the duty of the proprietor to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if—
    - (i) the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
    - (ii) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
    - (iii) the Assembly is of the opinion that the urgency of the case requires a shorter period,

such shorter period as the Assembly may direct;

but this subsection does not relieve the proprietor of the school of any duty to prepare a statement which has not been performed within that period.
- (3) Where such a statement has been prepared by the proprietor of the school, he must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,
  - (b) to the Assembly, and
  - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) In the case of a special school which is not a community or foundation special school, the proprietor of the school must, before the end of the prescribed period, send a copy of any such statement prepared by him to any local education authority that is paying fees in respect of the attendance of a registered pupil at the school.
- (5) The proprietor of the school must—
- (a) make any statement prepared by him under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
  - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (6) The duty under subsection (5)(c) is to be taken to be satisfied by the proprietor of the school if he—
- (a) takes such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by the proprietor which—
    - (i) summarises the statement, and
    - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
  - (b) provides a copy of the statement to every registered parent of a registered pupil at the school who asks for one.

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#### Commencement Information

- I2** S. 42 partly in force; s. 42 not in force at Royal Assent, see s. 125; s. 41 in force for certain purposes at 1.9.2006 by [S.I. 2006/1338](#), [art. 4\(1\)](#), [Sch. 2](#) (subject to [art. 4\(2\)](#))

### *Interpretation of Chapter*

#### **43 Interpretation of Chapter 4**

In this Chapter—

“the appropriate appointing authority”, in relation to a voluntary aided school, means—

(a) the appropriate diocesan authority, if it is a Church in Wales school, a Church of England school or a Roman Catholic Church school, or

(b) in any other case, the person who appoints the foundation governors;

“the appropriate authority”, in relation to a maintained school, means the school's governing body or, if the school does not have a delegated budget, the local education authority;

“the Chief Inspector” means Her Majesty's Chief Inspector of Education and Training in Wales;

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“member of the Inspectorate” means the Chief Inspector, any of Her Majesty's Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Assembly under this Chapter;

“section 28 inspection” means an inspection under section 28.

## **CHAPTER 5**

### **SCHOOLS CAUSING CONCERN**

#### **44 Categories of schools causing concern**

(1) For the purposes of this Part, special measures are required to be taken in relation to a school if—

- (a) the school is failing to give its pupils an acceptable standard of education, and  
(b) the persons responsible for leading, managing or governing the school are not demonstrating the capacity to secure the necessary improvement in the school.

(2) For the purposes of this Part, a school requires significant improvement if, although not falling within subsection (1), it is performing significantly less well than it might in all the circumstances reasonably be expected to perform.

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**Commencement Information**

- I3** S.44 wholly in force at 1.9.2006; s. 44 not in force at Royal Assent see s. 125; s. 44 in force for E. at 1.9.2005 by [S.I. 2005/2034, art. 4](#); S. 44 in force for W. at 1.9.2006 by [S. I. 2006/1338, art. 3, Sch. 1](#)

**45 Cases where Secretary of State or Assembly may direct closure of school**

In section 19 of the School Standards and Framework Act 1998 (c. 31) (power of Secretary of State to direct closure of school), for subsection (1) substitute—

“(1) If at any time section 15 applies to a maintained school by virtue of subsection (6) of that section (school requiring special measures), the Secretary of State may give a direction to the local education authority requiring the school to be discontinued on a date specified in the direction.”

**Commencement Information**

- I4** S.45 wholly in force at 1.9.2006; s. 45 not in force at Royal Assent see s. 125; s. 45 in force for E. at 1.9.2005 by [S.I. 2005/2034, art. 4](#); S. 45 in force for W. at 1.9.2006 by [S. I. 2006/1338, art. 3, Sch. 1](#)

**46 Sixth forms requiring significant improvement**

Schedule 5 contains amendments of the Learning and Skills Act 2000 (c. 21) relating to schools requiring significant improvement in relation to their sixth forms.

**Commencement Information**

- I5** S.46 partly in force; s. 46 not in force at Royal Assent see s. 125; s. 46 in force for E. for certain purposes at 1.9.2005 by [S.I. 2005/2034, art. 4](#); S. 46 in force for W. at 1.9.2006 by [S. I. 2006/1338, art. 3, Sch. 1](#)

**CHAPTER 6**

OTHER INSPECTIONS: ENGLAND AND WALES

*Inspection of religious education*

**47 Meaning of “denominational education”**

In this Part “denominational education”, in relation to a school, means religious education which—

- (a) is required by section 80(1)(a) or 101(1)(a) of the Education Act 2002 (c. 32) to be included in the school's basic curriculum, but
- (b) is not required by any enactment to be given in accordance with an agreed syllabus.

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#### Commencement Information

- 16** S.47 wholly in force at 1.9.2006; s. 47 not in force at Royal Assent see s. 125; s. 47 in force for E. at 1.9.2005 by [S.I. 2005/2034, art. 4](#); S. 47 in force for W. at 1.9.2006 by [S. I. 2006/1338, art. 3, Sch. 1](#)

### 48 Inspection of religious education: England

- (1) It is the duty of the governing body of any voluntary or foundation school in England which has been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character to secure that—
- any denominational education given to pupils, and
  - the content of the school's collective worship,
- are inspected under this section.
- (2) An inspection under this section is to be conducted by a person chosen—
- in the case of a voluntary controlled school, by the foundation governors after consultation with any person prescribed for the purposes of this subsection in relation to the religion or religious denomination that is specified in relation to the school under section 69(4) of the School Standards and Framework Act 1998, and
  - in any other case, by the governing body after consultation with any person so prescribed.
- (3) Inspections under this section must be carried out at such intervals as may be prescribed.
- (4) It is the general duty of a person conducting an inspection under this section—
- to report on the quality of the denominational education provided by the school for any pupils to whom denominational education is given by the school, and
  - to report on the content of the school's collective worship,
- and any such person may report on the spiritual, moral, social and cultural development of pupils at the school.
- (5) A person conducting an inspection under this section may do so with the assistance of such other persons chosen by him as are in his opinion fit and proper persons for carrying out the inspection.
- (6) In this section and section 49—
- “collective worship” means collective worship required by section 70 of the School Standards and Framework Act 1998 (c. 31);
- “prescribed” means prescribed by regulations made by the Secretary of State.

### 49 Procedure for inspections under section 48

- (1) An inspection under section 48 must be carried out within such period as may be prescribed.

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- (2) When the inspection has been completed, the person conducting the inspection must, before the end of the period prescribed for the purposes of this subsection, prepare in writing a report of the inspection.
- (3) The person conducting the inspection must, without delay, send the report to the governing body of the school concerned.
- (4) The governing body must—
  - (a) make any such report available for inspection by members of the public, at such times and at such a place as may be reasonable,
  - (b) take such steps as are reasonably practicable to secure that every parent of a registered pupil at the school—
    - (i) for whom the school provides denominational education, or
    - (ii) who takes part in acts of collective worship the content of which falls to be inspected under section 48,
 as the case may be, receives a copy of the report as soon as is reasonably practicable, and
  - (c) provide a copy of the report, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply) to any other person who asks for one.

## **50 Inspection of religious education: Wales**

- (1) It is the duty of the governing body of any voluntary or foundation school in Wales which has been designated under section 69(3) of the School Standards and Framework Act 1998 by the Assembly as having a religious character to secure that—
  - (a) any denominational education given to pupils, and
  - (b) the content of the school's collective worship,
 are inspected under this section.
- (2) An inspection under this section is to be conducted by a person chosen—
  - (a) in the case of a voluntary controlled school, by the foundation governors after consultation with any person prescribed for the purposes of this subsection in relation to the religion or religious denomination that is specified in relation to the school under section 69(4) of the School Standards and Framework Act 1998 (c. 31), and
  - (b) in any other case, by the governing body after consultation with any person so prescribed.
- (3) The person chosen need not be registered as an inspector under section 25.
- (4) Inspections under this section must be carried out at such intervals as may be prescribed.
- (5) It is the general duty of a person conducting an inspection under this section—
  - (a) to report on the quality of the denominational education provided by the school for any pupils to whom denominational education is given by the school, and
  - (b) to report on the content of the school's collective worship,
 and any such person may report on the spiritual, moral, social and cultural development of pupils at the school.

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- (6) A person conducting an inspection under this section may do so with the assistance of such other persons chosen by him as are in his opinion fit and proper persons for carrying out the inspection.
- (7) Schedule 6 makes further provision with respect to inspections under this section.
- (8) In this section (and that Schedule)—
  - “collective worship” means collective worship required by section 70 of the School Standards and Framework Act 1998;
  - “prescribed” means prescribed by regulations made by the Assembly.

### *LEA inspections*

## **51 Power of LEA to inspect maintained school for specific purpose**

- (1) Where—
  - (a) for the purpose of enabling them to exercise any function of theirs, a local education authority require information about any matter in connection with a school which is maintained by them, and
  - (b) it is not reasonably practicable for them to obtain the information in any other manner,they may cause an inspection of the school to be made by one or more of their officers for the purpose of obtaining the information.
- (2) An officer of a local education authority inspecting a school under this section has at all reasonable times a right of entry to the premises of the school.

### **Commencement Information**

**I7** S. 51 wholly in force; s. 51 not in force at Royal Assent see s. 125; s. 51 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 51 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## **52 Provision of inspection services by LEAs in Wales**

- (1) Any local education authority in Wales may provide a school inspection service for schools within their area.
- (2) In this section “school inspection service”, in relation to any local education authority in Wales, means a service providing for the inspection of schools under section 28 or 50 by officers of the authority.
- (3) Any school inspection service provided by a local education authority in Wales may, in addition to providing for the inspection of schools which are maintained by them, provide for the inspection of schools which are not maintained by them.
- (4) Any school inspection service provided by a local education authority in Wales must be operated by the authority in such a way as can reasonably be expected to ensure that the full cost of providing the service is recovered by way of charges made by the authority to those using the service.
- (5) The Assembly may by regulations—

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- (a) make provision as to the making of tenders by local education authorities in Wales (as required by paragraph 2 of Schedule 4),
- (b) make provision with respect to the accounts to be kept by local education authorities in connection with any school inspection services provided by them, and
- (c) make such incidental and supplemental provision with respect to school inspection services provided by local education authorities as the Assembly considers appropriate.

*Inspection of child minding, day care and nursery education*

### 53 Inspection of child minding, day care and nursery education

Schedule 7 contains amendments relating to the inspection of child minding, day care for children and nursery education.

**Commencement Information**

- 18** S. 53 partly in force; s. 53 not in force at Royal Assent see s. 125; s. 53 in force for certain purposes for E. and in force for certain purposes for E.W. at 3.10.2005 by [S.I. 2005/2034](#), arts. {6}, {7}; S. 53 in force for certain purposes for W. and in force for certain purposes for E.W. at 1.9.2006 by [S. I. 2006/1338](#), arts. {3}, {4}, Schs. 1, 2

*Inspection of independent schools*

### 54 Inspection of independent schools

Schedule 8 contains amendments relating to the inspection of independent schools.

**Commencement Information**

- 19** S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 125; s. 54 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 54 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

VALID FROM 01/04/2007

*Inspection of careers services in Wales*

### 55 Inspection of careers services in Wales

- (1) This section applies to relevant services provided in Wales in pursuance of arrangements made or directions given by the Assembly under section 10 of the Employment and Training Act 1973 (c. 50).
- (2) The Chief Inspector has the general duty of keeping the Assembly informed about the quality of the relevant services provided in Wales in accordance with such arrangements or directions.



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- (3) In subsections (4) to (7) “a service provider” means a person who provides, or arranges for the provision of, relevant services in accordance with such arrangements or directions.
- (4) The Chief Inspector must inspect any service provider under this section at prescribed intervals.
- (5) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters relating to the provision of relevant services in Wales in pursuance of such arrangements or directions as may be specified in the Assembly's request, or
  - (b) inspect any service provider under this section.
- (6) The Chief Inspector may at any time—
  - (a) give advice to the Assembly relating to the provision of relevant services in Wales in pursuance of such arrangements or directions, or
  - (b) inspect any service provider under this section.
- (7) An inspection of any service provider under this section is to consist of a review of the way in which he is discharging his responsibilities under or by virtue of the arrangements or directions in question, having regard to any guidance given by the Assembly with respect to the provision of relevant services.
- (8) In this section and sections 56 and 57—
  - “the Chief Inspector” means Her Majesty's Chief Inspector for Education and Training in Wales;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made by the Assembly;
  - “relevant services” has the same meaning as in sections 8 and 9 of the Employment and Training Act 1973 (provision of careers services).

## **56 Inspection of services related to careers services in Wales**

- (1) This section applies if a person (“a relevant provider”) who provides a relevant service to which section 55 applies also provides in Wales education, training or an advisory service—
  - (a) in pursuance of arrangements made by the Assembly under section 2 of the Employment and Training Act 1973 (c. 50), or
  - (b) with the assistance of a grant or loan made under section 12(1) of the Industrial Development Act 1982 (c. 52).
- (2) The Chief Inspector has the general duty of keeping the Assembly informed about the quality of any education, training or advisory services falling within subsection (1) provided by relevant providers in Wales.
- (3) The Chief Inspector must inspect any relevant provider under this section at prescribed intervals.
- (4) When asked to do so by the Assembly, the Chief Inspector must—
  - (a) give advice to the Assembly on such matters relating to the provision of education, training or advisory services falling within subsection (1) by relevant providers, or
  - (b) inspect any relevant provider under this section.

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- (5) The Chief Inspector may at any time—
  - (a) give advice to the Assembly relating to the provision of education, training or advisory services falling within subsection (1) by relevant providers, or
  - (b) inspect any relevant provider under this section.
- (6) An inspection of any relevant provider under this section is to consist of a review of the way in which he is providing the education, training or advisory service falling within subsection (1)(a) or (b).

### **57 Inspections under sections 55 and 56: further provisions**

- (1) This section applies to any inspection under section 55 or 56.
- (2) The inspection must be conducted by one or more of the following—
  - (a) any of Her Majesty's Inspectors of Education and Training in Wales, or
  - (b) any additional inspector authorised under paragraph 2 of Schedule 2;
 but such an inspector or inspectors may be assisted by such other persons (whether or not members of the Chief Inspector's staff) as the Chief Inspector thinks fit.
- (3) In conducting the inspection, the inspector or inspectors must act in accordance with any instructions or guidelines given from time to time by the Assembly.
- (4) The inspector conducting the inspection, and any person assisting him by virtue of subsection (2), have at all reasonable times—
  - (a) a right of entry to any premises where the relevant services, or as the case requires the education, training or advisory services falling within section 56(1), are provided, and
  - (b) a right to inspect, and take copies of, any records or other documents kept by the person being inspected, which he requires for the purposes of the inspection.
- (5) It is an offence intentionally to obstruct—
  - (a) the inspector conducting the inspection, or
  - (b) any person assisting him by virtue of subsection (2),
 in the exercise of his functions in relation to the inspection.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) Where the inspection has been completed, the Chief Inspector must—
  - (a) prepare a written report on the inspection within a prescribed period,
  - (b) send a copy of the report to—
    - (i) the person inspected,
    - (ii) the Assembly,
    - (iii) any prescribed person, and
    - (iv) any other person whom he considers appropriate, and
  - (c) publish the report in the prescribed manner or, if none is prescribed, in such manner as the Chief Inspector considers appropriate.
- (8) Subsections (3) and (4) of section 29 (which relate to defamation) apply to the publication of a report under this section as they apply to the publication of a report under either of the provisions mentioned in subsection (2) of that section.

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- (9) Regulations may require the person inspected to prepare a written statement in response to the report of the inspection.
- (10) Regulations under subsection (9) may—
- (a) prescribe the matters to be dealt with in the statement,
  - (b) prescribe the period within which it must be prepared, and
  - (c) require the person who prepared it to send copies of the statement to prescribed persons and to publish it in the prescribed manner.

## CHAPTER 7

### SUPPLEMENTARY

#### 58 Inspection of computer records

A person authorised by any provision of this Part to inspect records or other documents—

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
- (b) may require—
- (i) the person by whom or on whose behalf the computer is or has been so used, or
  - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in a legible form).

#### Modifications etc. (not altering text)

- C41** S. 58 applied (6.4.2007) by [Childcare Act 2006 \(c. 21\)](#), [ss. 77\(6\)](#), 109; [S.I. 2007/1019](#), [art. 4](#)
- C42** S. 58 applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), [reg. 2](#), [Sch. para. 2\(b\)](#)  
S. 58 applied (E.) (1.9.2005) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005 \(S.I. 2005/1973\)](#), [reg. 2](#), [Sch. para. 4\(2\)\(b\)](#)
- C43** S. 58 applied (1.9.2005 for E. and 1.9.2006 for W.) by [2002 c. 32](#), [s. 164\(6\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), [ss. 54](#), [125](#), [Sch. 8 para. 3](#)); [S.I. 2005/2034](#), [art. 4](#), [S.I. 2006/1338](#), {art. 3}, Sch. 1
- C44** S. 58 applied (1.9.2005 for E. and 1.9.2006 for W.) by [2002 c. 32](#), [s. 162B\(3\)](#) (as inserted by [Education Act 2005 \(c. 18\)](#), [ss. 54](#), [125](#), [Sch. 8 para. 2](#)); [S.I. 2005/2034](#), [art. 4](#), [S.I. 2006/1338](#), {art. 3}, Sch. 1
- C45** S. 58 applied (3.10.2005 for E. and 1.9.2006 for W.) by [1998 c. 31](#) Sch. 26 para. 18(3) (as substituted by [Education Act 2005 \(c. 18\)](#), [ss. 53](#), [119](#), [125](#), [Sch. 7 para. 24\(3\)](#)); [S.I. 2005/2034](#), [art. 6](#), [S.I. 2006/1338](#), {art. 3}, Sch. 1

#### Commencement Information

- I10** S. 58 wholly in force at 1.9.2006; s. 58 not in force at Royal Assent see [s. 125](#); s. 58 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 58 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

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## 59 Combined reports

- (1) For the purposes of this section “the inspection enactments” are—
  - (a) this Part,
  - (b) Part 10A of the Children Act 1989 (c. 41) (child minding and day care for children ),
  - (c) section 122 of, and Schedule 26 to, the School Standards and Framework Act 1998 (c. 31) (inspection of nursery education ),
  - (d) Chapter 1 of Part 10 of the Education Act 2002 (c. 32) (regulation of independent schools).
- (2) Where, following inspections conducted under two or more inspection enactments by one person or two or more different persons, that person is (or those persons are) required to make a report under each of those enactments, nothing in any of those enactments is to be regarded as preventing him (or them) from—
  - (a) including those reports in a single document (“a combined report”), and
  - (b) to such extent as he considers (or they consider) appropriate, combining the substantive reports required by those enactments.
- (3) Where a combined report is made, any reference in the inspection enactments to the publication of a report, or to the giving, or making available, to any person of a copy of a report is to be read so far as necessary as a reference to the publication of the combined report, or to the giving or making available to that person of a copy of the combined report.
- (4) The Chief Inspector may arrange for a combined report to be published in any manner he considers appropriate, but this subsection does not limit any duty as to publication imposed by any of the inspection enactments.

### Commencement Information

**I11** S. 59 wholly in force at 1.9.2006; s. 59 not in force at Royal Assent see s. 125; s. 59 in force for E. at 3.10.2005 by [S.I. 2005/2034](#), [art. 6](#); s. 59 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## 60 Repeal of School Inspections Act 1996

The School Inspections Act 1996 (c. 57) (which is superseded by the provisions of this Part) shall cease to have effect.

### Commencement Information

**I12** S. 60 wholly in force at 1.9.2006; s. 60 not in force at Royal Assent see s. 125; s. 60 in force for E. at 1.9.2005 by [S.I. 2005/2034](#), [art. 4](#); S. 60 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## 61 Further amendments relating to school inspection

Schedule 9 contains further amendments related to the provisions of this Part.

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### Commencement Information

- 113** S. 61 partly in force; s. 61 not in force at Royal Assent see s. 125; s. 61 in force for certain purposes for E. and for certain purposes for E.W. at 1.9.2005 by [S.I. 2005/2034](#), arts. {4}, {5}; s. 61 in force for certain purposes for W. and for certain purposes for E.W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [4](#), [Schs. 1](#), [2](#)

## 62 Power of Assembly to change inspection framework for Wales

- (1) The Assembly may by order—
  - (a) make provision in relation to Wales corresponding to—
    - (i) that made in relation to England by any English inspection provision, or
    - (ii) that which could be made in relation to England by regulations under any English inspection provision,
  - (b) repeal any Welsh inspection provision which does not correspond to an English inspection provision, and
  - (c) make such provision as the Assembly thinks fit in connection with any provision made by virtue of paragraph (a) or (b).
- (2) In relation to section 39 (statement to be prepared by appropriate authority for maintained school), the power conferred by paragraph (b) of subsection (1) includes power, instead of repealing the section, to limit the cases in which it applies.
- (3) The powers conferred by paragraphs (a) and (c) of subsection (1) include power to amend or repeal any enactment (whenever passed or made), including any provision of this Act.
- (4) For the purposes of this section—
  - (a) an English inspection provision is any provision of—
    - (i) Chapters 1 and 2,
    - (ii) sections 48 and 49 (denominational education in England),
    - (iii) Schedule 26 to the School Standards and Framework Act 1998 (c. 31) (nursery education), so far as relating to England, or
    - (iv) sections 162A and 162B of the Education Act 2002 (c. 32) (independent schools in England),
  - (b) a Welsh inspection provision is any provision of—
    - (i) Chapters 3 and 4,
    - (ii) section 50 and Schedule 6 (denominational education in Wales),
    - (iii) section 52 (provision of inspection services by local education authorities in Wales),
    - (iv) Schedule 26 to the School Standards and Framework Act 1998 (nursery education), so far as relating to Wales, or
    - (v) sections 163 and 164 of the Education Act 2002 (independent schools in Wales).
- (5) In this section “enactment” includes an enactment comprised in subordinate legislation, within the meaning of the Interpretation Act 1978 (c. 30).

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## 63 Interpretation of Part 1

(1) In this Part—

“Church of England school”, “Church in Wales school”, “Roman Catholic Church school” and “appropriate diocesan authority”, in each case, have the meaning given by section 142 of the School Standards and Framework Act 1998 (c. 31);

“delegated budget” has the same meaning as in section 49 of the School Standards and Framework Act 1998;

“denominational education” has the meaning given by section 47.

(2) References in this Part to special measures being, or not being, required to be taken in relation to a school are to be read in accordance with section 44(1).

(3) References in this Part to a school requiring, or not requiring, significant improvement are to be read in accordance with section 44(2).

## PART 2

### SCHOOL ORGANISATION

## 64 Proposals not requiring consent of Secretary of State

(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) Omit subsection (1A) and, in subsection (2), the words “(otherwise than pursuant to a notice under section 70 of the Education Act 2002)”.

(3) After subsection (2) insert—

“(2A) Subsections (1)(a) and (2)(a) do not apply to any proposal to establish a secondary school which is to be maintained by a local education authority in England.

(2B) For the purposes of subsection (2A), “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.”

(4) Omit subsection (4).

## 65 Publication of proposals with consent of Secretary of State

After section 28 of the School Standards and Framework Act 1998 insert—

### **“28A Proposals for establishment of community, foundation or voluntary school maintained by English LEA**

(1) A local education authority in England may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than

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pursuant to a notice under section 66 of the Education Act 2005) a new community or foundation school.

- (2) Any persons (referred to in this Part as “promoters”) may with the consent of the Secretary of State publish under this section their proposals to establish (otherwise than pursuant to a notice under section 66 of the Education Act 2005) a new foundation or voluntary school which is proposed to be maintained by a local education authority in England.
- (3) Proposals under this section must be proposals for a secondary school; and for this purpose “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.
- (4) Proposals under this section shall—
  - (a) contain such information, and
  - (b) be published in such manner,as may be prescribed.
- (5) Before publishing any proposals under this section, the relevant authority or promoters shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the relevant authority or promoters shall have regard to any guidance given from time to time by the Secretary of State.
- (6) The relevant authority or promoters shall send—
  - (a) a copy of any proposals published under this section, and
  - (b) such information in connection with those proposals as may be prescribed,to the school organisation committee for the area of the local education authority who it is proposed should maintain the school.
- (7) Schedule 6 has effect in relation to—
  - (a) the procedure for dealing with proposals under this section and their implementation, and
  - (b) the provision of premises or other assistance in connection with their implementation.
- (8) Where any proposals published under this section relate to a school which is proposed to be situated in an area other than that of the local education authority who it is proposed should maintain the school, the provisions of subsection (6) and Schedule 6 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (9) In this section “the relevant authority or promoters” means the local education authority mentioned in subsection (1) or the promoters mentioned in subsection (2) (as the case may be).”



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### Commencement Information

**I14** S. 65 wholly in force at 1.9.2006; s. 65 not in force at Royal Assent see s. 125; s. 65 partly in force at 1.8.2006 by S.I. 2006/2129, art. 3 and s. 65 in force at 1.9.2006 insofar as not already in force by the said S.I. 2006/2129, art. 4

## 66 Proposals for new secondary schools in England

- (1) A local education authority in England may publish a notice under this section inviting proposals for the establishment of any school falling within subsection (2) as a secondary school.
- (2) The following schools fall within this subsection—
  - (a) a foundation school;
  - (b) a voluntary school;
  - (c) an Academy.
- (3) A notice under this section must—
  - (a) identify a possible site for the school,
  - (b) specify a date, being a date after the prescribed interval, by which proposals must be submitted,
  - (c) specify such other matters as may be prescribed, and
  - (d) be published in the prescribed manner.
- (4) Before publishing a notice under this section, the local education authority must consult any prescribed persons, and such other persons as appear to the authority to be appropriate, about such of the relevant matters as may be prescribed or (if none are prescribed) about such of the relevant matters as appear to the authority to be appropriate.
- (5) In subsection (4) “the relevant matters” means the matters to be specified under subsection (3)(a) and (c) in the notice.
- (6) Regulations may prescribe requirements to be met by the local education authority in relation to consultation under subsection (4).
- (7) Proposals made pursuant to a notice under this section must—
  - (a) contain the prescribed information, and
  - (b) be submitted to the local education authority before the date specified in the notice.
- (8) After the date specified in a notice published by a local education authority under this section the authority—
  - (a) must publish under this section any proposals submitted pursuant to the notice in accordance with subsection (7), and
  - (b) may publish under this section proposals of their own for the establishment of a community or foundation school as a secondary school.
- (9) Regulations may prescribe—
  - (a) the time within which proposals under this section must be published,
  - (b) the manner in which they must be published, and
  - (c) the information which proposals within subsection (8)(b) must contain.



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- (10) Regulations may require the local education authority to take prescribed steps for the purpose of promoting public awareness of any proposals published by them under this section.
- (11) For the purposes of this section “secondary school” includes a middle school as respects which the relevant upper age is at least 16 years, but does not include a school which provides education suitable only to the requirements of persons above compulsory school age.
- (12) Schedule 10 contains provisions in relation to the consideration, approval and implementation of proposals under this section.
- (13) Where any proposals published under this section relate to a school which is proposed to be situated in an area other than that of the local education authority who published the notice under this section, the provisions of Schedule 10 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (14) Section 70 of, and Schedule 8 to, the Education Act 2002 (c. 32) (proposals for additional secondary schools) shall cease to have effect.

#### Commencement Information

**I15** S.66 wholly in force at 1.9.2006; s. 66 not in force at Royal Assent see s. 125; s. 66(6)(10)(13) in force at 1.8.2006 and s. 66 in force at 1.9.2006 insofar as not already in force by S.I. 2006/2129, arts. 3, 4

## 67 Rationalisation of school places in England

Schedule 11 contains provisions enabling the Secretary of State to direct local education authorities in England, or the governing bodies of schools maintained by them, to bring forward proposals for the rationalisation of school places, and for such proposals to be made by him.

## 68 Proposals for establishment of federated school

- (1) Proposals under—
  - (a) section 28, 28A or 31 of the School Standards and Framework Act 1998 (c. 31),
  - (b) section 113A of the Learning and Skills Act 2000 (c. 21),
  - (c) section 193 of the Education Act 2002,
  - (d) section 66 of this Act, or
  - (e) paragraph 7 of Schedule 11 to this Act,for the establishment of a new school may relate to the establishment of the school as a federated school.
- (2) In this section “federated school” has the meaning given by section 24(2) of the Education Act 2002.

#### Modifications etc. (not altering text)

**C46** S. 68 restricted (temp.) (1.9.2006) by The Education Act 2005 (Commencement No. 2 and Transitional Provisions and Savings) Order 2006, (S.I. 2006/2129), {art. 7}

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## **69 LEA not to establish school on opposite side of Welsh border**

No proposals may be published under any enactment—

- (a) for the establishment of a school in Wales which is proposed to be maintained by a local education authority in England, or
- (b) for the establishment of a school in England which is proposed to be maintained by a local education authority in Wales.

## **70 Proposals for discontinuance of rural primary school**

(1) Section 29 of the School Standards and Framework Act 1998 (proposals for discontinuance of community, foundation, voluntary or maintained nursery school) is amended as follows.

(2) For subsection (4) substitute—

“(4A) The matters to which the relevant body shall have regard in formulating any proposals under this section in relation to a rural primary school include—

- (a) the likely effect of the discontinuance of the school on the local community,
- (b) the availability, and likely cost to the local education authority, of transport to other schools,
- (c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase, and
- (d) any alternatives to the discontinuance of the school;

and in considering these matters the relevant body shall have regard to any guidance given from time to time by the Secretary of State.

(4B) Before publishing any proposals under this section which relate to a rural primary school, the relevant body shall consult—

- (a) the registered parents of registered pupils at the school,
- (b) where the relevant body are the governing body of the school, the local education authority,
- (c) in a case where the local education authority are a county council in England, any district council for the area in which the school is situated,
- (d) any parish council or community council for the area in which the school is situated, and
- (e) such other persons as appear to the relevant body to be appropriate.

(4C) Before publishing any other proposals under this section the relevant body shall consult such persons as appear to them to be appropriate.

(4D) In discharging their duty under subsection (4B) or (4C) the relevant body shall have regard to any guidance given from time to time by the Secretary of State.”

(3) After subsection (9) insert—

“(9A) In this section “rural primary school” means a primary school designated as such for the purposes of this section by an order made by the Secretary of State.”

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#### Commencement Information

**I16** S. 70 partly in force; s. 70 not in force at Royal Assent, see s. 125; s. 70 in force for E. at 1.9.2006 by S.I. 2006/2129, art. 5

### 71 Proposals relating to maintained special school

In section 31 of the School Standards and Framework Act 1998 (c. 31) (proposals in respect of community or foundation special school), for subsection (4) substitute—

“(4A) Before publishing any proposals under this section to make any prescribed alteration to a school, or to discontinue a school, the relevant body shall consult—

- (a) the registered parents of registered pupils at the school,
- (b) any local education authority which maintain a statement under section 324 of the Education Act 1996 (statement of special educational needs) in respect of a registered pupil at the school, and
- (c) such other persons as appear to the relevant body to be appropriate.

(4B) Before publishing any proposals under this section to establish a new school, the relevant body shall consult such persons as appear to them to be appropriate.

(4C) In discharging their duty under subsection (4A) or (4B) the relevant body shall have regard to any guidance given from time to time by the Secretary of State.”

#### Commencement Information

**I17** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 125; s. 71 in force for certain purposes for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1 and in force for certain purposes for E. at 1.9.2006 by S.I. 2006/2129, art. 5

### 72 School organisation: further amendments

Schedule 12 contains further amendments relating to proposals for the establishment, alteration or discontinuance of schools.

