



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER V

MISCELLANEOUS

City colleges

105 Agreements for establishment, etc., of city technology colleges and city colleges for the technology of the arts.

- (1) The Secretary of State may enter into an agreement with any person under which—
 - (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of either—
 - (i) an independent school to be known as a city technology college; or
 - (ii) an independent school to be known as a city college for the technology of the arts;and having (in each case) such characteristics as are specified in the agreement and in subsection (2) below; and
 - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
 - (a) is situated in an urban area;
 - (b) provides education for pupils of different abilities who have attained the age of eleven years^{F1} . . . and who are wholly or mainly drawn from the area in which the school is situated; and
 - (c) has a broad curriculum with an emphasis—

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- (i) in the case of a school to be known as a city technology college, on science and technology; or
 - (ii) in the case of a school to be known as a city college for the technology of the arts, on technology in its application to the performing and creative arts.
- (3) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
- (a) conditions and requirements imposed for the purpose of securing that no charge is made in respect of admission to the school or, subject to such exceptions as may be specified in the agreement, in respect of education provided at the school; and
 - (b) such other conditions and requirements with respect to the school as are specified in the agreement.
- (4) Payments under an agreement under this section may be in respect of capital or current expenditure and, in so far as they relate to the latter, the agreement shall provide for their continuance (subject to the fulfilment of the conditions and requirements mentioned in subsection (3) above) for a period of not less than seven years or for an indefinite period terminable by the Secretary of State by not less than seven years written notice.
- (5) Where such payments relate to capital expenditure, the agreement shall provide for the repayment to the Secretary of State, in the event at any time of the school discontinuing or ceasing to have the characteristics specified in the agreement and in subsection (2) above, of sums determined by reference to—
- (a) the value at that time of the school premises and other assets held for the purposes of the school; and
 - (b) the extent to which expenditure incurred in providing those assets was met by payments under the agreement.
- (6) Without prejudice to subsection (4) above an agreement under this section may provide for indemnifying a person, in the event of the agreement being terminated by the Secretary of State, for expenditure—
- (a) incurred by that person in carrying out the undertakings mentioned in subsection (1) above; or
 - (b) incurred by that person (otherwise than by virtue of subsection (5) above) in consequence of the termination of the agreement.

Textual Amendments

- F1** Words in s. 105(2)(b) repealed (1. 8. 1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), ss. 12(8), 93(2), [Sch.9](#); S.I. 1992/831, art. 2, [Sch.4](#).

Charges in maintained schools

106 Prohibition of charges, etc., in maintained schools.

- (1) No charge shall be made in respect of admission to any maintained school.

[^{F2}(1A) Subsection (1) above shall not apply to the admission of any person to any maintained school for the purpose of—

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- (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
 - (b) full-time education suitable to the requirements of persons who have attained the age of nineteen years]
- (2) Subject to subsection (3) below and section 107 of this Act, no charge shall be made in respect of the education provided for registered pupils at any such school during school hours.
- (3) Subsection (2) above shall not apply in relation to—
 - [^{F3}(a) tuition in playing any musical instrument, where the tuition is provided either individually or to a group of no more than four pupils; or]
 - (b) any education provided at a grant-maintained school in pursuance of arrangements made under section [^{F4}68(8) of the Education Act 1993].
- (4) No charge shall be made in respect of education provided for a registered pupil at any maintained school where the education is education to which subsection (2) above does not apply if it is—
 - (a) required as part of any syllabus for a prescribed public examination which is a syllabus for which the pupil is being prepared at the school; or
 - (b) provided in pursuance of any of the duties imposed by section 10(1)(b) or (2) (a) of this Act;but this subsection shall not apply in relation to education provided at a grant-maintained school in pursuance of arrangements made under section [^{F4}68(8) of the Education Act 1993].
- (5) No charge shall be made in respect of the entry of a registered pupil at any maintained school for any prescribed public examination in any syllabus for that examination for which the pupil has been prepared at the school.
- (6) Neither the parent of any such pupil nor the pupil himself shall be required to pay for or supply any materials, books, instruments or other equipment for use for the purposes of or in connection with—
 - (a) education provided for the pupil at the school in respect of which by virtue of this section no charge may be made; or
 - (b) any syllabus for a prescribed public examination which is a syllabus for which the pupil has been prepared at the school.
- (7) No charge shall be made in respect of transport provided for a registered pupil at any such school where the transport is either—
 - (a) incidental to education provided for the pupil at the school in respect of which by virtue of this section no charge may be made; or
 - (b) provided for the purpose of enabling him to meet any examination requirement for any syllabus for a prescribed public examination which is a syllabus for which he has been prepared at the school.
- (8) For the purposes of subsection (7)(a) above, transport is incidental to education provided for registered pupils at any such school if it is provided for the purpose of carrying such pupils—
 - (a) to or from any part of the school premises in which education is provided for those pupils, from or to any other part of those premises; or
 - (b) to or from any place outside the school premises in which education is provided for those pupils under arrangements made by or on behalf of the

