

SCHEDULES

SCHEDULE 1

Section 6

AMENDMENTS RELATED TO SECTION 6

Disability Discrimination Act 1995 (c. 50)

- 1 (1) In paragraph 1 of Schedule 4C to the Disability Discrimination Act 1995 (modifications of Chapter 2 of Part 4 of the Act where further education etc. is provided by an LEA), the substituted section 28R is amended as follows.
- (2) For subsection (12) substitute—
 - “(12) “Recreational or training facilities” means—
 - (a) in the case of a local education authority in England, any facilities secured by the authority under section 507A or 507B of the Education Act 1996 (functions of LEAs in England in respect of recreation etc), and
 - (b) in the case of a local education authority in Wales, any facilities secured by the authority under subsection (1), or provided by them under subsection (1A), of section 508 of that Act (functions of LEAs in Wales in respect of recreation and social and physical training).”

Education Act 1996 (c. 56)

- 2 EA 1996 is amended as follows.
- 3 In section 312 (meaning of “special educational needs”), in subsection (2), after “or 15B” insert “or section 507B”.
- 4 In section 508 (functions in respect of facilities for recreation etc.)—
 - (a) in subsections (1) and (1A), after “local education authority” insert “in Wales”, and
 - (b) in the heading, for “Functions” substitute “LEAs in Wales: functions”.
- 5 In section 510 (provision of clothing), in subsection (4)(c), for “made available for them by the authority under section 508(2)” substitute “secured by the authority under section 507A or 507B (if the authority are in England) or made available by the authority for such persons under section 508(2) (if the authority are in Wales)”.
- 6 In section 547 (nuisance or disturbance on school premises), in subsection (2A)(a), for “section 508” substitute “section 507A or 507B (if the authority are in England) or section 508 (if the authority are in Wales)”.

SCHEDULE 2

Sections 7, 10, 11 and 15

PROPOSALS FOR ESTABLISHMENT OR DISCONTINUANCE OF SCHOOLS IN ENGLAND

PART 1

INTRODUCTORY

Application of Schedule

- 1 (1) This Schedule applies to proposals published under section 7, 10, 11 or 15.
- (2) Accordingly, in this Schedule, unless a contrary intention appears, “proposals” means proposals published under any of those sections.

“The relevant authority”

- 2 In this Schedule “the relevant authority” means—
 - (a) in the case of proposals under section 7, the local education authority who published the notice under that section, and
 - (b) in the case of proposals under section 10, 11 or 15, the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school.

“Proposers”

- 3 In this Schedule “proposers”, in relation to any proposals, means the persons who made the proposals, but does not include a local education authority.

References to persons by whom proposals are made

- 4 For the purposes of this Schedule—
 - (a) proposals under section 7 are to be taken to be made by the person who submitted them to the relevant authority under subsection (4)(b) of that section, or in the case of proposals published by the relevant authority under subsection (5)(b) of that section, by the relevant authority, and
 - (b) proposals under section 10, 11 or 15 are to be taken to be made by the persons who published them.

Objections and comments

- 5 Regulations may make provision—
 - (a) for the making of objections or comments in relation to the proposals within a prescribed period to the relevant authority, and
 - (b) requiring the relevant authority, in any case where proposals are referred to the adjudicator, to forward to the adjudicator objections or comments made in relation to the proposals in accordance with the regulations.

PART 2

CONSIDERATION OF PROPOSALS BY LOCAL EDUCATION AUTHORITY OR ADJUDICATOR

Proposals requiring consideration under paragraph 8

- 6 All proposals under section 7, 10 or 11 require consideration under paragraph 8.
- 7 (1) Proposals under section 15 require consideration under paragraph 8 unless sub-paragraph (2) applies.
- (2) Proposals under section 15 fall to be dealt with under paragraph 19 (and do not require consideration under paragraph 8) if the proposals were made by the relevant authority and either—
- (a) no objections were made in relation to the relevant proposals in accordance with regulations under paragraph 5, or
 - (b) all objections so made were withdrawn in writing within the period prescribed as that within which any objections must be made.

Consideration of proposals

- 8 (1) Proposals which require consideration under this paragraph, other than proposals to which paragraph 10 applies, must be considered in the first instance by the relevant authority.
- (2) Sub-paragraphs (3) and (4) apply in relation to the relevant authority unless the authority is required by any of paragraphs 10 to 13 and 15 to refer the proposals to the adjudicator.
- (3) In a case where the proposals were published under section 7 and two or more sets of proposals were published, the authority may—
- (a) reject all the proposals,
 - (b) approve any of the proposals without modification, or
 - (c) approve any of the proposals with such modifications as the authority think desirable, after consulting such persons as may be prescribed.
- (4) In any other case, the authority may—
- (a) reject the proposals,
 - (b) approve the proposals without modification, or
 - (c) approve the proposals with such modifications as the authority think desirable, after consulting such persons as may be prescribed.
- (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 any approval under this paragraph, the relevant authority must have regard to any guidance given from time to time by the Secretary of State.

Consideration of proposals that are related to other proposals

- 9 (1) The requirement to consider proposals under paragraph 8 only applies if, at the time when the proposals fall to be considered, the relevant authority are satisfied that the

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proposals do not relate to any proposals under section 113A of the Learning and Skills Act 2000 (c. 21) which fall to be determined by the Secretary of State but have not yet been determined by him.

- (2) Where proposals under section 7, 10, 11 or 15 appear to the relevant authority to be related to—
- (a) other proposals published under any of those sections and not yet determined, or
 - (b) proposals published under Schedule 7 to the Learning and Skills Act 2000 (c. 21) and not yet determined,
- the authority must consider the proposals together.
- (3) In deciding for the purposes of this paragraph whether proposals are related to other proposals, the relevant authority must have regard to any guidance given from time to time by the Secretary of State.

Duty to refer to adjudicator certain proposals made by or involving relevant authority

- 10 (1) The relevant authority must refer to the adjudicator, within a prescribed time—
- (a) all the proposals published under section 7 in response to a notice under that section, if they consist of or include any proposals which—
 - (i) are made by the relevant authority, or
 - (ii) relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2);
 - (b) any proposals under section 10 or 11 which—
 - (i) are made by the relevant authority, or
 - (ii) relate to the establishment of a foundation school with a foundation falling within sub-paragraph (2).
- (2) A foundation falls within this sub-paragraph if it is to be established otherwise than under SSFA 1998 and any of the following applies—
- (a) the relevant authority or any person appointed by the relevant authority is to be a member of the foundation,
 - (b) any person appointed by the relevant authority is to be a charity trustee (within the meaning of the Charities Act 1993 (c. 10)) of the foundation, or
 - (c) any voting rights in the foundation are to be exercisable by the relevant authority or persons appointed by the relevant authority.
- (3) Regulations may make provision for the making by the relevant authority to the adjudicator of objections to any proposals which are required to be referred to the adjudicator under this paragraph.

Duty to refer proposals to adjudicator in prescribed cases

- 11 Regulations may make provision requiring the relevant authority in prescribed cases to refer to the adjudicator within a prescribed time proposals requiring consideration under paragraph 8 (or in the case of proposals under section 7 all the proposals requiring consideration under that paragraph), together with any comments made on the proposals (or in the case of proposals under section 7, any of the proposals) by the authority.

Duty to refer proposals to adjudicator in pursuance of direction by Secretary of State

- 12 (1) The Secretary of State may at any time give a direction to a local education authority requiring them to refer to the adjudicator by a specified time—
- (a) any proposals which have been published by the authority under section 7 but which, at the time when the direction is given, have not been determined by the authority, and
 - (b) all subsequent proposals published by the authority under that section until the direction is revoked,
- together with any comments made on any of the proposals by the authority.
- (2) Where a direction under sub-paragraph (1) is given to a local education authority at a time when the authority are considering proposals which consist of or include proposals published under section 7 to establish an Academy, the authority must complete any consultation required by paragraph 18 before referring the proposals to the adjudicator.
- (3) References in this paragraph to the determination of any proposals are references to—
- (a) a determination whether or not to approve the proposals under paragraph 8, or
 - (b) where by virtue of paragraph 7(2) the proposals fall to be dealt with under paragraph 19, a determination under paragraph 19 whether or not to implement the proposals.

Duty to refer proposals to adjudicator where determination delayed

- 13 If by the end of such period as may be prescribed the relevant authority have not determined whether to give any approval under paragraph 8(3) or (4), they must within a prescribed time refer to the adjudicator—
- (a) in the case mentioned in paragraph 8(3), all the proposals published under section 7, and
 - (b) in the case mentioned in paragraph 8(4), the proposals concerned,
- together with any comments made on the proposals by the authority.

Reference to adjudicator at request of aggrieved person after determination under paragraph 8(4)

- 14 (1) The relevant authority must if so requested within a prescribed time by any relevant person refer to the adjudicator within a prescribed time any proposals under section 10, 11 or 15 which the relevant authority have determined under paragraph 8(4), together with any reasons given by the authority for their determination.
- (2) The following are relevant persons for the purposes of sub-paragraph (1)—
- (a) the Diocesan Board of Education for any diocese of the Church of England any part of which is comprised in the area of the relevant authority;
 - (b) the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority;
 - (c) in the case of proposals made under section 10 or 11 by a person other than the relevant authority and rejected by the authority under paragraph 8(4)(a), the proposers;

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- (d) in the case of proposals published under section 15, the governing body or trustees of any foundation, voluntary or foundation special school which is the subject of the proposals;
- (e) where the proposals relate to a school or proposed school providing education for persons aged 14 years or over, the Learning and Skills Council for England.

Duty to refer related proposals

- 15 Where the relevant authority are required under any of paragraphs 10 to 14 or under Schedule 7 to the Learning and Skills Act 2000 to refer any proposals (“the relevant proposals”) to the adjudicator, the authority must also within a prescribed time refer to the adjudicator—
- (a) any other proposals under section 7, 10, 11 or 15 which relate to the area of the relevant authority and which by virtue of paragraph 9(2) fall to be considered with the relevant proposals, and
 - (b) where the relevant proposals are referred to the adjudicator by virtue of paragraph 14, any other proposals under section 10, 11 or 15 which by virtue of paragraph 9(2) were determined by the relevant authority with the relevant proposals.

Withdrawal of proposals before determination

- 16 (1) Nothing in paragraph 8(1) to (4) prevents the proposers by whom any proposals have been made from withdrawing those proposals by notice in writing—
- (a) to the relevant authority, and
 - (b) in a case where the proposals have been referred to the adjudicator, also to the adjudicator,
- at any time before the proposals are determined under paragraph 8 by the authority or by the adjudicator.
- (2) Nothing in paragraph 8(1) to (4) prevents the relevant authority from withdrawing any proposals made by the authority themselves by notice in writing to the adjudicator at any time before the proposals are determined under paragraph 8 by the adjudicator.

Effect of referring proposals to adjudicator

- 17 (1) Where any proposals are referred to the adjudicator under any provision of this Part of this Schedule—
- (a) he must consider the proposals or, in a case where the proposals have previously been determined by the relevant authority, must consider them afresh,
 - (b) the following provisions of paragraph 8 apply to him in connection with his decision on the proposals as they apply to the relevant authority—
 - (i) sub-paragraph (3) or (4) (as the case requires), and
 - (ii) sub-paragraphs (5) and (6), and
 - (c) paragraph 9 applies to him as it applies to the relevant authority.
- (2) The revocation of a direction under paragraph 12(1) does not affect the determination by the adjudicator of any proposals referred to him before the revocation.

Proposals to establish Academy

- 18 (1) Regulations may provide that, where proposals published under section 7 consist of or include proposals to establish an Academy, the relevant authority must within the prescribed period consult the Secretary of State in accordance with regulations, before taking any decision under paragraph 8.
- (2) The relevant authority may not approve under paragraph 8 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 EA 1996 for the establishment of an Academy.
- (3) If—
- (a) the proposals have been referred to the adjudicator under paragraph 10, 11, 12, 13 or 15, or
 - (b) a direction under paragraph 12(1) is in force in relation to the relevant authority and the case does not fall within paragraph 12(2),
- the reference in sub-paragraph (1) to the authority 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 8 as it has effect in relation to a decision of the relevant authority under that paragraph.
- (5) Approval under paragraph 8 by the relevant authority 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 EA 1996.

Determination whether to implement proposals not requiring consideration under paragraph 8

- 19 (1) Where any proposals have been made under section 15 by the relevant authority and paragraph 7 does not require the proposals to be considered under paragraph 8, the authority must (subject to the following provisions of this paragraph) determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within a prescribed period.
- (3) The requirement to make a determination under sub-paragraph (1) only applies if, at the time when the proposals fall to be considered, the relevant authority are satisfied that the proposals do not relate to any proposals under section 113A of the Learning and Skills Act 2000 (c. 21) which fall to be determined by the Secretary of State but have not yet been determined by him.
- (4) The requirement to make a determination under sub-paragraph (1) does not apply where the proposals appear to the relevant authority to be related to—
- (a) other proposals published under section 15 and not yet determined,
 - (b) proposals published under section 7, 10 or 11 and not yet determined, or
 - (c) proposals published under Schedule 7 to the Learning and Skills Act 2000 and not yet determined.
- (5) In deciding for the purposes of this paragraph whether proposals are related to other proposals, the relevant authority must have regard to any guidance given from time to time by the Secretary of State.

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- (6) Where, in the case of any proposals falling within sub-paragraph (1)—
- (a) the authority fail to make a determination under that sub-paragraph within the period mentioned in sub-paragraph (2), or
 - (b) the requirement to make such a determination does not apply by virtue of sub-paragraph (3) or (4),
- the proposals require consideration under paragraph 8 and, in a case falling within paragraph (a), must be referred to the adjudicator.

Provision of information

- 20 Regulations may require one or more of the following—
- (a) the proposers (if any),
 - (b) the relevant authority, and
 - (c) the adjudicator,
- to provide such information relating to the proposals to such persons, and at such times, as may be prescribed.

PART 3

IMPLEMENTATION OF PROPOSALS

Requirement to implement proposals

- 21 (1) Where—
- (a) any proposals have been approved under paragraph 8, or
 - (b) the relevant authority have determined under paragraph 19 to implement any 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) The relevant authority may, at the request of the proposers who made the proposals referred to in sub-paragraph (1), or, where the proposals were made by the authority themselves, on their own initiative—
- (a) modify the proposals after consulting such persons as may be prescribed, and
 - (b) where any approval was given in accordance with paragraph 8(5), specify a later date by which the event in question must occur.
- (3) If, after consulting such persons as may be prescribed, the relevant authority 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 8 that implementation of the proposals would be inappropriate,
- the authority may determine that sub-paragraph (1) is to cease to apply to the proposals.
- (4) The relevant authority 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 proposers who made the proposals referred to in sub-

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paragraph (1); and regulations may provide for any of the provisions of sections 7 to 12, sections 15 and 16 and Parts 1 and 2 of this Schedule to have effect in relation to any such further proposals with or without modifications.

- (5) The relevant authority must in prescribed cases refer to the adjudicator by a prescribed time any matter which would otherwise fall to be determined by the authority under this paragraph.
- (6) If by the end of such period as may be prescribed the relevant authority have failed to take any step required by this paragraph, the authority must refer the matter to the adjudicator by the prescribed time.
- (7) Where any matter is referred to the adjudicator under this paragraph—
 - (a) the relevant authority may refer to the adjudicator with the matter their comments on it,
 - (b) the adjudicator must consider the matter afresh, and
 - (c) 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 authority.

Proposals not falling to be implemented

- 22 (1) Where, by virtue of paragraph 21(3), paragraph 21(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 8.
- (2) Where—
 - (a) any approval under paragraph 8 was given in accordance with paragraph 8(5), and
 - (b) the event specified under paragraph 8(5) does not occur by the date in question (whether as specified under that provision or as specified under paragraph 21(2)(b)),paragraph 21(1) ceases to apply to the proposals.
- (3) Where, by virtue of sub-paragraph (2), paragraph 21(1) ceases to apply to any proposals approved by the relevant authority under paragraph 8 and not referred to the adjudicator, those proposals must be considered afresh by the authority under that paragraph.
- (4) Where, by virtue of sub-paragraph (2), paragraph 21(1) ceases to apply to any proposals approved by the adjudicator under paragraph 8, those proposals must be considered afresh by him under that paragraph (and paragraph 17 applies accordingly).

Proposals relating to community schools, community special schools or maintained nursery schools

- 23 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a community school, a community special school or a maintained nursery school or to a proposed such school.
- (2) The proposals must be implemented by the relevant authority.

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Proposals relating to foundation or voluntary controlled schools

- 24 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a foundation or voluntary controlled school or a proposed such school.
- (2) Proposals made by the relevant authority must be implemented by the authority.
- (3) Proposals made by proposers (including, in particular, such proposals so far as relating to the provision of the site for a proposed school) must be implemented by the relevant authority and by the proposers, respectively, to such extent as the proposals provide for each of them to do so.

Proposals relating to voluntary aided school

- 25 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a voluntary aided school or a proposed voluntary aided school.
- (2) The proposals must be implemented—
- (a) so far as relating to the provision of any relevant premises for a proposed school, by the relevant authority,
 - (b) in the case of proposals under section 15 made by proposers, by the proposers and the relevant authority, and
 - (c) otherwise by the proposers or, in the case of proposals made by the relevant authority, by the relevant authority.
- (3) In sub-paragraph (2) “relevant premises” means—
- (a) in the case of proposals published under section 7, the site specified in the notice under that section or playing fields, and
 - (b) in any other case, playing fields.
- (4) Nothing in sub-paragraph (2) requires the relevant authority to provide any playing fields where—
- (a) a new voluntary aided school is to be established in place of one or more existing independent, foundation or voluntary schools falling to be discontinued on or before the date of implementation of the proposals, and
 - (b) those playing fields—
 - (i) were part of the premises of any of the existing schools (whether it was an independent school or a foundation or voluntary school), and
 - (ii) (if it was a foundation or voluntary school) were not provided by the authority.

Proposals relating to foundation special schools

- 26 (1) This paragraph applies to proposals which fall to be implemented under paragraph 21 and relate to a foundation special school or a proposed foundation special school.
- (2) Where the proposals were made by the relevant authority, they must be implemented by the authority.
- (3) Proposals made by proposers (including, in particular, proposals so far as relating to the provision of the site for a proposed school) must be implemented by the relevant authority and by the proposers, respectively, to such extent as the proposals provide for each of them to do so.

Proposals relating to Academy

- 27 Where proposals published under section 7 to establish an Academy are implemented by the Secretary of State making an agreement under section 482 of EA 1996, subsection (3) of that section (requirement to consult certain LEAs about the establishment of the school) does not apply.

PART 4

PROVISION OF PREMISES AND OTHER ASSISTANCE IN
CONNECTION WITH ESTABLISHMENT OF NEW SCHOOL

Provision of site and buildings for proposed foundation, voluntary controlled or foundation special school

- 28 (1) This paragraph applies where a local education authority are required—
- (a) by virtue of paragraph 24(2) or (3) to provide a site for a proposed foundation or voluntary controlled school, or
 - (b) by virtue of paragraph 26(2) or (3) to provide a site for a proposed foundation special school.
- (2) The authority must transfer their interest in the site and in any buildings on the site which are to form part of the school's premises—
- (a) to the school's trustees, 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 or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it must be made to such persons as the adjudicator thinks proper.
- (4) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (5) Where—
- (a) a transfer is made under this paragraph, and
 - (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons must notify the local education authority that paragraph (b) applies to them; and they or their successors must pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the adjudicator.
- (6) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent, and
 - (b) interest which has accrued in respect of any such consideration;

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and for the purposes of any agreed determination under sub-paragraph (5) regard must be had to any guidance given from time to time by the Secretary of State.

- (7) Any sum paid under sub-paragraph (5) is to be treated for the purposes of section 14 of the Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (8) A determination may be made under sub-paragraph (5) in respect of any property subject to a trust which has arisen under section 1 of the Reverter of Sites Act 1987 (c. 15) (right of reverter replaced by trust for sale) if, and only if—
- (a) the determination is made by the adjudicator, and
 - (b) he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (9) Sub-paragraph (5) is to apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs A1 to A16 or 1 to 3 of Schedule 22 to SSFA 1998 to that sum.
- (10) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, and
 - (b) in relation to a transfer to a school’s governing body, the purposes of the school;
- “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

Grants in respect of certain expenditure relating to proposed voluntary aided school

- 29 (1) This paragraph applies where any proposers are required by virtue of paragraph 25(2) to implement proposals involving the establishment of a new voluntary aided school.
- (2) Paragraph 5 of Schedule 3 to SSFA 1998 applies in relation to the new school as it applies in relation to an existing voluntary aided school.
- (3) In the application of that paragraph in relation to a new voluntary aided school—
- (a) the references to the governing body, in relation to any time before the governing body are constituted, are to be read as references to the proposers;
 - (b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the proposers, the requirements must be complied with by the governing body, when they are constituted, as well as by the proposers.

Assistance for proposers of proposed voluntary aided school

- 30 A local education authority may give to persons required by virtue of paragraph 25(2) to implement proposals involving the establishment of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by those persons of any obligation arising by virtue of that provision.

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Duty to transfer interest in premises provided under paragraph 30

- 31 (1) Where assistance under paragraph 30 consists of the provision of any premises for use for the purposes of a school, the local education authority must transfer their interest in the premises—
- (a) to the trustees of the school to be held 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 relevant purposes.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer it must be made to such persons as the adjudicator thinks proper.
- (3) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

SCHEDULE 3

Section 30

AMENDMENTS RELATING TO SCHOOL ORGANISATION

Local Government Act 1972 (c. 70)

- 1 In section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176), omit subsection (1A)(b) (which relates to school organisation committees).

Local Government Act 1974 (c. 7)

- 2 In section 25 of the Local Government Act 1974 (authorities subject to investigation), in subsection (5)—
- (a) omit paragraph (a) (which relates to school organisation committees), and
 - (b) in paragraph (c), for “that Act” substitute “the School Standards and Framework Act 1998”.

Sex Discrimination Act 1975 (c. 65)

- 3 In section 27 of the Sex Discrimination Act 1975 (exception for single-sex establishments turning co-educational) for subsection (1A) substitute—
- “(1A) Without prejudice to subsection (1), a transitional exemption order may be made—
- (a) in accordance with regulations made by virtue of section 21(5) of the Education and Inspections Act 2006 (which relates to the alteration of maintained schools in England), or
 - (b) in accordance with paragraph 21 or 22 of Schedule 6 or paragraph 16 or 17 of Schedule 7 to the School Standards and Framework Act 1998 (which relate to the alteration of maintained schools and the rationalisation of school places in Wales).”

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Diocesan Boards of Education Measure 1991 (No. 2)

4 (1) Section 3 of the Diocesan Boards of Education Measure 1991 (transactions for which advice or consent of the Board is required) is amended as follows.

(2) In subsection (1)—

(a) for paragraphs (a) and (b) substitute—

“(a) publishing proposals for any prescribed alteration to the school—

(i) in the case of a school in England, under section 19(3) of the Education and Inspections Act 2006 (“the 2006 Act”), or

(ii) in the case of a school in Wales, under section 28(2)(b) of the School Standards and Framework Act 1998 (“the 1998 Act”);

(b) publishing proposals for the discontinuance of the school—

(i) in the case of a school in England, under section 15(2) of the 2006 Act, or

(ii) in the case of a school in Wales, under section 29(2) of the 1998 Act;”,

(b) in paragraphs (c) and (cc) for “that Act” substitute “the 1998 Act”, and

(c) for paragraph (d) substitute—

“(d) in the case of a school in Wales, publishing proposals for changing the category of the school under paragraph 2 or 3 of Schedule 8 to the 1998 Act; or”.

(3) After subsection (1) insert—

“(1A) The governing body of a church school in England shall not, unless it has obtained the consent in writing of the Board for the diocese in which the school is situated, publish proposals under section 19 of the 2006 Act—

(a) where the school is a voluntary school, for a change of category to foundation school, or

(b) where the school is a foundation school, for a change in the instrument of government which results in the majority of governors being foundation governors.

(1B) Subsection (1)(a)(i) does not apply in any case where by virtue of subsection (1A) the consent of the Board is required.”

(4) In subsection (6), for “subsection (2)” substitute “subsection (1A) or (2)”.

5 (1) Section 7 of the Diocesan Boards of Education Measure 1991 (powers of Board to give directions to governing bodies of voluntary aided church schools) is amended as follows.