#### Commencement Information

**I18** S. 72 partly in force; s. 72 not in force at Royal Assent see s. 125; s. 72 in force for certain purposes at 1.9.2006 by S.I. 2006/2129, art. 4 and for certain further purposes for E. at 1.9.2006 by S.I. 2006/2129, art. 5

### 73 Interpretation of Part 2

In this Part—

“adjudicator” is to be read in accordance with section 25(3) of the School Standards and Framework Act 1998 (c. 31);

“prescribed” means prescribed by regulations;

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“regulations” means regulations made under this Part by the Secretary of State;

“school organisation committee”, in relation to proposals, means the school organisation committee (as defined by section 24(4) of the School Standards and Framework Act 1998) for the area of the local education authority which published the proposals.

### PART 3

#### TRAINING THE SCHOOL WORKFORCE

##### *The Training and Development Agency for Schools*

#### **74 The Training and Development Agency for Schools**

The body corporate originally established under section 1 of the Education Act 1994 (c. 30) as the Teacher Training Agency is to continue in existence but is to be known instead as the Training and Development Agency for Schools.

#### **75 Functions of Agency**

- (1) The Agency are to exercise the functions conferred on them by or under this Part or any other enactment.
- (2) The objectives of the Agency in exercising their functions are—
  - (a) to contribute to raising the standards of teaching and of other activities carried out by the school workforce,
  - (b) to promote careers in the school workforce,
  - (c) to improve the quality and efficiency of all routes into the school workforce, and
  - (d) to secure the involvement of schools in all courses and programmes for the initial training of school teachers.
- (3) In the exercise of their functions the Agency shall have regard, in particular, to the desirability of securing that the school workforce is well fitted and trained—
  - (a) to promote the spiritual, moral, behavioural, social, cultural, mental and physical development of children and young people,
  - (b) to contribute to their well-being, and
  - (c) to prepare them for the opportunities, responsibilities and experiences of later life.
- (4) In subsection (3)(b) “well-being”, in relation to children and young people, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004 (c. 31).
- (5) For the purposes of this Part, the school workforce consists of the following members—
  - (a) persons who work in schools, and
  - (b) persons not falling within paragraph (a) who are teachers or carry out work that consists of or includes teaching.

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#### Commencement Information

**119** S. 75 wholly in force at 1.9.2005; s. 75(5) in force at Royal Assent and s. 75(1)-(4) in force at 1.9.2005 see s. 125(1)(b)(3)

### 76 Functions of Agency in relation to Wales

- (1) Subject to subsection (2), the functions of the Agency are exercisable in relation to England and Wales generally.
- (2) The Agency must not do anything in relation to Wales unless—
  - (a) the Agency have been requested to do so by the Assembly, and
  - (b) the Agency have given the Assembly notice that they are willing to do so.
- (3) Subsection (2) does not affect any function conferred on the Agency by section 94 or by regulations made under any of sections 132 to 140 of the Education Act 2002 (c. 32) (qualifications etc. of school teachers and persons providing further education).

### 77 Membership etc. of Agency

- (1) The Agency is to consist of such number of members appointed by the Secretary of State as the Secretary of State may determine, of whom one is to be appointed as chairman.
- (2) Schedule 13 has effect with respect to the Agency.

### 78 Powers of Agency to provide financial support

- (1) The Agency may provide to any person such financial support as the Agency think fit in furtherance of any of the objectives set out in section 75(2).
- (2) The persons to whom financial support may be provided include, in particular—
  - (a) members of the school workforce,
  - (b) persons training to be members of the school workforce,
  - (c) training providers, and
  - (d) employers or prospective employers of members of the school workforce.
- (3) In this Part “training provider” means a person who provides training for members of the school workforce.

#### Commencement Information

**120** S. 78 wholly in force at 1.9.2005; s. 78(3) in force at Royal Assent and s. 78(1)(2) in force at 1.9.2005 see s. 125(1)(b)(3)

### 79 Forms of financial support under section 78

- (1) Financial support under section 78 may be given by way of grants, loans or other payments.

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- (2) Financial support under section 78 may be given subject to such terms and conditions as the Agency think fit.
- (3) The terms and conditions on which the Agency may make any grants, loans or other payments under section 78 may in particular—
  - (a) enable the Agency to require the repayment, in whole or in part, of sums paid by the Agency if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Agency in accordance with any of the terms and conditions remains unpaid.
- (4) The power of the Agency to impose conditions on the making of any grants, loans or other payments under section 78 to a training provider includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the provision by that training provider of relevant training of any description specified in the condition.
- (5) Where—
  - (a) a condition is imposed under subsection (4) in connection with any grant, loan or other payment made to a training provider (“T1”), and
  - (b) the grant, loan or other payment is to any extent made in respect of persons undertaking relevant training which is provided in whole or part by another training provider (“T2”),
 then, for the purposes of the condition, fees payable by such persons to T2 are to be regarded as fees charged by T1.
- (6) The terms and conditions on which the Agency make any grant, loan or other payment under section 78 to a training provider must not relate to the application by the training provider of any sums derived otherwise than from the Agency, but this subsection does not affect the power to impose conditions by virtue of subsection (4).
- (7) In exercising their functions under section 78 and this section the Agency must have regard—
  - (a) generally, to any forecast of demand for members of the school workforce of a particular category that is notified to them by the Secretary of State, and
  - (b) in relation to financial support for any training provider, to any assessment of the quality of the relevant training provided by that person—
    - (i) made by the Chief Inspector for England, or
    - (ii) to which the Agency think it appropriate to have regard or to which the Secretary of State directs them to have regard.
- (8) In this section “relevant training”, in relation to a training provider, means any training provided by the training provider for members of the school workforce.

## **80 Provisions supplementary to sections 78 and 79**

- (1) In exercising their functions in relation to the provision of financial support, the Agency must have regard to the desirability of not discouraging any training provider for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.

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- (2) In exercising their functions in relation to the provision of financial support for training providers the Agency must have regard (so far as the Agency think it appropriate to do so in the light of any other relevant considerations) to the desirability of maintaining what appears to the Agency to be an appropriate balance in the support given by the Agency between institutions which are of a denominational character and other training providers.
- (3) In exercising their functions the Agency must take such steps as appear to them appropriate to secure that any person who provides any training funded by the Agency makes available such information relating to the training, in such manner and to such persons, as the Agency may require.
- (4) Subsection (1) does not affect the power by virtue of section 79(4) to impose conditions prohibiting or restricting the charging of fees.

## **81 Grants to Agency by Secretary of State**

- (1) The Secretary of State may make grants to the Agency of such amounts and subject to such terms and conditions as he may determine.
- (2) Subsections (3) and (4) apply to the terms and conditions subject to which grants are made by the Secretary of State to the Agency, so far as they relate to the provision of financial support by the Agency to training providers.
- (3) The terms and conditions—
  - (a) may in particular impose requirements to be complied with in respect of every training provider, or every training provider falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any training provider to which the requirements apply before financial support of any amount or description so specified is provided by the Agency in respect of activities carried on by the training provider, but
  - (b) must not otherwise relate to the provision of financial support by the Agency in respect of activities carried on by any particular training provider or training providers.
- (4) The terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (5) The terms and conditions subject to which any grants are made by the Secretary of State to the Agency may in particular—
  - (a) enable the Secretary of State to require the repayment, in whole or in part, of sums paid by him if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Secretary of State in accordance with any of the terms and conditions remains unpaid.

## **82 Grants to Agency by Assembly**

- (1) The Assembly may make grants to the Agency of such amounts and subject to such terms and conditions as the Assembly may determine.

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- (2) Subsections (3) and (4) apply to the terms and conditions subject to which grants are made by the Assembly to the Agency, so far as they relate to the provision of financial support by the Agency to training providers.
- (3) The terms and conditions—
  - (a) may in particular impose requirements to be complied with in respect of every training provider, or every training provider falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any training provider to which the requirements apply before financial support of any amount or description so specified is provided by the Agency in respect of activities carried on by the training provider,
  - (b) may include a condition requiring the Agency to impose a specified condition falling within subsection (4) of section 79 in relation to any grants, loans or other payments made by the Agency under section 78 to a training provider specified by the Assembly in the condition under subsection (1), or a training provider of a class so specified, but
  - (c) may not otherwise relate to the provision of financial support by the Agency in respect of activities carried on by any particular training provider or training providers.
- (4) The terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (5) A condition imposed by virtue of subsection (3)(b) does not apply in relation to grants, loans or other payments made by the Agency in respect of any course which is a qualifying course for the purposes of section 28 of the Higher Education Act 2004 (c. 8).
- (6) The terms and conditions subject to which any grants are made by the Assembly to the Agency may in particular—
  - (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Assembly in accordance with any of the terms and conditions remains unpaid.

### **83 Non-funding functions of Agency**

- (1) The Agency may do anything which they think fit in furtherance of any of the objectives set out in section 75(2).
- (2) The power conferred by this section includes power to provide information, advice or other services to persons outside England and Wales.
- (3) The Agency may make such charges as they think fit for the provision under this section to any person of information, advice or other services.
- (4) This section—
  - (a) does not authorise the provision of financial support, and
  - (b) is subject to paragraph 1(2) of Schedule 13.



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#### **84 Directions by Secretary of State and Assembly**

- (1) In exercising their functions the Agency must comply with any directions under this section.
- (2) The Secretary of State may give general directions to the Agency about the exercise of their functions, except so far as those functions are exercisable in relation to Wales.
- (3) The Assembly may give general directions to the Agency about the exercise of their functions, so far as those functions are exercisable in relation to Wales in accordance with section 76.
- (4) Directions under this section are to be contained in an order made by the Secretary of State or the Assembly.

*Funding of teacher training by Higher Education Funding Council for Wales*

#### **85 Qualifying activities and eligible institutions in relation to HEFCW funding**

- (1) The Higher Education Funding Council for Wales (in this Part referred to as “HEFCW”) are responsible for administering funds made available to them by the Assembly and others for the purpose of providing financial support for the carrying on by eligible institutions of qualifying activities.
- (2) The activities qualifying for funding by HEFCW under this Part (“qualifying activities”) are—
  - (a) the provision of teacher training,
  - (b) the provision of facilities, and the carrying on of other activities, by eligible institutions which the governing bodies of those institutions consider it necessary or desirable to provide or carry on for the purposes of or in connection with activities within paragraph (a), and
  - (c) the provision by any person of services for the purposes of, or in connection with, such activities.
- (3) The institutions eligible for funding by HEFCW under this Part (“eligible institutions”) are—
  - (a) any institution in Wales within the higher or further education sector,
  - (b) the Open University,
  - (c) any school in Wales, and
  - (d) and other institution or body in Wales designated by order of the Assembly, and any partnership or association of eligible institutions, or body established by one or more such institutions, for the purpose of carrying on qualifying activities.
- (4) For the purposes of subsection (3), an institution or body is in Wales if its activities are carried on, or principally carried on, in Wales.
- (5) In sections 86 to 91—
  - (a) “qualifying activities” is to be read in accordance with subsection (2);
  - (b) “eligible institution” is to be read in accordance with subsection (3).

#### **86 Grants, loans and other payments by HEFCW**

- (1) HEFCW may—

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- (a) make grants, loans or other payments in respect of expenditure incurred or to be incurred by the governing body of an eligible institution for the purposes of activities qualifying for funding by HEFCW under this Part by virtue of section 85(2)(a) or (b), and
  - (b) make grants, loans or other payments in respect of expenditure incurred or to be incurred for the purposes of the provision of services as mentioned in section 85(2)(c),
- subject in each case to such terms and conditions as HEFCW think fit.
- (2) The terms and conditions on which HEFCW may make any grants, loans or other payments under this section may in particular—
- (a) enable HEFCW to require the repayment, in whole or in part, of sums paid by HEFCW if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to HEFCW in accordance with any of the terms and conditions remains unpaid.
- (3) The power of HEFCW to impose conditions on the making of any grants, loans or other payments under this section to an eligible institution includes in particular power to impose conditions prohibiting, restricting or requiring the charging of fees in connection with the carrying out by that institution of qualifying activities.
- (4) Where—
- (a) a condition is imposed under subsection (3) in connection with any grant, loan or other payment to an eligible institution, and
  - (b) the grant, loan or other payment is to any extent made in respect of persons undertaking training which is provided in whole or in part by another training provider,
- then, for the purposes of the condition, fees payable by such persons to the other training provider are to be regarded as fees charged by the eligible institution.
- (5) The terms and conditions must not relate to the application of any sums derived otherwise than from HEFCW, but this subsection does not affect the power to impose conditions by virtue of subsection (3).
- (6) In exercising their functions under this section HEFCW must have regard—
- (a) generally, to any forecast of demand for newly-qualified teachers that is notified to them by the Assembly, and
  - (b) in relation to any particular institution, to any assessment of the quality of the teacher training provided by that institution—
    - (i) made by the Chief Inspector for Wales, or
    - (ii) to which HEFCW think it appropriate to have regard or to which the Assembly directs them to have regard.

## 87 Provisions supplementary to section 86

- (1) In exercising their functions in relation to the provision of financial support for qualifying activities, HEFCW must have regard to the desirability of not discouraging any institution for whose activities financial support is provided under this Part from maintaining or developing its funding from other sources.

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- (2) Before exercising their discretion under section 86(1)(a) or (b) with respect to the terms and conditions to be imposed in relation to any grants, loans or other payments, HEFCW must consult such of the following bodies as appear to them to be appropriate to consult in the circumstances—
  - (a) such bodies representing the interests of eligible institutions as appear to HEFCW to be concerned, and
  - (b) the governing body of any particular eligible institution which appears to HEFCW to be concerned.
- (3) In exercising their functions in relation to the provision of financial support for qualifying activities HEFCW must have regard (so far as they think it relevant to do so in the light of any other relevant considerations) to the desirability of maintaining—
  - (a) what appears to them to be an appropriate balance in the support given to them as between institutions which are of a denominational character and other institutions, and
  - (b) any distinctive characteristics of any eligible institution for whose activities financial support is provided under this Part.
- (4) In exercising their functions HEFCW must take such steps as appear to them appropriate to secure that the governing body of any institution which provides a course of initial teacher training funded by HEFCW makes available such information relating to the course, in such manner and to such persons, as HEFCW may require.
- (5) Subsection (1) does not affect the power by virtue of section 86(3) to impose conditions prohibiting or restricting the charging of fees.

## **88 Grants to HEFCW**

- (1) The Assembly may make grants to HEFCW of such amounts and subject to such conditions as the Assembly may determine.
- (2) The terms and conditions subject to which grants are made by the Assembly to HEFCW under this section—
  - (a) may in particular impose requirements to be complied with in respect of every institution, or every institution falling within a class or description specified in the terms and conditions, being requirements to be complied with in the case of any institution to which the requirements apply before financial support of any amount or description so specified is provided by HEFCW in respect of activities carried on by the institution, but
  - (b) may not otherwise relate to the provision of financial support by HEFCW in respect of activities carried on by any particular institution or institutions.
- (3) Such terms and conditions may not be framed by reference to criteria for the selection and appointment of staff and for the admission of students.
- (4) Such terms and conditions may in particular—
  - (a) enable the Assembly to require the repayment, in whole or in part, of sums paid by it if any of the terms and conditions subject to which the sums were paid is not complied with, and
  - (b) require the payment of interest in respect of any period during which a sum due to the Assembly in accordance with any of the terms and conditions remains unpaid.

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- (5) Section 68 of the Further and Higher Education Act 1992 (c. 13) does not apply in relation to grants made to HEFCW under this section.

## **89 Power of HEFCW to carry out or commission research**

HEFCW may carry out or commission such research as they consider appropriate with a view to improving—

- (a) the training of teachers, or
- (b) the standards of teaching.

## **90 Supplementary and ancillary functions of HEFCW**

- (1) The Assembly may by order confer or impose on HEFCW such functions supplementary to their functions under this Part as the Assembly thinks fit.
- (2) For the purposes of subsection (1) a function is a supplementary function in relation to HEFCW if—
  - (a) it is exercisable for the purposes of the exercise by the Assembly of functions of the Assembly under any enactment, and
  - (b) it relates to, or to the activities of, an eligible institution.
- (3) Before making an order under subsection (1) the Assembly must carry out such consultation as appears to it to be appropriate.
- (4) HEFCW may carry out such activities ancillary to their functions under this Part as the Assembly may direct.

## **91 Directions by Assembly**

- (1) In exercising their functions under this Part HEFCW must comply with any directions under this section.
- (2) The Assembly may give general directions to HEFCW about the exercise of their functions.
- (3) If it appears to the Assembly that the financial affairs of an eligible institution have been or are being mismanaged the Assembly may, after consulting HEFCW and the institution, give such directions to HEFCW about the provision of financial support in respect of the activities carried on by the institution as the Assembly considers necessary or expedient by reason of the mismanagement.
- (4) Directions under this section are to be contained in an order made by the Assembly.

### *Common provisions*

## **92 Joint exercise of functions**

- (1) A funding agency and any other relevant funding body may exercise any of their functions jointly.
- (2) In subsection (1) “other relevant funding body” means the other funding agency, the Higher Education Funding Council for England, the Learning and Skills Council for

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England or the [F4the Assembly to the extent that it is discharging its functions under Part 2 of the Learning and Skills Act 2000] .

- (3) The Agency and any body specified in an order made by the Secretary of State for the purposes of this subsection may exercise their functions jointly.
- (4) The Assembly may by order authorise HEFCW to exercise their functions under this Part jointly with a body specified in the order, and the specified body to exercise its functions jointly with HEFCW.

#### Textual Amendments

- F4** Words in s. 92(2) substituted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 98**, (with transitional provisions in art. 7)

### 93 Efficiency studies

- (1) A funding agency may arrange for the promotion or the carrying out by any person of studies designed to improve economy, efficiency and effectiveness in the management or operations of a qualifying person.
- (2) A person promoting or carrying out such studies at the request of a funding agency may require the qualifying person concerned—
  - (a) to provide him, or a person authorised by him, with such information, and
  - (b) to make available to him, or a person authorised by him, for inspection their accounts and such other documents,as he may reasonably require for that purpose.
- (3) In this section “qualifying person” means—
  - (a) a training provider receiving financial support under this Part from the Agency, or
  - (b) the governing body of an eligible institution, as defined by section 85(3), receiving financial support under this Part from HEFCW.

### 94 Duty to provide information

- (1) The Agency—
  - (a) must provide the Secretary of State (in such manner as he may from time to time determine) with such information or advice relating to matters for which they are responsible as he may from time to time require, and
  - (b) may provide the Secretary of State with such information or advice relating to such matters as they think fit.
- (2) The Agency must provide the Assembly (in such manner as the Assembly may from time to time determine) with such information or advice relating to matters for which the Agency are responsible by virtue of section 76(2) or by virtue of regulations made by the Assembly under any of sections 132 to 140 of the Education Act 2002 (c. 32) as the Assembly may from time to time require.
- (3) The Agency may provide the Assembly with such information or advice relating to other matters as the Agency think fit.

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- (4) The Agency and HEFCW must give each other such information as they may require for the purposes of the exercise of their functions under any enactment.
- (5) The following must give the Agency or HEFCW such information as they may require for the purpose of the exercise of their functions under any enactment—
  - (a) any person receiving, or who has received or applied for, any grant, loan or other payment under this Part;
  - (b) any local education authority.

### *Provision of training in schools*

## **95 Power of maintained schools to provide training for the school workforce**

- (1) The governing body of a maintained school may—
  - (a) provide courses of initial or further training for school teachers,
  - (b) provide courses of training for other members of the school workforce, or
  - (c) join in partnership with other training providers, or (alone or jointly with other training providers) establish a body, for the purpose of providing training falling within paragraph (a) or (b).
- (2) It is immaterial for the purposes of subsection (1) whether or not the training constitutes higher education.
- (3) In relation to an exercise of the powers conferred by subsection (1), the governing body has all the same supplementary and incidental powers as it has in relation to the conduct of the school.
- (4) Any exercise by the governing body of a maintained school of the powers conferred by this section is not to be treated, for the purposes of Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (financing of maintained schools) as being undertaken for the purposes of the school.
- (5) Section 80 of the School Standards and Framework Act 1998 (exercise of power to provide further education) does not apply in relation to any course of training that is provided under this section.
- (6) Nothing in this section is to be read as affecting the power of the governing body of a school, as an ordinary incident of the conduct of the school—
  - (a) to provide training for members of the school workforce who work at the school, or
  - (b) to participate in the provision of training for members of the school workforce as part of a course provided by another training provider.

### *Supplementary*

## **96 Interpretation of references to training**

- (1) References in this Part to training, in relation to teachers or other members of the school workforce (including references to the provision of training “for” teachers or other members of the school workforce), include—

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- (a) any training or education with the object of fitting persons to be teachers or other members of the school workforce, or to be better teachers or other members of the school workforce, and
  - (b) any assessment related to the award of any qualification or status as a teacher or other member of the school workforce.
- (2) References elsewhere in the Education Acts to training, in relation to teachers, include any training or education with a view to fitting persons to be teachers, or better teachers.

## 97 Institutions of a denominational character

For the purposes of this Part an institution is of a denominational character if—

- (a) at least one quarter of the members of the governing body of the institution, or in the case of a school at least one-fifth, are persons appointed to represent the interests of a religion or religious denomination, or
- (b) any of the property held for the purposes of the institution is held upon trusts which provide that, in the event of the discontinuance of the institution, the property concerned is to be held for, or sold and the proceeds of sale applied for, the benefit of a religion or religious denomination, or
- (c) any of the property held for the purposes of the institution is held on trust for or in connection with—
  - (i) the provision of education, or
  - (ii) the conduct of an educational institution,in accordance with the tenets of a religion or religious denomination.

## 98 Further amendments relating to Part 3

Schedule 14 contains amendments related to the preceding provisions of this Part.

## 99 Transitional and transitory provisions relating to Part 3

Schedule 15 contains transitional and transitory provisions related to the preceding provisions of this Part.

### Commencement Information

**I21** S. 99 partly in force; s. 99 in force for certain purposes at Royal Assent, see s. 125(1)(b)

## 100 Interpretation of Part 3

(1) In this Part—

- “the Agency” means the Training and Development Agency for Schools;
- “the Chief Inspector for England” means Her Majesty's Chief Inspector of Schools in England;
- “the Chief Inspector for Wales” means Her Majesty's Chief Inspector of Education and Training in Wales;
- “denominational character”, in relation to an institution, is to be read in accordance with section 97;

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“a funding agency” means the Agency or HEFCW;

“governing body”, in relation to an institution conducted by a company, is to be read in accordance with an order under subsection (2);

“HEFCW” means the Higher Education Funding Council for Wales;

“maintained school” means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school;

“the school workforce” and “member of the school workforce” are to be read in accordance with section 75(5);

“training”, in relation to members of the school workforce, is to be read in accordance with section 96(1);

“training provider” has the meaning given by section 78(3).

- (2) The Assembly may by order provide for references in sections 85 to 91 to the governing body of an institution, in relation to an institution which is conducted by a company, to be read as references to the governing body provided for in the instrument of government, or to the company, or to both.
- (3) Other expressions, if used in this Part and the Education Act 1996 (c. 56), have the same meaning in this Part as in that Act.

## PART 4

### MISCELLANEOUS

#### *Maintained schools*

### 101 Funding of maintained schools

Schedule 16 contains amendments relating to the funding by local education authorities of schools maintained by them.

#### **Commencement Information**

**I22** S. 101 partly in force; s. 101 not in force at Royal Assent see s. 125; s. 101 in force for certain purposes for E. and for certain further purposes for E.W. at 1.11.2005 by S.I. 2005/2034, arts. {8}, {9}

### 102 LEA targets: England

- (1) The Secretary of State may by regulations require local education authorities in England to set annual targets in respect of the educational performance—
  - (a) of pupils at schools maintained by them, and
  - (b) of any persons of compulsory school age (whether or not pupils at such schools) who are or have been looked after by them.
- (2) Regulations under this section may in particular—
  - (a) specify the matters in respect of which targets are required to be set;



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- (b) require proposed targets to be notified to the Secretary of State by a prescribed time;
  - (c) authorise the Secretary of State—
    - (i) to modify any proposed target notified to him, or
    - (ii) to require a local education authority to modify the proposed targets and to notify him of the proposed targets as modified;
  - (d) require the targets to be set by a prescribed time;
  - (e) require local education authorities to publish, in such manner as may be specified in the regulations, any targets which they set.
- (3) In subsection (1), “looked after” is to be read in accordance with section 22 of the Children Act 1989 (c. 41).

### 103 Removal of requirements for governors' reports and parents' meetings

- (1) In section 30 of the 2002 Act (governors' report and other information)—
- (a) in subsections (1) and (2)(a), after “maintained school” insert “ in Wales ”,
  - (b) in subsections (3) and (4), after “maintained school” insert “ (in England or Wales) ”, and
  - (c) in the heading, insert “ (Wales) ” after “reports”.
- (2) In section 33 of the 2002 Act (annual parents' meetings)—
- (a) in subsection (1), after “maintained school” insert “ in Wales ”, and
  - (b) in the heading, after “meetings” insert “ : Wales ”.
- (3) The Assembly may by order—
- (a) repeal either or both of the following provisions of the 2002 Act—
    - (i) section 30(1) and (2) (as amended by subsection (1)(a) of this section), and
    - (ii) section 33 (as amended by subsection (2) of this section), and
  - (b) make such amendments of any other enactment as appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).

#### Modifications etc. (not altering text)

C47 S. 103(1) restricted (E.) (1.9.2005) by [The Education Act 2005 \(Commencement No.1 and Savings and Transitional Provisions\) Order 2005 \(S.I. 2005/2034\)](#), art. 10, [Sch. para. 2](#)

### 104 School profiles

After section 30 of the 2002 Act insert—

#### “30A School profiles

- (1) The governing body of a maintained school in England shall prepare and publish a document (a “school profile”) containing—
- (a) such information as the Secretary of State may provide to the governing body for inclusion in the profile,

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- (b) information provided by the governing body about such matters relating to the school as the Secretary of State may specify for the purposes of this paragraph, and
  - (c) such other information about the school as may be prescribed (which may include information to be provided by persons other than the Secretary of State).
- (2) Regulations may—
- (a) specify the time by which the school profile must be published,
  - (b) require the school profile to contain statements by the governing body as to prescribed matters,
  - (c) prescribe the form of the school profile and the manner in which it is to be published,
  - (d) require the governing body to give copies of the school profile to such persons as may be prescribed, and
  - (e) require the governing body to revise the school profile in accordance with the regulations at prescribed times and to publish the school profile as revised.
- (3) In exercising any function conferred by or under this section, a governing body shall have regard to any guidance given from time to time by the Secretary of State.”

**Modifications etc. (not altering text)**

**C48** S. 104 restricted (E.) (1.9.2005) by [The Education Act 2005 \(Commencement No.1 and Savings and Transitional Provisions\) Order 2005 \(S.I. 2005/2034\)](#), art. 10, [Sch. para. 2](#)

**105 Provision and funding of higher education in maintained schools**

After section 28 of the 2002 Act insert—

**“28A Power of governing body to provide higher education**

- (1) Subject to subsection (2), the governing body of a maintained school shall have power to arrange the provision to pupils at the school (whether by teachers at the school or other persons) of courses falling within paragraph 1(g) or (h) of Schedule 6 to the Education Reform Act 1988 (courses in preparation for professional examinations at a higher level or providing education at a higher level).
- (2) A governing body may exercise the power under subsection (1) in relation to a particular pupil only if they are satisfied that the provision to that pupil of the course in question will not to any significant extent interfere with the other education with which he is being provided at the school.
- (3) The National Assembly for Wales may give, or make arrangements for the giving of, financial assistance to any person in connection with the provision of courses mentioned in subsection (1) by the governing body of a maintained school in Wales.

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- (4) Sections 15 and 16 apply to financial assistance given under subsection (3) as they apply to financial assistance given under section 14.
- (5) This section has effect notwithstanding section 1(4) of the Education Act 1996 (functions not conferred with respect to higher education).”

#### Commencement Information

**I23** S.105 partly in force; s. 105 not in force at Royal Assent see s. 125; s. 105 in force for certain purposes for E. at 1.9.2005 by S.I. 2005/2034, art. 4; S. 105 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

### 106 Admission arrangements to make special provision for looked-after children

In section 89 of the School Standards and Framework Act 1998 (c. 31) (procedure for determining admission arrangements) after subsection (1) insert—

“(1A) Regulations may require the admission authorities for maintained schools to include in their admission arrangements such provision relating to the admission of children who are looked after by a local authority (within the meaning of section 22 of the Children Act 1989) as may be prescribed, which may in particular include provision for securing that, subject to sections 86(3) and (3A) and 87 (cases where duty to comply with parental preference does not apply), such children are to be offered admission in preference to other children.”

#### Commencement Information

**I24** S. 106 wholly in force at 1.9.2006; s. 106 not in force at Royal Assent see s. 125; s. 106 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; s. 106 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

### 107 Restrictions on disposal of land

Schedule 17 contains amendments of Schedule 22 to the School Standards and Framework Act 1998 (which makes provision as to the disposal of land held for the purposes of foundation, voluntary or foundation special schools and as to the property of maintained schools on their discontinuance).

#### Information

### 108 Supply of information: education maintenance allowances

- (1) This subsection applies to information which—
- (a) is held for the purposes of functions relating to tax or tax credits—
    - (i) by the Commissioners of Inland Revenue, or
    - (ii) by a person providing services to the Commissioners of Inland Revenue, in connection with the provision of those services, or
  - (b) is held for the purposes of functions relating to social security—

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- (i) by the Secretary of State or a Northern Ireland department, or
  - (ii) by a person providing services to the Secretary of State or such a department, in connection with the provision of those services.
- (2) Information to which subsection (1) applies may be supplied to a person falling within subsection (3) for use for purposes relating to eligibility for education maintenance allowances.
- (3) The following persons fall within this subsection—
- (a) the Secretary of State,
  - (b) the Learning and Skills Council for England,
  - (c) the Assembly,
  - (d) a Northern Ireland department,
  - (e) the Scottish Ministers, and
  - (f) any person providing services to the Secretary of State, the Learning and Skills Council for England, the Assembly, a Northern Ireland department or the Scottish Ministers.
- (4) Information received by virtue of subsection or this subsection (2) by a person other than the Scottish Ministers may be supplied to a person falling within subsection (5) for use for purposes relating to eligibility for education maintenance allowances.
- (5) The following persons fall within this subsection—
- (a) the Assembly,
  - (b) a Northern Ireland department,
  - (c) the Scottish Ministers,
  - (d) any person by whom functions in relation to education maintenance allowances falling within subsection (8)(a) are exercisable by virtue of section 14 or 17 of the 2002 Act,
  - (e) any person by whom functions under regulations under section 181 of the 2002 Act are exercisable by virtue of section 183 or 184 of that Act, and
  - (f) any person providing services to the Assembly or a Northern Ireland department.
- (6) A person other than the Scottish Ministers may, in making any request for the supply to him of information by virtue of subsection (2) or (4), supply to any person who holds, or is to be supplied with, the information—
- (a) the name, address and date of birth of any person to whom the request relates (“the student”),
  - (b) the name, address and date of birth of—
    - (i) any parent of the student, or
    - (ii) any other person whose financial circumstances are relevant to the student's eligibility for an education maintenance allowance, and
  - (c) any other information (whether relating to the student, any parent of his or any person falling within paragraph (b)(ii)) which is required for the purpose of determining the student's eligibility for an education maintenance allowance.
- (7) This section does not limit the circumstances in which information may be supplied apart from this section.
- (8) In this section and section 109 “education maintenance allowance” means—

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- (a) financial assistance under section 14 of the 2002 Act paid to or in respect of a person who is over compulsory school age in connection with his undertaking any course of education or training,
  - (b) an allowance under section 181 of the 2002 Act,
  - (c) an award under Article 51(1)(b) of the Education and Libraries (Northern Ireland) Order 1986 (No. 594/NI 3) paid to or in respect of a person who is over compulsory school age (within the meaning of that Order) in connection with his undertaking any course of education or training,
  - (d) an allowance under section 73(f) of the Education (Scotland) Act 1980 (c. 44) paid to or in respect of a relevant person attending a course of education, other than higher education, or
  - (e) financial assistance provided under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992 (c. 37).
- (9) In subsection (8)(d)—
- “higher education” has the same meaning as in Part 2 of the Further and Higher Education (Scotland) Act 1992;
  - “relevant person” means a person who—
    - (a) is deemed to have attained the age of 16 years under section 33 of the Education (Scotland) Act 1980, and
    - (b) has not, on the first day of the term of the course of education, attained the age of 20 years.