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governing body or the local education authority, from or to the school premises or any other such place.

- (9) Nothing in this section shall be read as prohibiting the making of a charge in respect of board and lodging provided for a registered pupil at any such school on a residential trip.
- (10) In this Chapter “residential trip ” means any trip—
- (a) which is arranged for registered pupils at any maintained school by or on behalf of the governing body or the local education authority; and
 - (b) which requires the pupils taking part to spend one or more nights away from their usual overnight accommodation.
- (11) For the purposes of this section, a pupil shall be regarded as having been prepared at a school for a syllabus for any prescribed public examination if any part of the education provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

Textual Amendments

- F2** S. 106(1A) inserted (1. 8. 1993) by Further and Higher Education Act 1992 (c. 13), s. 12(9); S.I. 1992/831, art. 2, Sch. 4.
- F3** S. 106(3)(a) substituted (1.10.1993) by 1993 c. 35, s. 280; S.I. 1993/1975, art. 9, Sch. 1
- F4** Words in s. 106 substituted (1.4.1994) by 1993 c. 35, s. 307(1), Sch. 19 para.127; S.I. 1994/507, art. 4(1), Sch.2.

Modifications etc. (not altering text)

- C1** S. 106 modified (1.9.1994) by 1993 c. 35, s. 298, Sch. 18 para. 9(1); S.I. 1994/2038, art. 3(1), Sch.2.
- C2** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.
Ss. 106-111 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), Sch. 2 Pt.I

107 Provision for cases where education is provided partly during and partly outside school hours.

- (1) Where a period allowed for any educational activity at a maintained school falls partly during school hours and partly outside school hours—
- (a) if fifty per cent. or more of the time occupied by that period together with any connected school travelling time falls during school hours, so much of the education provided during that period as is provided outside school hours shall be treated for the purposes of section 106(2) of this Act as provided during school hours; and
 - (b) in any other case, so much of the education provided during that period as is provided during school hours shall be treated for those purposes as provided outside school hours.
- (2) In this section “school travelling time ” means time spent on travel during school hours; and for the purposes of subsection (1)(a) above, such time is connected school travelling time in relation to any educational activity if it is spent by the pupils taking part in the activity in getting to or from the place where the activity takes place.
- (3) Where any education provided at a maintained school is provided on a residential trip—

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- (a) if the number of school sessions taken up by the trip is equal to or greater than fifty per cent. of the number of half days spent on the trip, any education provided on the trip which is provided outside school hours shall be treated for the purposes of section 106(2) of this Act as provided during school hours; and
 - (b) in any other case, any education provided on the trip which is provided during school hours shall be treated for those purposes as provided outside school hours.
- (4) In this section a “half day ” means any period of twelve hours ending with noon or midnight on any day.
- (5) Where fifty per cent. or more of a half day is spent on a residential trip, the whole of that half day shall be treated for the purposes of subsection (3) above as spent on the trip.
- (6) For the purposes of that subsection, a school session on any day on which such a session takes place at the school concerned shall be treated as taken up by a residential trip on which education is provided for registered pupils at the school if the time spent on the trip occupies fifty per cent. or more of the time allowed for that session at the school.