(2) In subsection (1) for paragraphs (a) to (c) substitute—

“(a) the making of any prescribed alteration to the school—

(i) in the case of a school in England, under Part 2 of the Education and Inspections Act 2006 (“the 2006 Act”), or

(ii) in the case of a school in Wales, under Chapter 2 of Part 2 of the School Standards and Framework Act 1998 (“the 1998 Act”), or

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- (b) the discontinuance of the school—
 - (i) in the case of a school in England, under Part 2 of the 2006 Act or section 30 of the 1998 Act, or
 - (ii) in the case of a school in Wales, under Chapter 2 of Part 2 of the 1998 Act, or
 - (c) in the case of a school in Wales, changing the school’s category in accordance with paragraph 2 or 3 of Schedule 8 to the 1998 Act.”.
- (3) In subsection (1A), for “under paragraph 2 or 3 of Schedule 8 to that Act” substitute “under section 19(3) of the 2006 Act or paragraph 2 or 3 of Schedule 8 to the 1998 Act”.
- (4) In subsection (3)—
- (a) in paragraph (a), for “under section 28(2)(b) of the School Standards and Framework Act 1998” substitute “under section 19(3) of the 2006 Act or section 28(2)(b) of the 1998 Act”,
 - (b) in paragraph (b)—
 - (i) at the beginning insert “in the case of a school in Wales”, and
 - (ii) for “that Act” substitute “the 1998 Act”, and
 - (c) for “the provisions of that Act” substitute “the provisions of the 1998 Act and the 2006 Act”.

Further and Higher Education Act 1992 (c. 13)

- 6 (1) Section 58 of the Further and Higher Education Act 1992 (reorganisation of schools involving establishment of further education corporation) is amended as follows.
- (2) In subsection (3), for paragraph (b) substitute—
- “(b) a prescribed alteration within the meaning of the relevant school organisation provision has been made to the school,”.
- (3) After that subsection insert—
- “(4) In subsection (3)(b) “the relevant school organisation provision” means—
 - (a) in relation to England, section 18 of the Education and Inspections Act 2006, and
 - (b) in relation to Wales, section 28 of the School Standards and Framework Act 1998.”

Education Act 1996 (c. 56)

- 7 (1) Section 5 of EA 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 any of the enactments specified in subsection (3A), 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.

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- (3A) The enactments mentioned in subsection (3) are—
- (a) in relation to England—
 - (i) section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998,
 - (ii) section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, and
 - (iii) section 7, 10, 11 or 19 of the Education and Inspections Act 2006;
 - (b) in relation to Wales, section 28 of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998.”
- 8 In section 332B of EA 1996 (resolution of disputes), in subsection (8)(c), for “a city academy” substitute “an Academy”.
- 9 (1) Section 394 of EA 1996 (determination of cases in which requirement for Christian collective worship is not to apply) is amended as follows.
- (2) In subsection (8), for “(by virtue of section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998)” substitute “(by virtue of the relevant enactments)”.
- (3) After that subsection insert—
- “(9) In subsection (8) “the relevant enactments” means—
- (a) in relation to England, sections 18 to 24 of the Education and Inspections Act 2006;
 - (b) in relation to Wales, section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998.”
- 10 (1) Section 529 of EA 1996 (power to accept gifts on trust for educational purposes) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Any intention on the part of a local education authority in England that a school should be vested in the authority as trustees shall be treated for the purposes of sections 7, 10 and 11 of the Education and Inspections Act 2006 as an intention to establish a new community school, community special school or maintained nursery school (so that proposals for that purpose shall be published in accordance with those sections); and Schedule 2 to that Act (proposals for establishment or discontinuance of schools in England) shall apply accordingly.”
- (3) In subsection (2)—
- (a) after “local education authority” insert “in Wales”,
 - (b) omit “(other than a nursery school or a special school)”, and
 - (c) for the words from “the purposes of” to the end substitute “for the purposes of sections 28 and 31 of the School Standards and Framework Act 1998 as an intention to establish a new community school, community special school or maintained nursery school (so that proposals for that purpose shall be published as required by those sections); and Schedule 6 to that Act (statutory proposals concerning schools in Wales: procedure and implementation) shall apply accordingly.”

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- (4) In subsection (3)—
- (a) after “subsection” insert “(1A) or”, and
 - (b) at the end insert “, a community special school or a maintained nursery school.”
- 11 (1) Section 530 of EA 1996 (compulsory purchase of land) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
- “(c) is required for the purposes of an Academy (whether established or to be established).”
- (3) In subsection (3), for the words from “borne by them” to the end substitute “borne by them—
- (a) in the case of an authority in England, under paragraph 7(1) of Schedule 7A to the Learning and Skills Act 2000 (power to give assistance in relation to carrying out of obligations under that Schedule) or under any provision of regulations under section 24 of the Education and Inspections Act 2006 (implementation of proposals under section 19 of that Act) which by virtue of subsection (7) of section 24 of that Act authorises a local education authority to provide assistance to the governing body of a voluntary aided school in connection with the implementation of the obligations of the governing body under the regulations, or
 - (b) in the case of an authority in Wales, under paragraph 18 of Schedule 6 to the School Standards and Framework Act 1998 (power to give assistance to governing body of voluntary aided school in carrying out statutory proposals) (including that provision as applied by any enactment).”
- 12 (1) In Schedule 35A to EA 1996 (Academies: land) paragraph 1 is amended as follows.
- (2) In sub-paragraph (2)(b), for the words from “published” onwards substitute “published under section 7 of the Education and Inspections Act 2006 (invitation for proposals for establishment of new schools) as a possible site for a new school”.
- (3) In sub-paragraph (3)(d), for the words from “published” onwards substitute “published under section 7 of the Education and Inspections Act 2006”.

School Standards and Framework Act 1998 (c. 31)

- 13 (1) Section 20 of SSFA 1998 (new categories of maintained schools) is amended as follows.
- (2) In subsection (2), for “Schedule 8”, wherever occurring, substitute “the change of category provisions”.
- (3) After subsection (2) insert—
- “(2A) In subsection (2) “the change of category provisions” means—
- (a) in the case of a school in England, Schedule 8 to this Act or sections 18 to 24 of the Education and Inspections Act 2006, and
 - (b) in the case of a school in Wales, Schedule 8 to this Act.”
- 14 In section 21 of SSFA 1998 (kinds of foundation and voluntary schools and types of foundations), in subsection (6)—

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- (a) in paragraph (a), after “Schedule 8” insert “or under section 19 of the Education and Inspections Act 2006”,
 - (b) in paragraph (f)—
 - (i) in sub-paragraph (i), after “Schedule 8” insert “or under section 19 of the Education and Inspections Act 2006”,
 - (ii) in sub-paragraph (ii), after “that paragraph” insert “or that section”, and
 - (iii) in sub-paragraph (iii), after “voluntary school” insert “in Wales”,
 - (c) in paragraph (h), after “his consent” insert “or to the disposal of which paragraph A9 of Schedule 22 would apply”, and
 - (d) in paragraph (i), omit “school organisation committees and”.
- 15 In section 22 of SSFA 1998 (maintenance and other funding of schools) for subsection (2) substitute—
- “(2) Subsection (1) has effect subject to any statutory provision authorising the discontinuance of a maintained school or maintained nursery school.”
- 16 In section 25 of SSFA 1998 (adjudicators), in subsection (2), for “or Part 2 of the Education Act 2005” substitute “or Part 2 of the Education and Inspections Act 2006”.
- 17 Omit section 27 of SSFA 1998 (power to require committees or adjudicators for Wales).
- 18 (1) Section 28 of SSFA 1998 (proposals for establishment or alteration of community, foundation or voluntary school) is amended as follows.
- (2) In subsection (1)—
 - (a) after “local education authority” (in the first place) insert “in Wales”, and
 - (b) in paragraph (d), omit “in the case of a local education authority in Wales”.
 - (3) In subsection (2)—
 - (a) in paragraph (a), after “voluntary school” insert “in Wales”, and
 - (b) in paragraph (b)—
 - (i) after “voluntary school” insert “in Wales”, and
 - (ii) omit from “, or of” to “in England”.
 - (4) Omit subsections (2A) and (2B).
 - (5) In subsection (5), for “Secretary of State” substitute “Assembly”.
 - (6) Omit subsection (6).
 - (7) In subsection (7)—
 - (a) omit the words from the beginning to “in Wales”;
 - (b) in paragraph (a), for “the published proposals” substitute “any proposals published under this section”, and
 - (c) for “Secretary of State” substitute “Assembly”.
 - (8) In subsection (8), omit “(for both England and Wales)”.
 - (9) In subsection (9), omit “subsection (6) and”.
 - (10) In the heading, after “voluntary school” insert “in Wales”.

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- 19 Omit section 28A of SSFA 1998 (proposals for establishment of community, foundation or voluntary school maintained by English local education authority).
- 20 (1) Section 29 of SSFA 1998 (proposals for discontinuance of community, foundation, voluntary or maintained nursery school) is amended as follows.
- (2) In subsection (1), after “local education authority” insert “in Wales”.
- (3) In subsection (2), after “voluntary school” insert “in Wales”.
- (4) In subsection (4A), for “Secretary of State” substitute “Assembly”.
- (5) In subsection (4B)—
- (a) omit paragraph (c), and
- (b) in paragraph (d), omit “parish council or”.
- (6) In subsection (4D), for “Secretary of State” substitute “Assembly”.
- (7) Omit subsection (5).
- (8) In subsection (6)—
- (a) omit the words from the beginning to “in Wales,”,
- (b) in paragraph (a), for “the published proposals” substitute “any proposals published under this section”, and
- (c) for “Secretary of State” substitute “Assembly”.
- (9) In subsection (7), omit “(for both England and Wales)”.
- (10) In subsection (8), omit “subsection (5) and”.
- (11) In subsection (9A), for “Secretary of State” substitute “Assembly”.
- (12) In the heading, after “nursery school” insert “in Wales”.
- 21 In section 30 of SSFA 1998 (notice by governing body to discontinue foundation or voluntary school) for subsection (9) substitute—
- “(9) Nothing in any of the following provisions applies in relation to the discontinuance under this section of a foundation or voluntary school—
- (a) sections 29 and 33 of this Act (which relate to Wales), and
- (b) sections 15 and 28 of the Education and Inspections Act 2006 (which relate to England).”
- 22 In the italic heading before section 31 of SSFA 1998, for “LEAs” substitute “LEAs in Wales”.
- 23 (1) Section 31 of SSFA 1998 (proposals for establishment, alteration or discontinuance of community or foundation special school) is amended as follows.
- (2) In subsection (1), after “local education authority” insert “in Wales”.
- (3) In subsection (2), after “special school” insert “in Wales”.
- (4) In subsection (4C), for “Secretary of State” substitute “Assembly”.
- (5) Omit subsection (5).
- (6) In subsection (6)—
- (a) omit the words from the beginning to “in Wales,”,

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- (b) in paragraph (a), for “the proposals” substitute “any proposals published under this section”, and
 - (c) for “Secretary of State” substitute “Assembly”.
- (7) In subsection (7), omit “(5) or”.
- (8) In subsection (8), omit “(for both England and Wales)”.
- (9) In the heading, after “special school” insert “in Wales”.
- 24 (1) Section 32 of SSFA 1998 (direction requiring discontinuance of community or foundation special school) is amended as follows.
- (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Assembly”,
 - (b) for “he” substitute “it”, and
 - (c) after “special school” insert “in Wales”.
 - (3) In subsection (3)—
 - (a) for “Secretary of State” (in both places) substitute “Assembly”, and
 - (b) in paragraph (b), for “his” substitute “its”.
 - (4) In subsection (4), for “Secretary of State” substitute “Assembly”.
 - (5) In the heading, after “special school” insert “in Wales”.
- 25 (1) Section 33 of SSFA 1998 (further provisions relating to establishment, alteration or discontinuance of schools) is amended as follows.
- (2) In subsection (1), in paragraphs (a) and (c), after “school” insert “in Wales”.
 - (3) In subsection (2), after “school” insert “in Wales”.
 - (4) In subsection (4), omit “28A.”.
 - (5) In subsections (5) and (6), after “maintained school” insert “in Wales”.
 - (6) In the heading, after “schools” insert “in Wales”.
- 26 (1) Section 35 of SSFA 1998 (school changing from one category to another) is amended as follows.
- (2) In subsection (1)—
 - (a) after “maintained school” (in both places) insert “in Wales”, and
 - (b) in paragraph (b), after “aided school” insert “in Wales”.
 - (3) In the heading, after “School” insert “in Wales”.
- 27 (1) Section 79 of SSFA 1998 (stamp duty) is amended as follows.
- (2) In subsection (1)—
 - (a) omit the word “or” at the end of paragraph (b), and
 - (b) at the end of paragraph (c) insert “, or
 - (d) any regulations made under section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section.”.
 - (3) In subsection (3), for “subsection (1)” substitute “subsection (1)(a) to (c)”.

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- 28 In section 82 of SSFA 1998 (modification of trust deeds), in subsection (1), for “or the Education Act 2002” substitute “, the Education Act 2002 or the Education and Inspections Act 2006”.
- 29 (1) Section 109 of SSFA 1998 (proposals by governing body of grammar school to end selective admission arrangements) is amended as follows.
- (2) In subsection (2)—
- (a) for “for the purposes of section 28” substitute “under section 18 of the 2006 Act”, and
- (b) for “that section” substitute “section 19 of the 2006 Act”.
- (3) In subsection (3)—
- (a) in paragraph (a), for “section 28 or Schedule 6” substitute “sections 19 to 24 of the 2006 Act or regulations under those sections”, and
- (b) in paragraph (b), for “section 28” substitute “section 19 of the 2006 Act”.
- (4) In subsection (4)—
- (a) for “section 28” substitute “section 19 of the 2006 Act”, and
- (b) for “paragraph 5 or 10 of Schedule 6” substitute “regulations under section 24 of that Act”.
- (5) After subsection (5) insert—
- “(6) In this section “the 2006 Act” means the Education and Inspections Act 2006.”
- 30 In section 143 of SSFA 1998 (index)—
- (a) in the entry beginning “promoters”—
- (i) after “Part II” insert “in relation to Wales”, and
- (ii) omit “or 28A(2)”, and
- (b) omit the entry beginning “school organisation committee”.
- 31 (1) Schedule 3 to SSFA 1998 (funding of foundation, voluntary and foundation special schools) is amended as follows.
- (2) In paragraph 2(2), for paragraph (a) substitute—
- “(a) apply in relation to the provision of any site or buildings which—
- (i) in the case of a school in England, the authority or the person by whom any proposals were made are required to provide by virtue of Part 3 of Schedule 2 to the Education and Inspections Act 2006 (provision of premises in connection with proposals for establishment of school) or by virtue of regulations under section 24 of that Act (implementation of proposals for alteration of school), or
- (ii) in the case of a school in Wales, the authority or promoters are required to provide by virtue of Part 3 of Schedule 6 (provision of premises in connection with statutory proposals); or”.
- (3) At the beginning of Part 2 insert—

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“Interpretation of Part

- 2A In this Part of this Schedule “promoters”, in relation to a school in England, means persons who are for the purposes of Schedule 2 to the Education and Inspections Act 2006 the proposers in relation to proposals for the establishment of the school.”
- 32 In Schedule 5 to SSFA 1998 (adjudicators), in paragraph 5(1) for “or under Part 2 of the Education Act 2005” substitute “or under Part 2 of the Education and Inspections Act 2006”.
- 33 (1) Schedule 6 to SSFA 1998 (statutory proposals: procedure and implementation) is amended as follows.
- (2) For the heading substitute “STATUTORY PROPOSALS CONCERNING SCHOOLS IN WALES: PROCEDURE AND IMPLEMENTATION”.
- (3) Omit paragraphs 1 to 5.
- (4) For the heading to Part 2 substitute “PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS”.
- (5) In paragraph 6, omit the words from “which relate” to the end.
- (6) In paragraph 7, in sub-paragraphs (2) and (3), for “Secretary of State” substitute “Assembly”.
- (7) In paragraph 8—
- (a) for “Secretary of State”, wherever occurring, substitute “Assembly”,
 - (b) in sub-paragraph (1)(a), for “him” substitute “it”, and
 - (c) in sub-paragraph (2)(c), for “he” substitute “it”.
- (8) In paragraph 9, in sub-paragraphs (2) and (3), for “Secretary of State” substitute “Assembly”.
- (9) In paragraph 10—
- (a) for “Secretary of State”, wherever occurring, substitute “Assembly”, and
 - (b) in sub-paragraphs (3) and (4), for “he” substitute “it”.
- (10) In paragraph 11, omit “5 or”.
- (11) In paragraph 12(2), omit “, 28A(1)”.
- (12) In paragraph 13—
- (a) in sub-paragraph (2), omit “, 28A(1)”, and
 - (b) in sub-paragraph (3)(a), omit “or 28A(2)”.
- (13) In paragraph 14(3), omit “or 28A(2)”.
- (14) In paragraph 16—
- (a) for “Secretary of State”, wherever occurring, substitute “Assembly”, and
 - (b) in sub-paragraph (8)(b), for “he” substitute “it”.
- (15) In paragraph 20(2), for “Secretary of State” substitute “Assembly”.
- (16) Omit paragraph 21 and the italic heading immediately above it.

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- (17) For the italic heading immediately above paragraph 22, substitute “Single-sex schools”.
- (18) In paragraph 22—
- (a) for “Secretary of State”, wherever occurring, substitute “Assembly”,
 - (b) in sub-paragraph (3), for “he” substitute “the Assembly”, and
 - (c) after sub-paragraph (3) insert—
 - “(4) In this paragraph—
 - “the 1975 Act” means the Sex Discrimination Act 1975,
 - “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, and
 - “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 in a school’s admission arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).”
- 34 In Schedule 8 to SSFA 1998 (changes of category of school), in paragraph 5(1), for “Secretary of State” substitute “Assembly”.

Learning and Skills Act 2000 (c. 21)

- 35 In section 113 of the Learning and Skills Act 2000 (sixth forms requiring significant improvement), in subsection (3)(b) omit “, any school organisation committee”.
- 36 In section 113A of the Learning and Skills Act 2000 (restructuring of sixth-form education), in subsection (4)—
- (a) in paragraph (a), after “local education authority” insert “in Wales”, and
 - (b) after that paragraph insert—
 - “(aa) the establishment by a local education authority in England of one or more new foundation or foundation special schools to provide secondary education suitable to the requirements of persons who are above compulsory school age but below the age of 19 (and no other secondary education);”.
- 37 Schedule 7 to the Learning and Skills Act 2000 (sixth forms requiring significant improvement) is amended as follows.
- 38 For paragraph 17 substitute —
- “17 The Council shall send a copy of the published proposals—
 - (a) to the local education authority who maintain the school, and
 - (b) in the case of a community or foundation special school, to such other persons as may be prescribed.”
- 39 For paragraph 25 substitute —

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- “25 The Council shall send a copy of the published proposals—
- (a) to the local education authority who maintain the school, and
- (b) in the case of a community or foundation special school, to such other persons as may be prescribed.”
- 40 (1) Paragraph 32 is amended as follows.
- (2) In sub-paragraph (2)—
- (a) after the definition of “the Council” insert—
- ““the local education authority” means the local education authority who maintain the school to which the proposals relate;”, and
- (b) omit the definition of “the school organisation committee”.
- (3) Omit sub-paragraph (3).
- 41 In paragraph 33(b), for “school organisation committee” substitute “local education authority”.
- 42 In paragraph 34, for “school organisation committee” substitute “local education authority”.
- 43 (1) Paragraph 35 is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) The local education authority must consider the proposals and, subject to subsection (2), may —
- (a) reject them,
- (b) approve them without modification,
- (c) approve them subject to modifications.
- (1A) The authority—
- (a) may, if they think it appropriate to do so and subject to regulations, refer the proposals to the adjudicator, and
- (b) must do so in prescribed cases.”
- (3) In sub-paragraphs (2) and (3), for “school organisation committee” substitute “local education authority”.
- (4) Omit sub-paragraphs (5) and (6).
- (5) In sub-paragraph (7)(b), for “committee” substitute “local education authority”.
- (6) In sub-paragraph (8)—
- (a) for “school organisation committee” substitute “local education authority”, and
- (b) for “the committee” substitute “the authority”.
- 44 In paragraph 36, in sub-paragraphs (2) and (3), for “school organisation committee” substitute “local education authority”.
- 45 For paragraph 37 substitute—
- “37 (1) The local education authority—
- (a) may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any question which would

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otherwise fall to be determined by the authority under paragraph 36, and

- (b) in prescribed cases, must refer to the adjudicator any such matter.

(2) Where a question is referred to the adjudicator—

- (a) he shall consider the matter afresh, and
- (b) for that purpose, paragraph 36 applies to him as it applies to the committee.”

46 In Schedule 7A to the Learning and Skills Act 2000, for paragraphs 5 to 7 substitute—

“5 (1) Where a local education authority in England are required under this Schedule to provide a site for a foundation or voluntary controlled school or foundation special school (or a proposed such school), paragraph 28 of Schedule 2 to the Education and Inspections Act 2006 applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

(2) Where a local education authority in Wales are required under this Schedule to provide a site for a foundation or voluntary controlled school or foundation special school (or a proposed such school), paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

6 (1) In relation to England, where the governing body of a voluntary aided school are required by paragraph 3(3)(b) of this Schedule to implement proposals to make an alteration to the school, paragraph 5 of Schedule 3 to the School Standards and Framework Act 1998 (grants by Secretary of State in respect of expenditure on premises and equipment) applies in relation to the school.

(2) In relation to Wales, paragraph 17 of Schedule 6 to the School Standards and Framework Act 1998 (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under paragraph 3(3)(b) of this Schedule as it applies in relation to the obligations referred to in sub-paragraph (1)(a) of that paragraph 17.

7 (1) A local education authority in England may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation imposed on the governing body under this Schedule.

(2) Paragraph 31 of Schedule 2 to the Education and Inspections Act 2006 applies in relation to assistance under sub-paragraph (1) as it applies in relation to assistance under paragraph 30 of that Schedule.

(3) In relation to Wales, paragraph 18 of Schedule 6 to the School Standards and Framework Act 1998 (assistance from LEA in respect of voluntary aided schools) applies in relation to obligations imposed on the governing body of a voluntary aided school under this Schedule 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 18) applies accordingly.”

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

Education Act 2002 (c. 32)

- 47 (1) Section 129 of EA 2002 (transfer of employment) is amended as follows.
- (2) In subsection (1)(a), for the words from “section” to “1998” substitute “the relevant school organisation provisions (as defined by subsection (6))”.
- (3) After subsection (5) insert—
- “(6) In subsection (1)(a) “the relevant school organisation provisions” means—
- (a) in relation to England, section 28, 28A or 31 of the School Standards and Framework Act 1998, section 66 of the Education Act 2005 or section 7 or 11 of the Education and Inspections Act 2006, and
- (b) in relation to Wales, section 28 or 31 of the School Standards and Framework Act 1998.”
- 48 In Schedule 1 to EA 2002 (incorporation and powers of governing body), in paragraph 5 (dissolution of governing body) for sub-paragraph (2) substitute—
- “(2) In this paragraph “the discontinuance date” means—
- (a) in relation to a school in England, whichever of the following is relevant—
- (i) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 2 to the Education and Inspections Act 2006 or under Schedule 7 or 7A to the Learning and Skills Act 2000,
- (ii) the date on which the school is discontinued under section 30 of the 1998 Act, or
- (iii) the date specified in a direction given under section 17(1) or 68(1) of the Education and Inspections Act 2006;
- (b) in relation to a school in Wales, whichever of the following is relevant—
- (i) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6 to the 1998 Act or under Schedule 7 or 7A to the Learning and Skills Act 2000,
- (ii) the date on which the school is discontinued under section 30 of the 1998 Act, or
- (iii) the date specified in a direction given under section 19(1) or 32(1) of the 1998 Act.”

Education Act 2005 (c. 18)

- 49 Omit sections 64 to 67 of EA 2005 (which relate to school organisation in England).
- 50 (1) Section 68 of EA 2005 (proposals for establishment of federated school) is amended as follows.
- (2) At the end of the heading insert “in Wales”.
- (3) In subsection (1)—
- (a) in paragraph (a), omit “, 28A”,
- (b) at the end of paragraph (b), insert “or”, and
- (c) omit paragraphs (d) and (e).

- 51 In section 69 of EA 2005 (LEA not to establish school on opposite side of Welsh border), omit paragraph (a).
- 52 Omit section 73 of EA 2005 (interpretation of Part 2).
- 53 Omit Schedules 10 and 11 to EA 2005 (which relate to school organisation in England).

