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STATUTORY INSTRUMENTS

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**1998 No. 386 (C.9)**

**EDUCATION, ENGLAND AND WALES**

**The Education Act 1997 (Commencement  
No. 3 and Transitional Provisions) Order 1998**

*Made - - - - 24th February 1998*

In exercise of the powers conferred on the Secretary of State by sections 54(3) and 58(3) of the Education Act 1997<sup>(1)</sup>, the Secretary of State for Education and Employment as respects England, and the Secretary of State for Wales as respects Wales, hereby make the following Order:—

**1.—(1)** This Order may be cited as the Education Act 1997 (Commencement No. 3 and Transitional Provisions) Order 1998.

(2) In this Order—

“the 1996 Act” means the Education Act 1996<sup>(2)</sup>;

“the 1997 Act” means the Education Act 1997;

“NCVQ” means the National Council for Vocational Qualifications; and

“SCAA” means the School Curriculum and Assessment Authority;

**2.—(1)** The provisions of the 1997 Act specified in Part I of Schedule 1 to this Order shall come into force on 1st March 1998.

(2) The provisions of the 1997 Act specified in Part II of Schedule 1 to this Order shall come into force on 1st April 1998 (save that the commencement of sections 2 and 3 on that date shall have effect subject to Part I of Schedule 2 to this Order).

(3) The provisions of the 1997 Act specified in Part III of Schedule 1 to this Order shall come into force on 1st August 1998.

(4) The provisions of the 1997 Act specified in Part IV of Schedule 1 to this Order shall come into force on 1st September 1998.

(5) The provision of the 1997 Act specified in Part V of Schedule 1 to this Order shall come into force on 1st November 1998.

(6) The provisions of the 1997 Act specified in Part VI of Schedule 1 to this Order shall come into force on 1st April 1999.

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(1) 1997 c. 44.

(2) 1996 c. 56.

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(7) The provisions of the 1997 Act specified in Part VII of Schedule 1 to this Order shall come into force on 1st September 1999.

3. Unless otherwise specified in this Order, the provisions referred to in Article 2 above shall come into force for all purposes.

4.—(1) Part I of Schedule 2 to this Order shall have effect for the purpose of making transitional provisions in connection with sections 2 and 3 of the 1997 Act (which come into force on 1st April 1998 by virtue of Article 2(2)).

(2) Part II of Schedule 2 to this Order shall have effect for the purpose of making transitional provisions in connection with sections 5 to 8 of, and Schedule 1 to, the 1997 Act (which come into force on 1st September 1998 by virtue of Article 2(4)).

## SCHEDULE 1

Article 2

### PART I

#### PROVISIONS COMING INTO FORCE ON 1st MARCH 1998

Section 33.

Section 49(1) so far as it is not already in force.

Section 49(4).

Section 57(1) and (4) to the extent that those subsections relate to the provisions of Schedules 7 and 8 specified below.

In Schedule 7—

paragraphs 2(1) and 3(1) so far as those provisions are not already in force;

paragraph 3(2); and

paragraphs 4 and 26 so far as those provisions are not already in force.

In Schedule 8 the repeal of—

the provisions of the Superannuation Act 1972<sup>(3)</sup> specified to the extent that they relate to SCAA;

the provisions of the House of Commons Disqualification Act 1975<sup>(4)</sup> specified to the extent that they relate to NCVQ and SCAA;

sections 358 and 359 of the 1996 Act;

Schedule 29 to the 1996 Act; and

the provisions of Schedule 37 to the 1996 Act specified to the extent that they relate to SCAA.

### PART II

#### PROVISIONS COMING INTO FORCE ON 1st APRIL 1998

Sections 2 and 3.

Section 9.

Section 16(1) and (5) to the extent that those subsections apply to England.

Section 19.

Section 57(1) to the extent that that subsection relates to the provisions of Schedule 7 specified below.

In Schedule 7—

paragraph 20(b) except so far as it substitutes “307A” for “307”;

paragraph 48(1) and (3); and

paragraph 50.

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<sup>(3)</sup> 1972 c. 11.

<sup>(4)</sup> 1975 c. 24.

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## PART III

### PROVISIONS COMING INTO FORCE ON 1st AUGUST 1998

Section 17(1) to (3) and (5) to (7) to the extent that those subsections apply to England.