## **109 Unauthorised disclosure of information received under section 108**

- (1) A person (“X”) who discloses information which he has received by virtue of subsection (2) or (4) of section 108 and which relates to a particular person commits an offence unless the information is disclosed—
- (a) in accordance with subsection (4) of that section,
  - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for education maintenance allowances,
  - (c) in accordance with an enactment or an order of a court,
  - (d) for the purpose of instituting, or otherwise for the purposes of, civil or criminal proceedings, or
  - (e) with consent given by or on behalf of the person to whom the information relates.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (3) A person guilty of an offence under subsection is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.

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- (4) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) The reference in subsection (1)(c) to an enactment includes a reference to an enactment comprised in, or in an instrument made under—
  - (a) an Act of the Scottish Parliament, or
  - (b) any Northern Ireland legislation as defined in section 24(5) of the Interpretation Act 1978 (c. 30).

## **110 Supply of information: free school lunches etc.**

- (1) This subsection applies to information held for the purposes of functions relating to tax credits—
  - (a) by the Commissioners of Inland Revenue, or
  - (b) by a person providing services to them, in connection with the provision of those services.
- (2) This subsection applies to information held for the purposes of functions relating to social security—
  - (a) by the Secretary of State, or
  - (b) by a person providing services to him, in connection with the provision of those services.
- (3) Information to which subsection (1) or (2) applies may be supplied—
  - (a) to the Secretary of State, or any person providing services to him, or
  - (b) to the Assembly, or any person providing services to the Assembly,
 for use for the purpose of determining eligibility for free school lunches and milk.
- (4) Information to which subsection (2) applies may be supplied to a local education authority for use for that purpose.
- (5) Information received by virtue of subsection (3) may be supplied—
  - (a) to another person to whom it could have been supplied under that subsection, or
  - (b) to a local education authority,
 for use for that purpose.
- (6) The references in subsections (4) and (5)(b) to a local education authority include references to any person exercising on behalf of such an authority functions relating to eligibility for free school lunches and milk.
- (7) For the purposes of this section, a person is eligible for free school lunches and milk if school lunches and milk are required to be provided for him, on request, free of charge—
  - (a) in accordance with section 512ZB(2) and (3) of the Education Act 1996 (c. 56),
  - (b) in accordance with regulations under section 342 of that Act (non-maintained special schools), or
  - (c) in accordance with an agreement under section 482 of that Act (Academies, etc.).

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- (8) In this section, “school lunch” has the same meaning as in section 512 of the Education Act 1996.
- (9) This section does not limit the circumstances in which information may be supplied apart from this section.

## **111 Unauthorised disclosure of information received under section 110**

- (1) A person (“X”) who discloses information which he has received by virtue of any of subsections (3) to (5) of section 110 and which relates to a particular person commits an offence unless the information is disclosed—
  - (a) in the case of information received by virtue of subsection (3) of that section, in accordance with subsection (5) of that section,
  - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for free school lunches and milk,
  - (c) in accordance with an enactment or an order of a court, or
  - (d) with consent given by or on behalf of the person to whom the information relates.
- (2) In subsection (1)(b), “eligibility for free school lunches and milk” is to be read in accordance with section 110(7).
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (4) A person guilty of an offence under subsection (1) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (5) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4)(b) to 12 months is to be read as a reference to 6 months.

## **112 Power to provide that function of determining eligibility remains with LEA**

In section 512A of the Education Act 1996 (c. 56) (transfer of functions under section 512 of that Act to governing bodies), in subsection (4), for paragraph (b) substitute—

- “(b) if the duty corresponds to the one mentioned in subsection (2)(b) or (c)—
  - (i) the order may provide that, notwithstanding the other provisions of the order, the function of determining whether pupils at the school fall within section 512ZB(4) is to be exercisable by the local education authority, and
  - (ii) section 533(3) shall not apply to school lunches or milk provided by the governing body in pursuance of the order.”

## **113 Information about the school workforce: introductory**

- (1) Subsections (2) and (3) apply for the purposes of section 114.

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- (2) “Qualifying worker” means any person who—
- (a) is employed at, or otherwise engaged to work at, a school,
  - (b) does not fall within paragraph (a) but provides, or assists in the provision of, education under a contract of employment or for services where the other party to the contract is—
    - (i) a children's services authority in England or Wales, or
    - (ii) a person exercising a function relating to the provision of education on behalf of such an authority, or
  - (c) provides education at a further education institution.
- (3) “Qualifying trainee” means a person (other than a qualifying worker as defined in subsection (2)) for whom training as a member of the school workforce is being provided.
- (4) In this section—
- “contract of employment” has the meaning given by section 230(2) of the Employment Rights Act 1996 (c. 18);
- “further education institution” means an institution which is—
- (a) an institution (other than a school) which provides further education, or
  - (b) an institution within the further education sector;
- “member of the school workforce” has the same meaning as in Part 3.
- (5) In this section and section 114, “children's services authority in England ”and “children's services authority in Wales ”have the same meaning as in the Children Act 2004 ( c. 31).

## **114 Supply of information about school workforce**

- (1) Regulations may authorise or require—
- (a) the proprietor of a school,
  - (b) a children's services authority in England or Wales, or
  - (c) any prescribed person,
- to supply to the relevant person (as defined by subsection (2)) prescribed information relating to persons who are or have been qualifying workers or qualifying trainees, for use by the relevant person for a qualifying purpose.
- (2) In subsection (1) “the relevant person” means one or more of the following—
- (a) the Secretary of State,
  - (b) the Assembly, or
  - (c) any prescribed person.
- (3) Regulations may authorise the Secretary of State or the Assembly to supply to the other or to any prescribed person, for use for a qualifying purpose, prescribed information relating to persons who are or have been qualifying workers or qualifying trainees.
- (4) A person may not be prescribed for the purposes of subsection (1)(c), (2)(c) or (3) unless—
- (a) in the case of subsection (1)(c) or (2)(c), he appears to the person making the regulations to be exercising functions of a public nature, or



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- (b) in the case of subsection (3), he appears to the person making the regulations to be exercising such functions or carrying out research which relates to education or training and may be expected to be of public benefit.
- (5) For the purposes of this section, information is supplied to a person for use for a qualifying purpose if it is supplied to him for use for—
  - (a) evaluation, planning, research or statistical purposes, or
  - (b) any other prescribed purpose.
- (6) Regulations may authorise a person falling within subsection (7) to supply to any prescribed person (“the recipient”) any information relating to persons who are or have been qualifying workers or qualifying trainees which—
  - (a) has been lawfully held by the recipient, or
  - (b) is information which another person was, or could have been, required (whether by virtue of regulations under this section or otherwise) to supply to the recipient.
- (7) The following persons fall within this subsection—
  - (a) the Secretary of State,
  - (b) the Assembly, and
  - (c) any prescribed person.
- (8) Regulations may—
  - (a) prohibit any person to whom information is supplied by virtue of this section from further disclosing the information otherwise than in prescribed circumstances, and
  - (b) provide that section 497 of the Education Act 1996 (c. 56) (default powers of Secretary of State or Assembly) is, in relation to the duties imposed by virtue of this section, to have effect as if—
    - (i) the reference in subsection (2)(a) of that section to a local education authority were a reference to a children's services authority in England or Wales, and
    - (ii) any reference to a body to which that section applies included a reference to a prescribed person.
- (9) This section does not limit the circumstances in which information is authorised or required to be supplied apart from this section.
- (10) In this section—
  - “prescribed” means prescribed by regulations;
  - “regulations” means—
    - (a) in relation to England, regulations made by the Secretary of State, and
    - (b) in relation to Wales, regulations made by the Assembly.

#### *Attendance at alternative educational provision*

### **115 Power of governing body to make alternative provision for excluded pupils**

In section 29 of the 2002 Act (additional functions of governing body), in subsection (3) (power to require pupils to attend at other places for purpose of education) for “pupils in attendance at the school” substitute “registered pupils”.

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### Commencement Information

**I25** S. 115 wholly in force at 1.9.2006; s. 115 not in force at Royal Assent see s. 125; s. 115 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; S. 115 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

## 116 Failure of parent to secure regular attendance of child at alternative provision

After section 444 of the Education Act 1996 insert—

### “444ZA Application of section 444 to alternative educational provision

- (1) Where, in the case of a child of compulsory school age who is not a registered pupil at any school—
- (a) a local education authority has made arrangements under section 19 for the provision of education for him otherwise than at a school or at his home, and
  - (b) notice in writing of the arrangements has been given to the child's parent,
- subsections (1) to (7) of section 444 have effect as if the place at which the education is provided were a school and the child were a registered pupil at that school.
- (2) Where—
- (a) a child of compulsory school age has been excluded from a relevant school,
  - (b) he remains for the time being a registered pupil at the school,
  - (c) he is required by the appropriate authority for the school to attend at a place outside the school premises for the purpose of receiving any instruction or training, and
  - (d) notice in writing of the requirement has been given to the child's parent,
- subsections (1) to (7) of section 444 have effect as if the place at which the child is required to attend were a school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).
- (3) In relation to a maintained school or a pupil referral unit—
- (a) the reference in subsection (2)(a) to exclusion is a reference to exclusion under section 52 of the Education Act 2002, and
  - (b) the requirement referred to in subsection (2)(c) is a requirement imposed under section 29(3) of that Act.
- (4) A child shall not be taken to have failed to attend regularly—
- (a) in a case falling within subsection (1), at the place at which education is provided for him, or
  - (b) in a case falling within subsection (2), at the place at which he is required to attend,
- unless he has failed to attend regularly since the giving of the notice mentioned in subsection (1)(b) or (2)(d).

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- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude the notice mentioned in subsection (1)(b) or (2)(d) from being given to a child's parent by any other effective method.
- (6) In proceedings for an offence under section 444 in a case falling within subsection (1) of this section, the parent shall be acquitted if he proves that the child is receiving suitable education otherwise than by regular attendance at a school or at the place mentioned in subsection (1).
- (7) In section 444 “leave”—
- (a) in relation to a place at which education is provided as mentioned in subsection (1) of this section, means leave granted by any person authorised to do so by the local education authority;
  - (b) in relation to a place at which a child is required to attend as mentioned in subsection (2)(c) of this section, means leave granted by any person authorised to do so by the appropriate authority for the school.
- (8) In this section—
- (a) “relevant school” means—
    - (i) a maintained school,
    - (ii) a pupil referral unit,
    - (iii) an Academy,
    - (iv) a city technology college, or
    - (v) a city college for the technology of the arts;
  - (b) “appropriate authority” means—
    - (i) in relation to a maintained school, the governing body,
    - (ii) in relation to a pupil referral unit, the local education authority, and
    - (iii) in relation to a school falling within paragraph (a)(iii), (iv) or (v), the proprietor of the school.”

#### Commencement Information

**I26** S. 116 wholly in force at 1.9.2006; s. 116 not in force at Royal Assent see s. 125; s. 116 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; S. 116 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

### Supplementary

#### 117 Further amendments relating to Part 4

Schedule 18 contains further amendments related to the provisions of this Part.

#### Commencement Information

**I27** S. 117 partly in force; s. 117 not in force at Royal Assent see s. 125; s. 117 in force at 1.9.2005 for E. for certain purposes and for E.W. for certain purposes by S.I. 2005/2034, arts. {4}, {5} and at 1.11.2005 for E. for certain purposes by the said S.I. 2005/2034, art. 8; S. 117 in force for certain purposes for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

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## 118 Meaning of “the 2002 Act” in Part 4

In this Part “the 2002 Act” means the Education Act 2002 (c. 32).

### Commencement Information

**I28** S. 118 wholly in force at 1.9.2006; s. 118 not in force at Royal Assent see s. 125; s. 118 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; s. 118 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

## PART 5

### GENERAL

## 119 Functions to be exercisable by National Assembly for Wales

- (1) Any function conferred on the Secretary of State by the amendments made by the provisions mentioned in subsection (2), so far as exercisable in relation to Wales, is to be taken to have been transferred to the Assembly by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38).
- (2) Those provisions are—
  - section 45 (power to direct closure of school);
  - section 70 (proposals for discontinuance of rural primary school);
  - section 71 (proposals relating to maintained special school);
  - section 106 (admission arrangements to make special provision for looked-after children);
  - Schedule 7 (inspection of child minding, day care and nursery education);
  - Schedule 16 (funding of maintained schools);
  - Schedule 17 (restrictions on disposal of land);
  - Schedule 18 (further amendments related to Part 4).

## 120 Subordinate legislation: general provisions

- (1) Any power to make an order or regulations conferred by this Act on the Secretary of State or the Assembly is exercisable by statutory instrument.
- (2) Any power of the Secretary of State or the Assembly to make an order or regulations under this Act includes power—
  - (a) to make different provision for different cases or areas,
  - (b) to make provision generally or in relation to specific cases, and
  - (c) to make such incidental, supplementary, saving or transitional provision as the Secretary of State or the Assembly thinks fit.
- (3) Regulations under Part 1 may, in particular, include provision for the designation by the Secretary of State or the Assembly, in accordance with the regulations, of particular schools or categories of school for the purposes of the application of particular provisions of the regulations in relation to such schools.

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- (4) Any power conferred by this Act to give directions includes power, exercisable in the same manner and subject to the same conditions or limitations, to revoke or vary directions previously given.

## 121 Parliamentary control of subordinate legislation

- (1) Any statutory instrument containing regulations or an order made by the Secretary of State under any provision of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1) does not apply to—
- (a) regulations to which subsection (3) applies, or
  - (b) an order made under section 125 (commencement).
- (3) A statutory instrument which contains (whether alone or with other provisions) regulations made by the Secretary of State under section 124 which amend or repeal any part of the text of an Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

## 122 General interpretation

- (1) In this Act “the Assembly” means the National Assembly for Wales.
- (2) Subject to subsection (4), the Education Act 1996 (c. 56) and the provisions of this Act specified in subsection (3) are to be read as if those provisions were contained in that Act.
- (3) The provisions of this Act referred to in subsection (2) are—
- (a) Part 1 (school inspections);
  - (b) Part 2 (school organisation);
  - (c) section 102 (LEA targets: England);
  - (d) section 108 (supply of information: education maintenance allowances);
  - (e) section 110 (supply of information: free school lunches, etc.);
  - (f) section 114 (supply of information about school workforce).
- (4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of the Education Act 1996 (c. 56), the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act.
- (5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of the School Standards and Framework Act 1998 (c. 31).

## 123 Repeals

Schedule 19 contains repeals.

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### Commencement Information

**I29** S. 123 partly in force; s. 123 partly in force at 1.9.2005, see s. 125(3); s. 123 in force for E. for certain purposes at 1.9.2005, 3.10.2005 and 1.11.05 by S.I. 2005/2034, arts. {4}, {6}, {8} and in force for E.W. for certain purposes at 1.9.2005 by the said S.I. 2005/2405, art. 5; s. 123 in force for certain purposes for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1 and in force for certain purposes for E.W. at 1.9.2006 and at 1.4.2007 by the said S.I. 2006/1338, arts. {4}, {5}, Schs. 2, 3

## 124 Power to make further supplementary and consequential provision etc.

- (1) The Secretary of State may at any time by regulations make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitional, transitory or saving provision,
 as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of Parts 1 to 4 of this Act.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) amending or repealing any enactment passed before, or in the same Session as, this Act, and
  - (b) amending or revoking any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made before the passing of this Act.
- (3) In relation to Wales, the power to make regulations under subsection (1) is also exercisable by the Assembly.
- (4) Nothing in this Act is to be regarded as limiting the generality of subsection (1).

## 125 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
  - (a) in Part 1, sections 62 and 63;
  - (b) in Part 3—
    - section 75(5),
    - section 78(3),
    - sections 96 and 97,
    - section 100, and
    - paragraph 3 of Schedule 15 (and section 99 so far as relating to that paragraph);
  - (c) in this Part—
    - sections 119 to 122,
    - section 124,
    - this section, and
    - sections 126 to 128.
- (2) The following provisions of Part 4 come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - section 102,
  - sections 107 to 114, and

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#### Schedule 17.

- (3) The following provisions come into force on 1st September 2005 or, if this Act is passed after 1st July 2005, at the end of the period of two months beginning with the day on which it is passed—
- (a) Part 3 (including Schedules 13 to 15), except the provisions specified in subsection (1)(b), and
  - (b) Part 3 of Schedule 19 (and section 123 so far as relating to that Part of that Schedule).
- (4) The remaining provisions of this Act come into force in accordance with provision made by the appropriate authority (as defined in section 126) by order.

#### Subordinate Legislation Made

- P1** S. 125(4) power partly exercised: different dates appointed for specified provisions by {S.I. 2005/2034}, arts. 2-9 (with transitional and saving provisions in art. 10, Sch.)
- P2** S. 125(4) power partly exercised: different dates appointed for specified provisions by {S.I. 2006/1338}, arts. 3-5 (with transitional provisions and savings in art. 6, Sch. 4)
- S. 125(4) power partly exercised: different dates appointed for specified provisions by {S.I. 2006/2129}, arts. 3-5 (with transitional provisions and savings in arts. 6, 7)

#### 126 The appropriate authority by whom commencement order is made

- (1) This section has effect for determining who is the appropriate authority for the purposes of section 125(4).
- (2) In relation to Part 1, the appropriate authority is—
- (a) the Secretary of State, for the following provisions—
    - Chapters 1 and 2 (including Schedule 1);
    - sections 48 and 49;
    - paragraphs 1 to 4 of Schedule 7 (and section 53 so far as relating to those paragraphs);
    - paragraphs 1 to 5, 23 and 26 of Schedule 9 (and section 61 so far as relating to those paragraphs),
  - (b) the Assembly, for the following provisions—
    - Chapters 3 and 4 (including Schedules 2 to 4);
    - section 50 (including Schedule 6);
    - section 52;
    - sections 55 to 57;
    - paragraph 5 of Schedule 7 (and section 53 so far as relating to that paragraph);
    - paragraphs 6, 7, 22, 24, 25 and 27 of Schedule 9 (and section 61 so far as relating to those paragraphs), and
  - (c) for the other provisions of the Part—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the Assembly.
- (3) In relation to Part 2, the appropriate authority is—

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- (a) for sections 70 and 71 and paragraph 9 of Schedule 12 (and section 72 so far as relating to that paragraph)—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the Assembly, and
  - (b) for the other provisions of the Part, the Secretary of State.
- (4) In relation to Part 4, the appropriate authority is—
- (a) the Secretary of State, for the following provisions—
    - sections 103 and 104;
    - paragraph 8 of Schedule 16 (and section 101 so far as relating to that paragraph);
    - paragraphs 2 to 4 of Schedule 18 (and section 117 so far as relating to those paragraphs), and
  - (b) for the other provisions of the Part—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the Assembly.
- (5) In relation to section 123 and Schedule 19, the appropriate authority is—
- (a) the Secretary of State, for a repeal contained in Part 2 of the Schedule, and
  - (b) for a repeal contained in Part 1 or 4 of the Schedule, the appropriate authority for the purposes of section 125(4) in relation to the provision on which the repeal is consequential.

## **127 Extent**

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—
  - sections 108 and 109 (supply of information: education maintenance allowances),
  - section 124, so far as relating to those sections, and
  - the other provisions of this Part except sections 119, 122 and 123.
- (3) Any amendment or repeal made by this Act has the same extent as the enactment amended or repealed.

## **128 Short title, etc.**

- (1) This Act may be cited as the Education Act 2005.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).



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## SCHEDULES

### SCHEDULE 1

Section 1

#### HER MAJESTY'S CHIEF INSPECTOR OF SCHOOLS IN ENGLAND

##### *Chief Inspector's other staff*

- 1 The Chief Inspector may appoint such staff, in addition to inspectors who are members of his staff by virtue of section 1(3), as he thinks fit.

##### *Additional inspectors*

- 2 (1) The Chief Inspector may arrange for such persons as he thinks fit to assist him in the discharge of his functions in relation to a particular case or class of case.
- (2) Any person assisting the Chief Inspector under any such arrangements is to be known as an additional inspector.
- (3) The Chief Inspector must ensure that additional inspectors have the necessary qualifications, experience and skills to assist him in the effective discharge of his functions.
- (4) In pursuance of the duty imposed by sub-paragraph (3), the Chief Inspector must publish in such manner as he thinks fit, and may from time to time revise, a statement of—
- (a) the qualifications or experience (or both) that are to be required of additional inspectors who are not members of his staff, and
  - (b) the standards that such additional inspectors are to be required to meet in the exercise of their functions and the skills that they are to be required to demonstrate in the exercise of those functions.
- (5) Any arrangements which provide for assistance by persons who are not members of the Chief Inspector's staff must be made on terms that require the person with whom the arrangements are made to secure compliance with any requirements that are from time to time published under sub-paragraph (4).
- (6) If the Chief Inspector has entered into arrangements with persons who are not themselves additional inspectors (“inspection service providers”) for the provision by the inspection service providers of the services of inspectors, the Chief Inspector must publish, at intervals of not more than 12 months, a list of the names of those persons who, as at a specified date, are currently notified to him by any inspection service provider as persons with whom the inspection service provider proposes to make arrangements for the carrying out of inspections on behalf of the Chief Inspector.

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- (7) An additional inspector acting within the authority conferred on him by the Chief Inspector has all the powers of one of Her Majesty's Inspectors of Schools in England.
- (8) The Chief Inspector may not authorise an additional inspector to conduct an inspection of a school under section 5 unless—
  - (a) the inspection is to be supervised by one of Her Majesty's Inspectors of Schools in England, or
  - (b) the additional inspector has previously conducted an inspection under that section under the supervision of one of Her Majesty's Inspectors of Schools in England (“the supervising inspector”) to the satisfaction of the supervising inspector.

*Remuneration, pensions etc.*

- 3 (1) There are to be paid to the Chief Inspector such remuneration, and such travelling and other allowances, as the Secretary of State may determine.
- (2) In the case of any such Chief Inspector as may be determined by the Secretary of State, there is to be paid—
  - (a) such pension, allowance or gratuity to or in respect of him, or
  - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,
 as may be so determined.
- (3) If, when any person ceases to hold office as Chief Inspector, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him such sum by way of compensation as may be determined by the Secretary of State.

*Official seal*

- 4 The Chief Inspector is to continue to have an official seal for the authentication of documents required for the purposes of his functions.

*Performance of functions*

- 5 (1) Subject to sub-paragraph (3) and paragraph 2(8), anything authorised or required by or under this Part of this Act or any other enactment to be done by the Chief Inspector may be done by—
  - (a) any of Her Majesty's Inspectors of Schools in England,
  - (b) any other member of his staff, or
  - (c) any additional inspector,
 who is authorised generally or specially in that behalf by the Chief Inspector.
- (2) Without prejudice to the generality of sub-paragraph (1), the references to the Chief Inspector in sections 4 and 10 (powers of entry) include references to any person authorised to act on his behalf under sub-paragraph (1).

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- (3) The making of any report of an inspection of a school under section 5 which states the opinion that special measures are required to be taken in relation to the school must be personally authorised by—
- (a) the Chief Inspector, or
  - (b) one of Her Majesty's Inspectors of Schools in England who is authorised by the Chief Inspector for the purposes of this sub-paragraph.

#### *Documentary evidence*

- 6 The Documentary Evidence Act 1868 (c. 37) has effect in relation to the Chief Inspector as if—
- (a) he were included in the first column of the Schedule to that Act,
  - (b) he and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and
  - (c) the regulations referred to in that Act included any document issued by him or any such person.

## SCHEDULE 2

Section 19

### HER MAJESTY'S CHIEF INSPECTOR OF EDUCATION AND TRAINING IN WALES

#### *Chief Inspector's other staff*

- 1 The Chief Inspector may, with the approval of the Assembly as to numbers and terms and conditions of service, appoint such staff, in addition to inspectors who are members of his staff by virtue of section 19(3), as he thinks fit.

#### *Additional inspectors*

- 2
- (1) The Chief Inspector may arrange for such persons as he thinks fit to assist him in the discharge of his functions in relation to a particular case or class of case.
  - (2) Any person assisting the Chief Inspector under any such arrangements is to be known as an additional inspector.
  - (3) Any arrangements which provide for assistance by persons who are not members of the Chief Inspector's staff must be made on terms agreed by him with the Assembly.
  - (4) An additional inspector acting within the authority conferred on him by the Chief Inspector has all the powers of one of Her Majesty's Inspectors of Education and Training in Wales.

#### *Remuneration, pensions etc.*

- 3
- (1) There are to be paid to the Chief Inspector such remuneration, and such travelling and other allowances, as the Assembly may determine.
  - (2) In the case of any such Chief Inspector as may be determined by the Assembly, there is to be paid—

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- (a) such pension, allowance or gratuity to or in respect of him, or
  - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,
- as may be so determined.

- (3) If, when any person ceases to hold office as Chief Inspector, the Assembly determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him such sum by way of compensation as may be determined by the Assembly.

#### *Official seal*

- 4 The Chief Inspector is to continue to have an official seal for the authentication of documents required for the purposes of his functions.

#### *Performance of functions*

- 5 (1) Anything authorised or required by or under this Part of this Act or any other enactment to be done by the Chief Inspector may be done by—
- (a) any of Her Majesty's Inspectors of Education and Training in Wales,
  - (b) any other member of his staff, or
  - (c) any additional inspector,
- who is authorised generally or specially in that behalf by the Chief Inspector.
- (2) Without prejudice to the generality of sub-paragraph (1), the references to the Chief Inspector in section 23 include references to any person authorised to act on his behalf under sub-paragraph (1).

#### *Documentary evidence*

- 6 The Documentary Evidence Act 1868 (c. 37) has effect in relation to the Chief Inspector as if—
- (a) he were included in the first column of the Schedule to that Act,
  - (b) he and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and
  - (c) the regulations referred to in that Act included any document issued by him or any such person.

### SCHEDULE 3

Section 27

#### REGISTRATION OF INSPECTORS IN WALES: TRIBUNALS HEARING APPEALS UNDER SECTION 27

**Modifications etc. (not altering text)**

**C49** Sch. 3 applied (with modifications) (16.5.2006) by S.I. 2006/1338, art. 6, Sch. 4 para. 5

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### *Constitution of tribunals*

- 1 (1) A tribunal constituted to hear an appeal under section 27 (“a tribunal”) is to consist of—
- (a) a chairman appointed by the [<sup>F5</sup>Lord Chief Justice after consulting the Lord Chancellor] , and
  - (b) two other members appointed by the Assembly.
- (2) To be qualified for appointment as chairman of a tribunal, a person must have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41)).
- (3) A person may not be appointed after the day on which he attains the age of 70 to be the chairman of a tribunal.
- [<sup>F6</sup>(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.]

#### **Textual Amendments**

- F5** Words in Sch. 3 para. 1(1)(a) substituted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, [Sch. 1 para. 38\(2\)](#)
- F6** Sch. 3 para. 1(4) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, [Sch. 1 para. 38\(3\)](#)

### *Procedure of tribunals*

- 2 (1) The Assembly may by regulations make provision with respect to the making of appeals to, and the procedure to be followed by, tribunals.
- (2) The regulations may, in particular, make provision—
- (a) as to the period within which, and manner in which, appeals must be brought,
  - (b) for the holding of hearings in private in prescribed circumstances,
  - (c) as to the persons who may appear on behalf of the parties,
  - (d) for enabling hearings to be conducted even though a member of the tribunal, other than the chairman, is absent,
  - (e) as to the disclosure by the appellant, and others, of documents and the inspection of documents,
  - (f) requiring persons to attend the proceedings and give evidence,
  - (g) as to the payment of expenses incurred by persons compelled to attend proceedings by regulations made by virtue of paragraph (f),
  - (h) authorising the administration of oaths to witnesses,
  - (i) as to the withdrawal of appeals,
  - (j) as to costs and expenses incurred by any party to the proceedings, and
  - (k) authorising preliminary or incidental matters in relation to an appeal to be dealt with by the chairman of the tribunal hearing that appeal.

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**Modifications etc. (not altering text)**

**C50** Sch. 3 para. 2 applied (3.10.2005 for E. and 1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 10(2) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 16(4)); S.I. 2005/2034, art. 6, S.I. 2006/1338, {art. 3}, Sch. 1

*Staff*

- 3 The Assembly may make such provision as the Assembly thinks fit for—
- (a) the allocation of staff for any tribunal,
  - (b) the remuneration of members of tribunals and the reimbursement of their expenses,
  - (c) defraying any reasonable expenses incurred by any tribunal.

**Modifications etc. (not altering text)**

**C51** Sch. 3 para. 3 applied (3.10.2005 for E. and 1.9.2006 for W.) by 1998 c. 31, Sch. 26 para. 10(2) (as substituted by Education Act 2005 (c. 18), ss. 53, 119, 125, Sch. 7 para. 16(4)); S.I. 2005/2034, art. 6, S.I. 2006/1338, {art. 3}, Sch. 1

SCHEDULE 4

Section 28

SCHOOL INSPECTIONS IN WALES UNDER SECTION 28

*Interpretation*

- 1 In this Schedule—
- “appropriate authority” means—
- (a) in relation to a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, the school's governing body or, if the school does not have a delegated budget, the local education authority, and
  - (b) in relation to a school falling within section 28(2)(d), the proprietor of the school;
- “inspection” means an inspection under section 28.

*Selection of registered inspectors*

- 2 (1) Before entering into any arrangement for an inspection by a registered inspector, the Chief Inspector must invite tenders from at least two persons who can reasonably be expected to tender for the proposed inspection and to do so at arm's length from each other, and each of whom is either—
- (a) a registered inspector, or
  - (b) a person who the Chief Inspector is satisfied would, if his tender were successful, arrange with a registered inspector for the inspection to be carried out.

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- (2) Before an inspection takes place the Chief Inspector must consult the appropriate authority about the inspection.

#### *Inspection teams*

- 3 (1) Every inspection must be conducted by a registered inspector or member of the Inspectorate with the assistance of a team (“an inspection team”); and no person may act as a member of an inspection team unless—
- (a) he is enrolled in the list kept by the Chief Inspector under paragraph 4, or
  - (b) he is a member of the Inspectorate and (if he is not the Chief Inspector) is authorised so to act by the Chief Inspector.
- (2) It is the duty of the inspector conducting the inspection to ensure that—
- (a) at least one member of the inspection team is a person—
    - (i) without personal experience in the management of any school or in the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
    - (ii) whose primary function on the team is not that of providing financial or business expertise, and
  - (b) no member of the inspection team falls within a category of person prescribed for the purposes of this sub-paragraph.
- (3) Otherwise, the composition of the inspection team is to be determined by the inspector conducting the inspection, subject (in the case of a registered inspector) to his complying with any condition imposed under section 25(4)(c).
- (4) Any experience of a kind mentioned in sub-paragraph (2)(a) which it is reasonable to regard as insignificant, having regard to the purposes of sub-paragraph (2), may be ignored by the inspector conducting the inspection.
- (5) It is the duty of the inspector conducting the inspection to ensure that no person takes part in an inspection if he has, or has at any time had, any connection with—
- (a) the school in question,
  - (b) any person who is employed at the school,
  - (c) any person who is a member of the school's governing body, or
  - (d) the proprietor of the school,
- of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to that school.