SCHEDULE 4

Section 36

DISPOSALS AND CHANGES OF USE OF LAND

PART 1

AMENDMENTS TO SCHEDULE 22 TO SSFA 1998

- 1 Schedule 22 to SSFA 1998 (disposal of land by foundation, voluntary or foundation special schools and disposals on discontinuance) is amended as follows.
- 2 Before Part 1 of the Schedule insert—

“PART A1

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS IN ENGLAND: DISPOSALS OF LAND

Disposal of land by governing body of foundation, voluntary or foundation special school

- A1 (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
 - (b) any land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8;
 - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
 - (c) any land acquired under any regulations made under—
 - section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
 - section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (d) any land acquired from a foundation body,
 - (e) any land acquired from the Funding Agency for Schools,

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- (f) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
 - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (h) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or
 - (i) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (h).
- (2) But 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 established otherwise than under this Act.
- (3) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (4) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A2 (1) This paragraph applies to a disposal of land to which paragraph A1 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A3 to A5 and paragraph A19—
- (a) references to the disposal are to the disposal by the governing body of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.

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- (4) The governing body must give the local education authority notice of their intention to dispose of the land.
- (5) That notification must specify—
 - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
- (6) For the purposes of this paragraph and paragraphs A3 and A4, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A1.
- (7) The authority may, within the requisite period, give the governing body any or all of the following—
 - (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the governing body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the governing body notice to that effect.
- (10) The governing body may not make the disposal within the requisite period unless within that period—
 - (a) the authority give the governing body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the governing body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7)(a) are met if—
 - (a) the adjudicator has approved the disposal on a reference made under paragraph A3(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—

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- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the governing body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7)(b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A3(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7)(c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A3(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).
- A3 (1) Where the authority give the governing body notice of their objection to the disposal in accordance with paragraph A2(7)(a), the governing body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the governing body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the governing body and the authority, or
 - (b) by the adjudicator where—
 - (i) the governing body or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
- (3) Where the authority give the governing body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), the amount of those proceeds which it is appropriate for the governing body to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the governing body and the authority, or
 - (b) by the adjudicator where—
 - (i) the governing body or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.

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- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the governing body or, as the case may be, the authority, must give the other notice of their intention to make the reference.
 - (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A4
- (1) This paragraph applies where the disposal is made.
 - (2) The governing body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
 - (3) Where—
 - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A3(3) to be an amount greater than zero,the governing body must pay the “appropriate amount” to the authority.
 - (4) The governing body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
 - (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the governing body must ensure that the surplus amount is used on relevant capital expenditure.
 - (6) The “agreed relevant capital expenditure” means—
 - (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A2(7)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A2(9),the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A2(4), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A3(2).
 - (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A3(3).
 - (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A2(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A2(7)(b) or (c)).
- A5
- (1) This paragraph applies where—

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- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A2(7)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The governing body may apply to the adjudicator for an order to be made by him requiring 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.
- (3) Before making an application under sub-paragraph (2), the governing body must give the local education authority notice of their intention to make the application.
- A6 (1) For the purposes of paragraphs A2 to A4, “relevant capital expenditure”, in relation to a disposal of land by the governing body of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- (a) the school,
 - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Disposal of land by foundation body

- A7 (1) This paragraph applies to any disposal by a foundation body in England of—
- (a) any land acquired under any of the following—
 - paragraph 2, 4 or 9 of Schedule 3;
 - paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5 or 6 of Schedule 21;
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (b) any land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
 - any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,

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- (c) any land acquired from the governing body of a maintained school,
 - (d) any land acquired from another foundation body,
 - (e) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment),
 - (f) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (g) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or
 - (h) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (g).
- (2) A “foundation body in England” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in England.
- (3) But this paragraph does not apply to any disposal which—
- (a) is made by a foundation body after the commencement of this sub-paragraph, and
 - (b) is a disposal to the trustees of a foundation or foundation special school made on the school leaving the group for which the foundation body acts and becoming a school with a foundation established otherwise than under this Act.
- (4) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (5) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A8 (1) This paragraph applies to a disposal of land to which paragraph A7 applies if, or to the extent that, it comprises a disposal of non-playing field land.

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- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A9 to A11 and paragraph A19—
 - (a) references to the disposal are to the disposal by the foundation body of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.
- (4) The foundation body must give the local education authority notice of its intention to dispose of the land.
- (5) That notification must specify—
 - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
- (6) For the purposes of this paragraph and paragraphs A9 and A10, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A7.
- (7) The authority may, within the requisite period, give the foundation body any or all of the following—
 - (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the foundation body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the foundation body notice to that effect.
- (10) The foundation body may not make the disposal within the requisite period unless within that period—
 - (a) the authority give the foundation body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the foundation body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.

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- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7)(a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A9(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the foundation body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7)(b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A9(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7)(c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A9(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).
- A9 (1) Where the authority give the foundation body notice of their objection to the disposal in accordance with paragraph A8(7)(a), the foundation body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the foundation body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the foundation body and the authority, or
 - (b) by the adjudicator where—
 - (i) the foundation body refers or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (3) Where the authority give the foundation body notice of their claim to the whole or a part of the publicly funded proceeds of disposal

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in accordance with paragraph A8(7)(c), the amount of those proceeds which it is appropriate for the foundation body to pay to the authority (the “appropriate amount”) is to be determined—

- (a) by agreement between the foundation body and the authority, or
- (b) by the adjudicator where—
 - (i) the foundation body refers or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.

- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the foundation body or, as the case may be, the authority, must give the other notice of its or their intention to make the reference.
- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.

- A10
- (1) This paragraph applies where the disposal is made.
 - (2) The foundation body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
 - (3) Where—
 - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A9(3) to be an amount greater than zero,
 the foundation body must pay the “appropriate amount” to the authority.
 - (4) The foundation body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
 - (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the foundation body must ensure that the surplus amount is used on relevant capital expenditure.
 - (6) The “agreed relevant capital expenditure” means—
 - (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A8(7)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A8(9),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A8(4), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A9(2).

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- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A9(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A8(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A8(7)(b) or (c)).
- A11 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A8(7)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The foundation body may apply to the adjudicator for an order to be made by him requiring 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.
- (3) Before making an application under sub-paragraph (2), the foundation body must give the local education authority notice of its intention to make the application.
- A12 (1) For the purposes of paragraphs A8 to A10, “relevant capital expenditure”, in relation to a disposal of land by a foundation body, means capital expenditure in relation to the premises of—
- (a) any of the schools comprising the group for which the body acts,
 - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Disposal of land by trustees of foundation, voluntary or foundation special school

- A13 (1) This sub-paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under section 60, 61 or 70 of the Education Act 1996,
 - (b) any land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,

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- (c) any land acquired under any of the following—
 - paragraph 4 or 9 of Schedule 3;
 - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
 - (d) any land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
 - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
 - (f) any land acquired from the Funding Agency for Schools,
 - (g) any land acquired, or enhanced in value, wholly or partly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
 - (ii) any grant paid under section 216(2) of that Act,
 - (h) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (f) or (g),
 - (i) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996),
 - (j) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27, or
 - (k) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (j).
- (2) This sub-paragraph applies to any disposal by the trustees of a foundation or foundation special school in England of—
- (a) any land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
 - (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,
 - (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or

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- (iii) acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
 - (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
 - (3) This sub-paragraph applies to any disposal by the trustees of a voluntary school in England of—
 - (a) any land acquired by the trustees from the governing body of the school which was land acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) wholly or partly with the proceeds of disposal of any land so acquired,and transferred by the governing body to be held on trust by the trustees, or
 - (b) in the case of a school to which sub-paragraph (4) applies, any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
 - (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
 - (5) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
 - (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
 - (6) An “appropriate statement” in relation to expenditure is a statement in writing which—
 - (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
 - (7) Where the trustees of a foundation, voluntary 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 the preceding provisions of this paragraph and paragraphs A14 to A16 apply (subject to the modifications specified in paragraphs A14(18), A15(5) and A16(9)) as if any such change of use of the land were a disposal of the land.
- A14 (1) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies.

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- (2) But this paragraph only applies to a disposal if, or to the extent that, it comprises a disposal of non-playing field land which does not fall within sub-paragraph (5).
- (3) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (4) Accordingly, in this paragraph, paragraphs A15 to A17 and paragraph A19—
 - (a) references to the disposal are to the disposal by the trustees of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.
- (5) A disposal of non-playing field land falls within this sub-paragraph if it is a disposal of—
 - (a) land acquired under section 60 or 61 of the Education Act 1996, or
 - (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act, by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).
- (6) The trustees must give the local education authority notice of their intention to dispose of the land.
- (7) That notification must specify—
 - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
- (8) For the purposes of this paragraph and paragraphs A15 and A16, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1), (2) or (3) of paragraph A13.
- (9) The authority may, within the requisite period, give the trustees any or all of the following—
 - (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (10) The “requisite period” means the period of 6 weeks beginning with the date upon which the trustees gave notification of the disposal to the authority under sub-paragraph (6).
- (11) A notice given under sub-paragraph (9) may be withdrawn at any time by the authority giving the trustees notice to that effect.
- (12) The trustees may not make the disposal within the requisite period unless within that period—

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- (a) the authority give the trustees notice that they relinquish any right to give notice under sub-paragraph (9)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the relevant requirements in relation to such a notice are met.
- (13) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the trustees may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (9)(a) are met if—
 - (a) the adjudicator has approved the disposal on a reference made under paragraph A15(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (11).
- (15) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (9)—
 - (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (9)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (9)(c),the trustees may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (16) The “relevant requirements” in relation to a notice given under sub-paragraph (9)(b) are met if—
 - (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A15(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (11).
- (17) The “relevant requirements” in relation to a notice given under sub-paragraph (9)(c) are met if—
 - (a) the “appropriate amount” has been determined in accordance with paragraph A15(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (11).
- (18) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
 - (a) in sub-paragraph (7) for paragraphs (a) and (b) substitute “the purposes for which it is proposed the land is to be used”,
 - (b) in sub-paragraph (9)—
 - (i) omit paragraphs (a) and (c), and

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- (ii) in paragraph (b), for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
 - (c) in sub-paragraph (15)—
 - (i) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (ii) for “use the publicly funded proceeds of disposal” substitute “use the land for purposes not connected with the provision of education in maintained schools”, and
 - (d) in sub-paragraph (16)—
 - (i) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has” substitute “purposes for which the land is to be used have”, and
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”.
- A15 (1) Where the authority give the trustees notice of their objection to the disposal in accordance with paragraph A14(9)(a), the trustees or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the trustees notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the trustees and the authority, or
 - (b) by the adjudicator where—
 - (i) the trustees or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
- (3) Where the authority give the trustees notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), the amount of those proceeds which it is appropriate for the trustees or their successors to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the trustees and the authority, or
 - (b) by the adjudicator where—
 - (i) the trustees or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the trustees or, as the case may be, the authority, must give the other notice of their intention to make the reference.

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- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
 - (6) In the application of this paragraph in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, sub-paragraph (2) is modified as follows—
 - (a) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (b) for “relevant capital expenditure upon which those proceeds are to be used is” substitute “purposes for which the land is to be used are”.
- A16
- (1) This paragraph applies where the disposal is made.
 - (2) The trustees must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
 - (3) Where—
 - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A15(3) to be an amount greater than zero,the trustees or their successors must pay the “appropriate amount” to the authority.
 - (4) The trustees and their successors must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
 - (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the trustees and their successors must ensure that the surplus amount is used on relevant capital expenditure.
 - (6) The “agreed relevant capital expenditure” means—
 - (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A14(9)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A14(11),the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A14(6), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A15(2).

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- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A15(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A14(15) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A14(9)(b) or (c)).
- (9) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (2) omit the words from “and of the amount” to the end,
 - (b) in sub-paragraph (4) for “remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure” substitute “land is used for the agreed purposes”,
 - (c) omit sub-paragraph (5), and
 - (d) in sub-paragraph (6)—
 - (i) for “agreed relevant capital expenditure” substitute “agreed purposes”,
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
 - (iii) for “relevant capital expenditure” substitute “proposed purposes”, and
 - (iv) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used” substitute “purposes for which the land is to be used”.
- A17 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A14(9)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The trustees may apply to the adjudicator for an order to be made by him requiring 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.
- (3) Before making an application under sub-paragraph (2), the trustees must give the local education authority notice of their intention to make the application.
- A18 (1) For the purposes of paragraphs A14 to A16, “relevant capital expenditure”, in relation to a disposal of land by the trustees of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- (a) the school,

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- (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Duty to have regard to guidance etc

- A19 (1) A local education authority, a governing body, a foundation body and trustees must have regard, in particular, to any guidance given from time to time by the Secretary of State—
- (a) in determining whether to give a notice, or make a reference or application to the adjudicator, under any of paragraphs A2 to A17, or
 - (b) in determining the publicly funded proceeds of disposal or the “appropriate amount” for the purposes of any of those paragraphs.
- (2) In determining any matter for the purposes of any of the provisions mentioned in sub-paragraph (1), the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (3) In addition to having regard to guidance as required under sub-paragraph (1)(b) or (2), a local education authority, a governing body, a foundation body, trustees and the adjudicator, must also have regard, in particular, to the factors mentioned in sub-paragraph (4) in determining any of the following for the purposes of any of paragraphs A2 to A17—
- (a) the publicly funded proceeds of disposal;
 - (b) the “appropriate amount”;
 - (c) the amount of the consideration (if any) to be paid under paragraph A5, A11 or A17.
- (4) The factors referred to in sub-paragraph (3) are—
- (a) in the case of any disposal, the value of the land as at the date of the determination,
 - (b) in the case of any disposal, any enhancement in value of the land attributable to expenditure on the land by the local education authority or a relevant person,
 - (c) in the case of any disposal, any expenditure on the land by a relevant person,
 - (d) in the case of any disposal, any relevant payments made by a relevant person to the local education authority or the Secretary of State,
 - (e) in the case of any disposal, to the extent that they do not fall within paragraph (c) or (d), any payments in respect of the acquisition of the land, and

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- (f) in the case of a disposal falling within paragraph A1(1)(i), paragraph A7(1)(h) or paragraph A13(1)(h) or (k), (2)(a)(iii) or (b), or (3)(a)(ii), the extent to which the proceeds of disposal mentioned in the provision in question were publicly funded proceeds of disposal as defined for the purposes of paragraph A2, A8 or A14, as the case may be.
- (5) A “relevant person” means—
- (a) in the case of a disposal to which paragraph A2 or A14 applies, the governing body or the trustees of the school in question, and
 - (b) in the case of a disposal to which paragraph A8 applies, the foundation body in question.
- (6) A “relevant payment” means—
- (a) in the case of any disposal, a payment in respect of the current school site or sites to which the land relates,
 - (b) in the case of any disposal, a payment under any of the following provisions—
 - paragraph 2(6) of Schedule 3;
 - paragraph 16(5) of Schedule 6 (including that provision as applied by any enactment);
 - section 60(4) of the Education Act 1996;
 - paragraph 28(5) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment), and
 - (c) in the case of a disposal of land falling within any of the following provisions—
 - paragraph A1(1)(f) or (g);
 - paragraph A7(1)(e) or (f);
 - paragraph A13(1)(g), (i) or (j),a payment in respect of the grant mentioned in the provision in question.
- (7) The reference in sub-paragraph (5)(a) to the governing body or the trustees of the school in question includes—
- (a) where the school was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
 - (b) where the school was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
 - (c) where the school was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.
- (8) The reference in sub-paragraph (5)(b) to the foundation body in question includes—

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- (a) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
- (b) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
- (c) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.

Power to vary or revoke determinations or orders

- A20 (1) A determination made by the adjudicator on a reference made to him under any of paragraphs A3 to A15 may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by a relevant person in relation to the determination, and
 - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (2) A “relevant person” in relation to a determination means—
- (a) the local education authority, governing body, foundation body or trustees who made the reference to the adjudicator in relation to which the determination was made, or
 - (b) any other of those persons who could have made that reference.
- (3) In determining whether to make a reference to the adjudicator under subparagraph (1)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4) An order made by the adjudicator on an application under paragraph A5, A11 or A17 may be varied or revoked by a further order made by him if—
- (a) an application for its variation or revocation is made to him by an appropriate person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (5) An “appropriate person” in relation to an order made under paragraph A5, A11 or A17 means—
- (a) the governing body, the foundation body or the trustees, as the case may be, who applied for the order,
 - (b) the local education authority, or
 - (c) if different from that authority, the local authority to whom land is required to be transferred under the order.

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- (6) In determining whether to make an application to the adjudicator under sub-paragraph (4)(a), an appropriate person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (7) Paragraph A19 applies in relation to the further determination by the adjudicator, by virtue of sub-paragraph (1) or (4), of any matter for the purposes of any of paragraphs A2 to A17 as it applies in relation to the original determination of the matter.

Meaning of “capital expenditure”

- A21
- (1) This paragraph applies to the references to capital expenditure in the definition of “relevant capital expenditure” in paragraphs A6, A12 and A18.
 - (2) Subject to sub-paragraphs (3) and (4), such references are references to—
 - (a) in the case of paragraph A6, expenditure which, if it were to be incurred by the governing body, would fall to be capitalised in accordance with proper accounting practices;
 - (b) in the case of paragraph A12, expenditure which, if it were to be incurred by the foundation body, would fall to be capitalised in accordance with proper accounting practices;
 - (c) in the case of paragraph A18, expenditure which, if it were to be incurred by the trustees, would fall to be capitalised in accordance with proper accounting practices.
 - (3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated—
 - (a) for the purposes of paragraph A6 as being, or as not being, capital expenditure of any governing body, or any prescribed class or description of governing body;
 - (b) for the purposes of paragraph A12 as being, or as not being, capital expenditure of any foundation body, or any prescribed class or description of foundation body;
 - (c) for the purposes of paragraph A18 as being, or as not being, capital expenditure of any trustees, or any prescribed class or description of trustee.
 - (4) The Secretary of State may by direction provide that—
 - (a) expenditure of a particular governing body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A6 as being, or as not being, capital expenditure of that body;
 - (b) expenditure of a particular foundation body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A12 as being, or as not being, capital expenditure of that body;
 - (c) expenditure of particular trustees, which is expenditure of a particular class or description, is to be treated for the purposes

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of paragraph A18 as being, or as not being, capital expenditure of those persons.

- (5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.
- A22 (1) For the purposes of paragraph A21, “proper accounting practices”, in relation to a governing or foundation body, or to trustees, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by that body, or as the case may be, those persons, or
 - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the relevant local education authority.
- (2) The “relevant local education authority” means the local education authority to whom notice of the disposal in question is required to be given under paragraph A2, A8 or A14.
- (3) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.

Land required by local education authority for certain purposes

- A23 (1) A local education authority in England may apply to the adjudicator for a transfer order under this paragraph in relation to publicly funded land which—
- (a) is held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school,
 - (b) is held by a foundation body for the purposes of the group of schools for which it acts, or
 - (c) is held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school.
- (2) A transfer order is an order requiring the land in relation to which it is made to be transferred by the body or trustees holding it to the authority, subject to the payment by the authority of such sum by way of consideration (if any) as the adjudicator determines to be appropriate.
- (3) In determining whether to make an application under sub-paragraph (1) for a transfer order, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give the

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body or trustees holding the land notice of the authority's intention to make the application.

- (5) An application under sub-paragraph (1) must state the purpose for which the land to which it relates is required by the authority ("the stated purpose").
- (6) In relation to the content of such an application, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (7) Where an application is made under sub-paragraph (1) for a transfer order in relation to publicly funded land, the adjudicator may make a transfer order if he is satisfied that—
 - (a) the land is not required for the purposes of the school or, as the case may be, the schools in the group,
 - (b) the land is required by the authority for the stated purpose,
 - (c) the stated purpose is a qualifying purpose, and
 - (d) it is appropriate for the land to be used for that purpose.
- (8) For the purposes of sub-paragraph (7)(c) the stated purpose is a qualifying purpose if it falls within one or more of the following descriptions of purpose—
 - (a) the land is required for the purposes of any school or institution which is, or is to be, maintained by the authority, or which they have power to assist;
 - (b) the land is otherwise required for the purposes of the exercise of any of the functions of the authority;
 - (c) the land is required for the provision of children's services by or on behalf of the local authority who are that authority in the exercise of any of the relevant functions of that local authority.
- (9) For the purposes of sub-paragraph (8)(c)—

"children's services" are services provided for or in relation to any of the following persons (whether or not they are also provided for or in relation to any other persons)—

 - (a) children;
 - (b) persons aged 18 or 19;
 - (c) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989;
 - (d) persons over the age of 19 but under the age of 25 who have a learning difficulty, within the meaning of section 13 of the Learning and Skills Act 2000, and are receiving services under that Act;

"relevant functions" means the functions described in any of paragraphs (a), (c), (d) or (e) of subsection (1) of section 135 of the Education and Inspections Act 2006.
- (10) Before making a transfer order the adjudicator must consult the body or trustees holding the land in relation to which the application for the transfer order is made.

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- (11) In determining whether to make a transfer order, the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
 - (12) Where a transfer order is made, the authority must use the land to which it relates for the stated purpose.
 - (13) A transfer order made by the adjudicator may be varied or revoked by a further order made by the adjudicator if—
 - (a) an application for its variation or revocation is made to him by a relevant person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
 - (14) A “relevant person” in relation to a transfer order means—
 - (a) the local education authority who applied for the transfer order, or
 - (b) the body or trustees who held the land to which the order relates.
 - (15) In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
 - (16) Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.
- A24 (1) For the purposes of paragraph A23, land held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school is “publicly funded land” if it is—
- (a) land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
 - (b) land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8;
 - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
 - (c) land acquired under any regulations made under—
 - section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
 - section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (d) land acquired from a foundation body,
 - (e) land acquired from the Funding Agency for Schools,
 - (f) land acquired wholly by means of—

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- (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
 - (ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (g) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (h) land acquired wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or
 - (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (h).
- (2) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A25 (1) For the purposes of paragraph A23, land held by a foundation body for the purposes of the group of schools for which it acts is “publicly funded land” if it is—
- (a) land acquired under any of the following—
 - paragraph 2, 4 or 9 of Schedule 3;
 - paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5 or 6 of Schedule 21;
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (b) land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);

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- any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
 - any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (c) land acquired from the governing body of a maintained school,
 - (d) land acquired from another foundation body,
 - (e) land acquired wholly by means of—
 - (i) any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), or
 - (ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (f) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (g) land acquired wholly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or
 - (h) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (g).
- (2) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A26 (1) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is “publicly funded land” if it is—
- (a) land acquired under section 60, 61 or 70 of the Education Act 1996,
 - (b) land acquired under any of the following—
 - paragraph 2 of Schedule 3;

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- paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (c) land acquired under any of the following—
 - paragraph 4 or 9 of Schedule 3;
 - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
 - (d) land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
 - (e) land acquired wholly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
 - (f) land acquired from the Funding Agency for Schools,
 - (g) land acquired wholly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
 - (ii) any grant paid under section 216(2) of that Act, or
 - (iii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (h) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (f) to (h), or
 - (j) land acquired wholly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996).
- (2) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation or foundation special school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
 - (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,

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- (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or
 - (iii) acquired by the governing body wholly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
 - (b) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a voluntary school by the trustees of the school is also “publicly funded land” if it is—
 - (a) land acquired by the governing body of the school—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) wholly with the proceeds of disposal of any land so acquired,
and transferred by the governing body to be held on trust by the trustees, or
 - (b) in the case of a school to which sub-paragraph (4) applies, land acquired wholly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
- (5) Land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is not “publicly funded land” for the purposes of paragraph A23 if it is—
 - (a) land acquired under section 60 or 61 of the Education Act 1996, or
 - (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act, by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).
- (6) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
 - (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) An “appropriate statement” in relation to expenditure is a statement in writing which—
 - (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

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

Notice in relation to grants under paragraph 5 of Schedule 3

- A27 (1) Where a grant is made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), the Secretary of State may within the relevant period give the body or other persons to whom the grant is made notice that—
- (a) any land acquired, or enhanced in value, wholly or partly by means of the grant is land falling within paragraph A1(1)(g), A7(1)(f) and A13(1)(j), and
 - (b) any land acquired wholly or partly by means of the grant is land falling within paragraph A24(1)(g), A25(1)(f) and A26(1)(h).
- (2) The “relevant period” means the period of 6 months beginning with the date upon which the grant is made.”