Modifications etc. (not altering text)

- C3** S. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
- C4** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

108 Recovery of wasted examination fees.

- (1) Notwithstanding section 106(5) of this Act, where—
- (a) the governing body of any maintained school or the local education authority have paid or are liable to pay any fee in respect of the entry of a registered pupil at the school for a public examination in any syllabus for that examination; and
 - (b) the pupil fails without good reason to meet any examination requirement for that syllabus;
- that body or authority may recover the amount of the fee from the pupil’s parent.
- (2) It shall be for the body or authority who have paid or are liable to pay the fee in question to determine for the purposes of this section any question whether a pupil who has failed to meet any such examination requirement had good reason for the failure.

Modifications etc. (not altering text)

- C5** S. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
- C6** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

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109 Permitted charges.

- (1) Subject to subsection (2) below, a charge may be made in respect of—
 - (a) education or transport provided for a registered pupil at any maintained school other than education or transport in respect of which by virtue of section 106 of this Act or section 55(1) of the 1944 Act no charge may be made;
 - (b) the entry of any such pupil for a public examination in any syllabus for that examination otherwise than in circumstances in which by virtue of section 106(5) of this Act no charge may be made; and
 - (c) board and lodging provided for any such pupil on a residential trip.
- (2) A charge may not be made—
 - (a) by virtue of subsection (1)(a) above in respect of the provision for a pupil of education or transport; or
 - (b) by virtue of subsection (1)(b) above in respect of the entry of a pupil for an examination in any syllabus for that examination;

unless the education or transport is provided or the pupil is entered for the examination in that syllabus by agreement with his parent; and any education, transport or examination entry in respect of which a charge may be made by virtue of either of those provisions is referred to below in this section as an “optional extra”.
- (3) The following provisions of this section apply in relation to any charge permitted under this section, other than a charge in respect of education provided at a grant-maintained school in pursuance of arrangements made under section 57(5) of this Act; and any charge to which those provisions apply is referred to in those provisions as a regulated charge.
- (4) The amount of any regulated charge shall be payable by the parent of the pupil concerned.
- (5) A regulated charge shall not exceed the cost of the provision of the optional extra or the board and lodging in question.
- (6) Without prejudice to the generality of subsection (5) above, the cost of the provision of an optional extra includes costs, or an appropriate proportion of the costs—
 - (a) incurred in respect of the provision of any materials, books, instruments or other equipment used for the purposes of or in connection with the provision of the optional extra;
 - (b) attributable to the provision of non-teaching staff for any purpose connected with the provision of the optional extra; or
 - (c) attributable to the provision of teaching staff engaged under contracts for services for the purpose of providing it.
- (7) Subject to subsection (8) below, the cost of the provision of an optional extra shall not be taken as including any costs attributable to the provision of teaching staff other than staff engaged as mentioned in subsection (6)(c) above.
- (8) Where the optional extra in question consists of tuition in playing any musical instrument the cost of its provision shall include costs, or an appropriate proportion of the costs, attributable to the provision of teaching staff employed for the purpose of providing the tuition.
- (9) Where charging is permitted under this section and the charge would be a regulated charge, the question of whether any charge in respect of the optional extra or the

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board and lodging should be made, and the amount of any charge to be made, shall be determined—

- (a) in a case where the cost of the provision of the optional extra or board and lodging is met by, or from funds at the disposal of, the governing body, by the governing body; and
 - (b) in any other case, by the local education authority.
- (10) The whole or any part of the amount of any charge the local education authority determine under subsection (9)(b) above to make—
- (a) shall, if the governing body so determine, be met by, or from funds at the disposal of, the governing body; and
 - (b) shall not, to the extent that it is so met, be payable by the parent of the pupil concerned.