#### *Enrolment of persons to act as team members*

- 4 (1) The Chief Inspector must keep a list of persons who may act as members of an inspection team by virtue of paragraph 3(1)(a) (“the list”).
- (2) The Chief Inspector may not enrol any person in the list unless, having regard to any conditions that he proposes to impose under section 25(4)(c) (as it applies in accordance with sub-paragraph (4) of this paragraph), it appears to him that that person—
- (a) is a fit and proper person for carrying out an inspection, and
  - (b) will be capable of assisting in an inspection competently and effectively.

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- (3) An application for enrolment in the list must (except in such circumstances as may be prescribed) be accompanied by the prescribed fee.
- (4) Subsections (3)(a), (4), (5)(b) and (6) to (9) of section 25 apply in relation to the enrolment of a person in the list and acting as a member of an inspection team as they apply in relation to the registration of a person under subsection (1) of that section and to acting as a registered inspector, but as if the reference in subsection (5)(b) of that section to the need for registered inspectors were a reference to the need for enrolled persons.
- (5) Sections 26 and 27 and Schedule 3 apply in relation to enrolment on the list and to a person so enrolled as they apply in relation to registration under section 25(1) and to a person so registered, but with any necessary modifications.
- (6) In its application to an enrolled person in accordance with sub-paragraph (5), section 26 has effect as if the conditions mentioned in subsection (2) of that section were that—
  - (a) that person is no longer a fit and proper person to act as a member of an inspection team;
  - (b) he is no longer capable of assisting in an inspection competently and effectively;
  - (c) there has been a significant failure on his part to comply with any condition imposed under section 25(4)(c) (as it applies in accordance with sub-paragraph (4)).
- (7) Without prejudice to the generality of paragraph 2(1) of Schedule 3, regulations under that provision may provide that, where a person is appealing simultaneously —
  - (a) against a decision of the Chief Inspector relating to that person's registration, and
  - (b) against a decision of the Chief Inspector relating to that person's enrolment in the list,
 both appeals are to be heard at the same time.

#### *Training for inspections*

- 5 (1) No person who is not a member of the Inspectorate may conduct an inspection of a school in Wales, or act as a member of an inspection team for such a school, unless he has, in the opinion of the Chief Inspector, satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector.
- (2) Where the Chief Inspector provides such training he may charge such fees as are reasonable for the purpose of recovering the whole, or part, of the cost of providing it.
- (3) Sub-paragraph (1) does not apply in such circumstances as may be specified, either generally or in relation to a particular case or class of case, by the Chief Inspector.

#### *Meeting with parents*

- 6 Where an inspection is arranged, the appropriate authority for the school concerned must—
  - (a) take such steps as are reasonably practicable to notify—
    - (i) the parents of registered pupils at the school, and
    - (ii) such other persons as may be prescribed,



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of the time when the inspection is to take place, and

- (b) arrange a meeting, in accordance with such provisions as may be prescribed, between the inspector conducting the inspection and those parents of registered pupils at the school who wish to attend.

*Rights of entry etc.*

- 7 (1) An inspector conducting an inspection, and the members of his inspection team, have at all reasonable times—

- (a) a right of entry to the premises of the school concerned, and
- (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for the purposes of the inspection.

- (2) Where—

- (a) pupils registered at the school concerned are, by arrangement with another school, receiving part of their education at the other school, and
- (b) the inspector is satisfied that he cannot properly discharge his duty under section 28(5) in relation to the school concerned without inspecting the provision made for those pupils at that other school,

sub-paragraph (1) applies in relation to that other school as it applies in relation to the school concerned.

- (3) An inspector conducting an inspection of a school, and the members of his inspection team, also have at all reasonable times—

- (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by the school, any pupils who—
  - (i) are registered at the school, and
  - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age, are receiving part of their education from any person (“the provider”);
- (b) a right of entry to any premises of the provider used in connection with the provision by him of that education, and
- (c) a right to inspect and take copies of—
  - (i) any records kept by the provider relating to the provision of that education, and
  - (ii) any other documents containing information so relating,which the inspector or (as the case may be) member of the team requires for the purposes of the inspection.

*Offence of obstructing inspector or inspection team*

- 8 (1) It is an offence intentionally to obstruct—

- (a) the inspector conducting the inspection, or
- (b) a member of an inspection team,

in the exercise of his functions in relation to an inspection of a school.

- (2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Education Act 2005 is up to date with all changes known to be in force on or before 30 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### *Replacement of inspector during course of inspection*

- 9 (1) This paragraph applies to an inspection where, at any time—
- (a) after the meeting required by paragraph 6 is held, but
  - (b) before the making of the report of the inspection is completed,
- the inspector conducting the inspection becomes (for any reason) unable to continue to discharge his functions as an inspector in relation to the inspection.
- (2) If the conditions set out in sub-paragraph (3) are satisfied—
- (a) the Chief Inspector may arrange for that person to be replaced as the inspector conducting the inspection by another person who is either a registered inspector or a member of the Inspectorate, and
  - (b) if he does so, anything done by or in relation to that person in connection with the inspection is, so far as necessary for his effectual replacement by that other inspector, to be regarded as done by or in relation to that other inspector.
- (3) The conditions are—
- (a) that the appropriate authority for the school concerned have given the Chief Inspector notice in writing of their agreement to the inspector mentioned in sub-paragraph (1) being replaced under this paragraph, and
  - (b) that the replacement inspector does not have, and has not at any time had, any connection of the kind mentioned in paragraph 3(5) with the school in question or with any other person mentioned there.

## SCHEDULE 5

Section 46

### SIXTH FORMS REQUIRING SIGNIFICANT IMPROVEMENT

- 1 In this Schedule “the 2000 Act” means the Learning and Skills Act 2000 (c. 21).

#### **Commencement Information**

**I30** Sch. 5 para. 1 wholly in force at 1.9.2006; Sch. 5 para. 1 not in force at Royal Assent see s. 125; Sch. 5 para. 1 in force for E. at 1.9.2005 by S. I. 2005/2034, art. 4 and in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

- 2 (1) Section 113 of the 2000 Act (inadequate sixth-forms) is amended as follows.
- (2) In subsection (1), and in the heading to the section, for “inadequate sixth-forms” substitute “sixth forms requiring significant improvement”.
- (3) For subsection (2) substitute—
- “(2) Expressions used in that Schedule and in Chapter 2 or 4 of Part 1 of the Education Act 2005 have—
- (a) in relation to schools in England, the same meaning as in Chapter 2 of that Part, and
  - (b) in relation to schools in Wales, the same meaning as in Chapter 4 of that Part.”

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

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### Commencement Information

**I31** Sch. 5 para. 2 partly in force; Sch. 5 para. 2 not in force at Royal Assent see s. 125; Sch. 5 para. 2(1)(2) in force for E. and (3) in force for certain purposes for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 5 para. 2 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

- 3 (1) Schedule 7 to the 2000 Act (inadequate sixth forms) is amended as follows.
- (2) For the heading to the Schedule, substitute “ Sixth forms requiring significant improvement ”.
- (3) In paragraph 1, for sub-paragraph (2) substitute—
- “(2) For the purposes of those paragraphs a school requires significant improvement in relation to its sixth form if—
- (a) the school is failing to give its pupils over compulsory school age an acceptable standard of education, or
- (b) in relation to its provision for pupils over compulsory school age, the school is performing significantly less well than it might in all the circumstances reasonably be expected to perform.”
- (4) For paragraph 2 substitute—
- “2 If a person who inspects a school—
- (a) states in his report an opinion, in accordance with section 13(4), 34(7) or 35 (2) or (5) of the Education Act 2005 (school no longer requiring special measures), that special measures are not required to be taken in relation to the school, but
- (b) is of the opinion that the school requires significant improvement in relation to its sixth form,
- he shall state that opinion in his report.”
- (5) In paragraph 3—
- (a) in sub-paragraph (1) for “has an inadequate sixth-form” substitute “ requires significant improvement in relation to its sixth form ”, and
- (b) for sub-paragraph (3) substitute—
- “(3) The report shall be treated for all purposes of this Schedule and Part 1 of the Education Act 2005 (inspections) as if it were a report of an inspection of a school under section 5 or 28 of that Act.”
- (6) In paragraph 4—
- (a) in sub-paragraph (1)—
- (i) in paragraph (a), for “has an inadequate sixth form” substitute “ requires significant improvement in relation to its sixth form ”, and
- (ii) in paragraph (b), after “where” insert “ the report relates to a school in Wales and ”,
- (b) in sub-paragraph (2)—
- (i) for paragraph (a) substitute—

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- “(a) a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 states the opinion that the school requires significant improvement in relation to its sixth form,”, and
  - (ii) at the beginning of paragraph (c) insert “ in the case of a school in Wales ”.
- (7) In paragraph 5—
- (a) in sub-paragraph (1)—
    - (i) for “Part I of the Schools Inspection Act 1996” substitute “ Chapter 1 or 3 of Part 1 of the Education Act 2005 ”, and
    - (ii) in paragraph (b), for “have an inadequate sixth-form” substitute “ require significant improvement in relation to its sixth form ”, and
  - (b) in sub-paragraph (2), after “Where” insert “ , in the case of a school in Wales, ”.
- (8) In paragraph 6—
- (a) for sub-paragraph (1) substitute—
    - “(1) This paragraph applies to a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 which—
      - (a) states an opinion that a school requires significant improvement in relation to its sixth form, and
      - (b) in the case of a school in Wales, is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a).”
  - (b) in sub-paragraph (2), for paragraph (b) substitute—
    - “(b) if either—
      - (i) the school is in England, or
      - (ii) the school is in Wales and the person making the report is a member of the Inspectorate,
 to the appropriate authority for the school.”
  - (c) for sub-paragraph (3) substitute—
    - “(3) The following provisions of the Education Act 2005 shall apply (with the necessary modifications) in relation to a report to which this paragraph applies—
      - (a) in the case of a school in England—
        - (i) section 14(2) (additional copies),
        - (ii) section 14(4) (publication by appropriate authority), and
        - (iii) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 15(2) and (3) (measures by local education authority), and
      - (b) in the case of a school in Wales—
        - (i) section 38(2) (additional copies),
        - (ii) section 38(4) (publication by appropriate authority),

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(iii) section 39 (action plan by appropriate authority),  
and

(iv) where the local education authority receives a copy  
of a report about a school the governing body of  
which have a delegated budget, section 40(2) and  
(3) (measures by local education authority).”

(9) For paragraph 7 substitute—

“7 (1) Where a person who inspects a school is of the opinion that a school requires significant improvement in relation to its sixth form, the provisions specified in sub-paragraph (2) shall apply, with the necessary modifications, as they apply where he is of the opinion that special measures are required to be taken in relation to the school.

(2) Those provisions are—

(a) in the case of a school in England, section 13(1) to (3) of the Education Act 2005 (duty of Chief Inspector to send draft report to governing body or proprietor, to consider their comments and to state opinion in report), and

(b) in the case of a school in Wales, section 34(1) to (6) of that Act (registered inspectors) or, as the case requires, section 35(1) of that Act (members of the Inspectorate).”

(10) Omit paragraph 9.

(11) In paragraph 10—

(a) in sub-paragraph (1)(b), for “has significant weaknesses in one or more area of its activities” substitute “requires significant improvement”, and

(b) in sub-paragraph (3)—

(i) for “the School Inspections Act 1996” substitute “Part 1 of the Education Act 2005”, and

(ii) for “section 10” substitute “section 5 or 28”.

(12) In paragraph 11—

(a) for sub-paragraph (1) substitute—

“(1) Parts 2 and 3 of this Schedule shall apply—

(a) in relation to a school in England, if a report of an inspection of the school made under Chapter 1 of Part 1 of the Education Act 2005 states—

(i) in accordance with subsection (4) of section 13, an opinion that special measures are not required to be taken in relation to the school, and

(ii) in accordance with subsection (3)(b) of that section, an opinion that the school requires significant improvement,

(b) in relation to a school in Wales, if—

(i) a report of an inspection of the school made under Chapter 3 of Part 1 of the Education Act 2005 states in accordance with section 34(7) or 35(5) an

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- opinion that special measures are not required to be taken in relation to the school,
    - (ii) the report also states in accordance with section 34(6) or 35(4) an opinion that the school requires significant improvement, and
    - (iii) where the person making the report is not a member of the Inspectorate, the report also states that the Chief Inspector agrees with his opinion.”
  - (b) in sub-paragraph (2)—
    - (i) for paragraph (a) substitute—
      - “(a) a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 states that special measures are required to be taken in relation to the school or that the school requires significant improvement,” and
      - (ii) at the beginning of paragraph (c) insert “ in the case of a school in Wales ”.
- (13) In paragraph 12—
  - (a) in sub-paragraph (1)—
    - (i) for “Part I of the School Inspections Act 1996” substitute “ Chapter 1 or 3 of Part 1 of the Education Act 2005 ”, and
    - (ii) in paragraph (b), for “have significant weaknesses in one or more areas of its activities” substitute “ require significant improvement ”, and
  - (b) in sub-paragraph (2), after “Where” insert “ , in the case of a school in Wales, ”.
- (14) In paragraph 13—
  - (a) for sub-paragraph (1) substitute—
    - “(1) This paragraph applies to a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 which—
      - (a) states an opinion that a school requires significant improvement, and
      - (b) in the case of a school in Wales, is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a).”
  - (b) in sub-paragraph (2), for paragraph (b) substitute—
    - “(b) if either—
      - (i) the school is in England, or
      - (ii) the school is in Wales and the person making the report is a member of the Inspectorate,to the appropriate authority for the school.”
  - (c) for sub-paragraph (3) substitute—
    - “(3) The following provisions of the Education Act 2005 shall apply (with the necessary modifications) in relation to a report to which this paragraph applies—
      - (a) in the case of a school in England—
        - (i) section 14(2) (additional copies),

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- (ii) section 14(4) (publication by appropriate authority), and
  - (iii) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 15(2) and (3) (measures by local education authority), and
- (b) in the case of a school in Wales—
- (i) section 38(2) (additional copies),
  - (ii) section 38(4) (publication by appropriate authority),
  - (iii) section 39 (action plan by appropriate authority), and
  - (iv) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 40(2) and (3) (measures by local education authority).”

(15) Omit paragraph 14.

#### Commencement Information

**I32** Sch. 5 para. 3 partly in force; Sch. 5 para. 3 not in force at Royal Assent see s. 125; Sch. 5 para. 3(1)-(7)(8) (for certain purposes) (9) (for certain purposes) (10)(11)(12) (for certain purposes) (13)(14) (for certain purposes) and (15) in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 5 para. 3 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

## SCHEDULE 6

Section 50

### INSPECTIONS OF DENOMINATIONAL EDUCATION IN WALES

#### *Interpretation*

- 1 In this Schedule—
- “inspection” means an inspection of a school under section 50;
  - “inspector” means the person conducting the inspection.

#### *Inspectors' reports*

- 2
- (1) An inspection must be carried out within such period as may be prescribed.
  - (2) When an inspection has been completed, the inspector must, before the end of the period prescribed for the purposes of this sub-paragraph, prepare in writing a report of the inspection and a summary of the report.
  - (3) The inspector must, without delay, send the report and summary to the governing body for the school concerned.
  - (4) The governing body must—

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- (a) make any such report and its accompanying summary available for inspection by members of the public, at such times and at such a place as may be reasonable,
- (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
- (c) take such steps as are reasonably practicable to secure that every parent of a registered pupil at the school—
  - (i) for whom the school provides denominational education, or
  - (ii) who takes part in an act of collective worship the content of which falls to be inspected under section 50,
 as the case may be, receives a copy of the summary as soon as is reasonably practicable.

#### *Action plans*

- 3 (1) The governing body to whom an inspector has reported under this Schedule must, before the end of the prescribed period, prepare a written statement (“the action plan”) of the action which they propose to take in the light of his report and the period within which they propose to take it.
- (2) Where an action plan has been prepared by a governing body, they must, before the end of the prescribed period, send copies of it to the person who appoints the school's foundation governors, to the local education authority and to such other persons (if any), in such circumstances, as may be prescribed.
- (3) The governing body must—
- (a) make any action plan prepared by them available for inspection by members of the public, at such times and at such a place as may be reasonable,
  - (b) provide a copy of the plan, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply) to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every parent of a registered pupil at the school—
    - (i) for whom the school provides denominational education, or
    - (ii) who takes part in acts of collective worship the content of which falls to be inspected under section 50,
 as the case may be, receives a copy of the plan as soon as is reasonably practicable.
- (4) Where the governing body of a school have prepared an action plan, they must include in their governors' report under section 30 of the Education Act 2002 (c. 32) a statement of the extent to which the proposals set out in the plan have been carried into effect.
- (5) Sub-paragraph (4) applies only in relation to the most recent action plan for the school in question.



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## SCHEDULE 7

Section 53

### INSPECTION OF CHILD MINDING, DAY CARE AND NURSERY EDUCATION

#### PART 1

##### CHILD MINDING AND DAY CARE: AMENDMENTS OF CHILDREN ACT 1989

- 1 (1) Section 79N of the Children Act 1989 (c. 41) (general functions of the Chief Inspector) is amended as follows.
  - (2) For subsection (1) substitute—
    - “(1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—
      - (a) the quality and standards of child minding and day care provided in England,
      - (b) how far child minding and day care provided in England meet the needs of the range of children for whom they are provided,
      - (c) the contribution made by child minding and day care provided in England to the well-being of the children for whom they are provided, and
      - (d) the quality of leadership and management in connection with the provision of day care in England.
    - (1A) In subsection (1)(c), the reference to well-being is a reference to well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004.”
  - (3) In subsection (6)—
    - (a) for “subsection (7)(a) of section 2 of the School Inspections Act 1996” substitute “ section 3(a) of the Education Act 2005 ”, and
    - (b) for “subsection (7)(b) of that section” substitute “ section 3(b) of that Act ”.
- 2 Omit section 79P of the Children Act 1989 (early years child care inspectorate for England).
- 3 (1) Section 79Q of the Children Act 1989 (inspection of provision of child minding and day care in England) is amended as follows.
  - (2) In subsection (1), for “provision” substitute “ provider ”.
  - (3) In subsection (2), omit “or secure the inspection by a registered inspector of”.
  - (4) In subsection (3), omit “or secure the inspection by a registered inspector of”.
  - (5) Omit subsection (4).
  - (6) After subsection (5) insert—
    - “(5A) Regulations may make provision requiring a registered person, except in prescribed cases, to notify prescribed persons of the fact that any child minding or day care provided by the registered person is to be inspected under this section.”

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(7) For subsection (6) substitute—

“(6) When conducting an inspection under this section the Chief Inspector shall report in writing on—

- (a) the quality and standards of the child minding or day care provided,
- (b) how far the child minding or day care meets the needs of the range of children for whom it is provided,
- (c) the contribution made by the child minding or day care to the well-being of the children for whom it is provided, and
- (d) in the case of day care, the quality of leadership and management in connection with its provision.

(6A) In subsection (6)(c), the reference to well-being is a reference to well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004.”

(8) Omit subsection (7).

#### **Commencement Information**

**I33** Sch. 7 para. 3 wholly in force at 3.10.2005; Sch. 7 para. 3 not in force at Royal Assent see s. 125; Sch. 7 para. 3(6) in force at 1.8.2005 by [S.I. 2005/2034](#), [art. 2](#); Sch. 7 para. 3 in force at 3.10.2005 so far as not already in force by [S.I. 2005/2034](#), [art. 7](#)

4 (1) Section 79R of the Children Act 1989 (c. 41) (reports of inspections) is amended as follows.

(2) Omit subsections (1) and (2).

(3) For subsection (3) substitute—

“(3) Where the Chief Inspector reports on an inspection under section 79Q he—

- (a) may send a copy of the report to the Secretary of State, and shall do so without delay if the Secretary of State requests a copy;
- (b) shall ensure that a copy of the report is sent to the registered person providing the child minding or day care that was inspected;
- (c) shall ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other authorities or persons as may be prescribed; and
- (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.”

(4) After subsection (3) insert—

“(3A) Regulations may make provision—

- (a) requiring a registered person to make a copy of any report sent to him under subsection (3)(b) available for inspection by prescribed persons,
- (b) requiring a registered person, except in prescribed cases, to provide a copy of the report to prescribed persons, and

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(c) authorising a registered person in prescribed cases to charge a fee for providing a copy of the report.”

(5) For subsection (4) substitute—

“(4) Subsections (2) to (4) of section 11 of the Education Act 2005 (publication of inspection reports) shall apply in relation to the publication of a report under subsection (3) as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.”

#### Commencement Information

**I34** Sch. 7 para. 4 wholly in force at 3.10.2005; Sch. 7 para. 4 not in force at Royal Assent see s. 125; Sch. 7 para. 4(4) in force at 1.8.2005 by [S.I. 2005/2034](#), [art. 2](#); Sch. 7 para. 4 in force at 3.10.2005 so far as not already in force by the said [S.I. 2005/2034](#), [art. 7](#)

5 (1) Section 79T of the Children Act 1989 (c. 41) (inspection: Wales) is amended as follows.

(2) In subsection (2)(a), omit “the quality and standards of”.

(3) In subsection (4), for “section 42A of the School Inspections Act 1996” substitute “section 29 of the Education Act 2005”.

6 In section 79U of the Children Act 1989 (rights of entry etc.), in subsection (4), for “Section 42 of the School Inspections Act 1996” substitute “Section 58 of the Education Act 2005”.

#### Commencement Information

**I35** Sch. 7 para. 6 wholly in force at 1.9.2006 ; Sch. 7 para. 6 not in force at Royal Assent see s. 125; Sch. 7 para. 6 in force for E. at 3.10.2005 by [S. I. 2005/2034](#), [art. 6](#); Sch. 7 para. 6 in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

## PART 2

### NURSERY EDUCATION: AMENDMENTS OF SCHOOL STANDARDS AND FRAMEWORK ACT 1998

7 (1) Section 122 of the School Standards and Framework Act 1998 (c. 31) (inspection of nursery education) is amended as follows.

(2) In subsection (3), for “the Chief Inspector” substitute “ the Chief Inspector for Wales ”.

(3) In subsection (4), for “ “the Chief Inspector” means Her Majesty's Chief Inspector of Schools in England or” substitute “ “the Chief Inspector for Wales” means“ ” .

#### Commencement Information

**I36** [Sch. 7 para. 7](#) wholly in force at 1.9.2006; [Sch. 7 para. 7](#) not in force at Royal Assent see [s. 125](#); [Sch. 7 para. 7](#) in force for E. at 3.10.2005 by [S. I. 2005/2034](#), [art. 6](#); [Sch. 7 para. 7](#) in force for W. at 1.9.2006 by [S. I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

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- 8 Schedule 26 to the School Standards and Framework Act 1998 (inspection of nursery education) is amended as follows.

**Commencement Information**

**I37** Sch. 7 para. 8 wholly in force at 1.9.2006; Sch. 7 para. 8 not in force at Royal Assent see s. 125; Sch. 7 para. 8 in force for E. at 3.10.2005 by S. I. 2005/2034, art. 6; Sch. 7 para. 8 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 9 (1) Paragraph 1 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) before paragraph (a) insert—
- “(za) nursery education provided in a maintained school or a maintained nursery school;”
- (b) in paragraph (a), after “nursery education” insert “ not falling within paragraph (za)”;
- (c) for paragraph (b) substitute—
- “(b) nursery education which is provided by any other person under arrangements made with that person by a local education authority in pursuance of the duty imposed on the authority by section 118 and in consideration of financial assistance provided by the authority under the arrangements.”
- (3) In sub-paragraph (2), for the words from “to whom” onwards substitute “ with whom a local education authority are considering making arrangements in pursuance of the duty imposed on the authority by section 118 for the provision of nursery education in consideration of financial assistance provided by the authority under the arrangements ”.
- (4) For sub-paragraph (3) substitute—
- “(3) Where—
- (a) any education is for the time being provided at any premises for children who have not attained the age prescribed for the purposes of section 118(1)(b) (“the prescribed age”), and
- (b) that education is provided by a person—
- (i) who proposes to provide nursery education at those premises for children who have attained the prescribed age, and
- (ii) with whom a local education authority are considering making arrangements of the kind mentioned in sub-paragraph (2),
- the education is to be treated for the purposes of this Schedule as nursery education under consideration for funding even though it is provided for children who have not attained the prescribed age.”

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Education Act 2005 is up to date with all changes known to be in force on or before 30 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Commencement Information

**I38** Sch. 7 para. 9 partly in force; Sch. 7 para. 9 not in force at Royal Assent see s. 125; Sch. 7 para. 9 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

10 (1) Paragraph 2 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) In this Schedule—

- (a) “the Chief Inspector for England” means Her Majesty's Chief Inspector of Schools in England,
- (b) “the Chief Inspector for Wales” means Her Majesty's Chief Inspector of Education and Training in Wales, and
- (c) “the Chief Inspector” (without more) means—
  - (i) as respects nursery education provided in England, the Chief Inspector for England, and
  - (ii) as respects nursery education provided in Wales, the Chief Inspector for Wales.”

(3) In sub-paragraph (2), after “registered” insert “ Welsh ”.

(4) For sub-paragraph (3) substitute—

“(3) In this Schedule “members of the Welsh Inspectorate” means—

- (a) the Chief Inspector for Wales,
- (b) Her Majesty's Inspectors of Education and Training in Wales, and
- (c) additional inspectors with whom the Chief Inspector for Wales has made arrangements to give him assistance under paragraph 2 of Schedule 2 to the Education Act 2005.”

(5) Omit sub-paragraph (4).

(6) At the end insert—

“(5) In this Schedule “well-being”—

- (a) in relation to children for whom nursery education is provided in England, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004, and
- (b) in relation to children for whom such education is provided in Wales, is a reference to their well-being having regard to the matters mentioned in section 25(2) of that Act.”

### Commencement Information

**I39** Sch. 7 para. 10 partly in force; Sch. 7 para. 10 not in force at Royal Assent see s. 125; Sch. 7 para. 10(1)-(5) and (for certain purposes) (6) in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 10 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

11 In paragraph 3, before the “and” immediately following paragraph (a) insert—

“(aa) how far relevant nursery education meets the needs of the range of children for whom it is provided,

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- (ab) the quality of leadership and management in connection with the provision of relevant nursery education,
- (ac) the contribution of relevant nursery education to the well-being of the children for whom it is provided,”.

#### Commencement Information

**I40** Sch. 7 para. 11 wholly in force at 1.9.2006; Sch. 7 para. 11 not in force at Royal Assent see s. 125; Sch. 7 para. 11 in force for E. at 3.10.2005 by S. I. 2005/2034, art. 6; Sch. 7 para. 11 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

12 For paragraphs 6 and 7 substitute—

#### *“Inspections in England*

- 6A (1) The Chief Inspector for England—
- (a) shall at such intervals as may be prescribed inspect relevant nursery education provided in England,
  - (b) shall inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any time when the Secretary of State requires the Chief Inspector for England to secure its inspection, and
  - (c) may inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any other time when the Chief Inspector for England considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 5 of the Education Act 2005 (inspections of certain schools) applies.
- (3) A requirement such as is mentioned in sub-paragraph (1)(b) may be imposed in relation to nursery education provided at particular premises or a class of premises.
- (4) Regulations may make provision requiring the responsible person to notify prescribed persons of the fact that relevant nursery education or nursery education under consideration for funding provided by the responsible person is to be inspected under this paragraph.
- (5) In sub-paragraph (4) “the responsible person”, in relation to any relevant nursery education or nursery education under consideration for funding, means such person as may be prescribed.

#### *Inspections in Wales*

- 6B (1) The Chief Inspector for Wales—
- (a) shall secure that relevant nursery education provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at such intervals as may be prescribed,
  - (b) shall secure that relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by

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- a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any time when the National Assembly for Wales requires the Chief Inspector for Wales to secure its inspection, and
- (c) may secure that any relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any other time when the Chief Inspector for Wales considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 28 of the Education Act 2005 (duty to arrange regular inspections of certain schools) applies.
- (3) The Chief Inspector for Wales may comply with sub-paragraph (1) either by organising inspections or by making arrangements with others for them to organise inspections.
- (4) A requirement such as is mentioned in sub-paragraph (1)(b) may relate to nursery education provided at particular premises or a class of premises.

*Reports of inspections under paragraph 6A or 6B*

- 7 A person conducting an inspection under paragraph 6A or 6B shall report on—
- (a) the quality and standards of the nursery education provided,
- (b) how far that nursery education meets the needs of the range of children for whom the education is provided,
- (c) the quality of leadership and management in connection with the provision of the nursery education,
- (d) the contribution made by that nursery education to the well-being of those children, and
- (e) so far as it is reasonably practicable to do so, the spiritual, moral, social and cultural development of the children for whom the nursery education is provided.”

**Commencement Information**

**I41** Sch. 7 para. 12 partly in force; Sch. 7 para. 12 not in force at Royal Assent see s. 125; Sch. 7 para. 12 in force for certain purposes at 1.8.2005 and for certain further purposes (E.) at 3.10.2005 by S.I. 2005/2034, arts. 2, 6 and in force (W.) at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 13 At the end of the heading before paragraph 8 insert “ for Wales ”.

**Commencement Information**

**I42** Sch. 7 para. 13 wholly in force at 1.9.2006; Sch. 7 para. 13 not in force at Royal Assent see s. 125; Sch. 7 para. 13 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 13 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 14 (1) Paragraph 8 is amended as follows.



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- (2) In sub-paragraph (1), omit the words from the beginning to “England and”.
- (3) After “Chief Inspector” wherever occurring in sub-paragraphs (2) to (8) insert “ for Wales ”.
- (4) In sub-paragraph (2)—
  - (a) for “6” (in both places) substitute “ 6B ”, and
  - (b) in paragraph (a), after “registered” insert “ Welsh ”.
- (5) In sub-paragraph (3)—
  - (a) in paragraph (a), after “registered” insert “ Welsh ”, and
  - (b) in paragraph (b), for “6” substitute “ 6B ”.
- (6) In sub-paragraph (5), omit “England and”.
- (7) In sub-paragraph (7), for “registered nursery education inspector” substitute “ registered Welsh nursery education inspector ”.

#### Commencement Information

**I43** Sch. 7 para. 14 wholly in force at 1.9.2006; Sch. 7 para. 14 not in force at Royal Assent see s. 125; Sch. 7 para. 14 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 14 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 15 (1) Paragraph 9 is amended as follows.
  - (2) In sub-paragraph (1), after “Chief Inspector” insert “ for Wales ”.
  - (3) In sub-paragraph (2)—
    - (a) in paragraph (a), after “registered” insert “ Welsh ”, and
    - (b) in paragraphs (a) and (d), for “6” substitute “ 6B ”.
  - (4) In sub-paragraph (3), after “Chief Inspector” insert “ for Wales ”.
  - (5) Omit sub-paragraph (5).

#### Commencement Information

**I44** Sch. 7 para. 15 wholly in force at 1.9.2006; Sch. 7 para. 15 not in force at Royal Assent see s. 125; Sch. 7 para. 15 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 15 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 16 (1) Paragraph 10 is amended as follows.
  - (2) In sub-paragraph (1), after “Chief Inspector” insert “ for Wales ”.
  - (3) Omit sub-paragraph (1A).
  - (4) For sub-paragraph (2) substitute—
    - “(2) An appeal under sub-paragraph (1) shall be made to a tribunal with the same constitution as a tribunal to hear an appeal under section 27 of the Education Act 2005; and paragraph 2 (procedure) and paragraph 3 (staff) of Schedule 3 to that Act apply to tribunals to hear appeals under sub-paragraph (1) as they apply to tribunals to hear appeals under that section.”



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(5) In sub-paragraphs (4) and (5) after “Chief Inspector” insert “ for Wales ”.