- 3 In the heading to Part 1 of the Schedule after “SCHOOLS” insert “IN WALES”.
- 4 (1) Paragraph 1 is amended as follows.
- (2) In sub-paragraph (1)—
 - (a) after “foundation special school” insert “in Wales”, and
 - (b) omit paragraph (c).
 - (3) In sub-paragraph (1A)(b) for “falling within section 21(1)(a)” substitute “established otherwise than under this Act”.
 - (4) In sub-paragraphs (2) and (3) for “Secretary of State” substitute “Assembly”.
 - (5) In sub-paragraph (3)—
 - (a) for “his” substitute “its”,
 - (b) for “he”, wherever occurring, substitute “the Assembly”, and
 - (c) for “him” substitute “the Assembly”.
- 5 (1) Paragraph 2 is amended as follows.
- (2) In sub-paragraph (1)—
 - (a) after “by a foundation body” insert “in Wales”,
 - (b) in paragraph (a) omit the words from “or acquired” to the end, and
 - (c) in paragraph (d) for “Secretary of State” substitute “Assembly”.
 - (3) After that sub-paragraph insert—

“(1A) A “foundation body in Wales” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in Wales.”
 - (4) In sub-paragraphs (2) and (3) for “Secretary of State” substitute “Assembly”.
 - (5) In sub-paragraph (3)—
 - (a) for “his” substitute “its”, and
 - (b) for “he”, wherever occurring, substitute “the Assembly”.
- 6 (1) Paragraph 2A is amended as follows.

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- (2) In sub-paragraph (1) after “trustees of a foundation or foundation special school” insert “in Wales”.
 - (3) In sub-paragraphs (3) and (4) for “Secretary of State” substitute “Assembly”.
 - (4) In sub-paragraph (4)—
 - (a) for “his” substitute “its”, and
 - (b) for “he”, wherever occurring, substitute “the Assembly”.
 - (5) In sub-paragraph (6) after “foundation special school” insert “in Wales”.
- 7
- (1) Paragraph 3 is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) after “foundation special school” insert “in Wales”,
 - (b) in paragraph (a) omit the words from “or acquired” to the end,
 - (c) omit paragraph (d), and
 - (d) in paragraph (f) omit “(d) or”.
 - (3) In sub-paragraph (2) after “voluntary aided school” insert “in Wales”.
 - (4) In sub-paragraphs (3) and (4) for “Secretary of State” substitute “Assembly”.
 - (5) In sub-paragraph (8) omit “(d),”.
 - (6) In sub-paragraph (9)—
 - (a) for “Secretary of State”, wherever occurring, substitute “Assembly”, and
 - (b) for “he” substitute “the Assembly”.
 - (7) In sub-paragraph (12) after “foundation special school” insert “in Wales”.
- 8
- (1) Paragraph 4 is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) after “local education authority” insert “in Wales”, and
 - (b) for “Secretary of State” substitute “Assembly”.
 - (3) In sub-paragraph (2)—
 - (a) for “Secretary of State” substitute “Assembly”, and
 - (b) for “he” substitute “the Assembly”.
- 9
- (1) Paragraph 5 is amended as follows.
 - (2) In sub-paragraph (1)(b)—
 - (a) for “Secretary of State” substitute “appropriate authority”, and
 - (b) for sub-paragraphs (i) and (ii) substitute—
 - “(i) under section 19(1) requiring a foundation, voluntary or foundation special school in Wales to be discontinued,
 - (ii) under section 32(1) requiring a foundation special school in Wales to be discontinued,
 - (iii) under section 68(1) of the Education and Inspections Act 2006 requiring a foundation, voluntary or foundation special school in England to be discontinued, or

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(iv) under section 17(1) of that Act requiring a foundation special school in England to be discontinued.”

(3) In sub-paragraph (2) for the words from “Secretary of State” to the end substitute “appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—

- (a) if the school is in England, any land falling within paragraphs (a) to (i) of paragraph A1(1) other than land falling within sub-paragraph (2A), or
- (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 1(1),

which is held by the body for the purposes of the school.”

(4) After sub-paragraph (2) insert—

“(2A) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (g) of paragraph A1(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (i) of paragraph A1(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(2B) If the school is in England and the governing body dispose of any land falling within sub-paragraph (2A) which is held by them for the purposes of the school, paragraph A1 shall apply to them.”

(5) In sub-paragraph (3) for the words from “Secretary of State” to the end substitute “appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—

- (a) if the school is in England, any land falling within paragraphs (a) to (h) of paragraph A7(1) other than land falling within sub-paragraph (3A), or
- (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 2(1),

which is held by the body for the purposes of the schools comprising the group.”

(6) After sub-paragraph (3) insert—

“(3A) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (f) of paragraph A7(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (h) of paragraph A7(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(3B) If the school is in England and the foundation body disposes of any land falling within sub-paragraph (3A) which is held by it for the purposes of the schools comprising the group, paragraph A7 shall apply to it.”

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- (7) In sub-paragraph (4)—
- (a) for “Secretary of State” substitute “appropriate authority”,
 - (b) for paragraph (a) substitute—
 - “(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;”,
 - (c) in paragraph (b) for “him” and “he” substitute “the appropriate authority”, and
 - (d) in paragraph (c) for “he” substitute “the appropriate authority”.
- (8) After sub-paragraph (4) insert—
- “(4ZA) Where the school is in England, the trustees of the school shall apply to the appropriate authority for it to exercise its powers under sub-paragraph (4B) in relation to any land falling within paragraph A13(1), (2) or (3), other than land falling within sub-paragraph (4ZB), which is held by the trustees for the purposes of the school.
- (4ZB) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (j) of paragraph A13(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
 - (b) land falling within paragraph (k) of paragraph A13(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.”
- (9) In sub-paragraph (4A)—
- (a) after “Where the school” insert “is in Wales and”, and
 - (b) for “Secretary of State for him to exercise his” substitute “appropriate authority for it to exercise its”.
- (10) In sub-paragraph (4B)—
- (a) after “under sub-paragraph” insert “(4ZA) or”,
 - (b) for “Secretary of State” substitute “appropriate authority”,
 - (c) for paragraph (a) substitute—
 - “(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;”,
 - (d) in paragraph (b) for the words from “for the purposes of another” to the end substitute “—
 - (i) in the case of a school in England, for the purposes of another foundation, voluntary or foundation special school, or
 - (ii) in the case of a school in Wales, for the purposes of another foundation or foundation special school or for the purposes of a voluntary school,

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- direct the trustees to exercise that power in such manner as the appropriate authority may specify;”
- (e) in paragraph (c) after “sub-paragraph” insert “(4ZA) or, as the case may be,”, and
- (f) in paragraphs (c) and (d) for “he”, wherever occurring, substitute “the appropriate authority”.
- (11) In sub-paragraph (5)—
- (a) after “(3)” insert “, (4ZA)”, and
- (b) for “Secretary of State” substitute “appropriate authority”.
- (12) After that sub-paragraph insert—
- “(5A) Where the school is in England and the trustees of the school—
- (a) dispose of any land falling within sub-paragraph (4ZB), or
- (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph A13 shall apply to them.”
- (13) In sub-paragraph (6) after “Where” insert “the school is in Wales and”.
- 10 (1) Paragraph 6 is amended as follows.
- (2) In sub-paragraph (1) for “Secretary of State's” substitute “appropriate authority's”.
- (3) In sub-paragraph (2)—
- (a) for “Secretary of State” substitute “appropriate authority”,
- (b) for “he”, wherever occurring, substitute “the appropriate authority”,
- (c) for “the authority”, wherever occurring, substitute “the local education authority”, and
- (d) for “him” substitute “the appropriate authority”.
- (4) After sub-paragraph (3) insert—
- “(3A) Where the school is in England and the trustees of the school—
- (a) dispose of any land falling within paragraph A13(1), (2) or (3), or
- (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph A13 shall apply to them.”
- (5) In sub-paragraph (4) after “Where” insert “the school is in Wales and”.
- 11 In paragraph 7, in sub-paragraphs (2)(ii), (3)(c) and (6), for “Secretary of State” substitute “appropriate authority”.
- 12 In paragraph 8(2)—
- (a) for “Secretary of State” substitute “appropriate authority”,
- (b) for “he”, wherever occurring, substitute “the appropriate authority”,
- (c) for “him” substitute “the appropriate authority”, and
- (d) for “the authority”, wherever occurring, substitute “the local education authority”.
- 13 After paragraph 8 insert—

“PART 2A

MAINTAINED SCHOOL: TRANSFER OF LAND FROM TRUSTEE TO GOVERNING BODY

8A (1) This paragraph applies where the trustee of one or more foundation or foundation special schools to which section 23A (requirements as to foundations) applies is a body corporate.

(2) Where—

- (a) the body corporate has under any enactment passed a resolution for its winding up,
- (b) a court has made an order for the winding up of the body corporate,
- (c) the body corporate has been removed under subsection (4) of section 3 of the Charities Act 1993 from the register of charities kept under that section, or
- (d) prescribed conditions relating to the ability of the body corporate to pay its debts or to its continued existence as a body corporate or as a charity are met,

the Secretary of State may make an order under this paragraph.

(3) Conditions may be prescribed under sub-paragraph (2)(d) by reference to the opinion of the Secretary of State as to any prescribed matter.

(4) An order under this paragraph is an order directing that any land falling within paragraph A13(1)(b) or (2) held by the body corporate on trust for one or more foundation or foundation special schools to which section 23A applies is to be transferred to, and by virtue of the order vest in—

- (a) the governing body of the school, or
- (b) where the land is held on trust for two or more schools, such of the governing bodies of the schools as the Secretary of State thinks proper.

(5) In a case where—

- (a) proposals to establish a new foundation or foundation special school fall to be implemented under Schedule 2 to the Education and Inspections Act 2006, and
- (b) the local education authority have before the school opening date transferred land to be held on trust for the school,

references in this paragraph to a foundation or foundation special school include references to a proposed such school, references to a governing body include references to a proposed governing body and for the purpose of sub-paragraph (1) section 23A is to be taken to apply to the proposed school if it would apply to the school when it is established.

(6) In this paragraph—

“charity” has the same meaning as in the Charities Act 1993;
“foundation” means a foundation established otherwise than under this Act.”

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

- 14 In paragraph 9(1)—
- (a) after “paragraph” insert “A5, A11, A17, A23,” and
 - (b) for “or 8(2)(b)” substitute “, 8(2)(b) or 8A”.
- 15 (1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (1) after paragraph (d) insert—
 - “(e) “the appropriate authority” means—
 - (i) in relation to a school in England, the Secretary of State, and
 - (ii) in relation to a school in Wales, the Assembly.”
 - (3) In sub-paragraph (3) after “paragraphs” insert “A1(1), A13(1), (2) or (3)(a), A24 to A26,”.
 - (4) In sub-paragraph (4) after “paragraphs” insert “A1(1), A13(1),”.
 - (5) In sub-paragraph (5) for “paragraph 1(1)” substitute “paragraphs A1(1) and 1(1)”.
- 16 (1) Paragraph 11 is amended as follows.
- (2) For paragraph (a) of sub-paragraph (1) substitute—
 - “(a) subject to sub-paragraph (7), “capital expenditure” means expenditure of the governing body in question which falls to be capitalised in accordance with proper accounting practices;”.
 - (3) In paragraph (b) of that sub-paragraph for “that Order” substitute “the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002”.
 - (4) In sub-paragraph (4) for the words from “, either by agreement” to the end substitute “—
 - (a) by agreement between the authority and the relevant body, or
 - (b) by the adjudicator where—
 - (i) the authority or the relevant body refer the matter to him for determination, and
 - (ii) by the time of his determination, the matter has not been determined by agreement between the authority and the relevant body.”
 - (5) After sub-paragraph (4) insert—
 - “(4A) In determining whether to make a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.
 - (4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference.”
 - (6) In sub-paragraph (5)—
 - (a) for “Secretary of State” substitute “adjudicator”, and
 - (b) after “particular” insert “to any guidance given from time to time by the Secretary of State and”.
 - (7) After sub-paragraph (5) insert—

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“(5A) A determination made by the adjudicator on a reference made to him under sub-paragraph (4)(b) may be varied or revoked by a further determination made by him if—

- (a) the matter is referred to him by the local education authority or the relevant body, and
- (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.

(5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the local education authority or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter.”

(8) After sub-paragraph (6) insert—

“(7) The Secretary of State may—

- (a) by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of any governing body or of any prescribed class or description of governing body;
- (b) by direction provide that expenditure of a particular governing body which is expenditure of a particular class or description is to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of that body.

(8) Directions under sub-paragraph (7)(b) may be expressed to have effect in specified circumstances or subject to specified conditions.”

17 After paragraph 11 insert—

“12 (1) For the purposes of paragraph 11(1)(a), “proper accounting practices”, in relation to a governing body, means those accounting practices—

- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the governing body, or
- (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.

(2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.”

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

PART 2

AMENDMENTS TO SECTION 77 OF SSFA 1998

- 18 (1) Section 77 of SSFA 1998 (control of disposals or changes of use of school playing fields in relation to England) is amended as follows.
- (2) In subsection (1)—
- (a) for “Except” substitute “Subject to subsections (2A) and (2B), except”, and
 - (b) after “a body” insert “or trustees”.
- (3) For subsection (2) substitute—
- “(2) Subsection (1) applies to—
- (a) a local authority;
 - (b) the governing body of a maintained school;
 - (c) a foundation body;
 - (d) the trustees of a foundation, voluntary or foundation special school.”
- (4) After subsection (2) insert—
- “(2A) Subsection (1) applies in the case of a disposal by the trustees of a foundation, voluntary or foundation special school, only if the disposal is of land falling within paragraph A13(1), (2) or (3) of Schedule 22.
- (2B) Subsection (1) does not apply—
- (a) to a disposal in pursuance of a transfer order under paragraph A23 of that Schedule, or
 - (b) to a disposal to which paragraph 5 or 6 of Schedule 22 (disposals on discontinuance) applies.”
- (5) In subsection (3)—
- (a) for “Except” substitute “Subject to subsections (4) and (4A), except”,
 - (b) for “a local authority” substitute “a body or trustees to whom subsection (1) applies”, and
 - (c) for “falling within subsection (1)” substitute “which falls within subsection (1) or is excluded from that subsection by subsection (2B)(a) or (b)”.
- (6) In subsection (4) omit “by a local authority”.
- (7) After subsection (4) insert—
- “(4A) Subsection (3) applies in relation to the trustees of a foundation, voluntary or foundation special school only if the playing fields in question are land falling within paragraph A13(1), (2) or (3) of Schedule 22.”
- (8) In subsection (7), at the appropriate place, insert—
- ““maintained school” includes a maintained nursery school;”.

PART 3

CONSEQUENTIAL AMENDMENTS

- 19 In section 75(2) of SSFA 1998 (transfer of land by governing body to trustees) after “Paragraph” insert “A1 or”.
- 20 In section 79(1)(b) of SSFA 1998 (stamp duty exemption for certain transfers) after “paragraph” insert “A23,”.
- 21 In section 138 of SSFA 1998 (orders and regulations), in subsection (2)(b) (orders not made by statutory instrument), for “or 7(3)(c)” substitute “, 7(3)(c) or 8A”.
- 22 In Schedule 3 to SSFA 1998 (funding of foundation, voluntary and foundation special schools), in paragraph 2, in sub-paragraph (10), after “paragraphs” insert “A1 to A16 or”.
- 23 In Schedule 32 to SSFA 1998 (transitional provisions and savings), in paragraph 4(4)—
- (a) in paragraph (a) for “paragraph 1(1)(d)” substitute “paragraphs A1(1)(f) and 1(1)(d)”;
 - (b) in paragraph (b) for “paragraph 2(1)(d)” substitute “paragraphs A7(1)(e) and 2(1)(d)”, and
 - (c) in paragraph (c) for “paragraph 3(1)(e)” substitute “paragraphs A13(1)(g) and 3(1)(e)”.

SCHEDULE 5

Section 57

FUNDING OF MAINTAINED SCHOOLS

- 1 In section 17(6) of SSFA 1998 (power of LEA to suspend right to delegated budget), omit the words from “but” onwards.
- 2 (1) Section 47A of SSFA 1998 (schools forums) is amended as follows.
- (2) In subsection (3)(b), for the words from “function” to the end substitute “other function that may be imposed on the schools forum by or under this Chapter”.
- (3) Omit subsection (6) (which enables regulations under subsection (5) of that section to enable the Secretary of State or the Assembly to remove a non-schools member from membership of a schools forum).
- (4) For subsection (9) substitute—
- “(9) In this section “relevant authority”, in relation to a schools forum, means the local education authority by whom the forum is established.”
- 3 (1) Section 48 of SSFA 1998 (local education authorities' financial schemes) is amended as follows.
- (2) In subsection (1), for “prepare” substitute “maintain”.
- (3) In subsection (3), for “prepared” substitute “maintained”.
- (4) In subsection (4), omit the words from “the approval” to “and for”.

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- (5) In subsection (5), for the words from “the scheme prepared” to the end substitute “the scheme for the time being maintained under this section”.
- 4 In section 49 of SSFA 1998 (maintained schools to have delegated budgets) for subsections (2) and (3) substitute—
- “(2) A new school shall have a delegated budget from a date determined in accordance with regulations.
- (2A) Regulations under subsection (2) may—
- (a) enable the date that would otherwise apply by virtue of the regulations to be varied in accordance with the regulations, on the application of the local education authority, by the authority’s schools forum or by the Secretary of State, and
- (b) make provision about the respective powers of the schools forum and the Secretary of State in relation to any application to vary that date.”
- 5 (1) Schedule 14 to SSFA 1998 (approval, imposition and revision of local education authority schemes) is amended as follows.
- (2) For the heading substitute “REVISION OF LOCAL EDUCATION AUTHORITY SCHEMES”.
- (3) For the italic heading immediately before paragraph 1 substitute “Publication of schemes”.
- (4) In paragraph 1—
- (a) omit sub-paragraphs (1) to (6), and
- (b) for sub-paragraph (7) substitute—
- “(7) A scheme maintained by a local education authority under section 48(1) shall be published in such manner as may be prescribed—
- (a) on its coming into force as revised under this Schedule, and
- (b) on such other occasions as may be prescribed.”
- (5) For paragraph 2 substitute—
- “2A (1) A local education authority may, in accordance with this paragraph, revise the whole or part of the scheme maintained by them under section 48(1).
- (2) In revising the scheme, the local education authority shall take into account any guidance given by the Secretary of State, whether—
- (a) generally, or
- (b) in relation to that authority or any class or description of local education authorities to which that authority belongs,
- as to the provisions the Secretary of State regards as appropriate for inclusion in the scheme.
- (3) As regards any proposed variation of the scheme, the authority—

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- (a) shall first consult the governing body and head teacher of every school maintained by the authority (within the meaning of this Chapter), and
 - (b) shall then submit a copy of their proposals to the authority's schools forum for their approval.
- 2B (1) Regulations may make provision preventing schemes as revised from coming into force unless they are approved in accordance with the regulations by the local education authority's schools forum or by the Secretary of State.
- (2) The regulations may in particular—
 - (a) prescribe circumstances in which proposals which have been submitted to a local education authority's schools forum may be submitted to the Secretary of State,
 - (b) enable the schools forum or the Secretary of State to approve proposals with modifications, and
 - (c) enable the schools forum or the Secretary of State, in giving their or his approval, to specify the date on which the scheme as revised is to come into force.”
- 6 In Schedule 15 to SSFA 1998 (suspension of financial delegation), the following provisions (which confer on the governing body a right to appeal to the Secretary of State or the Assembly or relate to that right of appeal) are omitted—
 - (a) paragraph 1(4) and (6),
 - (b) paragraph 2(5), and
 - (c) paragraph 3.

SCHEDULE 6

Section 70

GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

Interpretation of Schedule

- 1 (1) In this Schedule—
 - “the appropriate authority” means—
 - (a) where this Schedule applies by virtue of a notice under section 65(1), the local education authority who gave the notice, and
 - (b) where this Schedule applies by virtue of a notice under section 69(1), the Secretary of State;
 - “existing governors”, in relation to a school in respect of which a notice under section 65(1) or 69(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;
 - “the interim period”, in relation to a school in respect of which a notice under section 65(1) or 69(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule;
 - “a normally constituted governing body” means a governing body constituted in accordance with regulations made by virtue of section 19 of EA 2002 (governing bodies).

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- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

Governing body to consist of members appointed by appropriate authority

- 2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of EA 2002.
- (2) In the following provisions of this Schedule—
- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and
 - (b) the members of the governing body as so constituted are referred to as “interim executive members”.

Effect of notice under section 65(1) or 69(1)

- 3 (1) On the date specified in the notice under section 65(1) or 69(1), the existing governors vacate office.
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.
- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school has effect, in relation to the school, as a reference to an interim executive member.
- (4) During the interim period, section 83 of SSFA 1998 (modification of provisions making governors of foundation or voluntary school ex officio trustees) has effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

Interim executive members

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members must be made so as to take effect on the date specified in the relevant notice.
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.
- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.
- (2) An interim executive member—
- (a) holds office in accordance with the terms of his appointment and subject to paragraph 18, and
 - (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice.

Duty of appropriate authority to inform other persons

- 6 (1) The appropriate authority must give a copy of the notice under section 65(1) or 69(1) and of every instrument of appointment of an interim executive member—
- (a) to every interim executive member,
 - (b) to every existing governor of the school,
 - (c) where the local education authority are the appropriate authority, to the Secretary of State,
 - (d) where the Secretary of State is the appropriate authority, to the local education authority,
 - (e) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, to the appropriate diocesan authority, and
 - (f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed.
- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

Power to specify duration of interim period

- 7 The appropriate authority may in the notice under section 65(1) or 69(1) specify the duration of the interim period.

Chairman

- 8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

Remuneration and allowances

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

Duty of interim executive board

- 10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

Proceedings of interim executive board

- 11 (1) The interim executive board may determine their own procedure.
- (2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person.

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Effect on suspension of delegated budget

- 12 (1) If, immediately before the date specified in the notice under section 65(1) or 69(1), the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 to SSFA 1998 (suspension of delegated budget for mismanagement etc) has been given to the governing body before the date specified in a notice under section 65(1) or 69(1) but has not yet taken effect, the notice under that paragraph ceases to have effect on that date.
- (3) During the interim period, the local education authority may not exercise the power conferred by section 66 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7) of SSFA 1998.

Exclusion of certain statutory provisions

- 13 (1) Regulations made by virtue of subsection (2) or (3) of section 19 of EA 2002 (governing bodies) shall not apply in relation to the interim executive board.
- (2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board.
- 14 During the interim period—
- (a) the local education authority may not exercise any power conferred by section 64 (power to appoint additional governors), and
 - (b) the Secretary of State may not exercise any power conferred by section 67 (power to appoint additional governors).

Closure of school

- 15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the Secretary of State recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
- (a) publish under section 15(2) proposals to discontinue the school, or
 - (b) serve notice under section 30 of SSFA 1998.
- 16 (1) Where during the interim period—
- (a) the Secretary of State gives a direction under section 17(1) or 68(1) in relation to the school, or
 - (b) the local education authority determine to discontinue the school,
- the interim period is to continue until the discontinuance date, even where it would otherwise end before that date.
- (2) In this paragraph “the discontinuance date” means—
- (a) the date on which proposals for discontinuing the school are implemented under Part 4 of Schedule 2,
 - (b) the date on which the school is discontinued under section 30 of SSFA 1998,
- or

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- (c) the date specified in the direction under section 17(1) or 68(1), as the case may be.

Notice of resumption of government by normally constituted governing body

- 17 (1) Where—
- (a) the notice under section 65(1) or 69(1) did not specify the duration of the interim period, and
 - (b) paragraph 16 does not apply,
- the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body.
- (2) The persons referred to in sub-paragraph (1) are—
- (a) every interim executive member,
 - (b) where the local education authority are the appropriate authority, the Secretary of State,
 - (c) where the Secretary of State is the appropriate authority, the local education authority,
 - (d) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

Time when interim executive members cease to hold office

- 18 (1) The interim executive members vacate office—
- (a) in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
 - (b) in a case where that paragraph does not apply and the notice under section 65(1) or 69(1) specified the duration of the interim period, at the end of the specified period, and
 - (c) in any case, on the date specified under paragraph 17(1).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.

Establishment of normally constituted governing body

- 19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18(1)(b) or (c), the local education authority must make arrangements providing for the constitution of the governing body on and after that date.
- (2) The Secretary of State may by regulations make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- (a) modify any provision made under any of sections 19, 20 and 23 of EA 2002 or by Schedule 1 to that Act,
 - (b) apply any such provision with or without modifications, and

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- (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.