Modifications etc. (not altering text)

- C7 Ss. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
- C8 Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
- C9 Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

110 Charges and remissions policies.

- (1) Every governing body of a maintained school and every local education authority shall determine and keep under review a policy with respect to the provision of, and the classes or descriptions of case in which they propose to make charges for, any optional extra or board and lodging in respect of which charges are permitted by section 109 of this Act, other than education provided at a grant-maintained school in pursuance of arrangements made under section [F568(8) of the Education Act 1993].
- (2) No such body or authority shall make such a charge unless they have both—
- (a) determined a policy under subsection (1) above with respect to the making of such charges (their “charging policy ”); and
 - (b) determined a policy (their “remissions policy ”)—
 - (i) setting out any circumstances in which they propose to remit (in whole or in part) any charge which would otherwise be payable to them in accordance with their charging policy; and
 - (ii) in the case of such a policy determined by the governing body of any school other than a grant-maintained school, setting out also any circumstances in which the governing body propose to meet (in whole or in part) any charge payable to the local education authority in accordance with the authority’s charging policy for any optional extra or board and lodging provided for a registered pupil at the school.
- (3) Any remissions policy determined by the governing body of a maintained school or by a local education authority shall provide for complete remission of any charges otherwise payable in respect of board and lodging provided for a pupil on a residential trip if—
- (a) the education provided on the trip is education in respect of which by virtue of section 106 no charge may be made; and

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- (b) his parents are in receipt of income support [^{F6}, family credit or disability working allowance] in respect of any period wholly or partly comprised in the time spent on the trip.
- (4) Any such body or authority shall keep under review any remissions policy determined by them under this section.
- (5) In this section “optional extra ” has the same meaning as in section 109 of this Act.

Textual Amendments

F5 Words in s. 110(1) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para.128**; S.I. 1994/507, art. 4(1), **Sch.2**.

F6 Words in s. 110 substituted (the substitution coming into force 19.11.1991 for the purposes referred to in art. 2(b) of S.I. 1991/2617; 10.3.1991 for the purposes referred to in art. 2(e) of that S.I. and 6.4.1992 for all other purposes) by **Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21, SIF 113:1)**, s. 7, **Sch. 3, Pt. II, para. 12**; S.I. 1991/2617, art. 2(b)(e)(f), **Sch.**

Modifications etc. (not altering text)

C10 Ss. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.

C11 Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
 Ss. 106-111 applied (with modifications) (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**

111 Charges for board and lodging at boarding schools.

- (1) Subject to the following provisions of this section, where any registered pupil at any maintained school is provided at the school with board and lodging [^{F7} there shall be payable in respect of the board and lodging by the parent of the pupil concerned (in the case of a school maintained by a local education authority) to the authority and (in the case of a grant-maintained school) to the governing body charges not exceeding the cost to the authority or governing body of providing the board and lodging].
- (2) Where the board and lodging are provided for the pupil—
 - (a) at a school maintained by a local education authority; and
 - [^{F8}(b) the local education authority for his area are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him,

then, where the school is maintained by the local education authority for his area, that authority shall remit the whole of the charges payable under this section and, in any other case, that authority shall pay the whole of the charges payable under this section to the authority which maintain the school]
- (3) Where the board and lodging are provided for the pupil—
 - (a) at a grant-maintained school; and
 - [^{F9}(b) the local education authority for his area are of the opinion that education suitable to his age, ability and aptitude and to any special educational needs he may have cannot otherwise be provided for him]

the whole of the charges payable under this section shall be payable by the authority instead of by the pupil’s parent.

^{F10}(4)

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- (5) Where [^{F11}the local education authority for the pupil's area] are satisfied that payment of the full charges payable under this section would involve financial hardship to the parent of the pupil concerned, the authority—
- (a) in the case of charges payable to the authority, shall remit so much of those charges as falls in accordance with subsection (6) below to be so remitted; and
 - (b) in the case of charges payable [^{F12}to another local education authority or] to the governing body of a grant-maintained school in respect of board and lodging ^{F13} . . . , shall pay so much of those charges as falls in accordance with that subsection to be so paid.
- (6) In the case of any such charges, the amount that falls to be remitted or paid by a local education authority by virtue of subsection (5) (a) or (b) above is—
- (a) such part of those charges as the authority consider ought not to be paid by the pupil's parent in order to avoid such hardship as is mentioned in that subsection; or
 - (b) if in their opinion such hardship cannot otherwise be avoided, the whole of those charges.