**Commencement Information**

**I45** Sch. 7 para. 16 wholly in force at 1.9.2006; Sch. 7 para. 16 not in force at Royal Assent see s. 125; Sch. 7 para. 16 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 16 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

17 For the heading before paragraph 11 substitute “ Training of registered Welsh nursery education inspectors ”.

**Commencement Information**

**I46** Sch. 7 para. 17 wholly in force at 1.9.2006; Sch. 7 para. 17 not in force at Royal Assent see s. 125; Sch. 7 para. 17 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 17 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

18 (1) Paragraph 11 is amended as follows.

(2) In sub-paragraph (1)—

(a) after “registered” insert “ Welsh ”, and

(b) after “Chief Inspector”, in both places, insert “ for Wales ”.

(3) In sub-paragraphs (2) and (3), after “Chief Inspector” insert “ for Wales ”.

**Commencement Information**

**I47** Sch. 7 para. 18 wholly in force at 1.9.2006; Sch. 7 para. 18 not in force at Royal Assent see s. 125; Sch. 7 para. 18 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 18 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

19 In paragraph 12, for “6” substitute “ 6B ”.

**Commencement Information**

**I48** Sch. 7 para. 19 wholly in force at 1.9.2006; Sch. 7 para. 19 not in force at Royal Assent see s. 125; Sch. 7 para. 19 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 19 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

20 For paragraph 13 (and the heading immediately preceding it) substitute—

*“Reports of inspections: England*

13A(1) After an inspection under paragraph 6A, the Chief Inspector for England shall—

(a) make a report in writing, and

(b) ensure that a copy of the report is sent without delay—

(i) to the responsible person, and

(ii) to such other authorities and persons as may be prescribed.

(2) Regulations may make provision—

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- (a) requiring the responsible person to make a copy of any report sent to him under sub-paragraph (1)(b)(i) available for inspection by prescribed persons,
  - (b) requiring the responsible person to provide a copy of the report to prescribed persons, and
  - (c) authorising the responsible person in prescribed cases to charge a fee for providing a copy of the report.
- (3) In sub-paragraph (2) “responsible person” has the meaning given by paragraph 6A(5).
- (4) Subsections (2) to (4) of section 11 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to England as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.

*Reports of inspections: Wales*

- 13B (1) Where a person has conducted an inspection under paragraph 6B he shall make his report in writing to the Chief Inspector for Wales within such period as may be prescribed, subject to any extension not exceeding three months which the Chief Inspector for Wales may consider necessary.
- (2) Once the report of an inspection has been made to the Chief Inspector for Wales under sub-paragraph (1) he shall without delay send a copy to such authorities and persons as may be prescribed.
- (3) Regulations may require any prescribed person to whom a copy of the report is sent under subsection (2) to make a copy of the report available for inspection by prescribed persons.
- (4) Subsections (2) to (4) of section 29 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to Wales as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.”

**Commencement Information**

**I49** Sch. 7 para. 20 partly in force; Sch. 7 para. 20 not in force at Royal Assent see s. 125; Sch. 7 para. 20 in force for certain purposes at 1.8.2005 and for certain purposes (E.) at 3.10.2005 by S.I. 2005/2034, arts. 2, 6; Sch. 7 para. 20 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

21

For paragraph 14 substitute—

- “14 (1) The annual report of the Chief Inspector for England required by paragraph (a) of section 3 of the Education Act 2005 to be made to the Secretary of State shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by paragraph (b) of that section to make other reports to the Secretary of State includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.
- (2) The annual report of the Chief Inspector for Wales required by subsection (1) (a) of section 21 of the Education Act 2005 to be made to the National

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Assembly for Wales shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by subsection (1)(b) of that section to make other reports to the Assembly includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.”

**Commencement Information**

**I50** Sch. 7 para. 21 partly in force; Sch. 7 para. 21 not in force at Royal Assent see s. 125; Sch. 7 para. 21 in force for certain purposes at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 21 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

22 In paragraph 16, for “6” substitute “ 6A or 6B ”.

**Commencement Information**

**I51** Sch. 7 para. 22 wholly in force at 1.9.2006; Sch. 7 para. 22 not in force at Royal Assent see s. 125; Sch. 7 para. 22 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 22 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

23 For paragraph 17 substitute—  
“17 Where an inspection in Wales is being conducted by a registered Welsh nursery education inspector under paragraph 6B, the Chief Inspector for Wales may arrange for the inspection to be monitored by one or more members of the Welsh Inspectorate.”

**Commencement Information**

**I52** Sch. 7 para. 23 wholly in force; Sch. 7 para. 23 not in force at Royal Assent see s. 125; Sch. 7 para. 23 in force for E. at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 23 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

24 (1) Paragraph 18 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) This paragraph applies to—

- (a) the Chief Inspector for England when conducting an inspection under paragraph 6A,
- (b) a registered Welsh nursery education inspector or member of the Welsh Inspectorate conducting an inspection under paragraph 6B, or
- (c) a member of the Welsh Inspectorate monitoring under paragraph 17 an inspection under paragraph 6B.”

(3) For sub-paragraphs (3) and (4) substitute—

“(3) Section 58 of the Education Act 2005 (inspection of computer records for the purposes of Part 1 of that Act) shall apply for the purposes of this paragraph as it applies for the purposes of Part 1 of that Act.

(4) It shall be an offence—

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- (a) intentionally to obstruct the Chief Inspector for England in the exercise of his functions in relation to an inspection under paragraph 6A, or
- (b) intentionally to obstruct a member of the Welsh Inspectorate or a registered Welsh nursery education inspector in the exercise of his functions in relation to an inspection under paragraph 6B.”

**Commencement Information**

**I53** Sch. 7 para. 24 partly in force; Sch. 7 para. 24 not in force at Royal Assent see s. 125; Sch. 7 para. 24(1) in force for E. and Sch. 7 para. 24(2)(3) in force for E. for certain purposes at 3.10.2005 by S.I. 2005/2034, art. 6; Sch. 7 para. 24 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

SCHEDULE 8

Section 54

INSPECTION OF INDEPENDENT SCHOOLS

- 1 In this Schedule “the 2002 Act” means the Education Act 2002 (c. 32).

**Commencement Information**

**I54** Sch. 8 wholly in force at 1.9.2006; Sch. 8 not in force at Royal Assent see s. 125; Sch. 8 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 8 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 2 After section 162 of the 2002 Act insert—

**“162A Power to inspect registered schools in England**

- (1) The registration authority may at any time—
  - (a) require the Chief Inspector for England to inspect any registered school in England, or
  - (b) arrange for the inspection of any registered school in England by a body approved by the registration authority for the purposes of this subsection.
- (2) The inspection of a school under this section shall relate to—
  - (a) such of the independent school standards as are, at the time of the inspection, specified by the registration authority for the purposes of this section in relation to any category of school into which that school falls, or
  - (b) if the registration authority so determines, such of the independent school standards as the registration authority may specify in relation to that school.
- (3) When conducting an inspection under this section, the Chief Inspector for England shall—
  - (a) make a report to the registration authority on the extent to which the school meets the standard or standards to which the inspection relates, and

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- (b) if the registration authority so requires, arrange for the publication of the report in the prescribed manner.
- (4) A report published under subsection (3) is privileged for the purposes of the law of defamation unless the publication is shown to be made with malice (but without prejudice to any privilege subsisting apart from this subsection).
- (5) In this section and section 162B “the Chief Inspector for England” means Her Majesty's Chief Inspector of Schools in England.

### **162B Inspections under section 162A: supplementary**

- (1) This section applies to the inspection of a school which is conducted by the Chief Inspector for England under section 162A(1)(a).
- (2) The Chief Inspector for England shall have at all reasonable times—
  - (a) a right of entry to the premises of the school, and
  - (b) a right to inspect and take copies of any records kept by the school and any other documents containing information relating to the school which are required for the purposes of the inspection.
- (3) Section 58 of the Education Act 2005 (computer records) applies in relation to the inspection of records or other documents under subsection (2)(b).
- (4) It is an offence intentionally to obstruct a person in the exercise of his functions in relation to the inspection.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) The proprietor of the school shall pay the Chief Inspector for England, in respect of the inspection, a fee of such amount, and by such time, as may be specified in or determined under regulations.
- (7) Where the proprietor fails to comply with subsection (6), the registration authority may remove the school from the register.
- (8) The Chief Inspector for England shall pay the amount of any fee received under subsection (7) into the Consolidated Fund.”

#### **Commencement Information**

**I55** Sch. 8 wholly in force at 1.9.2006; Sch. 8 not in force at Royal Assent see s. 125; Sch. 8 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 8 in force for W. at 1.9.2006 by S.I. 2006/1338, art. 3, Sch. 1

3 For sections 163 and 164 of the 2002 Act substitute—

### **“163 Power to inspect registered schools in Wales**

- (1) The registration authority may at any time—
  - (a) require the Chief Inspector for Wales to inspect any registered school in Wales, or to secure its inspection by one or more registered inspectors, or

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- (b) arrange for the inspection of any registered school by a body approved by the registration authority for the purposes of this subsection.
- (2) The inspection of a school under this section shall relate to—
  - (a) such of the independent school standards as are, at the time of the inspection, specified by the registration authority for the purposes of this section in relation to any category of school into which that school falls, or
  - (b) if the registration authority so determines, such of the independent school standards as the registration authority may specify in relation to that school.
- (3) A person who conducts an inspection under this section shall—
  - (a) make a report to the registration authority on the extent to which the school meets the standard or standards to which the inspection relates, and
  - (b) if the registration authority so requires, arrange for the publication of the report in the prescribed manner.
- (4) A report published under subsection (3) is privileged for the purposes of the law of defamation unless the publication is shown to be made with malice (but without prejudice to any privilege subsisting apart from this subsection).
- (5) In this section and section 164—
  - “the Chief Inspector for Wales” means Her Majesty's Chief Inspector of Education and Training in Wales;
  - “registered inspector” means a person registered under section 25 of the Education Act 2005.

### **164 Inspections under section 163: supplementary**

- (1) This section applies to the inspection of a school which is conducted by the Chief Inspector for Wales or a registered inspector under section 163(1)(a).
- (2) If the inspection is conducted by a registered inspector—
  - (a) he may, by agreement with the Chief Inspector for Wales, be assisted by the Chief Inspector for Wales, and
  - (b) he may be assisted by such one or more persons enrolled in the list kept under paragraph 4 of Schedule 4 to the Education Act 2005 as he may determine, subject to paragraph 3(5) of that Schedule and subsection (3) below.
- (3) If the Chief Inspector for Wales so requires, a registered inspector shall be assisted by at least one person enrolled in the list referred to in subsection (2)
  - (b)—
    - (a) who is without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity, and disregarding any experience which it is reasonable to regard as insignificant), and
    - (b) whose primary function in the inspection is not that of providing financial or business expertise.

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- (4) If the inspection is conducted by a registered inspector, it may be monitored by the Chief Inspector for Wales.
- (5) The person conducting the inspection, any person assisting him pursuant to subsection (2) or (3) and any person monitoring the inspection shall have at all reasonable times—
  - (a) a right of entry to the premises of the school, and
  - (b) a right to inspect and take copies of any records kept by the school and any other documents containing information relating to the school which are required for the purposes of the inspection.
- (6) Section 58 of the Education Act 2005 (computer records) applies in relation to the inspection of records or other documents under subsection (5)(b).
- (7) It is an offence intentionally to obstruct a person in the exercise of his functions in relation to the inspection.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (9) The proprietor of the school shall pay the Chief Inspector for Wales, in respect of the inspection, a fee of such amount, and by such time, as may be specified in or determined under regulations.
- (10) Where the proprietor fails to comply with subsection (9), the registration authority may remove the school from the register.
- (11) The Chief Inspector for Wales shall pay the amount of any fee received under subsection (9) into the Consolidated Fund.
- (12) Subsection (11) has effect subject to paragraph 4 of Schedule 6 to the Government of Wales Act 1998 (Treasury power to direct that requirement for payment into Consolidated Fund not to apply in relation to specified sums received by the Chief Inspector for Wales).”

#### Commencement Information

**I56** Sch. 8 wholly in force at 1.9.2006; Sch. 8 not in force at Royal Assent see s. 125; Sch. 8 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 8 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 4 In section 165 of the 2002 Act (failure to meet standards), in subsection (1)(a), after “section” insert “ 162A or ”.

#### Commencement Information

**I57** Sch. 8 wholly in force at 1.9.2006; Sch. 8 not in force at Royal Assent see s. 125; Sch. 8 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 8 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 5 In section 171 of the 2002 Act (interpretation of Chapter 1 of Part 10), omit the definition of “registered inspector”.



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**Changes to legislation:** Education Act 2005 is up to date with all changes known to be in force on or before 30 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Commencement Information

**I58** Sch. 8 wholly in force at 1.9.2006; Sch. 8 not in force at Royal Assent see s. 125; Sch. 8 in force for E. at 1.9.2005 by S.I. 2005/2034, art. 4; Sch. 8 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

## SCHEDULE 9

Section 61

### FURTHER AMENDMENTS RELATING TO SCHOOL INSPECTION

#### *Parliamentary Commissioner Act 1967 (c. 13)*

- 1 In Schedule 4 to the Parliamentary Commissioner Act 1967, omit the entry beginning “Registered Inspectors of Schools Appeal Tribunals”.

#### *Employment and Training Act 1973 (c. 50)*

- 2 (1) Section 10B of the Employment and Training Act 1973 (inspection) is amended as follows.
- (2) For subsection (6) substitute—
- “(6) A person carrying out or participating in the inspection shall have the same powers as the Chief Inspector has under the following provisions of the Education Act 2005—
- (a) section 10(1)(a) and (d) (right of access), and
- (b) section 58 (computer records).”
- (3) In subsection (7), for “Section 42A of the 1996 Act” substitute “Section 11 of the Education Act 2005”.

#### *House of Commons Disqualification Act 1975 (c. 24)*

- 3 Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 is to continue to include the following entries (originally inserted by paragraph 9 of Schedule 1 to the Education (Schools) Act 1992, continued in force by paragraph 2 of Schedule 6 to the School Inspections Act 1996 and amended by virtue of section 73(3)(a) of the Learning and Skills Act 2000)—
- “Her Majesty's Chief Inspector of Schools in England. Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhyddros Addysg a Hyfforddiant yng Nghymru.”

#### *Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 4 Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 is to continue to include the same entries as those specified in paragraph 3 of this Schedule (originally inserted by paragraph 9 of Schedule 1 to the Education (Schools) Act 1992, continued in force by paragraph 3 of Schedule 6 to the School Inspections Act 1996 and amended by virtue of section 73(3)(a) of the Learning and Skills Act 2000).



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*Education Reform Act 1988 (c. 40)*

- 5 (1) Section 226(2)(b) of the Education Reform Act 1988 (inspection of schools in other member States providing education for British children) is to continue to have effect with the following amendment (originally made by paragraph 7 of Schedule 4 to the Education (Schools) Act 1992 and continued by paragraph 4 of Schedule 6 to the School Inspections Act 1996).
- (2) For the words from “school” to the end of the paragraph substitute “ by, or under the direction of, one or more of Her Majesty’s Inspectors of Schools for England ”.

*Tribunals and Inquiries Act 1992 (c. 53)*

- 6 In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals), in paragraph 15(d) for “Schedule 2 to the School Inspections Act 1996 (c. 57)” substitute “ Schedule 3 to the Education Act 2005 ”.

*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 7 In section 26 of the Judicial Pensions and Retirement Act 1993 (retirement date for holders of certain judicial offices etc.) in subsection (8)(h), for “Schedule 2 to the School Inspections Act 1996” substitute “ Schedule 3 to the Education Act 2005 ”.

*Disability Discrimination Act 1995 (c. 50)*

- 8 In section 28D of the Disability Discrimination Act 1995 (accessibility strategies and plans), in subsection (13) for “School Inspections Act 1996” substitute “ Part 1 of the Education Act 2005 ”.

**Commencement Information**

**I59** Sch. 9 para. 8 wholly in force at 1.9.2006; Sch. 9 para. 8 not in force at Royal Assent see s. 125; Sch. 9 para. 8 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 8 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

*Education Act 1996 (c. 56)*

- 9 In section 578(1) (meaning of “the Education Acts”) omit “the School Inspections Act 1996”.

**Commencement Information**

**I60** Sch. 9 para. 9 wholly in force at 1.9.2006; Sch. 9 para. 9 not in force at Royal Assent see s. 125; Sch. 9 para. 9 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 9 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 10 In Schedule 36 to the Education Act 1996 (uniform statutory trusts for educational endowments), in paragraph 2(b) for “Part I of the School Inspections Act 1996” substitute “ Part 1 of the Education Act 2005 ”.

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

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#### Commencement Information

**I61** Sch. 9 para. 10 wholly in force at 1.9.2006; Sch. 9 para. 10 not in force at Royal Assent see s. 125; Sch. 9 para. 10 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 10 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

#### *Education Act 1997 (c. 44)*

- 11 In section 38 of the Education Act 1997 (inspection of local education authorities) in subsection (5)(b) for “paragraph 2 of Schedule 1 to the School Inspections Act 1996” substitute “ paragraph 2 of Schedule 1 to the Education Act 2005 or (as the case requires) paragraph 2 of Schedule 2 to that Act ”.

#### Commencement Information

**I62** Sch. 9 para. 11 wholly in force at 1.9.2006; Sch. 9 para. 11 not in force at Royal Assent see s. 125; Sch. 9 para. 11 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 11 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 12 In section 39 of the Education Act 1997 (reports of inspections under section 38 and action plan by local education authority), in subsection (4)—
- (a) for “section 42A(2) to (4) of the School Inspections Act 1996” substitute “ section 11(2) to (4) of the Education Act 2005 or, in relation to Wales, section 29(2) to (4) of that Act ”, and
  - (b) for “section 42A(2)” substitute “ section 11(2) or, as the case may be, section 29(2) ”.

#### Commencement Information

**I63** Sch. 9 para. 12 wholly in force at 1.9.2006; Sch. 9 para. 12 not in force at Royal Assent see s. 125; Sch. 9 para. 12 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 12 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 13 In section 40 (inspector's right of entry etc.), in subsection (4) for “Section 42 of the School Inspections Act 1996” substitute “ Section 58 of the Education Act 2005 ”.

#### Commencement Information

**I64** Sch. 9 para. 13 wholly in force at 1.9.2006; Sch. 9 para. 13 not in force at Royal Assent see s. 125; Sch. 9 para. 13 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 13 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

#### *School Standards and Framework Act 1998 (c. 31)*

- 14 (1) Section 14 of the School Standards and Framework Act 1998 (powers of intervention exercisable by LEAs) is amended as follows.
- (2) In subsections (1)(b) and (3), for “with serious weaknesses” substitute “ requiring significant improvement ”.

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

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(3) For subsection (4) substitute—

“(4) In this Chapter—

- (a) “Chief Inspector” means—
  - (i) in relation to a school in England, Her Majesty's Chief Inspector of Schools in England, and
  - (ii) in relation to a school in Wales, Her Majesty's Chief Inspector of Education and Training in Wales,
- (b) “member of the Inspectorate”, in relation to an inspection of a school in Wales, has the meaning given by section 43 of the Education Act 2005,
- (c) references to special measures being, or not being, required to be taken in relation to a school are to be read in accordance with section 44(1) of that Act, and
- (d) references to a school requiring, or not requiring, significant improvement are to be read in accordance with section 44(2) of that Act.”

#### Commencement Information

**I65** Sch. 9 para. 14 wholly in force at 1.9.2006; Sch. 9 para. 14 not in force at Royal Assent see s. 125; Sch. 9 para. 14 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 14 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

15 (1) Section 15 of the School Standards and Framework Act 1998 (cases where LEA may exercise powers of intervention) is amended as follows.

(2) For subsection (4) substitute—

“(4) This section applies to a maintained school by virtue of this subsection if—

- (a) following an inspection of the school under Chapter 1 or 3 of Part 1 of the Education Act 2005, the Chief Inspector—
  - (i) in the case of a school in England, has given the Secretary of State a notice under subsection (3)(a) of section 13 of that Act in a case falling within subsection (1)(b) of that section (school requiring significant improvement), or
  - (ii) in the case of a school in Wales, has given the National Assembly for Wales a notice under subsection (2) of section 37 of that Act in a case falling within subsection (1)(a)(ii) or (b)(ii) of that section (school requiring significant improvement), and
- (b) where any subsequent inspection of the school has been made under Chapter 1 or 3 of Part 1 of that Act, the notice has not been superseded by—
  - (i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or
  - (ii) the Chief Inspector giving the Secretary of State or the Assembly a notice under section 13(3)(a) or 37(2) of that Act in a case falling within section 13(1)(a) or 37(1)(a)(i) or (1)(b)(i) (school requiring special measures).”

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

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(3) Omit subsection (5).

(4) For subsection (6) substitute—

“(6) This section applies to a maintained school by virtue of this subsection if—

- (a) following an inspection of the school under Chapter 1 or 3 of Part 1 of the Education Act 2005, the Chief Inspector—
  - (i) in the case of a school in England, has given the Secretary of State a notice under subsection (3)(a) of section 13 of that Act in a case falling within subsection (1)(a) of that section (school requiring special measures), or
  - (ii) in the case of a school in Wales, has given the National Assembly for Wales a notice under subsection (2) of section 37 of that Act in a case falling with subsection (1)(a)(i) or (b)(i) of that section (school requiring special measures), and
- (b) where any subsequent inspection of the school has been made under Chapter 1 or 3 of Part 1 of that Act, the person making it did not state that in his opinion special measures were not required to be taken in relation to the school.”

#### Commencement Information

**I66** Sch. 9 para. 15 partly in force; Sch. 9 para. 15 not in force at Royal Assent see s. 125; Sch. 9 para. 15(1)(3) in force at 1. 9. 2005 for E. and Sch. 9 para. 15(2)(4) in force at 1.9.2005 for E. for certain purposes by S.I. 2005/2034, art. 4; Sch. 9 para. 15 in force at 1. 9. 2006 for W. by S.I. 2006/1338, art. 3, Sch. 1

16 (1) Section 16 of the School Standards and Framework Act 1998 (power of LEA to appoint additional governors) is amended as follows.

(2) In subsection (3)—

- (a) for “with serious weaknesses” substitute “ requiring significant improvement ”, and
- (b) for paragraph (a) substitute—

“(a) the Chief Inspector has given the local education authority a notice under section 13(3)(a) or 37(2) of the Education Act 2005”.

(3) In subsection (9)(a), for “section 16A(2) of the School Inspections Act 1996” substitute “ section 13(3)(a) or 37(2) of the Education Act 2005 ”.

#### Commencement Information

**I67** Sch. 9 para. 16 wholly in force at 1.9.2006; Sch. 9 para. 16 not in force at Royal Assent see s. 125; Sch. 9 para. 16 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 16 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

17 In section 16A of the School Standards and Framework Act 1998 (power of LEA to provide for governing body to consist of interim executive members), in subsection (2)—

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- (a) for “with serious weaknesses” substitute “ requiring significant improvement ”, and
- (b) for paragraph (a) substitute—
  - “(a) the Chief Inspector has given the local education authority a notice under section 13(3)(a) or 37(2) of the Education Act 2005, and”.

#### Commencement Information

**I68** Sch. 9 para. 17 wholly in force at 1.9.2006; Sch. 9 para. 17 not in force at Royal Assent see s. 125; Sch. 9 para. 17 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 17 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 18 In section 17 of the School Standards and Framework Act 1998 (power of LEA to suspend right to delegated budget), in subsection (3)—
- (a) for “with serious weaknesses” substitute “ requiring significant improvement ”, and
  - (b) for paragraph (a) substitute—
    - “(a) the Chief Inspector has given the local education authority a notice under section 13(3)(a) or 37(2) of the Education Act 2005, and”.

#### Commencement Information

**I69** Sch. 9 para. 18 wholly in force at 1.9.2006; Sch. 9 para. 18 not in force at Royal Assent see s. 125; Sch. 9 para. 18 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 18 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 19 In section 18 of the School Standards and Framework Act 1998 (power of Secretary of State to appoint additional governors), in subsection (1)(a), for “with serious weaknesses” substitute “ requiring significant improvement ”.

#### Commencement Information

**I70** Sch. 9 para. 19 wholly in force at 1.9.2006; Sch. 9 para. 19 not in force at Royal Assent see s. 125; Sch. 9 para. 19 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 19 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

- 20 In section 18A of the School Standards and Framework Act 1998 (power of Secretary of State to provide for governing body to consist of interim executive members), in subsection (1)(a), for “with serious weaknesses” substitute “ requiring significant improvement ”.

#### Commencement Information

**I71** Sch. 9 para. 20 wholly in force at 1.9.2006; Sch. 9 para. 20 not in force at Royal Assent see s. 125; Sch. 9 para. 20 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 20 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

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- 21 In section 127 of the School Standards and Framework Act 1998 (code of practice for securing effective relationships between local education authorities and maintained schools), in subsection (6)—
- (a) omit paragraph (l), and
  - (b) after paragraph (q) insert—
    - “(r) section 51 of the Education Act 2005 (power of local education authority to inspect school for specific purpose),”.

#### Commencement Information

**I72** Sch. 9 para. 21 wholly in force at 1.9.2006; Sch. 9 para. 21 not in force at Royal Assent see s. 125; Sch. 9 para. 21 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 9 para. 21 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

#### *Government of Wales Act 1998 (c. 38)*

- 22 In Schedule 6 to the Government of Wales Act 1998 (Her Majesty's Chief Inspector of Education and Training in Wales), in the definition of “the Office of the Chief Inspector” in paragraph 1, for “(in accordance with section 4(3) of, and Schedule 1 to, the School Inspections Act 1996)” substitute “(in accordance with section 19(3) of, and Schedule 2 to, the Education Act 2005) ”.

#### *Protection of Children Act 1999 (c. 14)*

- 23 In section 9 of the Protection of Children Act 1999 (tribunal to hear certain appeals) omit subsection (2)(ca).

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

- 24 In section 75 of the Learning and Skills Act 2000 (extended remit of Chief Inspector for Wales), in subsection (2)(a), for “the Schools Inspections Act 1996” substitute “ Part 1 of the Education Act 2005 ”.

- 25 In section 86 of the Learning and Skills Act 2000 (annual reports), in subsection (1), for “section 5(7)(a) of the School Inspections Act 1996” substitute “ section 21(1) (a) of the Education Act 2005 ”.

- 26 (1) Section 118 of the Learning and Skills Act 2000 (inspection) is amended as follows.

- (2) For subsection (5) substitute—

“(5) A person carrying out or participating in the inspection shall have the same powers as the Chief Inspector has under the following provisions of the Education Act 2005—

- (a) section 10(1)(a) and (d) (right of access), and
- (b) section 58 (computer records).”

- (3) In subsection (6), for “Section 42A of the 1996 Act” substitute “ Section 11 of the Education Act 2005 ”.

- 27 (1) Section 128 of the Learning and Skills Act 2000 (conduct and effect of inspections) is amended as follows.

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(2) For subsection (2) substitute—

“(2) A person carrying out or participating in the inspection shall have the same powers as an Inspector has under the following provisions of the Education Act 2005—

- (a) section 24(3)(a) and (d) (right of access), and
- (b) section 58 (computer records).”

(3) In subsection (3), for “Section 42A” substitute “ Section 29 ”.

*Education Act 2002 (c. 32)*

28 In section 63 of the Education Act 2002 (power to require LEA to obtain advisory services) in subsection (1)(a)(i) for “with serious weaknesses” substitute “ requiring significant improvement ”.

**Commencement Information**

**I73** Sch. 9 para. 28 wholly in force at 1.9.2006; Sch. 9 para. 28 not in force at Royal Assent see s. 125; Sch. 9 para. 28 in force for E. at 1. 9. 2005 by S.I. 2005/2034, [art. 4](#); Sch. 9 para. 28 in force for W. at 1.9.2006 by S. I. 2006/1338, [art. 3](#), [Sch. 1](#)

29 In section 159 of the Education Act 2002 (unregistered independent schools), in subsection (5), for “Section 42 of the School Inspections Act 1996” substitute “ Section 58 of the Education Act 2005 ”.

**Commencement Information**

**I74** Sch. 9 para. 29 wholly in force at 1.9.2006; Sch. 9 para. 29 not in force at Royal Assent see s. 125; Sch. 9 para. 29 in force for E. at 1. 9. 2005 by S.I. 2005/2034, [art. 4](#); Sch. 9 para. 29 in force for W. at 1.9.2006 by S. I. 2006/1338, [art. 3](#), [Sch. 1](#)

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

30 In section 36 of the Nationality, Immigration and Asylum Act 2002 (education: general), in subsection (9)(a), for “the School Inspections Act 1996 (c. 57)” substitute “ Part 1 of the Education Act 2005 (school inspections) ”.

**Commencement Information**

**I75** Sch. 9 para. 30 wholly in force at 1.9.2006; Sch. 9 para. 30 not in force at Royal Assent see s. 125; Sch. 9 para. 30 in force for E. at 1. 9. 2005 by S.I. 2005/2034, [art. 4](#); Sch. 9 para. 30 in force for W. at 1.9.2006 by S. I. 2006/1338, [art. 3](#), [Sch. 1](#)



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## SCHEDULE 10

Section 66

PROPOSALS UNDER SECTION 66 FOR ESTABLISHMENT  
OF SECONDARY SCHOOLS: SUPPLEMENTARY**Modifications etc. (not altering text)**

- C52** Sch. 10 modified (1.9.2006) by The Education (New Secondary School Proposals) (England) Regulations 2006, (S.I. 2006/2139), {reg. 24}, Sch. 3
- C53** Sch. 10 applied (1.9.2006) by 1996 c. 56, s. 529(2) (as amended by Education Act 2005 (c. 18), ss. 72, 125, Sch. 12 para. 2); S.I. 2006/2129, art. 4

<sup>F7</sup>**PART 1**

## INTRODUCTORY

**Textual Amendments**

- F7** Sch. 10 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 30, 184, 188, Sch. 3 para. 53, Sch. 18 Pt. 3; S.I. 2007/935, art. 7(g)(o)(q)

- 1 This Schedule applies to proposals published under section 66.
- 2 In this Schedule “promoters”, in relation to any proposals, means the persons who made the proposals (but does not include a local education authority).

**PART 2**

## APPROVAL OF PROPOSALS BY SCHOOL ORGANISATION COMMITTEE OR ADJUDICATOR

**Modifications etc. (not altering text)**

- C54** Sch. 10 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 30, 184, 188, Sch. 3 para. 53, Sch. 18 Pt. 3; S.I. 2007/935, art. 7(g)(o)(q)

*Submission of proposals to school organisation committee*

- 3 (1) Regulations must make provision for the submission of the proposals to the school organisation committee.
- (2) Regulations under this paragraph may make provision—
- (a) for the making of objections or comments in relation to the proposals within a prescribed period to the local education authority who published the proposals, and



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- (b) for the sending by the local education authority to the school organisation committee within a prescribed period of copies of objections or comments received.

**Modifications etc. (not altering text)**

**C55** Sch. 10 para. 3 modified (1.9.2006) by The Education (New Secondary School Proposals) (England) Regulations 2006, (S.I. 2006/2139), {reg. 22(3)(4)}

*Approval of proposals*

- 4 (1) The proposals must be considered in the first instance by the school organisation committee.
- (2) The committee may—
  - (a) reject all the proposals,
  - (b) approve any of the proposals without modification,
  - (c) approve any of the proposals with such modifications as the committee think desirable after consulting such persons as may be prescribed, or
  - (d) if the committee think it appropriate to do so, and subject to regulations, refer to the adjudicator all the proposals with any comments on them made by the committee.
- (3) Sub-paragraph (2) does not apply in any case where paragraph 5 requires the committee to refer the proposals to the adjudicator.
- (4) Regulations may make provision modifying the application of sub-paragraphs (1) and (2) in relation to proposals which are related to other proposals of a prescribed description; and regulations may require the committee, in deciding for the purposes of the regulations whether any proposals are related, to have regard to any guidance given from time to time by the Secretary of State.
- (5) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (6) When deciding whether or not to give an approval under this paragraph, the committee must have regard to any guidance given from time to time by the Secretary of State.
- (7) Sub-paragraphs (1) and (2) do not prevent the promoters or local education authority by whom any proposals have been made from withdrawing those proposals—
  - (a) except in a case where the proposals have been referred to the adjudicator, by notice in writing to the school organisation committee, or
  - (b) in that excepted case, by notice in writing to the adjudicator,at any time before the proposals are determined under this paragraph by the committee or by the adjudicator.