SCHEDULE 7

Section 71

AMENDMENTS RELATING TO SCHOOLS CAUSING CONCERN

PART 1

PRINCIPAL AMENDMENTS

Statement to be prepared by LEA following adverse report on maintained school

- 1 (1) Section 15 of EA 2005 (measures to be taken by local education authority following inspection report stating that school requires special measures or significant improvement) is amended as follows.
 - (2) In subsection (1), for “This section” substitute “Subsection (2)”.
 - (3) For subsection (2) substitute—
 - “(2) The local education authority must—
 - (a) consider what action to take in the light of the report,
 - (b) consider what arrangements to make for the purpose of informing registered parents of the proposed action, ascertaining their views on the proposed action and taking account of those views,
 - (c) consider whether those arrangements are to include the appointment of a specified person for that purpose,
 - (d) prepare a written statement—
 - (i) of the action they propose to take, and the period within which they propose to take that action, or, if they do not propose to take such action, of their reasons for not doing so, and
 - (ii) of the arrangements they propose to make for the purpose mentioned in paragraph (b), and
 - (e) send a copy of the statement prepared under paragraph (d) to—
 - (i) the Chief Inspector,
 - (ii) in the case of a voluntary aided school, the person who appoints the foundation governors and (if different) the appropriate appointing authority, and
 - (iii) such other persons as the Secretary of State may specify.
- (2A) Subsection (2B) applies where—
 - (a) the local education authority have prepared a statement under subsection (2) in relation to a school,

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- (b) it appears to the Secretary of State, on the basis of a report of an interim inspection of the school by the Chief Inspector, that the case has become urgent, and
 - (c) no subsequent inspection of the school has been made under section 5.
- (2B) The Secretary of State may by notice require the local education authority to—
- (a) consider the action to be taken in the light of the report of the interim inspection and the arrangements to be made for the purpose mentioned in subsection (2)(b),
 - (b) prepare a written statement—
 - (i) of the action they propose to take, and the period within which they propose to take that action, or, if they do not propose to take such action, of their reasons for not doing so, and
 - (ii) of the arrangements they propose to make for the purpose mentioned in subsection (2)(b), and
 - (c) send a copy of the statement to the Secretary of State and to the persons mentioned in subsection (2)(e)(i) to (iii).
- (2C) For the purposes of subsections (2A) and (2B) an “interim inspection” is an inspection under section 8 in respect of which no election under section 9 is made.”
- (4) In subsection (3) for “the statement” substitute “a statement under subsection (2) or (2B)”.
- (5) After subsection (3) insert—
- “(4) In performing their functions under subsections (2)(a), (b), (c) and (d) and (2B)(a) and (b), the local education authority must have regard to any guidance given from time to time by the Secretary of State.”

Statement to be prepared by proprietor following adverse report on non-maintained school

- 2 (1) Section 17 of EA 2005 (statement to be prepared by proprietor of school other than maintained school) is amended as follows.
- (2) In subsection (1)—
- (a) at the beginning insert “Subsection (1A) applies”, and
 - (b) omit all the words following paragraph (b).
- (3) After subsection (1) insert—
- “(1A) The proprietor must—
- (a) consider what action to take in the light of the report,
 - (b) consider what arrangements to make for the purpose of informing registered parents of the proposed action, ascertaining their views on the proposed action and taking account of those views,
 - (c) consider whether those arrangements are to include the appointment of a specified person for that purpose, and
 - (d) prepare a written statement—

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- (i) of the action the proprietor proposes to take, and the period within which he proposes to take that action, or, if he does not propose to take such action, of his reasons for not doing so, and
- (ii) of the arrangements he proposes to make for the purpose mentioned in paragraph (b).

(1B) Subsection (1C) applies where—

- (a) the proprietor of a school has prepared a statement under subsection (1A) in relation to the school,
- (b) it appears to the Secretary of State, on the basis of a report of an interim inspection of the school by the Chief Inspector, that the case has become urgent, and
- (c) no subsequent inspection of the school has been made under section 5.

(1C) The Secretary of State may by notice require the proprietor to—

- (a) consider the action to be taken in the light of the report of the interim inspection and the arrangements to be made for the purpose mentioned in subsection (1A)(b), and
- (b) prepare a written statement—
 - (i) of the action the proprietor proposes to take, and the period within which he proposes to take that action, or, if he does not propose to take such action, of his reasons for not doing so, and
 - (ii) of the arrangements the proprietor proposes to make for the purpose mentioned in subsection (1A)(b)."

(1D) For the purposes of subsections (1B) and (1C) an “interim inspection” is an inspection under section 8 in respect of which no election under section 9 is made.”

(4) In subsection (3)—

- (a) for “such a statement” substitute “a statement under subsection (1A) or (1C)”, and
- (b) before the word “and” at the end of paragraph (a) insert—
 - “(aa) in the case of a statement under subsection (1C), to the Secretary of State,”.

(5) After subsection (4) insert—

“(5) In performing his functions under subsections (1A)(a), (b), (c) and (d) and (1C)(a) and (b), the proprietor must have regard to any guidance given from time to time by the Secretary of State.”

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

School Standards and Framework Act 1998 (c. 31)

- 3 In the heading to Chapter 4 of Part 1 of SSFA 1998 after “SCHOOLS” insert “IN WALES”.
- 4 (1) Section 14 of SSFA 1998 (powers of intervention exercisable by LEAs) is amended as follows.
- (2) In subsection (1) for “Secretary of State” substitute “Assembly”.
- (3) Omit subsection (1A).
- (4) In subsection (3)—
- (a) in paragraph (a), for “Secretary of State” and “he” substitute respectively “Assembly” and “its”, and
- (b) in paragraph (b), for “he” and “his” substitute respectively “the Assembly” and “its”.
- (5) After subsection (3) insert—
- “(3A) In this Chapter “maintained school” means any school in Wales that is—
- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.”
- (6) In subsection (4)—
- (a) for paragraph (a) substitute—
- “(a) “Chief Inspector” means Her Majesty’s Chief Inspector of Education and Training in Wales,”; and
- (b) omit paragraph (b).
- 5 (1) Section 15 of SSFA 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 3 of Part 1 of the Education Act 2005, the Chief Inspector has given the Assembly 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 that Chapter, 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 Assembly a notice under subsection (2) of section 37 of that Act in case falling

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within subsection (1)(a)(i) or (1)(b)(i) of that section (school requiring special measures).”

- (3) 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 3 of Part 1 of the Education Act 2005, the Chief Inspector has given the Assembly a notice under subsection (2) of section 37 of that Act in a case falling within 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 that Chapter, the notice has not been superseded by the person making the subsequent inspection making a report stating that in his opinion the school no longer requires special measures.”
- (4) Omit subsection (7).
- 6 (1) Section 16 of SSFA 1998 (power of LEA to appoint additional governors) is amended as follows.
- (2) In subsection (3)(a), omit “13(3)(a) or”.
- (3) In subsection (9)—
- (a) for “Secretary of State” (in both places) substitute “Assembly”, and
- (b) in paragraph (a)—
- (i) for “he” substitute “it”, and
- (ii) omit “13(3)(a) or”.
- (4) In subsection (12)(b) for “Secretary of State” substitute “Assembly”.
- (5) In subsection (12A)—
- (a) for “Secretary of State” substitute “Assembly”, and
- (b) for “he” substitute “the Assembly”.
- 7 (1) Section 16A of SSFA 1998 (power of LEA to provide for governing body to consist of interim executive members) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “Assembly”.
- (3) In subsection (2)(a), omit “13(3)(a) or”.
- (4) In subsection (3)—
- (a) for “Secretary of State” substitute “Assembly”, and
- (b) for “he” substitute “the Assembly”.
- 8 (1) Section 17 of SSFA 1998 (power of LEA to suspend right to delegated budget) is amended as follows.
- (2) In subsection (3), omit “13(3)(a) or”.
- (3) In subsection (4)—
- (a) for “Secretary of State” substitute “Assembly”, and
- (b) for “he” substitute “the Assembly”.
- 9 In the italic heading immediately preceding section 18 of SSFA 1998, for “Secretary of State” substitute “Assembly”.

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- 10 (1) Section 18 of SSFA 1998 (power of Secretary of State to appoint additional governors) is amended as follows.
- (2) For “the Secretary of State” and “he”, wherever occurring, substitute “the Assembly”.
- (3) In subsection (6), for “his” substitute “the Assembly's”.
- (4) In the heading, for “Secretary of State” substitute “Assembly”.
- 11 In section 18A of SSFA 1998 (power of Secretary of State to provide for governing body to consist of interim executive members) for “Secretary of State”, wherever occurring (in the section and its heading), substitute “Assembly”.
- 12 (1) Section 19 of SSFA 1998 (power of Secretary of State to direct closure of school) is amended as follows.
- (2) For “Secretary of State”, wherever occurring (in the section and its heading) substitute “Assembly”.
- (3) In subsection (2), omit paragraph (ca).
- 13 In section 19A of SSFA 1998 (governing bodies consisting of interim executive members), in paragraph (b), for “Secretary of State” substitute “Assembly”.
- 14 (1) Section 62 of SSFA 1998 (LEA’s reserve power to prevent a breakdown of discipline) is amended as follows.
- (2) In subsection (1), for “subsection (3)” substitute “subsection (2A) or (3)”.
- (3) After subsection (2) insert—
- “(2A) This subsection applies where, in the case of a school in England—
- (a) a warning notice has been given in accordance with section 60(2) of the Education and Inspections Act 2006 (“the 2006 Act”) referring to the safety of pupils or staff at the school being threatened by a breakdown of discipline at the school,
- (b) the governing body have failed to comply, or secure compliance, with the notice to the authority’s satisfaction within the compliance period, and
- (c) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under subsection (1) of this section (whether or not in conjunction with exercising their powers under any one or more of sections 63 to 66 of the 2006 Act);
- and a notice under paragraph (c) of this subsection may be combined with a notice under section 60(2) of the 2006 Act.”
- (4) In subsection (3) after “applies where” insert “in the case of school in Wales”.
- 15 In section 142 of SSFA 1998 (interpretation), in subsection (4)—
- (a) after “this Act” insert “(or Part 4 of the Education and Inspections Act 2006)”, and
- (b) in paragraph (b), after “section 16(6) or (8)” insert “or of section 64(4) or (6) of the Education and Inspections Act 2006”.
- 16 In section 143 of SSFA 1998 (index) in the entry beginning “maintained school”, after the line beginning “(generally)” insert—

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“(in Chapter 4 of Part 1) section 14(3A).”

- 17 In Schedule 1A to SSFA 1998, for “Secretary of State” (wherever occurring) substitute “Assembly”.

Learning and Skills Act 2000 (c. 21)

- 18 (1) Schedule 7 to the Learning and Skills Act 2000 (sixth forms requiring significant improvement) is amended as follows.
- (2) In paragraph 6(3)(a)(iii) for “section 15(2) and (3)” substitute “section 15(2) to (4)”.
- (3) Omit paragraph 13.

Education Act 2002 (c. 32)

- 19 In section 25 of EA 2002 (federations: supplementary provisions), in subsection (1)
-
- (a) before paragraph (a) insert—
- “(za) Part 4 of the Education and Inspections Act 2006 (schools causing concern: England),”, and
- (b) in paragraph (a), for “(intervention in schools causing concern)” substitute “(intervention in schools causing concern: Wales)”.
- 20 After section 62 of EA 2002 insert—

“62A Power to require LEA in England to obtain advisory services

- (1) This section applies where—
- (a) one or more schools maintained by a local education authority in England are for the purposes of Part 4 of the Education and Inspections Act 2006 (schools causing concern: England) eligible for intervention by virtue of either of the following provisions of that Act—
- (i) section 61 (school requiring significant improvement), or
- (ii) section 62 (school requiring special measures), and
- (b) it appears to the Secretary of State that the local education authority—
- (i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,
- (ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or
- (iii) maintain a disproportionate number of schools falling within that paragraph.
- (2) The Secretary of State may direct the local education authority to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class so specified, for the provision to the authority or the governing body of any school maintained by them (or both) of specified services of an advisory nature.

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- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
 - (4) In this section “school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.
 - (5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State, by a mandatory order.”
- 21 (1) Section 63 of EA 2002 (power to require LEA to obtain advisory services) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), after “by a local education authority” insert “in Wales”, and
 - (b) in paragraph (b), for the words from “Secretary” to “Wales)” substitute “National Assembly for Wales”.
 - (3) In subsection (2), for the words from the beginning to “Wales)” substitute “The National Assembly for Wales”.
 - (4) In subsection (5), omit “of the Secretary of State or, as the case may be,”.
 - (5) In the heading, after “LEA” insert “in Wales”
- 22 (1) Section 64 (provisions supplementary to section 63) is amended as follows.
- (2) In subsections (1) and (2), for “section 63” substitute “section 62A or 63”.
 - (3) In subsection (7)—
 - (a) in the definition of “the advisory services” for “section 63” substitute “section 62A or 63”, and
 - (b) in the definition of “the relevant person”, in paragraph (a) for “section 63(2)” substitute “section 62A(2) or 63(2)”.
 - (4) In the heading, for “section 63” substitute “sections 62A and 63”.

Education Act 2005 (c. 18)

- 23 In section 5 of EA 2005 (duty to inspect schools at prescribed intervals), in subsection (4)(c), for “section 19 or 32 of that Act” substitute “section 17 or 68 of the Education and Inspections Act 2006”.
- 24 In section 18 of EA 2005 (interpretation of Chapter 2 of Part 1), in paragraph (a) of the definition of “appropriate appointing authority”, omit “, a Church in Wales school”.

SCHEDULE 8

Section 77

TRAVEL TO SCHOOLS ETC: MEANING OF “ELIGIBLE CHILD”

After Schedule 35A to EA 1996 insert—

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“SCHEDULE 35B

Section 508B

MEANING OF “ELIGIBLE CHILD” FOR PURPOSES OF SECTION 508B

- 1 For the purposes of section 508B (travel arrangements for eligible children) an “eligible child” means a child who falls within any of paragraphs 2 to 7 or 9 to 13.

Children with special educational needs, a disability or mobility problems

- 2 A child falls within this paragraph if—
- (a) he is of compulsory school age and is any of the following—
 - a child with special educational needs;
 - a disabled child;
 - a child with mobility problems,
 - (b) he is a registered pupil at a qualifying school which is within walking distance of his home,
 - (c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
 - (d) having regard to whichever of the following are relevant—
 - his special educational needs;
 - his disability;
 - his mobility problems,
 he cannot reasonably be expected to walk to the school mentioned in paragraph (b).
- 3 A child falls within this paragraph if—
- (a) he is of compulsory school age and is any of the following—
 - a child with special educational needs;
 - a disabled child;
 - a child with mobility problems,
 - (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and
 - (c) having regard to whichever of the following are relevant—
 - his special educational needs;
 - his disability;
 - his mobility problems,
 he cannot reasonably be expected to walk to that place.

Children who cannot reasonably be expected to walk because of nature of routes

- 4 A child falls within this paragraph if—
- (a) he is of compulsory school age and is a registered pupil at a qualifying school which is within walking distance of his home,
 - (b) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
 - (c) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to the school mentioned in paragraph (a).

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- 5 A child falls within this paragraph if—
- (a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and
 - (b) having regard to the nature of the routes which he could reasonably be expected to take, he cannot reasonably be expected to walk to that place.

Children outside walking distance where no suitable alternative arrangements made

- 6 A child falls within this paragraph if—
- (a) he is of compulsory school age and is a registered pupil at a qualifying school which is not within walking distance of his home,
 - (b) no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near the school, and
 - (c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

- 7 A child falls within this paragraph if—
- (a) he is of compulsory school age and is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
 - (b) that place is not within walking distance of his home,
 - (c) no suitable arrangements have been made by the local education authority for boarding accommodation for him at or near that place, and
 - (d) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.

- 8 (1) 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, and
 - (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,

paragraph 6 has effect as if the place at which the child is required to attend were a qualifying school and the child were a registered pupil at that school (and not at the school mentioned in paragraph (b)).

- (2) For the purposes of sub-paragraph (1)—
- (a) “relevant school” and “appropriate authority” have the same meaning as in section 444ZA (application of section 444 to alternative educational provision), and
 - (b) subsection (3) of that section applies in relation to that sub-paragraph as it applies in relation to subsection (2) of that section.

Children entitled to free school meals etc

- 9 A child falls within this paragraph if—
- (a) he has attained the age of 8 but not the age of 11,
 - (b) he is a registered pupil at a qualifying school which is more than two miles from his home,

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- (c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home, and
 - (d) the appropriate condition is met in relation to him.
- 10 A child falls within this paragraph if—
- (a) he has attained the age of 8 but not the age of 11,
 - (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
 - (c) that place is more than two miles from his home, and
 - (d) the appropriate condition is met in relation to him.
- 11 A child falls within this paragraph if—
- (a) he has attained the age of 11,
 - (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than six miles, from his home,
 - (c) there are not three or more suitable qualifying schools which are nearer to his home, and
 - (d) the appropriate condition is met in relation to him.
- 12 A child falls within this paragraph if—
- (a) he has attained the age of 11,
 - (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than fifteen miles, from his home,
 - (c) his parent has expressed a wish, based on the parent’s religion or belief, for him to be provided with education at that school,
 - (d) having regard to the religion or belief on which the parent’s wish is based, there is no suitable qualifying school which is nearer to the child’s home, and
 - (e) the appropriate condition is met in relation to him.
- 13 A child falls within this paragraph if—
- (a) he has attained the age of 11,
 - (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1),
 - (c) that place is more than two miles, but not more than six miles, from his home, and
 - (d) the appropriate condition is met in relation to him.
- 14 (1) For the purposes of paragraphs 9 to 13, the appropriate condition is met in relation to a child if condition A or condition B is met.
- (2) Condition A is met if the child is within section 512ZB(4) (provision of free school lunches and milk).
- (3) Condition B is met if—
- (a) a parent of the child, with whom the child is ordinarily resident, is a person to whom working tax credit is awarded, and
 - (b) the award is at the rate which is the maximum rate for the parent’s case or, in the case of an award to him jointly with another, at the rate which is the maximum rate for their case.

Meaning of “qualifying school” etc

- 15 (1) The definitions in sub-paragraphs (2) to (5) apply for the purposes of this Schedule.
- (2) “Qualifying school” in relation to a child means—
- (a) a community, foundation or voluntary school,
 - (b) a community or foundation special school,
 - (c) a school approved under section 342 (non-maintained special schools),
 - (d) a pupil referral unit,
 - (e) a maintained nursery school, or
 - (f) a city technology college, a city college for the technology of the arts or an Academy.
- (3) In relation to a child with special educational needs, an independent school, other than a college or Academy falling within sub-paragraph (2)(f), is also a “qualifying school” if—
- (a) it is the only school named in the statement maintained for the child under section 324, or
 - (b) it is one of two or more schools named in that statement and of those schools it is the nearer or nearest to the child’s home.
- (4) “Disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995, and “disability” is to be construed accordingly.
- (5) “Walking distance” has the meaning given by section 444(5).
- (6) “Religion” and “belief” are to be read in accordance with section 509AD(3).
- (7) In the case of a child who is a registered pupil at both a pupil referral unit and at a school other than a unit, references in this Schedule to the school at which he is a registered pupil are to be read as references to the unit.”

SCHEDULE 9

Section 78

SCHOOL TRAVEL SCHEMES

After Schedule 35B to EA 1996 (inserted by section 77 above) insert—

“SCHEDULE 35C

Section 508E

SCHOOL TRAVEL SCHEMES

Power to make scheme

- 1 (1) A local education authority in England may make a school travel scheme for their area.
- (2) Before making a school travel scheme, a local education authority must consult such persons as the authority consider appropriate.

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Arrangements to be included in scheme

- 2 (1) A school travel scheme must set out (in general terms) what arrangements in connection with the attendance of children in the authority’s area receiving education—
- (a) at schools,
 - (b) at any institution within the further education sector, or
 - (c) at any other place by virtue of arrangements made in pursuance of section 19(1),
- the scheme authority consider it appropriate to be made in relation to travel to and from such places.
- (2) Those arrangements are to be either or both of the following—
- (a) arrangements to be made by the authority;
 - (b) arrangements to be made by any other persons.
- (3) A school travel scheme may include travel arrangements of any description and may, in particular, include—
- (a) arrangements for the provision of transport;
 - (b) any of the following arrangements only if made with the relevant parental consent—
 - (i) arrangements for the provision of one or more persons to escort a child (whether alone or together with other children) when travelling to or from any of the places mentioned in any of paragraphs (a) to (c) of sub-paragraph (1);
 - (ii) arrangements for the payment of the whole or any part of a person’s reasonable travelling expenses;
 - (iii) arrangements for the payment of allowances in respect of the use of particular modes of travel;
 - (c) arrangements to facilitate or promote the use of particular modes of travel.
- (4) The reference in sub-paragraph (3) to the relevant parental consent is to the consent of a parent of each child in relation to whom the arrangements in question are made.
- (5) A school travel scheme must require that if any arrangements set out in the scheme involve arrangements to be made by any person other than the scheme authority and those arrangements—
- (a) are not made by that person or by any other persons, or
 - (b) are so made but are not given effect to in compliance with the requirements of the scheme,
- the scheme authority must make suitable alternative arrangements.

Travel arrangements for “eligible children”

- 3 (1) A school travel scheme must require that, in the case of an eligible child in the scheme authority’s area to whom sub-paragraph (2) applies, the authority must make such travel arrangements as they consider necessary in order to secure that suitable home to school travel arrangements, for the purpose of facilitating the child’s attendance at the relevant educational establishment in relation to him, are made in relation to the child.
- (2) This sub-paragraph applies to an eligible child if—

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- (a) no travel arrangements relating to travel in either direction between his home and the relevant educational establishment in relation to him, or in both directions, are provided in relation to him by any person who is not the scheme authority, or
 - (b) such travel arrangements are provided in relation to him by any person who is not the scheme authority but those arrangements, taken together with any other such travel arrangements which are so provided, do not provide suitable home to school travel arrangements for the purpose of facilitating his attendance at the relevant educational establishment in relation to him.
 - (3) “Home to school travel arrangements”, in relation to an eligible child, are travel arrangements relating to travel in both directions between the child’s home and the relevant educational establishment in question in relation to that child.
 - (4) “Travel arrangements”, in relation to an eligible child, are travel arrangements of any description and include—
 - (a) arrangements for the provision of transport, and
 - (b) any of the following arrangements only if they are made with the consent of a parent of the child—
 - (i) arrangements for the provision of one or more persons to escort the child (whether alone or together with other children) when travelling to or from the relevant educational establishment in relation to the child;
 - (ii) arrangements for the payment of the whole or any part of a person’s reasonable travelling expenses;
 - (iii) arrangements for the payment of allowances in respect of the use of particular modes of travel.
 - (5) “Travel arrangements”, in relation to an eligible child, include travel arrangements of any description made by any parent of the child only if those arrangements are made by the parent voluntarily.
 - (6) Regulations may modify sub-paragraphs (1) and (2) to provide for their application in cases where there is more than one relevant educational establishment in relation to a child.
- 4 (1) For the purposes of paragraph 3, an “eligible child” is a child who falls within any of the following paragraphs of Schedule 35B—
- (a) paragraph 2 or 3 (children of compulsory school age with special educational needs, a disability or mobility problems);
 - (b) paragraph 4 or 5 (children of compulsory school age who cannot reasonably be expected to walk because of the nature of the routes);
 - (c) paragraph 6 or 7 (children of compulsory school age who live outside walking distance and for whom no suitable alternative arrangements are made);
 - (d) paragraph 9, 10, 11, 12 or 13 (children aged 8 or over who are entitled to free school meals etc).
- (2) References in paragraph 3 to the “relevant educational establishment”, in relation to an eligible child, are references to—
- (a) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 2, 4, 6, 9, 11 and 12 of Schedule 35B, the qualifying

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school at which the child is a registered pupil referred to in the paragraph in question, and

- (b) in the case of a child who is an eligible child by virtue of falling within any of paragraphs 3, 5, 7, 10 and 13 of Schedule 35B, the place other than a school, where the child is receiving education by virtue of arrangements made in pursuance of section 19(1), referred to in the paragraph in question.