Section 52(1) to (3).

Section 57(1) and (4) to the extent that those subsections relate to the provisions of Schedules 7 and 8 specified below.

In Schedule 7—

- paragraph 8;
- paragraphs 11 to 14;
- paragraph 17;
- paragraph 19;
- paragraph 21;
- paragraphs 23 to 25;
- paragraph 34(b) and (c);
- paragraphs 35 and 36;
- paragraph 46; and
- paragraph 51.

In Schedule 8, the repeal of the words “or over” in section 312(2)(c) of the 1996 Act.

## PART IV

### PROVISIONS COMING INTO FORCE ON 1st SEPTEMBER 1998

Sections 4 to 8.

Section 43.

Section 47.

Section 57(1) and (4) to the extent that those subsections relate to the provisions of Schedules 7 and 8 specified below.

Schedule 1.

In Schedule 7—

- paragraph 10;
- paragraph 16;
- paragraph 20 so far as it is not already in force;
- paragraph 22;
- paragraph 38;
- paragraph 47; and
- paragraph 49(3) so far as it is not already in force.

In Schedule 8, the repeal of—

- in section 4(2) of the 1996 Act, the words “(pupil referral units)”;
- in section 19(1) and (4) of the 1996 Act, the words “full-time or part-time”; and

in Schedule 16 to the 1996 Act, in paragraph 15(1), the words from “, including” to “brought”.

## PART V

### PROVISION COMING INTO FORCE ON 1st NOVEMBER 1998

Section 16(4) to the extent that that subsection applies to Wales.

## PART VI

### PROVISIONS COMING INTO FORCE ON 1st APRIL 1999

Section 16(1) and (5) to the extent that those subsections apply to Wales.

## PART VII

### PROVISIONS COMING INTO FORCE ON 1st SEPTEMBER 1999

Section 17(1) to (3) and (5) to (7) to the extent that those subsections apply to Wales.

## SCHEDULE 2

Articles 2(2) and 4

### TRANSITIONAL PROVISIONS

## PART I

**1.**—(1) In this Part “discipline statement” means the written statement which the governing body of a school are required to make by virtue of, and in accordance with, such of the following provisions of the 1996 Act as is applicable in their case, namely—

- (a) subsection (2) of section 154 (as substituted with effect from 1st April 1998 by section 2 of the 1997 Act), or
- (b) subsection (2) of section 306A (which was inserted with effect from the same date by section 3 of the 1997 Act).

(2) Where the governing body of any school are required to make a discipline statement by virtue of a provision mentioned in sub-paragraph (1), they shall make that statement in the period commencing on 1st April 1998 and ending on 1st September 1998.

(3) Sub-paragraph (2) is without prejudice to the governing body’s duty from time to time to review that statement after the end of the period referred to in that sub-paragraph.

**2.**—(1) None of the following provisions of the 1996 Act, namely—

- (a) section 154(4), (5) and (7), or (as the case may be)
- (b) section 306A(4), (5) and (7),

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shall have effect in relation to the head teacher of a school until the date upon which that school's governing body first make a discipline statement as required by section 154(2)(a) or 306A(2)(a) of that Act.

(2) However until that date, the following provisions of the school's articles of government shall continue to have effect, namely—

- (a) in relation to a county, voluntary or maintained special school, the provisions required to be contained in those articles by virtue of subsections (3) to (5) of section 154 of the 1996 Act as it had effect immediately before 1st April 1998; and
- (b) in relation to a grant-maintained or grant-maintained special school, any provisions in the school's articles which have the same or a similar effect to the provisions mentioned in paragraph (a) of this sub-paragraph.

(3) Sub-paragraph (2) applies notwithstanding the coming into force of section 2, 3 or 57(3) of the 1997 Act.

(4) In this Part—

- (a) any reference to section 154 of the 1996 Act (other than the one in sub-paragraph (2) of this paragraph) shall be construed as a reference to that section as substituted by section 2 of the 1997 Act; and
- (b) any reference to section 306A of the 1996 Act shall include a reference to that section as it has effect in relation to a grant-maintained special school by virtue of paragraph 15 of Schedule 28 to that Act (as amended by section 3(2) of the 1997 Act).