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#### Modifications etc. (not altering text)

- C56** Sch. 10 para. 4(1) modified (1.9.2006) by The Education (New Secondary School Proposals) (England) Regulations 2006, (S.I. 2006/2139), {reg. 15(2)}
- C57** Sch. 10 para. 4(2) modified (1.9.2006) by The Education (New Secondary School Proposals) (England) Regulations 2006, (S.I. 2006/2139), {reg. 15(3)}

#### Commencement Information

- I76** Sch. 10 para. 4 wholly in force at 1.9.2006; Sch. 10 para. 4 not in force at Royal Assent see s. 125; Sch. 10 para. 4(4) in force at 1.8.2006 and Sch. 10 para. 4(1)-(3)(5)-(7) in force at 1.9.2006 by S.I. 2006/2129, arts. 3, 4

#### *Mandatory reference to adjudicator*

- 5 (1) Regulations may make provision requiring the school organisation committee in prescribed cases to refer to the adjudicator all the proposals with any comments made on them by the committee.
- (2) The Secretary of State may at any time give a direction to a school organisation committee requiring them to refer to the adjudicator—
- any proposals which have been submitted to the committee under paragraph 3 but which, at the time when the direction is given, have not been determined by the committee, and
  - all subsequent proposals submitted to the committee under that paragraph until the direction is revoked,
- with any comments made on any of the proposals by the committee.
- (3) Where a direction under sub-paragraph (2) is given to a school organisation committee at a time when the committee are considering proposals which consist of or include proposals to establish an Academy, the committee must complete any consultation required by paragraph 7 before referring the proposals to the adjudicator.
- (4) Where a school organisation committee are required by regulations under sub-paragraph (1) or a direction under sub-paragraph (2) to refer any proposals (“the relevant proposals”) to the adjudicator, the committee must also refer to the adjudicator any proposals published under section 28, 28A, 29 or 31 of the School Standards and Framework Act 1998 (c. 31) which relate to the area of the local education authority, if they are satisfied that the proposals are related to the relevant proposals.
- (5) In deciding under sub-paragraph (4) whether any proposals are related to other proposals the school organisation committee must have regard to any guidance given from time to time by the Secretary of State.

#### *Effect of reference to adjudicator*

- 6 (1) Where any proposals are referred to the adjudicator under paragraph 4(2)(d) or paragraph 5(1) or (2)—
- he must consider the proposals afresh, and

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- (b) sub-paragraphs (2) and (4) to (6) of paragraph 4 (other than sub-paragraph (2)(d) of that paragraph) apply to him in connection with his decision on the proposals as they apply to the committee.
- (2) The revocation of a direction under paragraph 5(2) does not affect the determination by the adjudicator of any proposals referred to him before the revocation.

#### *Proposals to establish Academy*

- 7
- (1) Regulations may provide that, where proposals submitted to the school organisation committee under paragraph 3 consist of or include proposals to establish an Academy, the committee must within the prescribed period consult the Secretary of State in accordance with regulations, before taking any decision under paragraph 4.
  - (2) The school organisation committee may not approve under paragraph 4 proposals to establish an Academy unless the Secretary of State, on being consulted under sub-paragraph (1), has indicated in accordance with regulations that, if the proposals were approved, he would be willing to commence negotiations with a view to entering into an agreement under section 482 of the Education Act 1996 (c. 56) for the establishment of an Academy.
  - (3) If a direction under paragraph 5(2) is in force in relation to a school organisation committee and the case does not fall within paragraph 5(3), the reference in sub-paragraph (1) to the committee is to be read as a reference to the adjudicator.
  - (4) Sub-paragraph (2) has effect in relation to a decision of an adjudicator under paragraph 4 as it has effect in relation to a decision of the school organisation committee under that paragraph.
  - (5) Approval under paragraph 4 by the school organisation committee or the adjudicator of proposals to establish an Academy does not oblige the Secretary of State to enter into, or seek to enter into, an agreement under section 482 of the Education Act 1996.

#### *Provision of information*

- 8
- Regulations may, in relation to any proposals published under section 66, require any of the following—
- (a) the authority or promoters who published the proposals,
  - (b) the school organisation committee, and
  - (c) the adjudicator,
- to provide such information relating to the proposals to such persons, and at such times, as may be prescribed.

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### PART 3

#### DETERMINATION BY LEA WHETHER TO IMPLEMENT PROPOSALS

**Modifications etc. (not altering text)**

**C58** Sch. 10 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 30, 184, 188, Sch. 3 para. 53, [Sch. 18 Pt. 3](#); S.I. 2007/935, [art. 7\(g\)\(o\)\(q\)](#)

- 9 (1) Where the only proposals published in pursuance of a notice published under section 66 by a local education authority are proposals published by that authority by virtue of subsection (8)(b) of that section and either—
- (a) no objections were made in accordance with regulations under paragraph 3, or
  - (b) all objections so made were withdrawn in writing within the period prescribed under the regulations as that within which any objections must be made,
- then (subject to the following provisions of this paragraph) the authority must determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within the period of four months beginning with the date of publication of the proposals (as determined in accordance with regulations); and the authority must notify the school organisation committee and the Secretary of State of any determination made by the authority under sub-paragraph (1).
- (3) The requirement to make a determination under sub-paragraph (1) in the case of any proposals applies only if, at the time when the authority's determination falls to be made under that sub-paragraph, they are satisfied that the proposals are not related to any of the following, namely—
- (a) any undetermined proposals published by the authority under section 28(1) or 28A(1) of the School Standards and Framework Act 1998 (c. 31) to establish a new community or foundation school in the area of the authority,
  - (b) any undetermined proposals published under section 28(2) or 28A(2) of that Act to establish a new voluntary or foundation school in the area of the authority,
  - (c) any undetermined proposals published under Schedule 7 to the Learning and Skills Act 2000 (c. 21),
  - (d) any undetermined proposals published under section 113A of the Learning and Skills Act 2000, if those proposals are of a description prescribed for the purposes of this paragraph,
  - (e) any undetermined proposals made under section 51 of the Further and Higher Education Act 1992 (c. 13), if those proposals are of a description so prescribed, or
  - (f) any direction under paragraph 3(2) or 4(2) of Schedule 11 to this Act.
- (4) For the purposes of sub-paragraph (3) proposals are “undetermined” if they have not been withdrawn and—
- (a) they have not been approved or rejected under paragraph 4 of this Schedule, under paragraph 9 or 10 of Schedule 11 to this Act, under paragraph 3 of

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- Schedule 6 to the School Standards and Framework Act 1998, or under Schedule 7 or 7A to the Learning and Skills Act 2000, or
- (b) the authority have not determined under this paragraph whether to implement them, 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, as the case may be; and when deciding under sub-paragraph (3) whether proposals are related to other proposals the authority must have regard to any guidance given from time to time by the Secretary of State.
- (5) The authority may, if they think it appropriate to do so and subject to regulations, refer to the school organisation committee any proposals which would otherwise fall to be determined by the authority under this paragraph.
- (6) Where, in the case of any proposals within sub-paragraph (1)—
- (a) the authority fail to make a determination under that sub-paragraph within the period mentioned in sub-paragraph (2),
  - (b) the requirement to make such a determination does not apply by virtue of sub-paragraph (3), or
  - (c) the authority refer the proposals to the school organisation committee, the proposals must be considered afresh under paragraph 4.

## PART 4

### IMPLEMENTATION OF PROPOSALS

#### Modifications etc. (not altering text)

**C59** Sch. 10 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 30, 184, 188, Sch. 3 para. 53, Sch. 18 Pt. 3; S.I. 2007/935, art. 7(g)(o)(q)

#### *Requirement to implement proposal to establish maintained school*

- 10 (1) Where—
- (a) any proposals to establish a community, foundation or voluntary school have been approved under paragraph 4, or
  - (b) a local education authority have determined under paragraph 9 to implement any such proposals,
- then (subject to the following provisions of this paragraph) the proposals must be implemented, in the form in which they were so approved or determined, in accordance with this Part of this Schedule.
- (2) At the request of any prescribed person, the school organisation committee—
- (a) may modify the proposals after consulting such persons as may be prescribed, and
  - (b) where any approval was given in accordance with paragraph 4(5), may specify a later date by which the event in question must occur.

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- (3) If, after consulting such persons as may be prescribed, the school organisation committee are satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
  - (b) that circumstances have so altered since approval was given under paragraph 4 that implementation of the proposals would be inappropriate,
- the committee may determine that sub-paragraph (1) is to cease to apply to the proposals.
- (4) The committee may only make a determination under sub-paragraph (3) where proposals that they should do so have been published, in accordance with regulations, by the authority or promoters who published the proposals referred to in sub-paragraph (1); and regulations may provide for any of the provisions of Parts 1 and 2 of this Schedule to have effect in relation to any such further proposals with or without modifications.
- (5) The committee—
- (a) may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any matter which would otherwise fall to be determined by the committee under this paragraph, and
  - (b) in prescribed cases, must refer to the adjudicator any such matter.
- (6) Where any matter is referred to the adjudicator under this paragraph—
- (a) he must consider the matter afresh, and
  - (b) such of the provisions of sub-paragraphs (2) to (4) above as are relevant shall apply to him in connection with his decision on that matter as they apply to the committee.

*Proposals not falling to be implemented*

- 11 (1) Where, by virtue of paragraph 10(3), paragraph 10(1) ceases to apply to any proposals, those proposals are to be treated for the purposes of this Schedule as if they had been rejected under paragraph 4.
- (2) Where—
- (a) any approval under paragraph 4 was given in accordance with paragraph 4(5), and
  - (b) the event specified under paragraph 4(5) does not occur by the date in question (whether as specified under that provision or as specified under paragraph 10(2)(b)),
- paragraph 10(1) ceases to apply to the proposals.
- (3) Where, by virtue of sub-paragraph (2), paragraph 10(1) ceases to apply to any proposals approved by the school organisation committee under paragraph 4, those proposals must be considered afresh by the committee under that paragraph.
- (4) Where, by virtue of sub-paragraph (2), paragraph 10(1) ceases to apply to any proposals approved by the adjudicator under paragraph 4, those proposals must be considered afresh by him under that paragraph (and paragraph 6 applies accordingly).

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*Requirement to implement proposals relating to community school*

- 12 Proposals to establish a community school which fall to be implemented under paragraph 10 must be implemented by the local education authority that made them.

*Requirement to implement proposals relating to foundation or voluntary controlled school*

- 13 (1) This paragraph applies to proposals to establish a foundation or voluntary controlled school which fall to be implemented under paragraph 10.
- (2) Proposals made by a local education authority must be implemented by the authority.
- (3) In any other case, the proposals must be implemented by the local education authority which published them and the promoters, respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (4) Where a local education authority are required under sub-paragraph (2) or (3) to provide a site for a proposed foundation or voluntary controlled school, paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (provision of site and buildings for a foundation, voluntary controlled or foundation special school) applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

*Requirement to implement proposals relating to voluntary aided school*

- 14 (1) This paragraph applies to proposals to establish a voluntary aided school which fall to be implemented under paragraph 10.
- (2) The proposals must be implemented—
- (a) so far as relating to the provision of any relevant premises for the school, by the local education authority which published the proposals, and
- (b) otherwise by the promoters.
- (3) In sub-paragraph (2) “relevant premises” means—
- (a) in a case where it is proposed to establish the school at the site specified in the notice under section 66, that site or playing fields, and
- (b) in any other case, playing fields.
- (4) Sub-paragraphs (5) to (7) apply where a local education authority are required, by virtue of sub-paragraph (2)(a), to provide for a school the site specified in a notice under section 66.
- (5) The authority must transfer their interest in the site and in any buildings on it which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
- (b) if the school has no trustees, to the school's foundation body, to be held by that body for the purposes of the schools comprising the group for which that body acts.

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- (6) If any doubt or dispute arises as to the persons to whom the authority are required to make a transfer under sub-paragraph (5), it is to be made to such persons as the Secretary of State thinks proper.
- (7) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (8) Paragraph 17 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in sub-paragraph (1)(b) of that paragraph.
- (9) Paragraph 19 of that Schedule (assistance from LEA in respect of voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in that paragraph, and paragraph 20 of that Schedule (duty on LEA to transfer interest in premises provided under paragraph 19) applies accordingly.

*Proposals relating to Academy*

- 15      Where proposals to establish an Academy published under section 66 are implemented by the Secretary of State making an agreement under section 482 of the Education Act 1996 (c. 56), subsection (3) of that section (requirement to consult certain LEAs about the establishment of the school) does not apply.

SCHEDULE 11

Section 67

RATIONALISATION OF SCHOOL PLACES IN ENGLAND

**PART 1**

INTRODUCTORY

- 1      In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31).
- 2      In this Schedule—
  - (a) “powers to make or invite proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority—
    - (i) to publish proposals under section 28, 28A, 29 or 31 of the 1998 Act, or
    - (ii) to publish a notice under section 66 of this Act and then, if they think fit, proposals of their own under subsection (5)(b) of that section;



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- (b) “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a) of the 1998 Act.

## PART 2

### DIRECTIONS TO BRING FORWARD PROPOSALS

#### *Directions to bring forward proposals to remedy excessive provision*

- 3 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
  - (a) in the area of any local education authority in England, or
  - (b) in any part of such an area,is excessive.
- (2) For the purpose of remedying the excess, the Secretary of State may—
  - (a) direct the local education authority to exercise their powers to make or invite proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (3) A direction under sub-paragraph (2) must—
  - (a) require the direction to be complied with not later than such date as may be specified in the direction, and
  - (b) require the body to whom the direction is given to apply such principles in giving effect to the direction as may be specified in the direction.
- (4) A direction under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals under the 1998 Act are published in pursuance of a direction under sub-paragraph (2), the body concerned must (in addition to complying with section 28(6), 28A(6), 29(5) or 31(5) of the 1998 Act) send—
  - (a) a copy of the published proposals, and
  - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.
- (6) Where a notice under section 66 is published in pursuance of a direction under sub-paragraph (2), the local education authority concerned must send—
  - (a) a copy of the published notice, and
  - (b) a copy of any proposals published under that section in pursuance of the notice,to the Secretary of State.

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*Directions to bring forward proposals to remedy insufficient provision*

- 4 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority in England, or
  - (b) in any part of such an area,
- is, or is likely to become, insufficient.
- (2) The Secretary of State may—
- (a) direct the local education authority to exercise their powers to make or invite proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, direct the governing body to exercise their powers to make proposals for the alteration of their school,
- with a view (in each case) to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the direction.
- (3) A direction under sub-paragraph (2) must—
- (a) require the direction to be complied with not later than such date as may be specified in the direction, and
  - (b) require the body to whom the direction is given to apply such principles in giving effect to the direction as may be specified in the direction.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals under the 1998 Act are published in pursuance of a direction under sub-paragraph (2), the body concerned must (in addition to complying with section 28(6), 28A(6), 29(5) or 31(5) of the 1998 Act) send—
- (a) a copy of the published proposals, and
  - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.
- (6) Where a notice under section 66 is published in pursuance of a direction under sub-paragraph (2), the local education authority concerned must send—
- (a) a copy of the published notice, and
  - (b) a copy of any proposals published under that section in pursuance of the notice,
- to the Secretary of State.

*Supplementary provisions*

- 5 (1) Where the Secretary of State gives a direction under paragraph 3(2) or 4(2) in relation to the area of any local education authority, he must send a copy of the direction—
- (a) to the school organisation committee for the area, and
  - (b) to any adjudicator who appears to him to be likely to be considering proposals in relation to that area.

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- (2) Where the school organisation committee or any adjudicator receive a copy of the direction under sub-paragraph (1), the committee or adjudicator must send to the Secretary of State—
    - (a) a copy of all proposals relating to the area which have been received by them or him but have not been determined by the relevant time, and
    - (b) a copy of all proposals relating to the area, other than any made under paragraph 7, which they receive after the relevant time.
  - (3) Where sub-paragraph (2) applies, then unless the Secretary of State gives his consent—
    - (a) neither the school organisation committee nor the adjudicator may make any determination, and
    - (b) the school organisation committee may not make any reference to the adjudicator under paragraph 3 of Schedule 6 to the 1998 Act, under paragraph 4(2)(d) or 5(1) of Schedule 10, or under paragraph 9 of this Schedule,  
in relation to any proposals within sub-paragraph (2) during the period beginning with the relevant time and ending with the time when the Secretary of State notifies the committee or the adjudicator, as the case may be, that they or he may make any such determination or reference in relation to those proposals without the Secretary of State's consent.
  - (4) The duty of the school organisation committee or any adjudicator to send copies of the proposals to the Secretary of State under sub-paragraph (2) terminates at the end of the period mentioned in sub-paragraph (3).
  - (5) In sub-paragraphs (2) and (3)—
    - (a) references to the relevant time, in relation to the school organisation committee or to any adjudicator, are to the time when they or he receive under sub-paragraph (1) a copy of the direction,
    - (b) references to proposals are to proposals made under section 28, 28A, 29 or 31 of the 1998 Act, Schedule 7 to the Learning and Skills Act 2000 (c. 21), section 66 of this Act or paragraph 7 of this Schedule, and
    - (c) references to the determination of any proposals are to—
      - (i) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6 to the 1998 Act,
      - (ii) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000 (c. 21),
      - (iii) any determination whether or not to approve the proposals under paragraph 4 of Schedule 10, or
      - (iv) any determination whether or not to approve the proposals under paragraph 9 or 11 of this Schedule.
- 6
- (1) Where a local education authority publish any proposals under section 28, 28A, 29 or 31 of the 1998 Act in pursuance of a direction under paragraph 3(2) or 4(2), those proposals require approval under paragraph 3 of Schedule 6 to the 1998 Act, despite anything in paragraph 3(1)(a) or 4 of that Schedule.
  - (2) Proposals made by any person under section 28, 28A, 29 or 31 of the 1998 Act in pursuance of a direction given to that person under paragraph 3(2) or 4(2) may not

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be withdrawn without the consent of the Secretary of State and such consent may be given on such conditions (if any) as the Secretary of State considers appropriate.

- (3) Where the governing body of a foundation, voluntary or foundation special school make any proposals in pursuance of a direction given to the governing body under paragraph 3(2)(b) or 4(2)(b), the local education authority must reimburse any expenditure reasonably incurred by the governing body in making the proposals.
- (4) Where—
- (a) proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of any such direction under paragraph 3(2)(b) or 4(2)(b) are approved, or as the case may be, determined to be implemented, or
  - (b) proposals approved under paragraph 9 or 11 have effect as mentioned in paragraph 13(b),

then, despite anything in Part 3 of Schedule 6 to the 1998 Act, the local education authority must defray the cost of implementing the proposals.

### PART 3

#### PROPOSALS BY SECRETARY OF STATE

- 7 (1) Where—
- (a) in relation to the area of any local education authority or any part of such an area, the Secretary of State—
    - (i) has given the local education authority a direction under paragraph 3(2)(a) or 4(2)(a) to make proposals for the establishment, alteration or discontinuance of schools, or
    - (ii) has given the governing body of a foundation, voluntary or foundation special school a direction under paragraph 3(2)(b) or 4(2)(b) to make proposals for the alteration of their school, and
  - (b) any of the conditions in sub-paragraph (3) is met,
- he may make any such proposals as might have been made in accordance with the direction relating to that area or that part of that area by the person to whom the direction was given.
- (2) In determining for the purposes of sub-paragraph (1) what proposals might have been made by a local education authority under section 28A of the 1998 Act, it is to be assumed that no notice under section 66 of this Act has been published and that the Secretary of State consents to the publication of the proposals under section 28A.
- (3) The conditions referred to in sub-paragraph (1)(b) are—
- (a) that the person to whom the direction was given has failed to publish within the time specified in the direction proposals under section 28, 28A, 29 or 31 of the 1998 Act or a notice under section 66,
  - (b) that the person to whom the direction was given has published proposals under section 28, 28A, 29 or 31 of the 1998 Act but it appears to the Secretary of State that the proposals are inadequate,
  - (c) that a notice under section 66 has been published in pursuance of the direction but the period within which proposals must be published under

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- subsection (8)(a) or (b) of that section has passed without any proposals being published, or
- (d) that proposals have been published under (8)(a) or (b) of section 66 in pursuance of a notice published in pursuance of the direction but either—
- (i) every set of proposals has been withdrawn, or
  - (ii) every set of proposals, apart from any that has been withdrawn, appears to the Secretary of State to be inadequate.
- (4) Proposals under this paragraph must—
- (a) contain such information, and
  - (b) be published in such manner,
- as may be prescribed.
- (5) The Secretary of State must send a copy of the proposals to the school organisation committee for the area to which the proposals relate.

#### PART 4

##### PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 7

###### *Objections*

- 8 (1) Any person may make objections to, or comments on, any proposals published under paragraph 7.
- (2) Objections or comments under this paragraph—
- (a) must be sent to the school organisation committee for the area to which those proposals relate, and
  - (b) must be so sent within such period as may be prescribed.

###### *Approval of proposals*

- 9 (1) Proposals published under paragraph 7 require the approval of the school organisation committee under this paragraph or of the adjudicator under paragraph 11.
- (2) Where the school organisation committee receive a copy of the proposals published under paragraph 7, they must (subject to sub-paragraph (3) and (8)) either—
- (a) approve them without modification, or
  - (b) approve them with such modifications as the committee thinks desirable and to which the Secretary of State consents, or
  - (c) refer them to the adjudicator under sub-paragraph (6) or (7).
- (3) The committee may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any proposals which would otherwise fall to be dealt with by them under sub-paragraph (2).

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- (4) Any approval given under this paragraph may, with the consent of the Secretary of State, be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (5) When deciding whether or not to give any approval under this paragraph the committee must have regard to any guidance given from time to time by the Secretary of State.
- (6) If—
- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and
  - (b) the Secretary of State requests the committee to refer his proposals to the adjudicator,
- the committee must refer the Secretary of State's proposals to the adjudicator.
- (7) If the committee—
- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4 to the 1998 Act) falls to be decided by them under this paragraph by a unanimous decision but have failed to reach such a decision on the matter, or
  - (b) have decided not to give any approval under this paragraph,
- the committee must refer the Secretary of State's proposals to the adjudicator.
- (8) The Secretary of State may at any time give a direction to a school organisation committee requiring them to refer to the adjudicator—
- (a) any proposals which have been submitted to the committee under this paragraph but which, at the time when the direction is given, have not been determined by the committee, and
  - (b) all subsequent proposals submitted to the committee under this paragraph until the direction is revoked.
- (9) Where a school organisation committee refer any proposals to the adjudicator under sub-paragraph (6), (7) or (8), they must also refer to him any comments of the committee on the proposals.
- (10) Sub-paragraph (1) does not prevent the Secretary of State from withdrawing any proposals published under paragraph 7 by notice in writing given to the school organisation committee at any time before the proposals are determined under this paragraph or paragraph 11.

*Reference to adjudicator of other proposals*

- 10 (1) Where any proposals are referred to the adjudicator under paragraph 9, the school organisation committee must also refer to him—
- (a) any other proposals published under paragraph 7 in relation to the area of the local education authority (and not withdrawn),
  - (b) any proposals made by that authority in the exercise of their powers to make or invite proposals for the establishment, alteration or discontinuance of schools (and not withdrawn),

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- (c) any proposals published by that authority under section 66(8)(a) of this Act (and not withdrawn),
- (d) any proposals made by the governing body of any community, foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn), and
- (e) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (c. 21) (and not withdrawn),

where those proposals are not determined before the adjudicator holds an inquiry under paragraph 11(1) and appear to the committee to be related to the proposals referred by them to the adjudicator under paragraph 9.

- (2) Sub-paragraph (1) applies to any proposals within that sub-paragraph whether or not the proposals have been previously referred to the adjudicator by the committee.
- (3) References in this paragraph to the determination of any proposals are to—
  - (a) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6 to the 1998 Act, paragraph 4 of Schedule 10 to this Act, sub-paragraph (2)(a) or (b) of paragraph 9 or paragraph 11(3) of this Schedule, or
  - (b) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.

#### *Local inquiry into proposals*

- 11 (1) Where any proposals are referred to the adjudicator under paragraph 9, he must hold a local inquiry to consider—
  - (a) those proposals,
  - (b) any additional proposals referred to him under paragraph 10(1),
  - (c) any objections or comments made (under paragraph 2 of Schedule 6 to the 1998 Act, paragraph 3 of Schedule 10 to this Act or paragraph 8 of this Schedule) to any proposals within paragraph (a) or (b) unless such objections or comments have been withdrawn, and
  - (d) any views expressed by the school organisation committee on any such proposals.
- (2) It is not open to the inquiry to question the principles specified in the direction under paragraph 3(2) or 4(2).
- (3) After holding the inquiry, the adjudicator must, in the case of any proposals considered at the inquiry, either—
  - (a) approve them with or without modifications, or
  - (b) reject them.
- (4) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (5) When deciding whether or not to give any approval under this paragraph, paragraph 9(5) applies to the adjudicator as it does to the committee.

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### *Proposals relating to Academy*

- 12 (1) Regulations may provide that, where proposals referred to the adjudicator under paragraph 10(1) consist of or include proposals to establish an Academy, the adjudicator must within the prescribed period consult the Secretary of State in accordance with regulations, before taking any decision under that paragraph.
- (2) The adjudicator may not approve under paragraph 11 proposals to establish an Academy unless the Secretary of State, on being consulted under sub-paragraph (1), has indicated in accordance with regulations that, if the proposals were approved, he would be willing to commence negotiations with a view to entering into an agreement under section 482 of the Education Act 1996 (c. 56) for the establishment of an Academy.
- (3) Approval under paragraph 11 of proposals to establish an Academy does not oblige the Secretary of State to enter into, or seek to enter into, an agreement under section 482 of the Education Act 1996.

### *Implementation of proposals*

- 13 Proposals approved by the school organisation committee under paragraph 9 or by the adjudicator under paragraph 11 have effect as if they—
- (a) had been made by the local education authority under their powers to make or invite proposals for the establishment, alteration or discontinuance of schools, or
- (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school, and had been approved by the school organisation committee or the adjudicator, as the case may be, under paragraph 3 of Schedule 6 to the 1998 Act or, in the case of proposals to establish an Academy, under paragraph 4 of Schedule 10 to this Act.

## PART 5

### TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

- 14 (1) This paragraph applies to proposals for a school in England to cease to be an establishment which admits pupils of one sex only.
- (2) Sub-paragraph (3) applies where such proposals are made under paragraph 7 and, in accordance with sub-paragraph (5) of that paragraph, the Secretary of State sends a copy of the published proposals to the school organisation committee.
- (3) The sending of the published proposals to the school organisation committee by the Secretary of State is to be treated as an application by the responsible body for the making by the school organisation committee of a transitional exemption order, and the committee may make such an order accordingly.
- (4) Where—



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- (a) the school organisation committee have failed to reach a unanimous decision under sub-paragraph (3) on whether to make a transitional exemption order, or
- (b) the school organisation committee refer the proposals to the adjudicator under paragraph 9,

they must refer the question whether to make a transitional exemption order to the adjudicator.

(5) Where that question is referred to the adjudicator—

- (a) he must consider the matter afresh, and
- (b) he may make a transitional exemption order accordingly.

(6) In this paragraph—

“the 1975 Act” means the Sex Discrimination Act 1975 (c. 65);

“make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke;

“the responsible body” has the same meaning as in section 22 of the 1975 Act;

“transitional exemption order” has the same meaning as in section 27 of the 1975 Act;

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration of a school's admission arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).

## SCHEDULE 12

Section 72

### SCHOOL ORGANISATION: FURTHER AMENDMENTS

#### *Education Act 1996 (c. 56)*

1 (1) Section 5 of the Education Act 1996 (primary schools, secondary schools and middle schools) is amended as follows.

(2) For subsection (3) substitute—

“(3) In this Act “middle school” means a school which, in pursuance of proposals published under section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998 or section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—

- (a) have attained a specified age below 10 years and six months, and
- (b) are under a specified age above 12 years (referred to in this Act as “the relevant upper age”).”

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- (3) In subsection (5) for the words from the beginning to “subsection” substitute “ The powers conferred by the enactments mentioned in subsection (3) (so far as relating to the establishment of middle schools) and the powers conferred by subsection ”.
- 2 In section 529 of the Education Act 1996 (power to accept gifts on trust for educational purposes), in subsection (2), for the words from “section 28” to the end substitute “ sections 28 and 28A of the School Standards and Framework Act 1998 and section 66 of the Education Act 2005 as an intention to establish a new community school (so that proposals for that purpose shall be published in accordance with those sections); and Schedule 6 to the School Standards and Framework Act 1998 or Schedule 10 to the Education Act 2005 (which relate to statutory proposals) shall apply accordingly ”.
- 3 In section 530 of the Education Act 1996 (compulsory purchase of land), in subsection (1)(c), for “section 70 of the Education Act 2002” substitute “ section 66 of the Education Act 2005 ”.
- 4 In section 580 of the Education Act 1996 (index), after the entry beginning “relevant standard number” insert—

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“relevant upper age (in relation to a middle school) section 5(3)(b)”

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- 5 (1) In Schedule 35A to the Education Act 1996 (Academies: land), paragraph 1 is amended as follows.
- (2) In sub-paragraph (2)(b), for “section 70 of the Education Act 2002 (new schools to meet increased demand for secondary education)” substitute “ section 66 of the Education Act 2005 (proposals for new secondary schools) ”.
- (3) In sub-paragraph (3)(d), for “section 70 of the Education Act 2002” substitute “ section 66 of the Education Act 2005 ”.

*School Standards and Framework Act 1998 (c. 31)*

- 6 In section 25 of the School Standards and Framework Act 1998 (adjudicators), in subsection (2), after “this Act” insert “ or Part 2 of the Education Act 2005 ”.
- 7 In section 33 of the School Standards and Framework Act 1998 (further provisions relating to establishment, alteration or discontinuance of schools), in subsection (4), after “28,” insert “ 28A, ”.
- 8 In section 34 of the School Standards and Framework Act 1998 (rationalisation of school places)—
- (a) for “Secretary of State” substitute “ National Assembly for Wales ”,
  - (b) for “and governing bodies” substitute “ in Wales and governing bodies of maintained schools in Wales ”, and
  - (c) for “him” substitute “ the Assembly ”.

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- 9 In section 138 of the School Standards and Framework Act 1998 (orders and regulations), in subsection (4), after “20(7),” insert “ 29(9A), ”.