Textual Amendments

- F7** Words in s. 111 substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(a)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F8** S. 111(2)(b) and the words following it substituted (1.4.1994) by 1993 c. 35, ss. 307(1), 308(3), **Sch. 19, para. 129(b)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F9** S. 111(3)(b) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(c)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F10** S. 111(4) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 129(d), **Sch. 21**, Pt. II; S.I. 1994/507, art. 4(1), **Sch. 2** Appendix.
- F11** Words in s. 111(5) substituted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(e)(i)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F12** Words in s. 111(5)(b) inserted (1.4.1994) by 1993 c. 35, s. 307(1), **Sch. 19 para. 129(e)(ii)**; S.I. 1994/507, art. 4(1), **Sch.2**.
- F13** Words in s. 111(5)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(3), **Sch. 21**, Pt. II; S.I. 1994/507, art. 4(1), **Sch. 2** Appendix.

Modifications etc. (not altering text)

- C12** S. 106-111 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.
S. 111 excluded (1.4.1994) by 1993 c. 35, s. 12, Sch. 2 Pt. III paras. 4, **13(1)(c)** (with s. 298, Sch. 18 para. 12); S.I. 1994/507, art. 4, **Sch.2**.
- C13** Ss. 106-111 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I**.
- C14** Ss. 106-111 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.I**
- C15** S. 111(2)-(6) excluded (1.4.1994) by 1993 c. 35, s. 12, **Sch. 2 Pt. I para. 1(2)** (with s. 298, Sch. 18 para. 12); S.I. 1994/507, art. 4, **Sch. 2**.
- C16** S. 111(2)(b) modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para. 9(2)**; S.I. 1994/2038, art. 3(1), **Sch.2**.

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Miscellaneous

112 Extension of powers as to trusts for religious education.

(1) Section 2 of the ^{M1}Education Act 1973 (special powers as to certain trusts for religious education) shall be amended as follows.

(2) For subsection (1) there shall be substituted the following subsections—

“(1) Where the premises of a voluntary school or a grant-maintained school have ceased (whether before or after the passing of the Education Reform Act 1988) to be used for a voluntary school or, as the case may be, a grant-maintained school, or in the opinion of the Secretary of State it is likely they will cease to be so used, then subject to subsections (2) to (4) below, he may by order made by statutory instrument make new provision as to the use of any endowment if it is shown either—

- (a) that the endowment is or has been held wholly or partly for or in connection with the provision at the school of religious education in accordance with the tenets of a particular religious denomination; or
- (b) that the endowment is or has been used wholly or partly for or in connection with the provision at the school of such religious education and that (subject to subsection (1C) below) the requirements of subsection (1A) below are fulfilled.

(1A) The requirements of this subsection are—

- (a) that the school was or has been maintained as a voluntary school since 1st April 1945 (the coming into force of Part II of the Education Act 1944) or, in the case of a grant-maintained school, was so maintained from that date until immediately before it became a grant-maintained school; and
- (b) that religious education in accordance with the tenets of the denomination concerned—
 - (i) is, and from that date has been, provided at the school; or
 - (ii) where the premises have ceased to be used for the purposes of the school, was provided at the school from that date until immediately before the premises ceased to be so used;

in pursuance of section 27 or 28 of that Act (religious education in voluntary schools) or section 85 or 86 of the Education Reform Act 1988 (religious education in grant-maintained schools which were formerly voluntary schools).

(1B) For the purposes of this section—

“endowment ” includes property not subject to any restriction on the expenditure of capital; and

“shown ” means shown to the satisfaction of the Secretary of State.

(1C) For the purposes of this section—

- (a) where in the case of any school falling within subsection (1A)(a) above it is shown—
 - (i) that religious education in accordance with the tenets of a particular denomination is provided at the school; or

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- (ii) where the premises have ceased to be used for the purposes of the school, such religious education was so provided immediately before the premises ceased to be so used; such religious education shall be taken to have been provided at the school from 1st April 1945; and
- (b) where religious education in accordance with such tenets is shown to have been given to any pupils at a controlled school or a grant-maintained school which was a controlled school immediately before it became a grant-maintained school, the religious education shall be taken to have been given to them at the request of their parents; unless the contrary is shown.”
- (3) In subsection (4) for the words from “in connection with voluntary schools or ” to “such a school ” there shall be substituted the following paragraphs—
- “(a) in connection with schools which are voluntary schools or grant-maintained schools; or
- (b) partly in connection with such schools (or either description of such schools) and partly in other ways related to the locality served by the voluntary school or grant-maintained school at the premises that have gone or are to go out of use for such a school;”.