Charges

- 5 (1) A school travel scheme must set out the policy applicable to charging in relation to anything provided in pursuance of the scheme.
- (2) The policy to be set out under sub-paragraph (1) must include provision to the effect that anything provided in pursuance of the scheme for a protected child is provided free of charge.
- (3) The policy to be set out under sub-paragraph (1) must include provision to the effect mentioned in sub-paragraph (3) of paragraph 7 in relation to any child falling within sub-paragraph (1) or (2) of that paragraph.
- 6 (1) For the purposes of paragraph 5, a “protected child” is a child of compulsory school age in the scheme authority’s area who falls within any of sub-paragraphs (2) to (4).
- (2) A child falls within this sub-paragraph if he is a child falling within any of the following paragraphs of Schedule 35B—
- (a) paragraph 2 or 3 (children of compulsory school age with special educational needs, a disability or mobility problems);
- (b) paragraph 4 or 5 (children of compulsory school age who cannot reasonably be expected to walk because of nature of routes).
- (3) A child falls within this sub-paragraph if he is within section 512ZB(4) (provision of free school lunches and milk).
- (4) A child falls within this sub-paragraph if—
- (a) a parent of the child, with whom the child is ordinarily resident, is a person to whom working tax credit is awarded, and
- (b) the award is at the rate which is the maximum rate for the parent’s case or, in the case of an award to him jointly with another, at the rate which is the maximum rate for their case.
- 7 (1) For the purposes of paragraph 5(3), a child falls within this sub-paragraph if—
- (a) he is of compulsory school age and is any of the following—
- a child with special educational needs;
- a disabled child;
- a child with mobility problems,
- (b) he is a registered pupil at a qualifying school which is not within walking distance of his home, and
- (c) no suitable arrangements have been made by the local education authority for enabling him to become a registered pupil at a qualifying school nearer to his home.
- (2) For the purposes of paragraph 5(3), a child falls within this sub-paragraph if—
- (a) he is of compulsory school age and is any of the following—
- a child with special educational needs;

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- a disabled child;
 - a child with mobility problems,
 - (b) he is receiving education at a place other than a school by virtue of arrangements made in pursuance of section 19(1), and
 - (c) that place is not within walking distance of his home.
- (3) The effect referred to in paragraph 5(3) is that the amount payable in respect of anything provided in pursuance of the scheme for a child falling within sub-paragraph (1) or (2) is not to exceed the amount (if any) which would be payable under the scheme if—
 - (a) he were a child who is not a child with special educational needs, a disabled child or a child with mobility problems,
 - (b) in the case of a child falling within sub-paragraph (1), he were registered as a pupil at his nearest qualifying school, and
 - (c) he took full advantage of any arrangements under the scheme for the provision of transport for persons of his description.
- (4) In sub-paragraph (3)(b), the reference to the child’s nearest qualifying school is to whichever of the following is the nearest to his home to provide education for persons of his age who are not children with special educational needs, disabled children or children with mobility problems—
 - (a) a community school,
 - (b) a foundation school,
 - (c) a voluntary school,
 - (d) an Academy,
 - (e) a city technology college, and
 - (f) a city college for the technology of the arts.
- 8 Any sum payable in respect of a charge for anything provided by the scheme authority in pursuance of arrangements made by that authority in pursuance of a school travel scheme is to be recoverable summarily as a civil debt.
- 9 (1) This paragraph applies if a school travel scheme will give rise to any need to incur expenditure in order for a child to take advantage of anything provided for him in pursuance of the scheme.
- (2) The scheme must include provision for any expenditure that needs to be incurred for the purpose mentioned in sub-paragraph (1) in the case of a protected child to be met by the scheme authority.
- (3) “Protected child” has the meaning given for the purposes of paragraph 5.

Commencement of scheme

- 10 (1) A school travel scheme is not to come into force unless approved by the Secretary of State.
- (2) A school travel scheme which has been approved by the Secretary of State is to come into force in accordance with directions given by the Secretary of State.
- (3) The earliest date on which a school travel scheme may come into force is 31 August 2007.

Amendment or revocation of scheme

- 11 (1) The scheme authority may amend or revoke a school travel scheme.
- (2) Before amending a school travel scheme, the scheme authority must consult such persons as they consider appropriate.
- (3) The power of amendment under sub-paragraph (1) is exercisable only with the consent of the Secretary of State.
- (4) The Secretary of State may consent to the exercise of the power of amendment under sub-paragraph (1) on an application by the scheme authority specifying the proposed exercise of the power.
- (5) If on an application under sub-paragraph (4) the Secretary of State consents to the exercise of the power of amendment under sub-paragraph (1), the scheme authority must exercise the power accordingly.
- (6) Any amendment under this paragraph is to come into force in accordance with directions given by the Secretary of State.

Provision of information

- 12 (1) The scheme authority must—
- (a) make such reports and returns to the Secretary of State, and
 - (b) compile and give to the Secretary of State such information,
- as the Secretary of State may require for any of the purposes mentioned in sub-paragraph (2).
- (2) Those purposes are—
- (a) the purpose of monitoring the operation or effect of a school travel scheme approved under this Schedule;
 - (b) the purpose of preparing or publishing an evaluation under section 80 of the Education and Inspections Act 2006.

Guidance

- 13 (1) The Secretary of State must issue, and may from time to time revise, guidance as to the matters which he will take into account in exercising his power under paragraph 10(1) or 11(3).
- (2) Before issuing or revising guidance under sub-paragraph (1), the Secretary of State must consult such persons as he considers appropriate.

Interpretation

- 14 In this Schedule—
- “disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995, and “disability” is to be construed accordingly;
 - “qualifying school” has the same meaning as it has for the purposes of Schedule 35B;
 - “scheme authority”, in relation to a school travel scheme, means the local education authority by which the scheme is made;

“walking distance” has the meaning given by section 444(5).”

SCHEDULE 10

Section 85

FURTHER AMENDMENTS RELATING TO TRAVEL TO SCHOOLS ETC

Public Passenger Vehicles Act 1981 (c. 14)

- 1 In section 46 of the Public Passenger Vehicles Act 1981 (fare-paying passengers on school buses), in subsection (3), in the definition of “free school transport”—
- (a) after “under” insert “section 508B(1), section 508C(1), section 508F(1),” and
 - (b) after “1996,” insert—
 - “(aa) in pursuance of arrangements made by the authority in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes),”.

Transport Act 1985 (c. 67)

- 2 (1) Section 6 of the Transport Act 1985 (registration of local services) is amended as follows.
- (2) In subsection (1) after “London local service” insert “nor a service which falls within subsection (1A) below”.
- (3) After subsection (1) insert—
- “(1A) A service falls within this subsection if conditions A and B are satisfied in relation to it.
- (1B) Condition A is satisfied if the service is provided in pursuance of—
- (a) the obligation placed on a local education authority by section 508B(1), section 508F(1), section 509(1) or (1A), or section 509AA(7)(b) or (9)(a) of the Education Act 1996 (provision of transport etc);
 - (b) the exercise of the power of a local education authority under section 508C(1) of that Act; or
 - (c) arrangements made by a local education authority in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes).
- (1C) Condition B is satisfied if the service is for the carriage of any of the following persons (and no other)—
- (a) a person receiving education or training at premises to or from which transport is provided in pursuance of the obligation, the exercise of the power or the arrangements, as the case may be, mentioned in paragraph (a), (b) or (c) of subsection (1B);
 - (b) a person supervising or escorting any such person while he is using such transport;
 - (c) a person involved with the provision of education or training at any such premises.”

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Education Act 1996 (c. 56)

- 3 In section 455(1) of EA 1996 (permitted charges), in paragraph (c), for “509(2)” substitute “508B(1), 508F(3) or 509(2), or section 508E(2)(d) and paragraph 5(2) of Schedule 35C.”.
- 4 (1) Section 509 of EA 1996 (provision of transport etc) is amended as follows.
- (2) In subsection (1)—
- (a) after “local education authority” insert “in Wales”, and
- (b) for “Secretary of State” substitute “National Assembly for Wales”.
- (3) In subsection (1A)—
- (a) after “authority” insert “in Wales”, and
- (b) for “Secretary of State” substitute “National Assembly for Wales”.
- (4) In subsection (1B)—
- (a) omit “the Learning and Skills Council for England or”, and
- (b) in paragraph (b), omit “13 or”.
- (5) In subsection (3), after “authority” insert “in Wales”.
- (6) In subsection (5), in paragraph (c), for “section 13” substitute “section 41”.
- (7) In the heading, for “Provision” substitute “LEAs in Wales: provision”.
- 5 In section 509AB of EA 1996 (further provision about transport policy statements)—
- (a) after subsection (3) insert—
- “(3A) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a local education authority in England shall have regard (amongst other things) to the nature of the route, or alternative routes, which he could reasonably be expected to take.”, and
- (b) in subsection (4)—
- (i) for “those purposes” substitute “the purposes mentioned in subsections (2) and (3) of section 509AA”, and
- (ii) after “authority” insert “in Wales”.

SCHEDULE 11

Section 112

THE OFFICE FOR STANDARDS IN EDUCATION, CHILDREN’S SERVICES AND SKILLS

Membership

- 1 The Office is to consist of—
- (a) a chairman appointed by the Secretary of State;
- (b) not less than 5 and not more than 10 other members appointed by the Secretary of State (“the appointed members”); and
- (c) the Chief Inspector.

Terms of appointment

- 2 (1) The chairman and the appointed members hold and vacate office in accordance with the terms of their respective appointments.
- (2) Sub-paragraph (1) has effect subject to the following provisions of this Schedule.
- (3) Section 113 makes provision for the holding and vacation of office by the Chief Inspector.
- 3 A person appointed as chairman or appointed member—
- (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 the Secretary of State on the grounds that he is unable or unfit to carry out the duties of his office.
- 4 The previous appointment of a person as chairman or appointed member does not affect his eligibility for appointment to either office.

Remuneration of members

- 5 (1) The Office must pay to the chairman and each of the appointed members such remuneration and allowances as may be determined by the Secretary of State.
- (2) The Office must, if required to do so by the Secretary of State—
- (a) pay such pension, allowances or gratuities as may be determined by the Secretary of State to or in respect of a person who is or has held office as chairman or appointed member; or
 - (b) make such payments as may be so determined towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.
- (3) If, where a person ceases to hold office as chairman or appointed member, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Office must pay to him such amount by way of compensation as the Secretary of State may determine.
- (4) Paragraph 1 of Schedule 12 makes provision for the payment to the Chief Inspector of remuneration etc.

Staff

- 6 (1) The Office has power to appoint staff—
- (a) for the purposes of the performance of its own functions, and
 - (b) for the purposes of the performance of functions of the Chief Inspector.
- (2) But that power is exercisable only by the Chief Inspector acting on behalf of the Office.
- (3) The conditions of service of persons appointed under this paragraph are to be determined by the Chief Inspector, subject to the approval of the Minister for the Civil Service.
- (4) The management of the staff of the Office is to be the responsibility of the Chief Inspector.

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- (5) Nothing in this paragraph is to be read as preventing any delegation by the Chief Inspector under paragraph 9 of Schedule 12.

Committees

- 7 (1) The Office may establish committees, and any committee so established may establish sub-committees.
- (2) The members of a committee of the Office may include persons who are not members of the Office (and the members of a sub-committee may include persons who are not members of the committee or of the Office).
- (3) The Office may make arrangements for the payment of such remuneration and allowances as it thinks fit to any person who—
- (a) is a member of a committee or sub-committee, but
 - (b) is not a member of the Office.

Procedure etc.

- 8 (1) The Office may make such provision as it thinks fit to regulate—
- (a) its own proceedings (including quorum), and
 - (b) the procedure (including quorum) of its committees and sub-committees.
- (2) The validity of any proceedings of the Office, or any of its committees or sub-committees, is not affected by—
- (a) any vacancy in the office of chairman or in the membership of the Office or (as the case may be) of the committee or sub-committee, or
 - (b) any defect in the appointment of the chairman or any other member of the Office or (as the case may be) of any member of the committee or sub-committee.

Performance of functions

- 9 Anything authorised or required to be done by the Office may be done by—
- (a) any member of the Office who is authorised for the purpose by the Office, whether generally or specially, or
 - (b) any committee or sub-committee of the Office which has been so authorised.

Execution of documents

- 10 The application of the seal of the Office must be authenticated by the signature of—
- (a) any member of the Office, or
 - (b) some other person who has been authorised for that purpose by the Office, whether generally or specially.

Evidence

- 11 The Documentary Evidence Act 1868 (c. 37) shall have effect in relation to the Office as if—
- (a) the Office were included in the first column of the Schedule to that Act,

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- (b) any member or other person authorised to act on behalf of the Office were mentioned in the second column of that Schedule, and
- (c) the regulations referred to in that Act included any document issued by or under the authority of the Office.

Supplementary powers

- 12 (1) The Office has power—
- (a) to enter into contracts,
 - (b) to acquire, and dispose of, land or other property, and
 - (c) to arrange for the provision of accommodation,
- in connection with the performance of its own functions or in connection with the performance of functions of the Chief Inspector.
- (2) But those powers are exercisable only by the Chief Inspector acting on behalf of the Office.
- (3) The management of any property or accommodation held or used in connection with the performance of any of the functions mentioned in sub-paragraph (1) is to be the responsibility of the Chief Inspector.
- (4) Nothing in this paragraph is to be read as preventing any delegation by the Chief Inspector under paragraph 9 of Schedule 12.
- 13 (1) The Office may do anything that it considers is necessary or expedient for the purposes of, or in connection with, its functions.
- (2) But to the extent that paragraph 6 or 12 makes provision for restricting the exercise of any such power, the power is accordingly exercisable subject to any such restriction.

SCHEDULE 12

Section 115

THE CHIEF INSPECTOR AND OTHER INSPECTORS ETC.

PART 1

THE CHIEF INSPECTOR

Remuneration, pensions etc. of Chief Inspector

- 1 (1) The Office is to pay the Chief Inspector such remuneration, and such travelling and other allowances, as the Secretary of State may determine.
- (2) In the case of any Chief Inspector determined by the Secretary of State, the Office is to pay—
- (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 the Secretary of State may determine.

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- (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, the Office may pay to him such sum by way of compensation as the Secretary of State may determine.
- (4) Service as Chief Inspector is one of the kinds of service to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.
- (5) The Office must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (4) in the sums payable out of money provided by Parliament under that Act.

Temporary appointment of Chief Inspector; performance of functions during vacancy or incapacity etc.

- 2
 - (1) If there is a vacancy in the office of Chief Inspector, the Secretary of State may appoint a person to be Chief Inspector during such period (not exceeding one year) as he thinks fit.
 - (2) Any such appointment is to be on such terms as the Secretary of State may determine.
 - (3) Those terms may include provision for the Secretary of State to terminate the appointment before the time when it would otherwise end.
- 3
 - (1) The Chief Inspector may designate an HMI to perform his functions during any period when he is absent or unable to act.
 - (2) If (at a time when no designation is in force under sub-paragraph (1)) it appears to the chairman of the Office that the Chief Inspector is, as a result of any incapacity—
 - (a) unable to act, and
 - (b) unable to make a designation under that sub-paragraph,
 the chairman may designate an HMI to perform the Chief Inspector's functions so long as he remains in office and is unable to act.
 - (3) For the purposes of this paragraph the Chief Inspector's functions include his functions as a member of the Office.

Execution of documents

- 4 The application of the Chief Inspector's seal must be authenticated by the signature of—
 - (a) the Chief Inspector, or
 - (b) some other person who has been authorised for that purpose by the Chief Inspector, whether generally or specially.

Evidence

- 5 The Documentary Evidence Act 1868 (c. 37) shall have effect in relation to the Chief Inspector as if—
 - (a) he were mentioned 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

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- (c) the regulations referred to in that Act included any document issued by him or any such person.

Ancillary powers

- 6 The Chief Inspector may do anything that he considers necessary or expedient for the purposes of, or in connection with, his functions.

Nature of functions conferred on Chief Inspector

- 7 (1) Functions conferred on the Chief Inspector by virtue of this Part or any other enactment are conferred on him in his capacity as holder of the office of Chief Inspector and not in his capacity as a member of the Office.
- (2) Sub-paragraph (1) does not apply to any function of the Chief Inspector under—
- (a) section 114(4),
 - (b) paragraph 6 or 12 of Schedule 11, or
 - (c) paragraph 3 of this Schedule.
- (3) References in this Part to functions of the Chief Inspector are references to functions conferred on him in his capacity as holder of the office of Chief Inspector.
- This is subject to paragraph 3(3).
- (4) Any proceedings brought in respect of any such function of the Chief Inspector are to be brought against the Chief Inspector in his capacity as holder of that office.

Relationship between Chief Inspector and the Office

- 8 (1) For all purposes relating to the government department constituted by the Office, the Chief Inspector is to be regarded—
- (a) as part of that government department, whether acting in his capacity as holder of the office of Chief Inspector or in his capacity as a member of the Office, and
 - (b) as performing his functions (in whatever capacity) on behalf of it.
- (2) Sub-paragraph (1) applies subject to any provision made by virtue of sub-paragraph (3).
- (3) The Secretary of State may by order make such provision as he considers appropriate for—
- (a) supplementing or modifying the effect of sub-paragraph (1), or
 - (b) prescribing other matters in connection with responsibilities of the Chief Inspector in relation to the Office or otherwise connected with the relationship between them.
- (4) Such an order may in particular provide—
- (a) for allocating functions, property, rights or liabilities as between the Office and the Chief Inspector;
 - (b) for conferring on the Chief Inspector responsibilities in relation to property, rights or liabilities of the Office, including responsibilities as to the conduct of proceedings;

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- (c) for the capacity in which the Chief Inspector is to discharge any such functions or responsibilities.

PART 2

INSPECTORS ETC. ACTING ON BEHALF OF CHIEF INSPECTOR

Delegation of functions

- 9 (1) Anything authorised or required by or under any enactment to be done by the Chief Inspector may be done by—
- (a) any HMI,
 - (b) any other member of the staff of the Office, or
 - (c) any additional inspector,
- who is authorised generally or specially for the purpose by the Chief Inspector.
- (2) But sub-paragraph (1) has effect subject to—
- (a) sub-paragraph (3) below and paragraphs 10(2) and 11(4), and
 - (b) any contrary provision made by any enactment.
- (3) The making of any report of an inspection of a school under section 5 of EA 2005 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) an HMI who is authorised by the Chief Inspector for the purposes of this sub-paragraph.
- (4) Without prejudice to the generality of sub-paragraph (1) above, references to the Chief Inspector—
- (a) in section 10 of EA 2005 (power of entry for purposes of inspection under s. 5 or 8), or
 - (b) in any other enactment by virtue of which any power of entry is exercisable by the Chief Inspector, or otherwise having effect in connection with any such power of entry,
- include references to any person authorised to act on his behalf under sub-paragraph (1).
- (5) In sub-paragraph (4) the reference to any power of entry includes a reference to a power to inspect documents or a power conferred in connection with the inspection of documents.

Inspectors etc. to have necessary qualifications, experience and skills

- 10 (1) This paragraph applies where—
- (a) an HMI,
 - (b) a member of the staff of the Office, or
 - (c) an additional inspector,
- is authorised to act on behalf of the Chief Inspector in connection with the carrying out of any of the activities within his remit.

- (2) The Chief Inspector must ensure that the person concerned has such qualifications, experience and skills as are necessary to secure that he is able to perform the function, or (as the case may be) assist with its performance, in an effective manner.

Additional inspectors

- 11 (1) The Chief Inspector may enter into arrangements with such persons as he thinks fit for them to assist him in the performance of his functions in a particular case or class of case.
- (2) The Chief Inspector may also enter into arrangements with persons (“inspection service providers”) under which they provide the services of inspectors to carry out inspections on behalf of the Chief Inspector.
- (3) A person assisting the Chief Inspector in pursuance of arrangements under sub-paragraph (1) or (2) is to be known as an additional inspector.
- (4) The Chief Inspector may not authorise an additional inspector to conduct an inspection of a school under section 5 of EA 2005 unless—
- (a) the inspection is to be supervised by an HMI, or
 - (b) the additional inspector has previously conducted an inspection under that section under the supervision of an HMI to the satisfaction of the HMI.
- (5) In sub-paragraph (4)(b) the reference to an HMI is, in relation to an inspection conducted before the commencement of this paragraph, to be read as a reference to one of Her Majesty’s Inspectors of Schools in England.

Provisions relating to additional inspectors provided by inspection service providers

- 12 (1) This paragraph applies to arrangements made with inspection service providers under paragraph 11(2) (“ISP arrangements”).
- (2) In pursuance of his duty under paragraph 10(2), so far as applying to additional inspectors provided under ISP arrangements, the Chief Inspector—
- (a) must publish in such manner as he thinks fit, and
 - (b) may from time to time revise,
- a statement of the matters mentioned in sub-paragraph (3).
- (3) The matters are—
- (a) the qualifications or experience (or both) that are to be required of additional inspectors provided under ISP arrangements, 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.
- (4) ISP arrangements must be made on terms that require the inspection service provider to secure compliance with any requirements that are for the time being published under sub-paragraph (2).
- (5) Where the Chief Inspector has entered into any ISP arrangements, he must publish, at intervals of not more than 12 months, a list of the names of the persons who are, at a specified date, currently notified to him by the inspection service provider as persons with whom the provider proposes to make arrangements for the carrying out of inspections on behalf of the Chief Inspector.

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

SCHEDULE 13

Section 149

INTERACTION WITH OTHER AUTHORITIES

Inspection authorities and inspection functions

- 1 (1) In this Schedule references to inspection authorities are to be read in accordance with sub-paragraph (2) or (3), as the case may be.
- (2) For the purposes of paragraph 4 or 5 the inspection authorities are—
- (a) Her Majesty’s Chief Inspector of Prisons,
 - (b) Her Majesty’s Chief Inspector of Constabulary,
 - (c) Her Majesty’s Chief Inspector of the Crown Prosecution Service,
 - (d) Her Majesty’s Chief Inspector of the National Probation Service for England and Wales,
 - (e) Her Majesty’s Chief Inspector of Court Administration,
 - (f) the Commission for Healthcare Audit and Inspection,
 - (g) the Commission for Social Care Inspection, and
 - (h) the Audit Commission for Local Authorities and the National Health Service in England and Wales.
- (3) For the purposes of paragraph 6 the inspection authorities are—
- (a) Her Majesty’s Chief Inspector of Prisons,
 - (b) Her Majesty’s Inspectors of Constabulary,
 - (c) Her Majesty’s Chief Inspector of the Crown Prosecution Service,
 - (d) Her Majesty’s Inspectorate of the National Probation Service for England and Wales,
 - (e) Her Majesty’s Inspectorate of Court Administration, and
 - (f) the bodies mentioned in sub-paragraph (2)(f) to (h).
- (4) In this Schedule “inspection functions” means functions relating to, or connected with, inspections.

Public authorities

- 2 (1) In this Schedule “public authority”—
- (a) includes any person certain of whose functions are functions of a public nature, but
 - (b) does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.
- (2) Subject to paragraph 8(3), references in this Schedule to a public authority do not include a public authority outside the United Kingdom.

Delegation of inspection functions to public authorities

- 3 (1) The Chief Inspector may delegate any of his inspection functions (to such extent as he may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) it is nevertheless to be regarded for the purposes of any enactment as carried out by the Chief Inspector.

Inspection programmes and inspection frameworks

- 4 (1) The Chief Inspector must from time to time, or at such times as the Secretary of State may specify by order, prepare—
- (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
 - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector must consult—
- (a) the Secretary of State,
 - (b) the inspection authorities, and
 - (c) any other person or body specified by an order made by the Secretary of State;
- and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (4) The Chief Inspector may determine that any document or combination of documents prepared for the purposes of any other enactment or enactments is to be treated as a document prepared for the purposes of sub-paragraph (1)(b) (so long as any requirements applying under or by virtue of this paragraph are complied with in relation to the document or documents concerned).

Inspections by other inspectors of institutions within Chief Inspector’s remit

- 5 (1) If—
- (a) an inspection authority is proposing to carry out an inspection that would involve inspecting a specified institution, and
 - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that institution, or would do so if carried out in a particular manner,
- the Chief Inspector must, subject to sub-paragraph (5), give a notice to that authority requiring it not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) In sub-paragraph (1)(a) “specified institution” means a person or body specified by order made by the Secretary of State.
- (3) A person or body may be specified under sub-paragraph (2) only if the person or body—
- (a) discharges functions or carries on other activities in relation to which the Chief Inspector exercises inspection functions by virtue of any enactment, or
 - (b) is a person or body in respect of whom the Chief Inspector is the registration authority by virtue of any enactment.
- (4) A person or body may be specified under sub-paragraph (2) in relation to particular functions that it has.

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In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

- (5) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (6) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (7).

- (7) The Secretary of State, if satisfied that the proposed inspection—
 - (a) would not impose an unreasonable burden on the institution in question, or
 - (b) would not do so if carried out in a particular manner,
 may give consent to the inspection being carried out, or being carried out in that manner.
- (8) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
 - (a) provision about the form of notices;
 - (b) provision prescribing the period within which notices are to be given;
 - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
 - (d) provision for revising or withdrawing notices;
 - (e) provision for setting aside notices not validly given.