## PART II

**3.** Section 550B of the 1996 Act (inserted by section 5 of the 1997 Act) shall not apply in relation to the detention of a pupil imposed as punishment for misconduct which occurs wholly before 1st September 1998.

**4.** In relation to a pupil who is excluded from a school for misconduct which occurs wholly before 1st September 1998, the provisions of—

- (a) section 156(2) of the 1996 Act (in relation to a county, voluntary or maintained special school), or
- (b) section 307(1) of that Act (in relation to a grant-maintained or grant-maintained special school),

shall continue to have effect without the amendments made by section 6 of the 1997 Act.

**5.—(1)** In this paragraph “relevant appeal” means an appeal against a decision or direction relating to the permanent exclusion of a pupil from a school where any such decision or direction is made before 1st September 1998.

(2) In relation to a relevant appeal concerning the exclusion of a pupil from a county, voluntary or maintained special school, Schedule 16 to the 1996 Act shall continue to have effect without the amendments made by section 7 of the 1997 Act.

(3) In relation to a relevant appeal concerning the exclusion of a pupil from a grant-maintained or grant-maintained special school—

- (a) the provisions in that school's instrument or (as the case may be) articles of government applying immediately before 1st September 1998 which relate to the procedure on an appeal against a decision not to reinstate a pupil permanently excluded from the school, shall continue to have effect; and
- (b) none of the following provisions shall apply—

- (i) section 307A of the 1996 Act (inserted by section 8(1) of the 1997 Act);
- (ii) Schedule 25A to the 1996 Act (inserted by section 8(2) of, and Schedule 1 to, the 1997 Act); and
- (iii) paragraph 16 of Schedule 28 to the 1996 Act (inserted by section 8(3) of the 1997 Act).

6. Paragraphs 4 and 5 apply notwithstanding the coming into force of sections 6 to 8 and 57(3) of the 1997 Act.

19th February 1998

*Stephen Byers*  
Minister of State,  
Department for Education and Employment

24th February 1998

*Peter Hain*  
Parliamentary Under-Secretary of State, Welsh  
Office

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings certain provisions of the Education Act 1997 into force on 1st March 1998, 1st April 1998, 1st August 1998, 1st September 1998, 1st November 1998, 1st April 1999 and 1st September 1999. The provisions are listed in Parts I to VII respectively of Schedule 1 to the Order. The commencement on 1st April 1998 of sections 2 and 3 of the 1997 Act has effect subject to Part I of Schedule 2 to this Order.

Schedule 2 to the Order contains transitional provisions.

Part I of Schedule 2 relates to the commencement of sections 2 (responsibility for discipline: LEA-maintained schools) and 3 (responsibility for discipline: grant-maintained and grant-maintained special schools), which are brought into force on 1st April 1998 by virtue of Article 2(2) of, and Part II of Schedule 1 to, this Order.

Part II of Schedule 2 relates to the commencement of sections 5 (detention) and 6 to 8 (exclusion of pupils from school) of, and Schedule 1 (appeals against exclusion of pupils from grant-maintained schools) to, the 1997 Act, which are brought into force on 1st September 1998 by virtue of Article 2(4) of, and Part IV of Schedule 1, to this Order.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1, section 57(4) (partially) and Schedule 8 (partially)	4 April 1997	1997/1153
sections 20, 55 and 56, section 57(1) and (4) (partially), and Schedules 7 and 8 (partially)	14 June 1997	1997/1468
sections 10 to 12, section 14 (partially), sections 34, 35, 37(1) to (4), 38 to 42, 44 to 46, 51, 52(4), section 57(1) and (4) (partially), section 57(2) and (3), Schedule 2, Schedule 3 (partially), Schedule 6, and Schedules 7 and 8 (partially)	1 September 1997	1997/1468
sections 21 to 32, section 49(1) (partially), section 49(2) and (3), section 53, section 57(1) and (4) (partially), Schedules 4 and 5, and Schedules 7 and 8 (partially)	1 October 1997	1997/1468
section 15, section 16(2), (3) and (6), section 16(4) (in its application to England), section 17(4) and (8), and section 18	1 November 1997	1997/1468
sections 36 and 48	1 December 1997	1997/1468