#### Commencement Information

**I77** Sch. 12 para. 9 partly in force; Sch. 12 para. 9 not in force at Royal Assent; Sch. 12 para. 9 in force for E. at 1.9.2006 by S.I. 2006/2129, art. 5

- 10 In section 143 of the School Standards and Framework Act 1998 (index), in the entry beginning “promoters”, after “section 28(2)” insert “ or 28A(2) ”.
- 11 In Schedule 4 to the School Standards and Framework Act 1998 (school organisation committees) in paragraph 5(4)—
- (a) in paragraph (c), for “or paragraph 16 of Schedule 7” substitute “ or under paragraph 14 of Schedule 11 to the Education Act 2005 ”, and
  - (b) in paragraph (d), for “paragraph 8 of Schedule 7” substitute “ paragraph 9 of Schedule 11 to the Education Act 2005 ”.
- 12 In Schedule 5 to the School Standards and Framework Act 1998 (adjudicators), in paragraph 5(1) (procedure), after “this Act” insert “ or under Part 2 of the Education Act 2005 ”.
- 13 (1) Schedule 6 to the School Standards and Framework Act 1998 (statutory proposals: procedure and implementation) is amended as follows.
- (2) In paragraph 1(1), after “28,” insert “ 28A ”.
  - (3) In paragraph 2(1), after “28,” insert “ 28A, ”.
  - (4) In paragraph 3—
    - (a) in sub-paragraph (1), after “28,” insert “ 28A, ”,
    - (b) after sub-paragraph (6C) insert—

“(6D) If by the end of such period as may be specified in regulations, the committee have not determined whether to give any approval under this paragraph, they shall refer the proposals to the adjudicator.”, and
    - (c) in sub-paragraph (8), after “28,” insert “ 28A, ”.
  - (5) In paragraph 4—
    - (a) in sub-paragraph (1), after “28,” insert “ 28A, ”,
    - (b) in sub-paragraph (3)—
      - (i) omit paragraph (d), and
      - (ii) for paragraph (h) substitute—

“(h) a direction under paragraph 3(2) or 4(2) of Schedule 11 to the Education Act 2005.”, and
    - (c) in sub-paragraph (4)(a), for “paragraph 8 or 9 of Schedule 7” substitute “ paragraph 9 or 11 of Schedule 11 to the Education Act 2005 ”.
  - (6) In paragraph 5—

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- (a) in sub-paragraph (1)(a) and (4), after “28,” insert “ 28A, ”,
  - (b) after sub-paragraph (6A) insert—
    - “(6B) If by the end of such period as may be specified in regulations, the committee have not decided any matter falling to be decided by them under this paragraph, they shall refer the proposals to the adjudicator.”, and
  - (c) in sub-paragraph (10), for “shall be regarded as requiring a fresh approval” substitute “ fall to be considered afresh by the committee ”.
- (7) In paragraph 10(7), for “shall be regarded as requiring a fresh approval” substitute “ fall to be considered afresh by the Secretary of State ”.
- (8) In paragraph 12(2), after “section 28(1)” insert “ , 28A(1) ”.
- (9) In paragraph 13—
- (a) in sub-paragraph (2), after “section 28(1)” insert “ , 28A(1) ”.
  - (b) for sub-paragraph (3) substitute—
    - “(3) Where the proposals were published—
    - (a) under section 28(2) or 28A(2), by promoters, or
    - (b) under section 28(2), by the governing body,
 they shall be implemented by the local education authority and by the promoters or (as the case may be) the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.”
- (10) In paragraph 14(3), after “section 28(2)” insert “ or 28A(2) ”.
- 14 (1) Schedule 7 to the School Standards and Framework Act 1998 (rationalisation of school places) is amended as follows.
- (2) For the heading substitute “ RATIONALISATION OF SCHOOL PLACES IN WALES ”.
- (3) After paragraph 1 insert—
- “1A In this Schedule “the Assembly” means the National Assembly for Wales.”
- (4) In paragraph 2—
- (a) for “Secretary of State”, wherever occurring, substitute “ Assembly ”,
  - (b) in sub-paragraph (1)(a), after “local education authority” insert “ in Wales ”, and
  - (c) omit sub-paragraph (5).
- (5) In paragraph 3—
- (a) for “Secretary of State”, wherever occurring, substitute “ Assembly ”,
  - (b) in sub-paragraph (1)(a), after “local education authority” insert “ in Wales ”, and
  - (c) omit sub-paragraph (5).
- (6) In paragraph 4—
- (a) omit sub-paragraphs (1) to (6),
  - (b) in sub-paragraph (7)—
    - (i) omit “(whether relating to an area in England or in Wales)”, and

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- (ii) for “Secretary of State” (in both places) substitute “ Assembly ”, and
  - (c) for paragraph (b) of sub-paragraph (9) substitute—
    - “(b) proposals adopted under paragraph 14 have effect as mentioned in paragraph 15(b),”.
- (7) For the heading to Part 3 substitute “ PROPOSALS BY NATIONAL ASSEMBLY FOR WALES ”.
- (8) In paragraph 5—
  - (a) in sub-paragraph (1)—
    - (i) for “Secretary of State” substitute “ Assembly ”, and
    - (ii) for “he may” substitute “ the Assembly may ”,
  - (b) omit sub-paragraph (3), and
  - (c) in sub-paragraph (4), for the words from the beginning to “shall” substitute “ The Assembly shall ”.
- (9) Omit Part 4.
- (10) In paragraph 12(2)(a), for “Secretary of State” substitute “ Assembly ”.
- (11) In paragraph 13—
  - (a) in sub-paragraph (1), for “the Secretary of State” and “he” substitute “ the Assembly ”,
  - (b) in sub-paragraph (2), for “the Secretary of State”, “his” and “he” substitute respectively “ the Assembly ”, “ the Assembly's ” and “ the Assembly ”,
  - (c) in sub-paragraph (3), for “Secretary of State” substitute “ Assembly ”,
  - (d) in sub-paragraph (4)—
    - (i) for “Secretary of State” substitute “ Assembly ”,
    - (ii) for “he shall refer” substitute “ the Assembly shall refer ”,
    - (iii) for “he causes” substitute “ the Assembly causes ”,
    - (iv) for “to him” substitute “ to the Assembly ”, and
    - (v) for “he is required” substitute “ it is required ”, and
  - (e) in sub-paragraph (5)—
    - (i) for “Secretary of State” substitute “ Assembly ”,
    - (ii) for “he forms” substitute “ the Assembly forms ”,
    - (iii) for “him” substitute “ the Assembly ”, and
    - (iv) for “he subsequently forms” substitute “ the Assembly subsequently forms ”.
- (12) In paragraph 14—
  - (a) in sub-paragraph (1)—
    - (i) for “Secretary of State” substitute “ Assembly ”,
    - (ii) for “he” (wherever occurring) substitute “ it ”, and
    - (iii) in paragraph (a), for “him” substitute “ the Assembly ”, and
  - (b) in sub-paragraph (2)—
    - (i) for “Secretary of State” substitute “ Assembly ”, and
    - (ii) for “he” (wherever occurring) substitute “ it ”.
- (13) In paragraph 15, for “Secretary of State” (in both places) substitute “ Assembly ”.
- (14) Omit paragraph 16.

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(15) In paragraph 17(2), for “Secretary of State” (in both places) substitute “ Assembly ”.

**Commencement Information**

**I78** Sch. 12 para. 14 partly in force; Sch. 12 para. 14 not in force at Royal Assent see s. 125; Sch. 12 para. 14 in force for certain purposes at 1.9.2006 by S.I. 2006/2129, art. 4

- 15 (1) Schedule 22 to the School Standards and Framework Act 1998 (disposals of land in case of certain schools and disposals on discontinuance) is amended as follows.
- (2) In paragraph 2(1)(a), at the end insert “ or under paragraph 14(5) of Schedule 10 to the Education Act 2005 ”.
- (3) In paragraph 3(1)(a), at the end insert “ or under paragraph 14(5) of Schedule 10 to the Education Act 2005 ”.

*Education Act 2002 (c. 32)*

- 16 In section 129 of the Education Act 2002 (transfer of employment), in subsection (1) (a) after “section 28” insert “ , 28A ”.

SCHEDULE 13

Section 77

THE TRAINING AND DEVELOPMENT AGENCY FOR SCHOOLS

*Supplementary powers*

- 1 (1) The power conferred on the Agency by section 83 includes power to do anything which appears to them to be incidental to the furtherance of the objectives in section 75(2) or to the exercise of any other function conferred on them by any enactment, including, in particular, power to—
- (a) acquire and dispose of land and other property,
  - (b) enter into contracts,
  - (c) invest sums not immediately required for the purposes of the discharge of their functions, and
  - (d) accept gifts of money, land or other property.
- (2) The Agency may not borrow money except with the consent of the Secretary of State.

*Chief officer*

- 2 (1) One of the members of the Agency is to be the chief officer.
- (2) The chief officer is to be appointed by the Agency with the approval of the Secretary of State on such terms and conditions (including terms with respect to tenure and vacation of office) as the Agency may with the approval of the Secretary of State determine.

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- (3) On approval by the Secretary of State of the person to be appointed on any occasion as chief officer of the Agency and the terms and conditions of his appointment, the Secretary of State must—
- (a) if that person is not already a member of the Agency, appoint him as a member for the same term as the term of his appointment as chief officer, and
  - (b) if he is already such a member but his term of appointment as such ends before the term of his appointment as chief officer ends, extend his term of appointment as a member so that it ends at the same time as the term of his appointment as chief officer.

#### *Tenure of members of the Agency*

- 3 (1) A person holds and vacates office as a member or as chairman or chief officer of the Agency in accordance with the terms of his appointment and, on ceasing to be a member, is eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman of the Agency.
- 4 If the Secretary of State is satisfied that a member of the Agency—
- (a) has been absent from meetings of the Agency for a period longer than six consecutive months without the permission of the Agency, or
  - (b) is unable or unfit to discharge the functions of a member,
- the Secretary of State may by notice in writing to the member remove him from office and thereupon the office becomes vacant.

#### *Salaries, allowances and pensions*

- 5 (1) The Agency—
- (a) must pay to their members such salaries or fees, and such travelling, subsistence and other allowances, as the Secretary of State may determine, and
  - (b) must, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of the Agency and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Agency to make to that person a payment of such amount as the Secretary of State may determine.
- (3) The Agency must pay to the members of any of their committees who are not members of the Agency such travelling, subsistence or other allowances as the Secretary of State may determine.

#### *Staff*

- 6 (1) The Agency may appoint such employees as they think fit.
- (2) The Agency may pay to their employees such remuneration and allowances as the Agency may determine.

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- (3) The employees are to be appointed on such other terms and conditions as the Agency may determine.
  - (4) A determination under sub-paragraph (2) or (3) requires the approval of the Secretary of State.
- 7
- (1) Employment with the Agency continues to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.
  - (2) The Agency shall pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.
  - (3) Where an employee of the Agency is, by reference to that employment, a participant in a scheme under section 1 of that Act and is also a member of the Agency, the Minister for the Civil Service may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the Agency (whether or not any benefits are payable to or in respect of him by virtue of paragraph 5).

#### *Committees*

- 8
- (1) The Agency may establish a committee for any purpose.
  - (2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the Agency.
  - (3) Such a committee may include persons who are not members of the Agency.
  - (4) The Agency shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

#### *Delegation of functions*

- 9
- The Agency may authorise the chairman, the chief officer or any committee established under paragraph 8 to exercise such of their functions as they may determine.

#### *Proceedings*

- 10
- Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to the Agency under this Act—
- (a) a representative of the Secretary of State is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Agency or of any committee of the Agency, and
  - (b) the Agency must provide the Secretary of State with such copies of any documents distributed to members of the Agency or of any such committee as he may require.
- 11
- Without prejudice to any other rights the Assembly may require to be accorded to it as a condition of any grants made to the Agency under this Act—



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- (a) a representative of the Assembly is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Agency or of any committee of the Agency, and
  - (b) the Agency must provide the Assembly with such copies of any documents distributed to members of the Agency or of any such committee as the Assembly may require.
- 12 (1) The Chief Inspector for England, or a representative of his, is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Agency or of any committee of the Agency.
- (2) The Agency must provide the Chief Inspector for England with such copies of any documents distributed to members of the Agency or of any such committee as he may require.
- 13 The validity of any proceedings of the Agency or of any committee of the Agency is not affected by a vacancy among the members or by any defect in the appointment of a member.
- 14 Subject to the preceding provisions of this Schedule, the Agency may regulate their own procedure and that of any of their committees.

#### *Application of seal and proof of instruments*

- 15 The application of the seal of the Agency is authenticated by the signature—
  - (a) of the chairman or of some other person authorised either generally or specially by the Agency to act for that purpose, and
  - (b) of one other member.
- 16 Every document purporting to be an instrument made or issued by or on behalf of the Agency and to be duly executed under the seal of the Agency, or to be signed and executed by a person authorised by the Agency to act in that behalf, is to be received in evidence and to be treated, without further proof, as being so made or issued unless the contrary is shown.

#### *Accounts*

- 17 (1) It is the duty of the Agency—
  - (a) to keep proper accounts and proper records in relation to the accounts,
  - (b) to prepare in respect of each financial year of the Agency a statement of accounts, and
  - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General by such time as the Secretary of State may direct.
- (2) The statement of accounts must comply with any directions given by the Secretary of State as to—
  - (a) the information to be contained in it,
  - (b) the manner in which the information contained in it is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared,and must contain such additional information as the Secretary of State may require to be provided for the information of Parliament.

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- (3) The Comptroller and Auditor General must examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means each period of twelve months beginning with 1st April.

*Annual reports*

- 18 The Agency—
- (a) must make an annual report to the Secretary of State, who must lay a copy of it before each House of Parliament, and
  - (b) may arrange for the report to be published in such manner as the Agency consider appropriate.

*Status of Agency*

- 19 The Agency are not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the Agency is not to be regarded as property of, or property held on behalf of, the Crown.

SCHEDULE 14

Section 98

AMENDMENTS RELATING TO THE TRAINING OF THE SCHOOL WORKFORCE

*Public Records Act 1958 (c. 51)*

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3, at the appropriate place insert— “ Training and Development Agency for Schools ”.

*Parliamentary Commissioner Act 1967 (c. 13)*

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation), at the appropriate place insert— “ Training and Development Agency for Schools ”.

*Superannuation Act 1972 (c. 11)*

- 3 In Schedule 1 to the Superannuation Act 1972 (which lists the kinds of employment etc. referred to in section 1 of that Act), for “Teacher Training Agency” substitute “ Training and Development Agency for Schools ”.

*House of Commons Disqualification Act 1975 (c. 24)*

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place insert— “ Any member of the Training and Development Agency for Schools in receipt of remuneration. ”

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*Sex Discrimination Act 1975 (c. 65)*

- 5 In section 23D of the Sex Discrimination Act 1975 (discrimination by Teacher Training Agency)—
- (a) for “Teacher Training Agency” (both in the section and in the heading) substitute “ Training and Development Agency for Schools ”, and
  - (b) for “Part 1 of the Education Act 1994” substitute “ any enactment ”.
- 6 In section 25 of the Sex Discrimination Act 1975 (general duty in public sector of education), in subsection (6) for paragraph (f) substitute—
- “(f) the Training and Development Agency for Schools.”

*Race Relations Act 1976 (c. 74)*

- 7 In section 18D of the Race Relations Act 1976 (discrimination by Teacher Training Agency)—
- (a) for “Teacher Training Agency” (both in the section and in the heading) substitute “ Training and Development Agency for Schools ”, and
  - (b) for “Part 1 of the Education Act 1994” substitute “ any enactment ”.
- 8 In Schedule 1A (bodies and other persons subject to general statutory duty) in Part 2, for the entry relating to the Teacher Training Agency substitute— “ The Training and Development Agency for Schools. ”

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

- 9 In section 1 of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments), in subsection (3) for paragraph (e) substitute—
- “(e) any training provider, within the meaning of Part 3 of the Education Act 2005 (training the school workforce), who is receiving financial support under section 78 of that Act from the Training and Development Agency for Schools;
  - (ee) any institution eligible for funding by the Higher Education Funding Council for Wales under Part 3 of that Act;”.

*Education (No. 2) Act 1986 (c. 61)*

- 10 In the Education (No. 2) Act 1986, omit section 50 (grants for teacher training, etc.).

*Education Act 1994 (c. 30)*

- 11 Omit sections 1 to 11 of the Education Act 1994.
- 12 Omit sections 12 to 17 of the Education Act 1994.
- 13 For section 18A of the Education Act 1994 substitute—

**“18B Inspection of teacher training**

- (1) Her Majesty's Chief Inspector of Schools in England (“the Chief Inspector”) may inspect and report on—
- (a) any initial training of teachers, or specialist teaching assistants, for schools, or
  - (b) any in-service training of such teachers or assistants,

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which is provided by a training provider.

- (2) When asked to do so by the Secretary of State, the Chief Inspector must—
- (a) give advice to the Secretary of State on such matters connected with training falling within subsection (1)(a) or (b) as may be specified in the Secretary of State's request;
  - (b) inspect and report on such one or more relevant training providers in England as may be so specified.
- (3) The Chief Inspector may at any time give advice to—
- (a) the Secretary of State,
  - (b) the Training and Development Agency for Schools, or
  - (c) the General Teaching Council for England,
- on any matter connected with training falling within subsection (1)(a) or (b).
- (4) The Chief Inspector may—
- (a) make such reports of inspections carried out by him under this section as he considers appropriate, and
  - (b) arrange for any such report to be published in such manner as he considers appropriate,
- and subsections (2) to (4) of section 11 of the 2005 Act (publication of inspection reports) apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.
- (5) When inspecting a training provider under this section, the Chief Inspector has at all reasonable times—
- (a) a right of entry to the premises of the training provider, and
  - (b) a right to inspect, and take copies of, any records kept by the training provider, and any other documents containing information relating to the training provider, which he considers relevant to the exercise of his functions under this section;
- and section 58 of the 2005 Act (inspection of computer records) applies for the purposes of this section as it applies for the purposes of Part 1 of the 2005 Act.
- (6) Without prejudice to subsection (5), a training provider to which an inspection under this section relates—
- (a) must give the Chief Inspector all assistance in connection with the exercise of his functions under this section which he is reasonably able to give, and
  - (b) must secure that all such assistance is also given by persons who work for the training provider.
- (7) The Chief Inspector may not carry out any inspection under subsection (1) unless—
- (a) at least eight weeks previously, he has given notice of his intention to carry out the inspection—
    - (i) to the training provider concerned, or

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- (ii) where the training is provided by a partnership or association of training providers, to one of those training providers, or
  - (b) with the agreement of that training provider or (as the case may be) one of those training providers, he has given it shorter notice of that intention.
- (8) Any notice under subsection (7)—
  - (a) must be given in writing, and
  - (b) may be sent by post;and any such notice may (without prejudice to any other lawful method of giving it) be addressed to a training provider at any address which the training provider has notified to the Training and Development Agency for Schools as its address.
- (9) Nothing in this section confers any right or imposes any duty, whether as regards the carrying out of any inspection or otherwise, in relation to any course which consists of instruction given wholly or mainly for purposes other than training falling within subsection (1)(a) or (b).
- (10) Any reference in this section to the Chief Inspector is to be read, in relation to any inspection which he is authorised or required to carry out under this section, as including a reference to any person authorised to act on his behalf under paragraph 5(1) or (2) of Schedule 1 to the 2005 Act.
- (11) Nothing in this section is to be taken as prejudicing the generality of sections 2 to 4 of, or paragraph 5(1) or (2) of Schedule 1 to, the 2005 Act.
- (12) In this section—
  - (a) “the 2005 Act” means the Education Act 2005;
  - (b) “training provider” has the same meaning as in Part 3 of the 2005 Act;
  - (c) “relevant training provider” means any training provider who provides training falling within subsection (1)(a) or (b);
  - (d) “in-service training” includes any training provided to a teacher serving an induction period (within the meaning of section 19 of the Teaching and Higher Education Act 1998);
  - (e) “documents” and “records” each include information recorded in any form.

### **18C Inspection of teacher training in Wales**

- (1) Her Majesty's Chief Inspector of Education and Training in Wales (“the Chief Inspector”) may inspect and report on—
  - (a) any initial training of teachers, or specialist teaching assistants, for schools, or
  - (b) any in-service training of such teachers or assistants,which is provided by a training provider in Wales.
- (2) When asked to do so by the National Assembly for Wales, the Chief Inspector must—

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- (a) give advice to the Assembly on such matters connected with training falling within subsection (1)(a) or (b) as may be specified in the Assembly's request;
  - (b) inspect and report on such one or more relevant training providers as may be so specified.
- (3) The Chief Inspector may at any time give advice to—
- (a) the Assembly,
  - (b) a funding agency, or
  - (c) the General Teaching Council for Wales,
- on any matter connected with training falling within subsection (1)(a) or (b).
- (4) The Chief Inspector may—
- (a) make such reports of inspections carried out by him under this section as he considers appropriate, and
  - (b) arrange for any such report to be published in such manner as he considers appropriate,
- and subsections (2) to (4) of section 29 of the 2005 Act (publication of inspection reports) apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.
- (5) When inspecting a training provider under this section, the Chief Inspector has at all reasonable times—
- (a) a right of entry to the premises of the training provider, and
  - (b) a right to inspect, and take copies of, any records kept by the training provider, and any other documents containing information relating to the training provider, which he considers relevant to the exercise of his functions under this section;
- and section 58 of the 2005 Act (inspection of computer records) applies for the purposes of this section as it applies for the purposes of Part 1 of the 2005 Act.
- (6) Without prejudice to subsection (5), a training provider to which an inspection under this section relates—
- (a) must give the Chief Inspector all assistance in connection with the exercise of his functions under this section which he is reasonably able to give, and
  - (b) must secure that all such assistance is also given by persons who work for the training provider.
- (7) The Chief Inspector may not carry out any inspection under subsection (1) unless—
- (a) at least eight weeks previously, he has given notice of his intention to carry out the inspection—
    - (i) to the training provider concerned, or
    - (ii) where the training is provided by a partnership or association of training providers, to one of those training providers, or

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- (b) with the agreement of that training provider or (as the case may be) one of those training providers, he has given it shorter notice of that intention.
  - (8) Any notice under subsection (7)—
    - (a) must be given in writing, and
    - (b) may be sent by post;and any such notice may (without prejudice to any other lawful method of giving it) be addressed to a training provider at any address which the training provider has notified to a funding agency as its address.
  - (9) Nothing in this section confers any right or imposes any duty, whether as regards the carrying out of any inspection or otherwise, in relation to any course which consists of instruction given wholly or mainly for purposes other than training falling within subsection (1)(a) or (b).
  - (10) Any reference in this section to the Chief Inspector is to be read, in relation to any inspection which he is authorised or required to carry out under this section, as including a reference to any person authorised to act on his behalf under paragraph 5(1) or (2) of Schedule 2 to the 2005 Act.
  - (11) Nothing in this section is to be taken as prejudicing the generality of sections 20 to 23 of, or paragraph 5(1) or (2) of Schedule 2 to, the 2005 Act.
  - (12) In this section—
    - (a) “the 2005 Act” means the Education Act 2005;
    - (b) “funding agency” means the Higher Education Funding Council for Wales or the Training and Development Agency for Schools;
    - (c) “training provider” has the same meaning as in Part 3 of the 2005 Act;
    - (d) “relevant training provider” means any training provider who provides training falling within subsection (1)(a) or (b);
    - (e) “in-service training” includes any training provided to a teacher serving an induction period (within the meaning of section 19 of the Teaching and Higher Education Act 1998);
    - (f) “documents” and “records” each include information recorded in any form.”
- 14 In section 19 of the Education Act 1994 (interpretation)—
  - (a) omit subsections (1) to (4), and
  - (b) in subsection (5), for “Other expressions, if” substitute “ Expressions ”.
- 15 Omit Schedule 1 to the Education Act 1994.

*Education Act 1996 (c. 56)*

- 16 (1) Section 398 of the Education Act 1996 (no requirements of attendance at Sunday school etc.) is amended as follows.
- (2) In paragraph (b) for “teacher training” substitute “ any training for members of the school workforce ”.
- (3) Renumber the section as so amended as subsection (1), and at the end insert—

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“(2) In subsection (1)(b), the reference to training for members of the school workforce is to be read in accordance with sections 75(5) and 96(1) of the Education Act 2005.”

17 (1) Section 450 of the Education Act 1996 (prohibition of charges for admission) is amended as follows.

(2) In subsection (2), for paragraph (c) substitute—

“(c) training for members of the school workforce.”

(3) After that subsection insert—

“(3) In subsection (2)(c), the reference to training for members of the school workforce is to be read in accordance with sections 75(5) and 96(1) of the Education Act 2005.”

*Audit Commission Act 1998 (c. 18)*

18 In section 36 of the Audit Commission Act 1998 (studies at request of educational bodies), in the Table in subsection (1), for the entries relating to a funding agency under Part 1 of the Education Act 1994 and the governing body of an institution receiving financial support under that Part substitute—

“The Training and Development Agency for Schools.

The agency.

A training provider (within the meaning of Part 3 of the Education Act 2005) receiving financial support under section 78 of that Act from the Training and Development Agency for Schools, except where that financial support is wholly derived from grants made to the agency by the National Assembly for Wales.

The training provider or the agency.”

*Teaching and Higher Education Act 1998 (c. 30)*

19 (1) Section 26 of the Teaching and Higher Education Act 1998 (which relates to the imposition of conditions as to fees at higher education institutions and is to be repealed by the Higher Education Act 2004 (c. 8)) is amended as follows.

(2) In subsection (3)—

(a) for “section 7(1) of the 1994 Act” substitute “section 81(1), 82(1) or 88(1) of the 2005 Act”,

(b) in paragraph (c), for “Teacher Training Agency” substitute “Training and Development Agency for Schools”, and

(c) for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.

(3) In subsection (9)—

(a) for the definition of “the 1994 Act” substitute—

““the 2005 Act” means the Education Act 2005;”



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(b) after the definition of “course” insert—

““governing body”, in relation to a training provider within the meaning of Part 3 of the 2005 Act who would not apart from this subsection be regarded as an institution, means the training provider;

“institution” includes any training provider within the meaning of Part 3 of the 2005 Act (whether or not the training provider would apart from this subsection be regarded as an institution);”.

(4) In subsection (11)—

(a) for “the 1994 Act” substitute “ the 2005 Act ”, and

(b) for “Teacher Training Agency” substitute “ Training and Development Agency for Schools ”.

20 (1) In section 28(1) of the Teaching and Higher Education Act 1998 (interpretation of Chapter 1 of Part 2), in the definition of “publicly-funded institution” (which is to be repealed by the Higher Education Act 2004 (c. 8)), for “section 5 of the Education Act 1994” substitute “ section 78 or 86 of the Education Act 2005 ”.

(2) In section 28(1) of the 1998 Act, references to an institution in that definition and in the definition of “fees” (which is also to be repealed by the Higher Education Act 2004 (c. 8)) are to be read in accordance with section 26(9) of the 1998 Act as amended by paragraph 19(3)(b) of this Schedule.

(3) In sub-paragraph (2), “the 1998 Act” means the Teaching and Higher Education Act 1998 (c. 30).

*Government of Wales Act 1998 (c. 38)*

21 (1) Section 145B of the Government of Wales Act 1998 (studies at request of educational bodies) is amended as follows.

(2) In the Table in subsection (1) for the entry relating to the governing body of an institution in Wales receiving financial support under Part 1 of the Education Act 1994 substitute—

“The governing body of an institution in Wales receiving financial support under section 86 of the Education Act 2005 from the Higher Education Funding Council for Wales.

The governing body or the Higher Education Funding Council for Wales

A training provider (within the meaning of Part 3 of the Education Act 2005) receiving financial support under section 78 of that Act from the Training and Development Agency for Schools, except where that financial support is wholly derived from grants made to the Agency by the Secretary of State.

The training provider or the Training and Development Agency for Schools.”

(3) After subsection (1) insert—

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“(1A) The Auditor General for Wales may, if requested to do so by the Training and Development Agency for Schools, undertake studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge by the Agency of their functions relating to Wales.”

(4) In subsection (2), for “Subsection (1) does” substitute “ Subsections (1) and (1A) do ”.

(5) In subsection (3), after “(1)” insert “ or (1A) ”.

*Freedom of Information Act 2000 (c. 36)*

22 In Schedule 1 to the Freedom of Information Act 2000 (public authorities for purposes of that Act), in Part 6 (other public bodies and offices: general) insert at the appropriate place— “ The Training and Development Agency for Schools. ”

*Education Act 2002 (c. 32)*

23 (1) Section 14 of the Education Act 2002 (power of Secretary of State and Assembly to give financial assistance for purposes related to education or childcare) is amended as follows.

(2) After subsection (2) insert—

“(2ZA) In subsection (2)(g), “training for teachers or for non-teaching staff” includes—

- (a) any training or education (whether or not constituting higher education) with the object of fitting persons to be teachers or non-teaching staff, or better teachers or non-teaching staff, and
- (b) any assessment related to the award of a qualification or status to teachers or non-teaching staff, or prospective teachers or non-teaching staff.”

(3) In the definition of “education” in subsection (3), after “but” insert “ , except in subsection (2ZA)(a), ”.

24 In section 145 of the Education Act 2002 (specification of qualification or course), in subsections (1)(c) and (3), for “Teacher Training Agency” substitute “ Training and Development Agency for Schools ”.

*Higher Education Act 2004 (c. 8)*

25 (1) Section 23 of the Higher Education Act 2004 (duty of Secretary of State to impose condition as to student fees, etc.) is amended as follows.

(2) In subsection (1)—

- (a) for “section 7 of the 1994 Act” substitute “ section 81 of the 2005 Act ”, and
- (b) for “section 5 of the 1994 Act” substitute “ section 78 of the 2005 Act ”.

(3) In subsection (2), in paragraph (b) of the definition of “funding body”, for “Teacher Training Agency” substitute “ Training and Development Agency for Schools ”.

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- 26 In section 24 of the Higher Education Act 2004 (condition to be imposed by English funding bodies), in subsection (4)(c), for “section 5 of the 1994 Act” substitute “section 78 of the 2005 Act”.
- 27 For section 27 of the Higher Education Act 2004 (power of Assembly to impose conditions as to student fees, etc.) substitute—

**“27 Power of National Assembly for Wales to impose conditions as to student fees, etc.**

- (1) The power of the Assembly to impose conditions under section 68(1) of the 1992 Act or section 82(1) or 88(1) of the 2005 Act in relation to grants paid to a funding body includes power to impose a condition requiring the funding body to impose a condition under section 28 in relation to any grants, loans or other payments made by the funding body under section 65 of the 1992 Act, or (as the case may be) section 78 or 86 of the 2005 Act, to the governing body of a relevant institution.
- (2) In this section—  
“funding body” means—  
(a) the Higher Education Funding Council for Wales, or  
(b) the Training and Development Agency for Schools;  
“relevant institution” means an institution specified by the Assembly in a condition under subsection (1), or an institution of a class so specified.”
- 28 (1) Section 28 of the Higher Education Act 2004 (c. 8) (condition that may be required to be imposed by HEFCW) is amended as follows.
- (2) For the heading substitute “Condition that may be required to be imposed by Welsh funding bodies”.
- (3) In subsection (3), for “the Higher Education Funding Council for Wales” substitute “the funding body”.
- (4) In subsection (4)(c), for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.
- (5) In subsection (6), after the definition of “the basic amount” insert—  
““funding body” has the same meaning as in section 27;”.
- 29 In section 29 of the Higher Education Act 2004 (sections 23 to 28: supplementary provisions), in subsection (3)—  
(a) for “the 1994 Act” substitute “the 2005 Act”, and  
(b) for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.
- 30 In section 31 of the Higher Education Act 2004 (Director of Fair Access to Higher Education), in subsection (5), for “from the Teacher Training Agency under section 5 of the 1994 Act” substitute “from the Training and Development Agency for Schools under section 78 of the 2005 Act”.
- 31 In section 34 of the Higher Education Act 2004 (approval of plans), in subsection (1) for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.