Co-operation

- 6 The Chief Inspector must co-operate with—
 - (a) the inspection authorities, and
 - (b) any other public authority specified by order made by the Secretary of State,
 where it is appropriate to do so for the efficient and effective exercise of his functions.

Joint action

- 7 The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective exercise of his functions.

Advice or assistance for other public authorities

- 8 (1) The Chief Inspector may, if he thinks it appropriate to do so, provide advice or assistance to another public authority for the purpose of the exercise by that authority of its functions.
- (2) Advice or assistance under this paragraph may be provided on such terms as the Chief Inspector thinks fit.
- (3) In this paragraph the reference to another public authority includes a public authority in the Channel Islands or the Isle of Man.

Inspections carried out under arrangements

- 9 (1) The Chief Inspector may make arrangements with a public authority for the carrying out by him—
- (a) in England or Wales, or
 - (b) in Northern Ireland,
- of inspections of any institution or matter which he is not required or authorised to carry out by virtue of any other enactment.
- (2) The Chief Inspector may make arrangements with a public authority or the relevant overseas authority for the carrying out by him outside the United Kingdom of inspections of any institution or matter.
- (3) “The relevant overseas authority” means the authority in the jurisdiction concerned that is responsible for the institution or other matter.
- (4) Inspections under this paragraph may be carried out on such terms as the Chief Inspector thinks fit.

Charges

- 10 The Chief Inspector may, with the consent of the Secretary of State, enter into arrangements for charges to be made—
- (a) for providing advice or assistance under paragraph 8; or
 - (b) for carrying out inspections under paragraph 9.

SCHEDULE 14

Section 157

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 8

Public Records Act 1958 (c. 51)

- 1 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records) omit the entry relating to the Adult Learning Inspectorate.

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation)—
- (a) omit the entries relating to the Adult Learning Inspectorate and the Office of Her Majesty’s Chief Inspector of Schools in England, and
 - (b) at the appropriate place insert—
- “Office for Standards in Education, Children’s Services and Skills.”

Superannuation Act 1972 (c. 11)

- 3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment etc. referred to in section 1)—
- (a) omit the entry relating to the Adult Learning Inspectorate, and

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- (b) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

Employment and Training Act 1973 (c. 50)

- 4 In section 10B(1) of the Employment and Training Act 1973 (inspection)—
- (a) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”,
 - (b) omit paragraphs (a) and (b), and
 - (c) in paragraph (c) for “those services” substitute “services in England in pursuance of section 8 or 9”.

House of Commons Disqualification Act 1975 (c. 24)

- 5 (1) Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) is amended as follows.
- (2) In Part 2 (bodies of which all members are disqualified) insert at the appropriate place—
- “The Office for Standards in Education, Children’s Services and Skills.”
- (3) In Part 3 (other disqualifying offices) omit the entries relating to any member of the Adult Learning Inspectorate and to Her Majesty’s Chief Inspector of Schools in England.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 6 (1) Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership) is amended as follows.
- (2) In Part 2 (bodies of which all members are disqualified) insert at the appropriate place—
- “The Office for Standards in Education, Children’s Services and Skills.”
- (3) In Part 3 (other disqualifying offices) omit the entry relating to Her Majesty’s Chief Inspector of Schools in England.

Race Relations Act 1976 (c. 74)

- 7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty) omit the entry relating to the Adult Learning Inspectorate.

Education Reform Act 1988 (c. 40)

- 8 In section 226(2)(b) (services for schools in other member States providing education for British children) for “by, or under the direction of, one or more of Her Majesty’s Inspectors of Schools for England” substitute “by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

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Children Act 1989 (c. 41)

- 9 The Children Act 1989 has effect subject to the following amendments.
- 10 Omit section 26ZA (representations: further consideration).
- 11 In section 26A(2A) (advocacy services) omit “26ZA or”.
- 12 In section 65(6)(a) (persons disqualified from carrying on, or being employed in, children’s homes) for “the Commission for Social Care Inspection” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- 13 In section 79B(1) (other definitions etc.) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- 14 In section 79N (general functions of Chief Inspector) omit subsections (1) to (3) and (6).
- 15 In section 79R (reports of inspections) omit subsection (4).
- 16 (1) Section 87 (welfare of children in boarding schools and colleges) is amended as follows.
- (2) In subsection (4)—
- (a) for “the Commission are” substitute “the Chief Inspector for England is”, and
- (b) for “college, they shall” substitute “college in England, he shall”.
- (3) In subsection (4A), after “school or college” insert “in Wales”.
- (4) In subsections (9A) to (9C)—
- (a) for “the Commission”, wherever occurring, substitute “the Chief Inspector for England”, and
- (b) for “it must” substitute “that authority must”.
- (5) In subsection (10)—
- (a) in the definition of “appropriate authority”, for “the Commission for Social Care Inspection” substitute “the Chief Inspector for England”,
- (b) at the appropriate place insert—
- ““the Chief Inspector for England” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;”, and
- (c) omit the definition of “the Commission”.
- 17 In Schedule 2 (local authority support for children and families) in paragraph 20(1)(a) for “and the Commission for Social Care Inspection” substitute “and (in the case of a local authority in England) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

Further and Higher Education Act 1992 (c. 13)

- 18 In section 57(3) of the Further and Higher Education Act 1992 (intervention)—
- (a) for paragraph (a) substitute—
- “(a) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;”, and
- (b) omit paragraphs (c) and (d).

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Education Act 1994 (c. 30)

- 19 (1) Section 18B (inspection of teacher training) is amended as follows.
- (2) In subsection (1) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- (3) For subsection (2) substitute—
- “(2) If requested to do so by the Secretary of State, the Chief Inspector must inspect and report on such one or more relevant training providers in England as may be specified in the Secretary of State’s request.”
- (4) In subsection (3) omit paragraph (a).
- (5) In subsection (4) omit the words from “and subsections (2) to (4)” onwards.
- (6) In subsection (10) for “paragraph 5(1) or (2) of Schedule 1 to the 2005 Act” substitute “paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006”.
- (7) In subsection (11) for the words from “sections” onwards substitute “paragraph 9(1) of that Schedule.”

Education Act 1997 (c. 44)

- 20 The Education Act 1997 has effect subject to the following amendments.
- 21 In section 26(2) (supplementary provisions relating to discharge by Authority of their functions) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- 22 (1) Section 38 (inspection of LEAs) is amended as follows.
- (2) Omit subsection (2) (inspection of LEAs in England).
- (3) In subsection (5) (persons conducting inspections)—
- (a) in paragraph (a) omit “England or (as the case may require)”, and
- (b) in paragraph (b) omit “paragraph 2 of Schedule 1 to the Education Act 2005 or (as the case requires)” and for “that Act” substitute “the Education Act 2005”.
- (4) In subsection (7) (definitions)—
- (a) for “41” substitute “41A”, and
- (b) omit paragraph (a).
- 23 In section 39(4) (reports of inspections under s. 38 etc.)—
- (a) omit the words from “section 11(2)” to “Wales.”,
- (b) for “that Act” substitute “the Education Act 2005”, and
- (c) omit “section 11(2) or, as the case may be.”.
- 24 Omit section 41 (inspections involving collaboration of Audit Commission).
- 25 In Schedule 4 (the Qualifications and Curriculum Authority), in paragraph 15(1)(d) and (2) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

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Audit Commission Act 1998 (c. 18)

- 26 The Audit Commission Act 1998 has effect subject to the following amendments.
- 27 In section 33(6) (consultation before studies for improving economy etc. in services) after paragraph (ca) insert—
- “(cb) in the case of a study which has a connection with anything which may be inspected under Chapter 4 of Part 8 of the Education and Inspections Act 2006, also consult Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;”.
- 28 In section 34(6) (consultation before studies as to impact of statutory provisions etc.) after paragraph (b) insert—
- “(bza) in the case of a study which has a connection with anything which may be inspected under Chapter 4 of Part 8 of the Education and Inspections Act 2006, Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;”.
- 29 (1) Section 37 (assistance to CHAI and CSCI) is amended as follows.
- (2) After subsection (2) add—
- “(3) The Audit Commission may provide assistance to Her Majesty’s Chief Inspector of Education, Children’s Services and Skills in the discharge of any of his functions under Chapter 4 of Part 8 of the Education and Inspections Act 2006.
- (4) Assistance under subsection (3) may be provided on such terms, including terms as to payment, as the Audit Commission and the Chief Inspector may agree.”
- 30 In section 49(1) (restriction on disclosure of information) after paragraph (c) insert—
- “(ca) to Her Majesty’s Chief Inspector of Education, Children’s Services and Skills for the purposes of his functions under Chapter 4 of Part 8 of the Education and Inspections Act 2006;”.
- 31 In Schedule 1 (the Audit Commission) omit paragraph 8(2)(e).

Data Protection Act 1998 (c. 29)

- 32 In section 31(6) of the Data Protection Act 1998 (personal data exempt from subject information provisions) omit “, 26ZA”.

School Standards and Framework Act 1998 (c. 31)

- 33 SSFA 1998 has effect subject to the following amendments.
- 34 In section 139(2)(b) (payments into Consolidated Fund) omit “Her Majesty’s Chief Inspector of Schools in England, or”.
- 35 (1) Schedule 26 (inspection of nursery education) is amended as follows.
- (2) In paragraph 2(1)(a) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- (3) In paragraph 13A omit sub-paragraph (4).

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(4) In paragraph 14 omit sub-paragraph (1).

Protection of Children Act 1999 (c. 14)

36 In section 2A(2) of the Protection of Children Act 1999 (persons who may refer individuals for inclusion in list of those unsuitable to work with children) for paragraph (c) substitute—

“(c) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.”

Local Government Act 1999 (c. 27)

37 In section 25(2) of the Local Government Act 1999 (coordination of inspections, &c) for paragraph (c) substitute—

“(c) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;”.

Care Standards Act 2000 (c. 14)

38 The Care Standards Act 2000 has effect subject to the following amendments.

39 In section 5(1) (registration authorities) for paragraph (a)(ii) substitute—

- “(ii) the CSCI, in the case of care homes, domiciliary care agencies and nurses agencies;
- (iii) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (referred to in this Act as “the CIECSS”), in the case of children’s homes, residential family centres, fostering agencies, voluntary adoption agencies and adoption support agencies;”.

40 (1) Section 8 (general functions of the Assembly) is amended as follows.

(2) For subsection (3) substitute—

“(3) The Assembly shall have such additional functions in relation to Part II services provided in Wales as may be specified in regulations made by the Assembly.

(3A) But the only functions which may be so specified in relation to a particular Part II service are functions which—

- (a) by virtue of section 5A(7) are exercisable by the CHAI;
- (b) by virtue of section 5B(7) are exercisable by the CSCI; or
- (c) by virtue of section 118(4) of the Education and Inspections Act 2006 are exercisable by the CIECSS,

in relation to the corresponding Part II service provided in England.”

(3) In the subsection (6) inserted by section 109 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) for paragraph (b) substitute—

“(b) any other functions exercisable by the Assembly corresponding to functions exercisable—

- (i) by the CSCI in relation to England; or
- (ii) by the CIECSS under section 147 of the Education and Inspections Act 2006.”

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- (4) The subsection (6) inserted by paragraph 18(3) of Schedule 9 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) is renumbered as subsection (7).
- 41 In section 10(6) (inquiries relating to exercise of functions by Assembly) for paragraph (b) substitute—
- “(b) any other functions exercisable by the Assembly corresponding to functions exercisable—
- (i) by the CHAI, the CSCI or the CIECSS under this Act in relation to England; or
- (ii) by the CIECSS under section 147 of the Education and Inspections Act 2006.”
- 42 In section 11(4) (keeping of registers) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 43 In section 12(2) (applications for registration) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 44 In section 15(3)(a) (fees for applications by registered persons) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 45 In section 16(3)(a) (annual fee payable by persons registered under Part 2) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 46 In section 22(7)(i)(i) (fees in respect of notifications) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 47 In section 29(1)(a) (proceedings for offences) for “or the CSCI” (in the first place) substitute “, the CSCI or the CIECSS”.
- 48 In section 31(7) (requirement to arrange for inspection of premises) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 49 In section 36A (voluntary adoption agencies: distribution of functions) for “the CSCI” (in each place) substitute “the CIECSS”.
- 50 In section 42(5) (power to extend application of Part 2) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- 51 Omit section 45(4) (inspection of premises used in discharge of adoption and fostering functions).
- 52 In section 55(3)(e) (persons who may be treated as social care workers)—
- (a) after “the CSCI” insert “, the Office for Standards in Education, Children’s Services and Skills”,
- (b) for “or section 88” substitute “, section 88”, and
- (c) after “Act 2003” insert “or section 139 of the Education and Inspections Act 2006”.
- 53 (1) Section 113A (fees payable under Part 2) is amended as follows.
- (2) In subsection (1)—
- (a) for “and the CSCI” substitute “, the CSCI and the CIECSS”, and
- (b) after “to it” insert “or him”.
- (3) For subsection (3) substitute—

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“(3) Before making any provision under subsection (1), the CHAI, the CSCI or the CIECSS must consult such bodies as appear to it or him to be representative of the persons liable to pay the fee.”

- (4) In subsection (5) for “or the CSCI” substitute “, the CSCI or the CIECSS”.
- (5) In subsection (6)—
- (a) for “or the CSCI” substitute “, the CSCI or the CIECSS”, and
 - (b) after “body” insert “or person”.
- 54 In section 121(13) (interpretation), at the appropriate place in the Table insert—
- | | |
|-------------|-------------|
| “the CIECSS | Section 5.” |
|-------------|-------------|

Learning and Skills Act 2000 (c. 21)

- 55 The Learning and Skills Act 2000 has effect subject to the following amendments.
- 56 Omit sections 52 to 72 (inspections in England).
- 57 (1) Section 82 (inspections of education and training provided under 1973 Act arrangements) is amended as follows.
- (2) In subsection (1) for “the Adult Learning Inspectorate” substitute “the Chief Inspector for England”.
 - (3) In subsection (4) for the words from “the Adult Learning Inspectorate” onwards substitute “the Chief Inspector for England must be given to that Chief Inspector.”
 - (4) In subsection (5) for “The Adult Learning Inspectorate” substitute “The Chief Inspector for England” and for “it” substitute “he”.
 - (5) After subsection (6) add—

“(7) In this section “the Chief Inspector for England” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.”
- 58 Omit—
- (a) section 90 (preliminary transfers: FEFC for England), and
 - (b) section 92(4)(b) and (c) (transfers: England).
- 59 In section 94(2) (stamp duty) for “section 90 or 92” substitute “section 92”.
- 60 In section 95(1)(b) (contracts of employment) for “section 90 or 92” substitute “section 92”.
- 61 In section 113A(1)(a) (restructuring of sixth-form education) for “section 65” substitute “section 128 of the Education and Inspections Act 2006”.
- 62 In section 118(1) (inspection)—
- (a) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”,
 - (b) omit paragraphs (a) and (b), and
 - (c) in paragraph (c) for “those services” substitute “services in pursuance of section 114(1)”.
- 63 In section 150(4)(a) (Wales) omit “90,”.

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

- 64 Omit section 151(2) (transitional provisions).
- 65 Omit Schedule 6 (the Adult Learning Inspectorate).
- 66 (1) Schedule 7 (sixth forms requiring significant improvement) is amended as follows.
- (2) In paragraph 3(1) for “section 65 or 83” substitute “section 128 of the Education and Inspections Act 2006 or section 83 of this Act”.
- (3) In paragraph 5(1) for “section 65 or 83” substitute “, section 128 of the Education and Inspections Act 2006 or section 83”.
- (4) In paragraph 10(1) for “section 65 or 83” substitute “section 128 of the Education and Inspections Act 2006 or section 83 of this Act”.
- (5) In paragraph 12(1) for “section 65 or 83” substitute “, section 128 of the Education and Inspections Act 2006 or section 83”.
- 67 Omit Part 3 of Schedule 10 (transitional provisions).

Regulation of Investigatory Powers Act 2000 (c. 23)

- 68 In Part 2 of Schedule 1 (relevant authorities for purposes only of section 28) for paragraph 27B and the cross-heading preceding it substitute—

“HM Chief Inspector of Education, Children’s Services and Skills

27B Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.”

Freedom of Information Act 2000 (c. 36)

- 69 (1) Schedule 1 to the Freedom of Information Act 2000 (public authorities) is amended as follows.
- (2) In Part 1—
- (a) at the end of paragraph 1 insert “other than the Office for Standards in Education, Children’s Services and Skills”, and
- (b) after that paragraph insert—
- “1A The Office for Standards in Education, Children’s Services and Skills, in respect of information held for purposes other than those of the functions exercisable by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills by virtue of section 5(1)(a)(iii) of the Care Standards Act 2000.”
- (3) In Part 6 omit the entry relating to the Adult Learning Inspectorate.

Education Act 2002 (c. 32)

- 70 EA 2002 has effect subject to the following amendments.
- 71 In section 1(3) (purpose and interpretation of Chapter 1) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

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

- 72 In section 151 (childcare functions of HM Chief Inspector and National Assembly for Wales) in subsections (1) and (2) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- 73 (1) Section 162A (power to inspect registered schools in England) is amended as follows.
 (2) Omit subsection (4).
 (3) In subsection (5) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.
- 74 In section 162B (inspections under section 162A: supplementary) omit subsection (8).
- 75 In section 171 (interpretation of Chapter 1), in the definition of “Chief Inspector”, for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

Adoption and Children Act 2002 (c. 38)

- 76 In section 99 of the Adoption and Children Act 2002 (proceedings for offences) for “the Commission for Social Care Inspection” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

Courts Act 2003 (c. 39)

- 77 The Courts Act 2003 has effect subject to the following amendments.
- 78 In section 58 (inspectors of court administration etc.) omit subsection (6).
- 79 (1) Section 59 (functions of inspectors) is amended as follows.
 (2) In subsection (1) for paragraphs (b) and (c) substitute—
 “(b) discharge any other particular functions which may be specified in connection with the courts listed in subsection (2) in a direction given by the Lord Chancellor.”
 (3) In subsection (4) for the words from “subsection (1)(c)(i)” to “subsection (1)(c)(ii),” substitute “subsection (1)(b),”.
- 80 In section 60 (functions of Chief Inspector) for subsection (4) substitute—
 “(4) The Chief Inspector must report to the Lord Chancellor on any matter which the Lord Chancellor refers to him and which is connected with the courts listed in section 59(2).”
- 81 In section 61 (rights of entry and inspection) for subsections (1) and (2) substitute—
 “(1) An inspector exercising functions under section 59 may enter any place of work occupied by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4).
 (2) An inspector exercising functions under section 59 may inspect and take copies of any records kept by persons provided under such a contract which he considers relevant to the discharge of his functions.”

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

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

- 82 The Health and Social Care (Community Health and Standards) Act 2003 has effect subject to the following amendments.
- 83 In section 76(2) (matters to which the CSCI is to have particular regard in the exercise of certain functions)—
- (a) in paragraph (d) at the end insert “and”, and
 - (b) omit paragraphs (f) and (g).
- 84 Omit section 77(3) (advice as to standards prepared and published under section 23 of the Care Standards Act 2000 (c. 14)).
- 85 (1) Section 79 (annual reviews) is amended as follows.
- (2) For subsection (2) substitute—
 - “(2) After conducting a review under subsection (1) in respect of a local authority the CSCI must award a performance rating to that authority in respect of all the English local authority social services provided by, or pursuant to arrangements made by, that authority.”
 - (3) Omit subsection (7).
- 86 Omit section 80(5) (duty to take into account standards prepared and published under section 23 of the Care Standards Act 2000).
- 87 In section 81(2) (duties of the CSCI on awarding lowest performance rating) for “section 79(2)(a) or (b)” substitute “section 79(2)”.
- 88 For section 96 substitute—

“96 Additional functions

- (1) The Assembly shall have such additional functions in relation to the provision of Welsh local authority social services as—
 - (a) correspond to functions within subsection (2), and
 - (b) are specified by the Assembly in regulations.
 - (2) The functions within this subsection are—
 - (a) functions conferred on the CSCI by or under this Act, and
 - (b) functions relating to the provision of relevant services and assigned to Her Majesty’s Chief Inspector of Education, Children’s Services and Skills under section 118(4) of the Education and Inspections Act 2006.
 - (3) In subsection (2)(b) “relevant services” means services which immediately before the coming into force of Chapter 4 of Part 8 of the Education and Inspections Act 2006 were English local authority social services for the purposes of this Part of this Act.”
- 89 Omit section 110 (transfer to the CSCI of functions under section 87 of the Children Act 1989).
- 90 Omit section 112 (inspection of secure training centres by the CSCI).
- 91 (1) Section 120 (co-operation etc.) is amended as follows.
- (2) After subsection (1) insert—

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

“(1A) The CHAI and the CSCI must each co-operate with the CIECSS where it seems to the CHAI or the CSCI (as the case may be) appropriate to do so for the efficient and effective discharge of—

- (a) its functions; and
- (b) the functions of the CIECSS under Chapter 4 of Part 8 of the Education and Inspections Act 2006.”

(3) In subsection (2) after “each other” insert “or the CIECSS”.

(4) For subsection (3) substitute—

“(3) The CHAI may delegate to the CSCI or the CIECSS any of its functions to be exercised by the CSCI or the CIECSS (as the case may be) on its behalf.

(3A) The CSCI may delegate to the CHAI or the CIECSS any of its functions to be exercised by the CHAI or the CIECSS (as the case may be) on its behalf.”

(5) In subsection (4) for “whenever they consider” substitute “with the other or with the CIECSS whenever the CHAI or the CSCI (as the case may be) considers”.

(6) After that subsection add—

“(5) In this section “the CIECSS” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.”

92 In section 133(1)(a) (failure in discharge of functions: CSCI) omit “or the Children Act 1989 (c. 41)”.

93 (1) Section 148 (interpretation of Part 2) is amended as follows.

(2) At the end of the definition of “English local authority social service” add—

“but does not include anything which may be inspected by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills under Chapter 4 of Part 8 of the Education and Inspections Act 2006.”

(3) At the end of the definition of “social services functions” add “but (in relation to a local authority in England) does not include—

- (a) functions within section 135(1)(d) or (e) of the Education and Inspections Act 2006, or
- (b) functions prescribed by regulations under section 135(1)(f) of that Act.”

94 In Schedule 7 (CSCI: supplementary) omit paragraph 5(2).

Children Act 2004 (c. 31)

95 The Children Act 2004 has effect subject to the following amendments.

96 (1) Section 20 (joint area reviews) is amended as follows.

(2) In subsection (4) omit paragraphs (b) and (c).

(3) In subsection (7)—

- (a) for “subsection (7)(a) of section 2 of the School Inspections Act 1996 (c. 57)” substitute “subsection (1) of section 121 of the Education and Inspections Act 2006”, and

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

(b) for “subsection (7)(b)” substitute “subsection (3)”.

97 In section 23 (sections 20 to 22: interpretation) for subsection (5) substitute—

“(5) “The Chief Inspector of Schools” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.”

Education Act 2005 (c. 18)

98 EA 2005 has effect subject to the following amendments.

99 Omit sections 1 to 4 (appointment and functions of Her Majesty’s Chief Inspector of Schools in England, etc.).

100 For section 8 substitute—

“8 Other inspections

(1) If requested to do so by the Secretary of State, the Chief Inspector must inspect and report on such school, or class of school, in England as is specified in the request.

(2) The Chief Inspector may inspect any school in England in circumstances where he is not required to do so by section 5 or subsection (1) above.”

101 In section 9 (power of Chief Inspector to treat other inspection as s. 5 inspection) omit “2(2)(b) or”.

102 In section 11 (publication of inspection reports) omit subsections (2) to (4).

103 In section 12 (interpretation of Chapter 1) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

104 In section 18 (interpretation of Chapter 2) for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

105 (1) Section 59 (combined reports) is amended as follows.

(2) After subsection (2) insert—

“(2A) Subsection (2) does not apply so as to authorise the making of a combined report by the Chief Inspector for England (as to which section 152 of the Education and Inspections Act 2006 applies instead).”

(3) In subsection (4) after “Chief Inspector” insert “for Wales”.

(4) After that subsection add—

“(5) In this section—

“the Chief Inspector for England” means Her Majesty’s Chief Inspector of Education, Children’s Services and Skills; and

“the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales.”