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- 32 In section 37 of the Higher Education Act 2004 (enforcement of plans: England), in subsection (1)(a) for “Teacher Training Agency” substitute “ Training and Development Agency for Schools ”.
- 33 In section 38 of the Higher Education Act 2004 (enforcement of plans: Wales), after “the Council” insert “ or the Training and Development Agency for Schools ”.
- 34 In section 40 of the Higher Education Act 2004 (provision of information), for “Teacher Training Agency” (in both places) substitute “ Training and Development Agency for Schools ”.
- 35 (1) Section 41 of the Higher Education Act 2004 (interpretation of Part 3) is amended as follows.
- (2) In subsection (1)—
- (a) for the definition of “governing body” substitute—
- ““governing body” is to be read in accordance with subsection (1A);”, and
- (b) after the definition of “general provisions” insert—
- ““institution” includes any training provider (whether or not the training provider would otherwise be regarded as an institution);”.
- (3) After subsection (1) insert—
- “(1A) In this Act any reference to the governing body of an institution—
- (a) in relation to any institution except a training provider falling within paragraph (b), has the meaning given by section 90(1) of the 1992 Act, but subject to any provision made by virtue of section 90(2) of that Act, and
- (b) in the case of a training provider who but for subsection (1) would not be regarded as an institution, means the training provider.”
- (4) In subsection (2)(a), for “section 5 of the 1994 Act” substitute “ section 78 or 86 of the 2005 Act ”.
- (5) After subsection (2), insert—
- “(3) In subsections (1) and (1A), “training provider” has the same meaning as in Part 3 of the 2005 Act.”
- 36 In section 48 of the Higher Education Act 2004 (c. 8) (general interpretation)—
- (a) omit the definition of “the 1994 Act”, and
- (b) after the definition of “the 1998 Act” insert—
- ““the 2005 Act” means the Education Act 2005;”.

## SCHEDULE 15

Section 99

### TRANSITIONAL AND TRANSITORY PROVISIONS RELATING TO PART 3

#### *Interpretation*

- 1 In this Schedule “the 1994 Act” means the Education Act 1994 (c. 30).

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### *Renaming of Agency*

- 2 For any reference to the Teacher Training Agency in any subordinate legislation or in any other instrument or document there is substituted, as respects any time after the commencement of section 74, a reference to the Training and Development Agency for Schools.
- 3 Any reference to the Training and Development Agency for Schools in this Act (apart from section 74 and this Schedule) or in any instrument under this Act is to be read, in relation to any time before the commencement of section 74, as a reference to the Teacher Training Agency.

### *Existing members of Agency*

- 4 Any member of the Agency appointed under section 2 of the 1994 Act is to be taken to have been appointed under section 77 of this Act.

### *Inspection of teacher training*

- 5 In sections 18B and 18C of the 1994 Act (as substituted by Schedule 14) any reference to anything done under either of those sections includes a reference to anything done before the commencement of those sections under section 18A of that Act.

### *Duty to have regard to needs of disabled persons*

- 6 (1) In exercising their functions, the Agency must have regard to the requirements of persons who are disabled persons for the purposes of the Disability Discrimination Act 1995 (c. 50).
- (2) Sub-paragraph (1) is to cease to have effect on the coming into force in relation to the Agency of section 49A of the Disability Discrimination Act 1995 (which is inserted in that Act by the Disability Discrimination Act 2005 and imposes a similar duty on every public authority).

## SCHEDULE 16

Section 101

### FUNDING OF MAINTAINED SCHOOLS

- 1 In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31).

#### **Commencement Information**

**I79** Sch. 16 para. 1 partly in force; Sch. 16 para. 1 not in force at Royal Assent see s. 125; Sch. 16 para. 1 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

**Status:** Point in time view as at 01/09/2006. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Education Act 2005 is up to date with all changes known to be in force on or before 30 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Power to provide for budgets to relate to period other than financial year*

- 2 (1) Section 45 of the 1998 Act (maintained schools to have budget shares) is amended as follows.
- (2) In subsection (1) for “financial year” substitute “ funding period ”.
- (3) After subsection (1A) insert—
- “(1B) In this Chapter “funding period” means a financial year or such other period as may be prescribed.”
- (4) In subsection (2)—
- (a) for “45A and” substitute “ 45A to ”, and
- (b) for “financial year” substitute “ funding period ”.

**Commencement Information**

**I80** Sch. 16 para. 2 partly in force; Sch. 16 para. 2 not in force at Royal Assent see s. 125; Sch. 16 para. 2 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

*Determination of budgets*

- 3 (1) Section 45A of the 1998 Act (determination of specified budgets of LEA) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “ relevant period ”, and
- (b) for “that year” substitute “ that period ”.
- (3) After subsection (1) insert—
- “(1A) In subsection (1) “relevant period” means a financial year or such other period as may be prescribed.”
- (4) In subsection (2)—
- (a) for “financial year” substitute “ funding period ”, and
- (b) for “that year” substitute “ that period ”.
- (5) After that subsection insert—
- “(2A) The amount referred to in subsection (2) includes the amount of any grant which is appropriated, for meeting the expenditure mentioned in that subsection, in accordance with a condition which—
- (a) is imposed under section 16 of the Education Act 2002 (terms on which assistance under section 14 of that Act is given) or any other enactment, and
- (b) requires that the grant be applied as part of the authority's schools budget for the funding period.”
- (6) In subsection (3)—
- (a) for “financial year” substitute “ funding period ”, and
- (b) for “that year” (in both places) substitute “ that period ”.
- (7) After subsection (4) insert—

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“(4A) Regulations under subsection (3) may also make provision—

- (a) enabling any expenditure falling outside any classes or descriptions of expenditure prescribed by virtue of subsection (4)(a) to be deducted from the authority's schools budget if the deduction of such expenditure is authorised, on the application of the authority, by the authority's schools forum or the Secretary of State, and
- (b) enabling any limit or condition that would otherwise apply by virtue of subsection (4)(b)(i) or (ii) to be varied or excluded, on the application of the authority, by the authority's schools forum or the Secretary of State.”

(8) Omit subsections (5) and (6).

#### Commencement Information

**181** Sch. 16 para. 3 partly in force; Sch. 16 para. 3 not in force at Royal Assent see s. 125; Sch. 16 para. 3 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

4 After section 45A insert—

#### “45AA Power to require LEAs in England to determine schools budget

- (1) Regulations may require a local education authority in England, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
  - (a) authorise or require local education authorities in England to take account of matters arising after the initial determination of their schools budgets for any funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
  - (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the local education authority.

#### 45AB Duty of LEAs in Wales to determine schools budget

- (1) Before the schools budget deadline in any funding period, a local education authority in Wales must—
  - (a) determine the proposed amount of their schools budget for the following funding period, and
  - (b) give notice of their determination to the National Assembly for Wales and to the governing body of every school maintained by the authority.
- (2) For the purposes of this section “the schools budget deadline”, in relation to an authority in Wales, means the end of January or such other time as may be prescribed.

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### **45AC Power to require LEAs in Wales to determine schools budget**

- (1) Regulations may require a local education authority in Wales, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
  - (a) authorise or require local education authorities in Wales to take account of matters arising after the initial determination of their schools budgets for the funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
  - (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the Assembly and to the governing bodies of schools maintained by the local education authority.
- (4) Regulations under subsection (1) are not to have effect in relation to an authority's schools budget for any funding period if section 45AB is in force in relation to that funding period.”

#### **Commencement Information**

**182** Sch. 16 para. 4 partly in force; Sch. 16 para. 4 not in force at Royal Assent see s. 125; Sch. 16 para. 4 in force for E. for certain purposes at 1.11.2005 by S.I. 2005/2034, art. 8

5 For sections 45B and 45C of the 1998 Act substitute—

### **“45B Power of Assembly to set minimum schools budget for LEA in Wales**

- (1) If it appears to the National Assembly for Wales that, in all the circumstances, the proposed amount of a local education authority's schools budget for a funding period is inadequate, the Assembly may, within the period of fourteen days beginning with the schools budget deadline in the funding period preceding that funding period, give the authority a notice under subsection (6) or (7).
- (2) In subsection (1), the reference to the proposed amount of a local education authority's schools budget for a funding period is—
  - (a) if section 45AB is in force in relation to that funding period, a reference to the amount specified in a notice under section 45AB(1) (b), or
  - (b) if regulations under section 45AC(1) are in force in relation to that funding period, a reference to such amount, determined by the authority in accordance with those regulations and specified in a notice required by those regulations to be given to the Assembly, as may be prescribed.



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- (3) If at the schools budget deadline in any funding period, a local education authority in Wales have failed to give the Assembly a notice under section 45AB(1)(b) or a notice required as mentioned in subsection (2)(b), the Assembly may, at any time after that deadline, give the authority a notice under subsection (6) or (7).
- (4) In this section “the schools budget deadline”—
  - (a) in a case falling within subsection (2)(a), has the same meaning as in section 45AB, and
  - (b) in a case falling within subsection (2)(b), means the time in the funding period preceding the funding period to which the schools budget relates by which regulations under section 45AC(1) require notice of a revised determination of the schools budget to be given to the Assembly.
- (5) In this section and section 45C “the period under consideration” means the funding period to which the notice mentioned in subsection (2)(a) or (b) relates or, in a case falling within subsection (3), the funding period in relation to which such a notice ought to have been given.
- (6) A notice under this subsection is a notice determining the minimum amount of the authority's schools budget for the period under consideration.
- (7) A notice under this subsection is a notice which—
  - (a) specifies the amount which the Assembly would have determined as the minimum amount of the authority's schools budget for the period under consideration if the Assembly had acted under subsection (4), and
  - (b) states the Assembly's intention to determine the minimum amount of the authority's schools budget for the following funding period.
- (8) A notice under subsection (6) or (7) must include a statement of the Assembly's reasons for giving the notice.
- (9) The Assembly may act under different subsections in relation to different authorities.

#### **45C Effect of notice under section 45B(6)**

- (1) The local education authority may, within the period of fourteen days beginning with the date of a notice under section 45B(6), give the National Assembly for Wales notice of their objection to the Assembly's determination, giving reasons for their objection.
- (2) Where the local education authority have given notice of their objection under subsection (1), the notice under section 45B(6) shall cease to have effect, but the Assembly may by order prescribe the minimum amount of the authority's schools budget for the period under consideration.
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(6).
- (4) An order under subsection (2) may relate to two or more authorities.
- (5) Where—

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- (a) a notice under section 45B(6) has been given to a local education authority and no notice of objection has been given during the period specified in subsection (1), or
  - (b) an order has been made under subsection (2),
- the local education authority shall determine a schools budget for the period under consideration which is not less than the amount specified in relation to the authority in the notice or order.

#### **45D Power of Assembly to repeal Wales-only school funding provisions**

The Assembly may by order—

- (a) repeal any of the following provisions—  
  - section 45AB,
  - section 45AC(4), and
  - sections 45B and 45C, and
- (b) make any amendments of the other provisions of this Chapter which appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).”

#### **Commencement Information**

**183** Sch. 16 para. 5 partly in force; Sch. 16 para. 5 not in force at Royal Assent see s. 125; Sch. 16 para. 5 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

#### *Determination of schools' budget shares*

- 6 (1) Section 47 of the 1998 Act (determination of school's budget share) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “ funding period ”, and
  - (b) for “that year” substitute “ that period ”.
- (3) In subsection (2)—
- (a) after paragraph (d) insert—  
    - “(dd) authorising or requiring such authorities to take account of matters arising after the initial determination of budget shares for a funding period but before the beginning of the funding period, by redetermining budget shares for that period in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;”,
  - (b) in paragraph (e) for “financial year” substitute “ funding period ” and for “year” in sub-paragraphs (i) and (ii) substitute “ funding period ”,
  - (c) after paragraph (f) insert—  
    - “(ff) requiring notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the authority in question;” and
  - (d) for paragraph (g) substitute—

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“(g) authorising local education authorities in prescribed cases to determine (or redetermine) budget shares, to such extent as may be prescribed, in accordance with arrangements approved by the authority's schools forum or the Secretary of State in accordance with the regulations (in place of the arrangements provided for by the regulations);”.

(4) After subsection (2) insert—

“(2A) The time by which regulations made in pursuance of subsection (2)(a) require an initial determination of schools' budget shares for a funding period to be made may be up to 48 months before the beginning of the funding period.”

#### Commencement Information

**184** Sch. 16 para. 6 partly in force; Sch. 16 para. 6 not in force at Royal Assent see s. 125; Sch. 16 para. 6 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8 (with Sch. paras. 3, 4)

#### *Functions of schools forum*

7 In section 47A of the 1998 Act (schools forums) for subsection (3) substitute—

“(3) The purpose of a schools forum is—

- (a) to advise the relevant authority on such matters relating to the authority's schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection, and
- (b) to exercise any function that may be imposed on the schools forum by virtue of section 45A(4A) or 47(2)(g).”

#### Commencement Information

**185** Sch. 16 para. 7 partly in force; Sch. 16 para. 7 not in force at Royal Assent see s. 125; Sch. 16 para. 7 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

#### *Certain regulations to be subject to affirmative procedure*

8 In section 138 of the 1998 Act (orders and regulations), in subsection (5) (orders and regulations that are subject to affirmative procedure) after paragraph (b) insert “or

- (c) the first regulations to be made under section 45AA, or
- (d) the first regulations to be made under section 47 in relation to England after the coming into force of paragraph 6 of Schedule 16 to the Education Act 2005,”.

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## SCHEDULE 17

Section 107

### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: DISPOSAL OF LAND

- 1 Schedule 22 to the School Standards and Framework Act 1998 (c. 31) (disposal of land in case of certain schools and disposals on discontinuance) is amended as follows.
- 2 (1) Paragraph 1 (disposal of land by governing body of foundation, voluntary or foundation special school) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) at the beginning insert “ Subject to sub-paragraph (1A), ”, and
- (b) in paragraph (a), after “paragraph 5(4)(c)” insert “ or 5(4B)(d) ”.
- (3) After sub-paragraph (1) insert—
- “(1A) This paragraph does not apply to any disposal which—
- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
- (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation falling within section 21(1)(a).”
- (4) In sub-paragraph (2), for “any such disposal” substitute “ any disposal to which this paragraph applies ”.
- (5) In sub-paragraph (3), after “any such disposal” insert “ and he decides to give that consent ”.
- 3 In paragraph 2 (disposal of land by foundation body), in sub-paragraph (3) after “any such disposal” insert “ and he decides to give that consent ”.
- 4 After paragraph 2 insert—

#### *“Disposal of land by trustees of foundation school or foundation special school*

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation or foundation special school of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,
- (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a), or
- (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation or foundation special school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
- (i) under a transfer under section 201(1)(a) of the Education Act 1996, or

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- (ii) under any of the provisions mentioned in sub-paragraph (1)(a), or
    - (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a).
  - (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the Secretary of State.
  - (4) Where the trustees apply to the Secretary of State for his consent to any such disposal and he decides to give that consent, he may do one or more of the following, namely—
    - (a) require the land or any part of the land to be transferred to such local authority as he may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate; and
    - (b) give the trustees, when the land or any part of the land is disposed of—
      - (i) a direction to pay to such local authority as he may specify the whole or any part of the proceeds of the disposal; and
      - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
  - (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
  - (6) Where the trustees of a foundation or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
    - (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
    - (b) the value of the land as at the date of any direction under sub-paragraph (4)(b)(i) or (ii) shall be treated as proceeds of the disposal of the land.”
- 5 (1) Paragraph 3 (disposal of land by trustees of foundation, voluntary or foundation special school) is amended as follows.
  - (2) In sub-paragraph (1)—
    - (a) at the beginning insert “ Subject to sub-paragraph (2A), ”, and
    - (b) in paragraph (a), after “enactment)” insert “ , under paragraph 5(4B)(d) of this Schedule ”.
  - (3) After sub-paragraph (2) insert—

“(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.”
- 6 (1) Paragraph 5 (discontinuance of foundation, voluntary and foundation special schools: land) is amended as follows.
  - (2) After sub-paragraph (4) insert—

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“(4A) Where the school is a foundation or foundation special school which has a foundation, the trustees of the school shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), (b) or (c) which is held by the trustees for the purposes of the school.

(4B) On an application under sub-paragraph (4A), the Secretary of State may do one or more of the following, namely—

- (a) make any such requirement as is mentioned in paragraph 2A(4)(a);
- (b) where the trustees have power to use the land for the purposes of another foundation or foundation special school or for the purposes of a voluntary school, direct the trustees to exercise that power in such manner as he may specify;
- (c) direct the trustees to pay to such local authority as he may specify the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph (4A); and
- (d) in a case where the discontinuance of the school is connected with proposals under any enactment to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred—
  - (i) to the trustees, foundation body or governing body of such maintained school as he may specify, or
  - (ii) to the trustees, foundation body or temporary governing body of such new school as he may specify.”

(3) In sub-paragraph (5)—

- (a) for “or foundation body” substitute “, foundation body or trustees ”,
- (b) for “(2) or (3)” substitute “ (2), (3) or (4A) ”, and
- (c) for “(4)” substitute “ (4) or (4B), as the case may be ”.

(4) In sub-paragraph (6)(a), after “falling within paragraph 3(1) or (2)” insert “ but not within paragraph 2A(1)(a), (b) or (c) ”.

## SCHEDULE 18

Section 117

### FURTHER AMENDMENTS RELATED TO PROVISIONS OF PART 4

#### *Children Act 1989 (c. 41)*

1 In section 36 of the Children Act 1989 (education supervision orders), in subsection (5) for paragraph (b) substitute—

- “(b) is not attending regularly within the meaning of section 444 of that Act—
- (i) a school at which he is a registered pupil,
  - (ii) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA of that Act, or
  - (iii) any place which he is required to attend in the circumstances mentioned in subsection (2) of that section.”.

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### Commencement Information

**I86** Sch. 18 para. 1 wholly in force at 1.9.2006; Sch. 18 para. 1 not in force at Royal Assent see s. 125; Sch. 18 para. 1 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 18 para. 1 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

### Education Act 1996 (c. 56)

2 In section 317 of the Education Act 1996 (duties of governing body or LEA in relation to pupils with special educational needs), for subsections (5) to (7A) substitute—

“(5) The governing body of a community, foundation or voluntary school, a maintained nursery school, or a community or foundation special school shall—

- (a) in the case of a school in England, prepare a report containing special needs information, and
- (b) in the case of a school in Wales, include special needs information in the report prepared under section 30(1) of the Education Act 2002 (governors' report).

(6) In subsection (5) “special needs information” means—

- (a) such information as may be prescribed about the implementation of the governing body's policy for pupils with special educational needs, and
- (b) information as to—
  - (i) the arrangements for the admission of disabled persons as pupils at the school,
  - (ii) the steps taken to prevent disabled pupils from being treated less favourably than other pupils,
  - (iii) the facilities provided to assist access to the school by disabled pupils, and
  - (iv) the plan prepared by the governing body under section 28D of the Disability Discrimination Act 1995 (“the 1995 Act”).

(6A) In subsection (6)(b) “disabled person” means a person who is a disabled person for the purposes of the 1995 Act; and section 28Q of the 1995 Act (interpretation) applies for the purposes of subsection (6)(b) as it applies for the purposes of Chapter 1 of Part 4 of that Act.”

### Modifications etc. (not altering text)

**C60** Sch. 18 para. 2 restricted (E.) (1.9.2005) by The Education Act 2005 (Commencement No.1 and Savings and Transitional Provisions) Order 2005 (S. I. 2005/2034), art. 10, Sch. para. 2

3 In section 444A of the Education Act 1996 (penalty notice in respect of failure to secure attendance at school of registered pupil), in subsection (1), for paragraph (b) substitute—

- “(b) that the offence relates—
  - (i) to a relevant school in England,

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- (ii) in a case falling within subsection (1) of section 444ZA, to a place at which education is provided by a local education authority in England, or
- (iii) in a case falling within subsection (2) of that section, to a place at which a child is required to attend by the appropriate authority (within the meaning of that section) for a relevant school in England.”

4 The references in section 23(9) and (10) of the Anti-social Behaviour Act 2003 (c. 38) to section 444A of the Education Act 1996 are to be read as references to that section as amended by paragraph 3 of this Schedule.

5 (1) Section 494 of the Education Act 1996 (recoupment: excluded pupils) is amended as follows.

(2) In subsections (1), (2) and (3), for “financial year” substitute “ funding period ”.

(3) After subsection (5) insert—

“(6) In this section “funding period” has the meaning given by section 45(1B) of the School Standards and Framework Act 1998.”

#### Commencement Information

**187** Sch. 18 para. 5 partly in force; Sch. 18 para. 5 not in force at Royal Assent see s. 125; Sch. 18 para. 5 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

6 In section 566 of the Education Act 1996 (evidence: documents), after subsection (2) insert—

“(3) Where a child of compulsory school age is required to attend at—

- (a) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA, or
- (b) any place in the circumstances mentioned in subsection (2) of that section,

subsection (1)(c) has effect as if the place in question were a school and the person in charge of the provision of education or training at that place were its head teacher (and subsection (2) has effect accordingly).”

#### Commencement Information

**188** Sch. 18 para. 6 wholly in force at 1.9.2006; Sch. 18 para. 6 not in force at Royal Assent see s. 125; Sch. 18 para. 6 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 18 para. 6 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

#### *School Standards and Framework Act 1998 (c. 31)*

7 In section 48 of the School Standards and Framework Act 1998 (LEAs' financial schemes) in subsection (2)(a) for “financial year” substitute “ funding period ”.



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#### Commencement Information

**I89** Sch. 18 para. 7 partly in force; Sch.18 para. 7 not in force at Royal Assent see s. 125; Sch. 18 para. 7 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8;

- 8 In section 50 of the School Standards and Framework Act 1998 (effect of financial delegation) in subsection (1)—
- (a) for “financial year” substitute “ funding period ”,
  - (b) for “that year” substitute “ that period ”, and
  - (c) in paragraphs (a) and (b) for “year”, wherever occurring, substitute “ period ”.

#### Commencement Information

**I90** Sch. 18 para. 8 partly in force; Sch.18 para. 8 not in force at Royal Assent see s. 125; Sch. 18 para. 8 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

- 9 In section 51A of the School Standards and Framework Act 1998 (expenditure incurred for community purposes) in subsection (2) for “financial year” substitute “ funding period ”.

#### Commencement Information

**I91** Sch. 18 para. 9 partly in force; Sch.18 para. 9 not in force at Royal Assent see s. 125; Sch. 18 para. 9 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

- 10 (1) Section 52 of the School Standards and Framework Act 1998 (financial statements) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “ prescribed period ”, and
  - (b) for “that year” substitute “ that period ”.
- (3) After subsection (1) insert—
- “(1A) The periods prescribed for the purposes of subsection (1)—
- (a) must consist of one or more funding periods, and
  - (b) may include funding periods in respect of which (by virtue of their inclusion in one or more earlier periods prescribed for the purposes of that subsection) information relating to planned expenditure has previously been required under that subsection.”

(4) In subsection (2)—

    - (a) for “financial year” substitute “ prescribed period ”, and
    - (b) in paragraphs (a) to (d), for “year” substitute “ period ”.

(5) After subsection (2A) insert—

“(2B) The periods prescribed for the purposes of subsection (2) must consist of one or more funding periods.”

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#### Commencement Information

**192** Sch. 18 para. 10 partly in force; Sch.18 para. 10 not in force at Royal Assent see s. 125; Sch. 18 para. 10 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

- 11 (1) In Schedule 15 to the School Standards and Framework Act 1998 (suspension of financial delegation), paragraph 2 is amended as follows.
- (2) In sub-paragraph (1)(a)—
- (a) for “financial year” substitute “ funding period ”, and
- (b) for “that year” substitute “ that period ”.
- (3) In sub-paragraph (3), for “financial year”, in both places where it occurs, substitute “ funding period ”.

#### Commencement Information

**193** Sch. 18 para. 11 partly in force; Sch.18 para. 11 not in force at Royal Assent see s. 125; Sch. 18 para. 11 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8;

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

- 12 (1) Section 7 of the Learning and Skills Act 2000 (funding of school sixth-forms: England) is amended as follows.
- (2) In subsection (1)(a), for “financial year” substitute “ funding period ”.
- (3) For subsection (3) substitute—
- “(3) In this section—
- “funding period” means a financial year or, if some other period is prescribed in relation to England under subsection (1B) of section 45 of the School Standards and Framework Act 1998 (maintained schools to have budget shares), that other period;
- “schools budget” has the same meaning as in Part 2 of that Act (framework for maintained schools).”

#### Commencement Information

**194** Sch.18 para. 12 not in force at Royal Assent see s. 125; Sch. 18 para. 12 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8;

VALID FROM 01/04/2010

- 13 (1) Section 36 of the Learning and Skills Act 2000 (funding of school sixth-forms: Wales) is amended as follows.
- (2) In subsection (1)(a), for “financial year” substitute “ funding period ”.
- (3) For subsection (3) substitute—

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“(3) In this section—

“funding period” means a financial year or, if some other period is prescribed in relation to Wales under subsection (1B) of section 45 of the School Standards and Framework Act 1998 (maintained schools to have budget shares), that other period;

“schools budget” has the same meaning as in Part 2 of that Act (framework for maintained schools).”

*Education Act 2002 (c. 32)*

14 (1) Section 37 of the 2002 Act (payments in respect of dismissal etc.) is amended as follows.

(2) In subsection (4), for “financial years” substitute “funding periods”.

(3) In subsections (5) and (8), for “financial year” substitute “funding period”.

(4) For subsection (12) substitute—

“(12) In this section—

“community purposes” means the purposes of the provision of facilities or services under section 27;

“funding period” has the meaning given by section 45(1B) of the School Standards and Framework Act 1998.”

**Commencement Information**

**195** Sch. 18 para. 14 partly in force; Sch.18 para. 14 not in force at Royal Assent see s. 125; Sch. 14 para. 8 in force for E. at 1.11.2005 by S.I. 2005/2034, art. 8

*Anti-social Behaviour Act 2003 (c. 38)*

15 In section 19 of the Anti-social Behaviour Act 2003 (parenting contracts in cases of exclusion from school or truancy), in subsection (2), for the words from “a relevant” to the end substitute—

“(a) a relevant school at which he is a registered pupil,

(b) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA of the Education Act 1996, and

(c) any place at which he is required to attend in the circumstances mentioned in subsection (2) of that section.”

**Commencement Information**

**196** Sch. 18 para. 15 wholly in force at 1.9.2006; Sch. 18 para. 15 not in force at Royal Assent see s. 125; Sch. 18 para. 15 in force for E. at 1. 9. 2005 by S.I. 2005/2034, art. 4; Sch. 18 para. 15 in force for W. at 1.9.2006 by S. I. 2006/1338, art. 3, Sch. 1

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## SCHEDULE 19

Section 123

## REPEALS

## PART 1

## SCHOOL INSPECTIONS

**Commencement Information**

**I97** Sch. 19 Pt. 1 partly in force; Sch. 19 Pt. 1 not in force at Royal Assent see s. 125; Sch. 19 Pt. 1 in force for certain purposes (E.) at 1.9.2005 and 3.10.2005 and in force for certain purposes (E.W.) at 1.9.2005 by S.I. 2005/2034, arts. {4}, {5}, {6}; Sch. 19 Pt. 1 in force for certain purposes (W.) at 1.9.2006 and in force for certain purposes (E.W.) at 1.9.2006 and 1.4.2007 by S.I. 2006/1338, arts. {3}, {4}, {5}, Schs. 1-3

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 4, the entry beginning “Registered Inspectors of Schools Appeal Tribunals”.
Children Act 1989 (c. 41)	Section 79P. In section 79Q— in subsection (2), the words “or secure the inspection by a registered inspector of”, in subsection (3), the words “or secure the inspection by a registered inspector of”, subsection (4), and subsection (7). Section 79R(1) and (2). In section 79T(2)(a), the words “the quality and standards of”.
Education Act 1996 (c. 56)	In section 578(1), the words “the School Inspections Act 1996”.
School Inspections Act 1996 (c. 57)	The whole Act.
Education Act 1997 (c. 44)	Section 42. Schedule 6.
Teaching and Higher Education Act 1998 (c. 30)	Sections 35 and 35A.
School Standards and Framework Act 1998 (c. 31)	Section 15(5). Section 127(6)(l). Section 134(1). Section 135. In Schedule 26— paragraph 2(4), in paragraph 8, in sub-paragraph (1), the words from the beginning

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	to “England, and” and in sub-paragraph (5) the words “England and”, paragraph 9(5), paragraph 10(1A). Part 1 of Schedule 28. In Schedule 30, paragraphs 190 to 206.
Protection of Children Act 1999 (c. 14)	Section 9(2)(ca).
Learning and Skills Act 2000 (c. 21)	Section 81. In Schedule 7, paragraphs 9 and 14. In Schedule 9, paragraphs 65 to 68.
Education Act 2002 (c. 32)	Section 54. Section 56(2). In section 171, the definition of “registered inspector”. Section 179. Section 188. In Schedule 7, paragraph 7. In Schedule 14, paragraphs 1 and 5 to 7. Schedule 16. In Schedule 21, paragraph 59 to 68.

## PART 2

### SCHOOL ORGANISATION

#### Commencement Information

**198** Sch. 19 Pt.2 partly in force; Sch. 19 Pt. 2 not in force at Royal Assent see s. 125; Sch. 19 Pt. 2 in force for certain purposes at 1.9.2006 by S.I. 2006/2129, art. 4

<i>Short title and chapter</i>	<i>Extent of repeal</i>
School Standards and Framework Act 1998	In section 28, subsection (1A), in subsection (2) the words “(otherwise than pursuant to a notice under section 70 of the Education Act 2002)”, and subsection (4). In Schedule 6, paragraph 4(3)(d). In Schedule 7— paragraph 2(5), paragraph 3(5), in paragraph 4, sub-paragraphs (1) to (6) and, in sub-paragraph (7), the words “(whether relating to an area in England or in Wales)”, paragraph 5(3), paragraphs 6 to 10, and paragraph 16. In Schedule 30, paragraphs 59 and 145(a).
Education Act 2002 (c. 32)	Sections 70 and 71.

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Section 74.  
In Schedule 8, paragraphs 1 to 8 and 9(1).  
In Schedule 21, paragraph 97.

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### PART 3

#### TRAINING THE SCHOOL WORKFORCE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Public Records Act 1958 (c. 51)	In Schedule 1, in Part 2 of the Table at the end of paragraph 3, the entry relating to the Teacher Training Agency.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entry relating to the Teacher Training Agency.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entry “Any member of the Teacher Training Agency in receipt of remuneration”.
Education (No. 2) Act 1986 (c. 61)	Section 50.
Education Act 1994 (c. 30)	Sections 1 to 11. Sections 12 to 17. Section 19(1) to (4). In section 23, in subsections (1) and (2), the words “Part I or” and subsection (3). Schedule 1. In Schedule 2, paragraphs 1, 3 and 4.
Education Act 1996 (c. 56)	In Schedule 37, paragraph 65.
Teaching and Higher Education Act 1998 (c. 30)	Section 20.
School Standards and Framework Act 1998 (c. 31)	In Schedule 30, paragraph 54.
Learning and Skills Act 2000 (c. 21)	In Schedule 9, paragraph 48.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, the entry relating to the Teacher Training Agency.
Special Educational Needs and Disability Act 2001 (c. 10)	Section 40(2).
Education Act 2002 (c. 32)	In Schedule 21, paragraph 25.
Higher Education Act 2004 (c. 8)	In section 48, the definition of “the 1994 Act”.

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## PART 4

### REPEALS RELATING TO PART 4

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#### Commencement Information

**199** Sch. 19 Pt. 4 partly in force; Sch. 19 Pt. 4 not in force at Royal Assent see s. 125; Sch. 19 Pt. 4 in force for E. W. for certain purposes at 1.9.2005 and in force for E. for certain purposes at 3.10.2005 by S.I. 2005/2034, arts. {5}, {8} (with Sch. Pt. 2 para. 2)

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
School Standards and Framework Act 1998 (c. 31)	Section 45A(5) and (6).
Special Educational Needs and Disability Act 2001 (c. 10)	Section 14(2). In Schedule 8, paragraph 5.
Education Act 2002 (c. 32)	Section 41(2). Section 42. In Schedule 21, paragraphs 39(5), 124(3) and 125(3).
Local Government Act 2003 (c. 26)	In Schedule 7, paragraph 66.

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