106 In section 100(1) (interpretation of Part 3) in the definition of “the Chief Inspector for England”, for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

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

107 Omit Schedule 1 (provisions relating to HM Chief Inspector of Schools in England).

Childcare Act 2006 (c. 21)

108 The Childcare Act 2006 has effect subject to the following amendments.

109 Omit section 14 (inspection).

110 Omit section 31 (general functions of Chief Inspector).

111 In section 50 (report of inspections) omit subsection (4).

112 In section 61 (report of inspections) omit subsection (4).

113 (1) Section 77 (powers of entry) is amended as follows.

(2) In subsections (1) and (2) omit “A person authorised for the purposes of this subsection by”.

(3) In subsection (3) for “Authorisation” substitute “An authorisation given by the Chief Inspector under paragraph 9(1) of Schedule 12 to the Education and Inspections Act 2006 in relation to his functions”.

(4) Omit subsection (7).

114 (1) Section 79 (power of constable to assist in exercise of powers of entry) is amended as follows.

(2) In subsection (1) for “A person authorised for the purpose of subsection (1) or (2) of section 77” substitute “The Chief Inspector”.

(3) In subsection (2)—

- (a) for “authorised person” substitute “Chief Inspector”, and
- (b) for “that person” substitute “the Chief Inspector”.

115 Omit section 80 (combined reports).

116 Omit section 81 (information to be included in annual reports).

117 In section 98(1) (interpretation of Part 3), in the definition of “the Chief Inspector”, for “Her Majesty’s Chief Inspector of Schools in England” substitute “Her Majesty’s Chief Inspector of Education, Children’s Services and Skills”.

SCHEDULE 15

Section 158

TRANSITIONAL PROVISIONS AND SAVINGS RELATING TO PART 8

Staff transfer schemes

- 1 (1) The Secretary of State may make a scheme (a “staff transfer scheme”) providing—
- (a) for an employee of the ALI or the CSCI to become a member of the staff of the Office;
 - (b) for his contract of employment to have effect (subject to any necessary modifications) as his conditions of service as a member of the staff of the Office;

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

- (c) for the transfer to the Office of the rights, powers, duties and liabilities of the ALI or the CSCI under or in connection with the employee's contract of employment;
 - (d) for anything done (or having effect as if done) before that transfer by or in relation to the ALI or the CSCI in respect of such a contract or the employee to be treated as having been done by or in relation to the Office.
- (2) A staff transfer scheme may provide for a period before a person became a member of the staff of the Office to count as a period during which he was a member of its staff (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
- (3) A staff transfer scheme may provide for an employee of the ALI or the CSCI who would otherwise become a member of the staff of the Office not to become such a member of staff if he gives notice objecting to the operation of the scheme in relation to him.
- (4) A staff transfer scheme may provide for any person who would be treated (whether by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- (5) A staff transfer scheme may provide for—
 - (a) section 3 of the Act of Settlement (1700 c. 2),
 - (b) section 6 of the Aliens Restriction (Amendment) Act 1919 (c. 92), and
 - (c) any rules prescribing requirements as to nationality which must be satisfied in the case of persons employed in a civil capacity under the Crown,not to apply in relation to service as a member of the staff of the Office by a person who becomes a member of its staff pursuant to the scheme.

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (a “property transfer scheme”) providing for the transfer to the Office or the new Chief Inspector of any property, rights or liabilities of any of the following—
- (a) the existing Chief Inspector;
 - (b) the Secretary of State;
 - (c) the Lord Chancellor;
 - (d) the ALI;
 - (e) the CSCI.
- (2) A property transfer scheme may provide for the transfer to a person other than the Office or the new Chief Inspector of any property, rights or liabilities of the ALI not transferred pursuant to sub-paragraph (1).
- (3) A property transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for things done by or in relation to persons mentioned in paragraphs (a) to (e) of sub-paragraph (1) in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the person to whom the property, rights or liabilities in question are transferred;

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

- (c) apportion property, rights and liabilities;
 - (d) make provision about the continuation of legal proceedings.
- (4) The things that may be transferred by a property transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.

Continuity of exercise of functions etc.

- 3 (1) Anything which—
- (a) has been done (or has effect as if done) by or in relation to the existing Chief Inspector, and
 - (b) is in force immediately before the appointed day,
- is to be treated as done by or in relation to the new Chief Inspector.
- (2) Anything (including any legal proceedings) which—
- (a) relates to any function transferred to, or otherwise made exercisable by, the new Chief Inspector under this Part, and
 - (b) is in the process of being done by or in relation to the existing Chief Inspector immediately before the appointed day,
- may be continued by or in relation to the new Chief Inspector.
- (3) Nothing in sub-paragraph (1) or (2)—
- (a) applies to anything in relation to which provision may be made under paragraph 2(3)(b), or
 - (b) affects the validity of anything done by the existing Chief Inspector.
- (4) In this paragraph “the appointed day” means the day appointed under section 188 for the coming into force of section 113.
- 4 (1) A scheme made by the Secretary of State may make provision corresponding to the provision made by paragraph 3 in relation to things done, having effect as if done, or in the process of being done by—
- (a) any court administration inspector,
 - (b) the ALI,
 - (c) the Chief Inspector of Adult Learning, or
 - (d) the CSCI.
- (2) Such a scheme may provide for things to be treated as done, or to be continued, by or in relation to the Chief Inspector or the Office.
- (3) This paragraph does not apply to anything in relation to which provision may be made under paragraph 1(1)(d).

Schemes: supplementary

- 5 A staff transfer scheme, a property transfer scheme or a scheme made under paragraph 4 may contain supplementary, incidental, transitional and consequential provision.

Saving for previous transfer schemes

- 6 Paragraphs 58 and 60 of Schedule 14 to this Act (and the corresponding entries in Part 5 of Schedule 18 to this Act) do not affect—
- (a) any provision of a scheme made under section 90(1) or 92(1) of the Learning and Skills Act 2000 (c. 21) which has effect immediately before the coming into force of those paragraphs;
 - (b) the operation of section 95 of that Act in relation to rights and liabilities under a contract of employment transferred by virtue of such a scheme.

Preparation for performance of functions by the new Chief Inspector

- 7
- (1) The Secretary of State may by regulations confer on the Office and the existing Chief Inspector such powers, and impose on them such duties, as the Secretary of State considers necessary or expedient for the purpose of preparing for the performance by the new Chief Inspector of his functions.
 - (2) Regulations under sub-paragraph (1) may be made at any time before the day on which the new Chief Inspector acquires his functions.
 - (3) The ALI, the Chief Inspector of Adult Learning, the CSCI and the court administration inspectors must give such assistance to the Office and the existing Chief Inspector as is reasonably required for the purpose of preparing for the performance by the new Chief Inspector of his functions.
 - (4) In this paragraph references to the new Chief Inspector's functions are to the functions conferred on him by virtue of this Part.

First annual report of the new Chief Inspector

- 8
- (1) The first annual report made by the new Chief Inspector under section 121 is to be a report in respect of the year beginning with the day after the end of the last year for which the existing Chief Inspector made a report under section 3 of EA 2005.
 - (2) That report is to include a report on the exercise by the existing Chief Inspector of his functions during any period—
 - (a) beginning with the day mentioned in sub-paragraph (1), and
 - (b) ending with the day before his office was abolished.

Interpretation

- 9 In this Schedule—
- “the ALI” means the Adult Learning Inspectorate;
 - “the existing Chief Inspector” means Her Majesty's Chief Inspector of Schools in England;
 - “the new Chief Inspector” means the Chief Inspector appointed under Chapter 1 of this Part;
 - “court administration inspector” means an inspector of court administration appointed under section 58 of the Courts Act 2003 (c. 39);
 - “the CSCI” means the Commission for Social Care Inspection.

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

SCHEDULE 16

Section 161

POWERS TO FACILITATE INNOVATION

PART 1

AMENDMENTS OF CHAPTER 1 OF PART 1 OF EA 2002

- 1 (1) Section 1 of EA 2002 (purpose and interpretation of Chapter 1 of Part 1) is amended as follows.
- (2) In subsection (1)(a) and (b), for “the educational standards achieved by children” substitute “educational standards”.
- (3) In subsection (2)—
- (a) for “the educational standards achieved by children” substitute “educational standards”, and
 - (b) in paragraph (b), for “children” substitute “pupils or students”.
- (4) In subsection (3)—
- (a) after the definition of “education legislation” insert—
 - ““maintained school” means—
 - (a) a community, foundation or voluntary school,
 - (b) a community or foundation special school, or
 - (c) a maintained nursery school;”,
 - (b) for the definition of “qualifying body” substitute—
 - ““qualifying body” means—
 - (a) a local education authority,
 - (b) an Education Action Forum,
 - (c) a qualifying foundation,
 - (d) the governing body of a maintained school,
 - (e) the head teacher of a maintained school,
 - (f) the proprietor of an Academy, a city technology college or a city college for the technology of the arts,
 - (g) the proprietor of any special school that is not maintained by a local education authority but is for the time being approved by the Secretary of State or the National Assembly for Wales under section 342 of the Education Act 1996, or
 - (h) the governing body of an institution within the further education sector;”, and
 - (c) after the definition of “qualifying body” insert—
 - ““qualifying foundation” means the foundation, as defined by subsection (3)(a) of section 21 of the School Standards and Framework Act 1998, of any foundation or foundation special school that for the purposes of that section has a foundation established otherwise than under that Act;”, and
 - (d) omit the definition of “qualifying school”.

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

- 2 (1) Section 2 of EA 2002 (power to suspend statutory requirements etc.) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where the applicant is or includes a qualifying foundation, references in paragraphs (a) to (d) of subsection (1) to the applicant (so far as they would otherwise be read as references to the qualifying foundation) are to be read as references to the governing bodies of all or any of the foundation or foundation special schools in respect of which the applicant is the foundation.”
- (3) Omit subsections (7) and (8).
- 3 (1) Section 4 of EA 2002 (applications for orders under section 2) is amended as follows.
- (2) In subsection (1) after “section 2” insert “(“an application for an order”)”.
- (3) After subsection (1) insert—
- “(1A) No application for an order may be made by the head teacher of a maintained school without the consent of the governing body of the school.”
- (4) In subsection (2)—
- (a) for “such an application” substitute “an application for an order”,
- (b) after paragraph (a) insert—
- “(aa) in the case of a qualifying foundation, consult the governing body of each foundation or foundation special school to which the application relates and the local education authority who maintain the school,” and
- (c) for paragraph (b) substitute—
- “(b) in the case of the governing body of a maintained school, consult—
- (i) the local education authority who maintain the school, and
- (ii) where the school is a foundation school with a qualifying foundation, that foundation, and”.

PART 2

CONSEQUENTIAL AMENDMENT

- 4 In section 24 of the Anti-social Behaviour Act 2003 (c. 38), for the definition of “relevant school” substitute—
- ““relevant school” means—
- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school,
- (c) a maintained nursery school as defined in section 22(9) of the School Standards and Framework Act 1998,
- (d) a pupil referral unit as defined in section 19(2) of the 1996 Act,
- (e) an Academy,
- (f) a city technology college, or

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

(g) a city college for the technology of the arts.”.

SCHEDULE 17

Section 175

MISCELLANEOUS AMENDMENTS RELATING TO WALES

Schools in Wales causing concern: warning notice by local education authority

- 1 (1) Section 15 of SSFA 1998 (cases where local education authority may exercise powers of intervention) is amended as follows.
- (2) In subsections (1)(c) and (2)(a)(i) for “either or both of sections 16 and 17” substitute “any one or more of sections 16, 16A and 17”.
- (3) After subsection (3) insert—
- “(3A) For the purposes of subsection (2)(a) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—
- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain,
- (b) where relevant, the standards previously attained by them, or
- (c) the standards attained by pupils at comparable schools.”
- (4) In subsection (7), for “Part 1 of the School Inspections Act 1996” substitute “Chapter 3 of Part 1 of the Education Act 2005”.

LEA’s reserve power to prevent breakdown of discipline

- 2 In section 62 of SSFA 1998 (LEA’s reserve power to prevent a breakdown of discipline) in subsection (3)(c), for “either or both of sections 16 and 17” substitute “any one or more of sections 16, 16A and 17”.

Orders and regulations made by Assembly under SSFA 1998

- 3 (1) Section 138 of SSFA 1998 (orders and regulations) is amended as follows.
- (2) In subsection (1), after “the Secretary of State” insert “or the Assembly”.
- (3) In subsection (3), after “regulations” insert “made by the Secretary of State”.
- (4) In subsection (7), after “the Secretary of State” insert “or the Assembly”.

Meaning of “the Assembly” in SSFA 1998

- 4 In section 142(1) of SSFA 1998 (general interpretation), before the definition of “Church in Wales school” insert—

““the Assembly” means the National Assembly for Wales;”.

- 5 In section 143 of SSFA 1998 (index), after the entry for “area” insert—

“Assembly	section 142(1)”.
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Status: This is the original version (as it was originally enacted).

Power of Assembly to require LEA to obtain advisory services

- 6 In section 63 of EA 2002 (power to require LEA to obtain advisory services) in subsection (4) (which defines “school” for the purposes of that section), for “Chapter 2” substitute “Chapter 4”.

SCHEDULE 18

Section 184

REPEALS

PART 1

REPEALS COMING INTO FORCE ON ROYAL ASSENT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Education Act 1996 (c. 56)	In section 444— in subsection (1A), the words “without reasonable justification”, and in subsection (3), paragraph (b) and the word “or” immediately following it.
Education Act 2002 (c. 32)	In section 1(3), the definition of “qualifying school”. Section 2(7) and (8). In Schedule 21, paragraph 54.

PART 2

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 188(2)

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Leasehold Reform Act 1967 (c. 88)	In section 29(6), the words from “but a university body” to the end.
Employment Act 1989 (c. 38)	Section 26. Section 28(4)(b).
Education Act 1996 (c. 56)	In section 569— in subsection (2), the words “other than regulations under section 492”, and subsection (3).
School Standards and Framework Act 1998 (c. 31)	Section 127(5) and (6).
Education Act 2002 (c. 32)	Section 159(3). In Schedule 21, paragraph 110(3).

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Education Act 2005 (c. 18)	In Schedule 9, paragraph 21.

PART 3

SCHOOL ORGANISATION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Local Government Act 1972 (c. 70)	Section 177(1A)(b).
Local Government Act 1974 (c. 7)	Section 25(5)(a).
Education Act 1996 (c. 56)	In section 529(2), the words “(other than a nursery school or a special school)”.
School Standards and Framework Act 1998	<p>In section 21(6)(i), the words “school organisation committees and”.</p> <p>Section 24.</p> <p>Section 27.</p> <p>In section 28—</p> <p>in subsection (1)(d), the words from “in the case” to “Wales,”;</p> <p>in subsection (2)(b), the words from “or of” to “in England,”;</p> <p>subsections (2A) and (2B);</p> <p>subsection (6);</p> <p>in subsection (7), the words from the beginning to “in Wales,”;</p> <p>in subsection (8), the words “(for both England and Wales)”;</p> <p>and</p> <p>in subsection (9), the words “subsection (6) and”.</p> <p>Section 28A.</p> <p>In section 29—</p> <p>in subsection (4B), paragraph (c) and in paragraph (d), the words “parish council or”;</p> <p>subsection (5);</p> <p>in subsection (6), the words from the beginning to “in Wales”;</p> <p>in subsection (7), the words “(for both England and Wales)”;</p> <p>and</p> <p>in subsection (8), the words “subsection (5) and”.</p> <p>In section 31—</p> <p>subsection (5);</p> <p>in subsection (6), the words from the beginning to “in Wales”;</p>

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	in subsection (7), the words “(5) or”; and in subsection (8), the words “(for both England and Wales)”.
	In section 33(4), the words “28A,”.
	In section 79(1), the word “or” at the end of paragraph (b).
	In section 138(4), the words “29(9A),”.
	In section 143— in the entry beginning “promoters”, the words “or 28A(2)”, and the entry beginning “school organisation committee”.
	Schedule 4.
	In Schedule 6— paragraphs 1 to 5; in paragraph 6, the words from “which relate” to the end; in paragraph 11, the words “5 or”; in paragraph 12(2), the words “, 28A(1)”; in paragraph 13, in sub-paragraph (2), the words “, 28A(1)”, and in sub- paragraph (3)(a) the words “or 28A(2)”; in paragraph 14(3), the words “or 28A(2)”; paragraph 21 and the heading immediately preceding it.
	In Schedule 30, paragraphs 45 and 146(b).
Learning and Skills Act 2000 (c. 21)	In section 113(3)(b), the words “, any school organisation committee”.
	In Schedule 7— in paragraph 32, in sub-paragraph (2), the definition of “the school organisation committee”, and sub- paragraph (3); paragraph 35(5) and (6).
	In Schedule 9, paragraph 82.
Race Relations (Amendment) Act 2000 (c. 34)	In Schedule 2, paragraph 30.
Special Educational Needs and Disability Act 2001 (c. 10)	In Schedule 8, paragraph 23(2).
Education Act 2002 (c. 32)	Section 73. In Schedule 21, paragraph 53.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Education Act 2005 (c. 18)	<p>Sections 64 to 67.</p> <p>In section 68(1), in paragraph (a) the words “, 28A”, and paragraphs (d) and (e).</p> <p>Section 69(a).</p> <p>Section 73.</p> <p>Schedules 10 and 11.</p> <p>In Schedule 12, paragraphs 1(2), 2, 3, 5, 6 and 9 to 12.</p>

PART 4

SCHOOLS CAUSING CONCERN

<i>Short title and chapter</i>	<i>Extent of repeal</i>
School Standards and Framework Act 1998 (c. 31)	<p>In section 14, subsections (1A) and (4)(b).</p> <p>Section 15(7).</p> <p>In section 16(3)(a) and (9)(a), the words “13(3)(a) or”.</p> <p>In section 16A(2)(a), the words “13(3)(a) or”.</p> <p>In section 17(3), the words “13(3)(a) or”.</p> <p>Section 19(2)(ca).</p>
Learning and Skills Act 2000 (c. 21)	<p>In Schedule 7, paragraph 13.</p> <p>In Schedule 9, paragraphs 78 and 79.</p>
Education Act 2002 (c. 32)	<p>In section 63(5), the words “of the Secretary of State or, as the case may be,”.</p>
Education Act 2005 (c. 18)	<p>In section 17(1), all the words following paragraph (b).</p> <p>In section 18, in paragraph (a) of the definition of “the appropriate appointing authority”, the words “, a Church in Wales school”.</p> <p>In Schedule 5, paragraph 3(14).</p>

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

PART 5

INSPECTIONS

<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 in paragraph 3, the entry relating to the Adult Learning Inspectorate.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to the Adult Learning Inspectorate and the Office of Her Majesty's Chief Inspector of Schools in England.
Superannuation Act 1972 (c. 11)	In Schedule 1, the entry relating to the Adult Learning Inspectorate.
Employment and Training Act 1973 (c. 50)	Section 10B(1)(a) and (b).
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entries relating to any member of the Adult Learning Inspectorate and to Her Majesty's Chief Inspector of Schools in England.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 3, the entry relating to Her Majesty's Chief Inspector of Schools in England.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to the Adult Learning Inspectorate.
Children Act 1989 (c. 41)	Section 26ZA. In section 26A(2A), "26ZA or". In section 79N, subsections (1) to (3) and (6). In section 79R(4). In section 87(10), the definition of "the Commission".
Further and Higher Education Act 1992 (c. 13)	Section 57(3)(c) and (d).
Education Act 1994 (c. 30)	In section 18B, subsection (3)(a), and in subsection (4) the words from "and subsections (2) to (4)" onwards.
Education Act 1997 (c. 44)	In section 38, subsection (2), in subsection (5)(a) the words "England or (as the case may require)", in subsection (5)(b) the words "paragraph 2 of Schedule 1 to the Education Act 2005 or (as the case requires)", and subsection (7)(a). In section 39(4), the words from "section 11(2)" to "Wales," and "section 11(2) or, as the case may be,".

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	Section 41.
Audit Commission Act 1998 (c. 18)	In Schedule 1, paragraph 8(2)(e).
Data Protection Act 1998 (c. 29)	In section 31(6), “, 26ZA”.
School Standards and Framework Act 1998 (c. 31)	In section 139(2)(b), the words “Her Majesty’s Chief Inspector of Schools in England, or”.
	In Schedule 26, paragraphs 13A(4) and 14(1).
Care Standards Act 2000 (c. 14)	Section 45(4).
Learning and Skills Act 2000 (c. 21)	Sections 52 to 72.
	Section 90.
	Section 92(4)(b) and (c).
	Section 118(1)(a) and (b).
	In section 150(4)(a), “90,”.
	Section 151(2).
	Schedule 6.
	In Schedule 10, Part 3.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6, the entry relating to the Adult Learning Inspectorate.
Education Act 2002 (c. 32)	Section 162A(4).
	Section 162B(8).
	Section 178(3).
Courts Act 2003 (c. 39)	Section 58(6).
Health and Social Care (Community Health and Standards) Act 2003 (c. 43)	Section 76(2)(f) and (g).
	Section 77(3).
	Section 79(7).
	Section 80(5).
	Section 110.
	Section 112.
	Section 116(1).
	In section 133(1)(a), the words “or the Children Act 1989 (c. 41)”.
	In Schedule 7, paragraph 5(2).
	In Schedule 9, paragraphs 10, 18(2), 26 and 32.
Public Audit (Wales) Act 2004 (c. 23)	In Schedule 2, paragraph 18.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Children Act 2004 (c. 31)	Section 20(4)(b) and (c). Section 24. Section 38.
Education Act 2005 (c. 18)	Sections 1 to 4. In section 5(5), the word “and” at the end of paragraph (e). In section 9, “2(2)(b) or”. Section 11(2) to (4). Schedule 1. In Schedule 7, paragraphs 1 and 4(5). In Schedule 9, paragraph 5.
Childcare Act 2006 (c. 21)	Section 14. Section 31. Section 50(4). Section 61(4). In section 77, in each of subsections (1) and (2) the words “A person authorised for the purposes of this subsection by”, and subsection (7). Sections 80 and 81.

PART 6

OTHER REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Education Act 1996 (c. 56)	In section 437(8), the definition of “suitable education”. In section 509(1B)— the words “the Learning and Skills Council for England or”, and in paragraph (b), the words “13 or”. Sections 550A and 550B.
Education Act 1997 (c. 44)	Sections 4 and 5.
School Standards and Framework Act 1998 (c. 31)	Section 5. In section 17(6), the words from “but” onwards. Section 47A(6).

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<p>In section 48(4), the words from “the approval” to “and for”.</p> <p>Section 58(4).</p> <p>Section 61.</p> <p>In section 77(4), the words “by a local authority”.</p> <p>In section 84(5), the words “of practice”, in each place where they occur.</p> <p>In section 85(1), the words “of practice”.</p> <p>In section 85A—</p> <p style="padding-left: 40px;">in subsection (1), the word “and” at the end of paragraph (a), and</p> <p style="padding-left: 40px;">in subsection (3), the word “and” at the end of paragraph (b).</p> <p>In section 89—</p> <p style="padding-left: 40px;">(a) in subsection (1A) the words “(within the meaning of section 22 of the Children Act 1989)”, and</p> <p style="padding-left: 40px;">(b) in subsection (2) the word “and” at the end of paragraph (c).</p> <p>Section 90(6), (7) and (10).</p> <p>Section 99(1).</p> <p>In Schedule 3, in paragraph 3 as it applies in relation to England, sub-paragraph (3).</p> <p>In Schedule 14, paragraph 1(1) to (6).</p> <p>In Schedule 15, paragraphs 1(4) and (6), 2(5) and 3.</p> <p>In Schedule 22—</p> <p style="padding-left: 40px;">paragraph 1(1)(c);</p> <p style="padding-left: 40px;">in paragraph 2(1)(a), the words from “or acquired” to the end;</p> <p style="padding-left: 40px;">in paragraph 3(1)(a), the words from “or acquired” to the end;</p> <p style="padding-left: 40px;">paragraph 3(1)(d);</p> <p style="padding-left: 40px;">in paragraph 3(1)(f), the words “(d) or”;</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">in paragraph 3(8), the words “(d),”.</p>
Education Act 2002 (c. 32)	<p>In section 176(3), the definition of “pupil”.</p> <p>In Schedule 21, paragraph 118(3)(b) and (4)(a)(ii).</p>
Anti-social Behaviour Act 2003 (c. 38)	Section 21(4).
Education Act 2005 (c. 18)	In Schedule 12, paragraph 15.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Childcare Act 2006 (c. 21)	In Schedule 2, paragraph 42.