Marginal Citations

M1 1973 c. 16.

113 Schemes under the Endowed Schools Acts.

- (1) Where under any provision (however expressed) of a scheme made under the Endowed Schools Acts 1869 to 1948 the power of the trustees under the scheme to apply any property to which the scheme relates for purposes authorised by the scheme is subject to the approval or order of any other person—
- (a) the scheme shall have effect as if no such approval or order was required; and
- (b) no liability shall be deemed to have been incurred in respect of any failure before the passing of this Act to obtain any such approval or order.
- (2) The Secretary of State may, on the application of any person whose approval or order would but for this section be required under such a scheme, direct that that requirement shall continue to have effect notwithstanding subsection (1)(a) above; but no liability shall be deemed to have been incurred in respect of any failure before the making of such a direction to obtain any such approval or order.

114 Extension of power to require local education authority to defray expenses of establishing controlled school.

In section 2 of the ^{M2}Education (Miscellaneous Provisions) Act 1953 (power to require local education authority to defray expenses of establishing controlled school), in paragraph (b) (which limits the power conferred by that section to cases where the new school is required for pupils for whom accommodation in some other voluntary or grant-maintained school has ceased to be available) after the words “for whom ” there shall be inserted the words “or for a substantial proportion of whom ”.

Status: Point in time view as at 01/04/1994.

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Marginal Citations

M2 1953 c. 33.

115 Power to determine times of school sessions, etc.

The following section shall be substituted for section 21 of the 1986 Act—

“21 Terms, holidays and sessions.

- (1) The articles of government for every county, controlled and maintained special school shall provide for it to be the duty of the local education authority to determine the dates at which the school terms and holidays are to begin and end.
- (2) The articles of government for every such school shall provide for it to be the duty of the governing body to determine the times at which the school session or, if there is more than one, each school session is to begin and end on any day and, where the governing body propose to make any change in those times, for it to be their duty—
 - (a) to consult the local education authority and the head teacher before taking any of the actions mentioned in paragraphs (b) to (g) below;
 - (b) to include a statement in the report they are required to prepare by virtue of section 30 of this Act—
 - (i) indicating that they propose to make a change in those times;
 - (ii) specifying the proposed change and when they propose that it should take effect; and
 - (iii) drawing attention to any comment on the proposal included as an annex to the report by virtue of paragraph (c) below and including such response to the comment as they may consider appropriate;
 - (c) if so required by the local education authority, to include as an annex to that report such written comment on the proposal as the authority may provide for that purpose;
 - (d) to provide an opportunity for discussion of the proposal at a parents’ meeting held by virtue of section 31 of this Act;
 - (e) to consider any comments made at the meeting on the proposal before determining whether any change in those times should be made and (if so) whether the proposal should be implemented with or without any modification;
 - (f) not to effect any change in those times except at the beginning of a school year; and
 - (g) not less than three months before any change in those times is to take effect—
 - (i) to inform the local education authority; and
 - (ii) to take such steps as are reasonably practicable to secure that the parents of all registered pupils at the school are informed; of the change and of when it is to take effect.
- (3) For the purposes of any provision included in the articles of government for any such school by virtue of subsection (2) above, the times determined by the local

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education authority immediately before the coming into force of section 115 of the Education Reform Act 1988 as the times at which the school session or, if there is more than one, each school session is to begin and end on any day shall be taken to have been determined by the governing body.

- (4) The articles of government for every aided and special agreement school shall provide for it to be the duty of the governing body to determine—
- (a) the dates and times at which the school terms and holidays are to begin and end; and
 - (b) the times at which the school session or, if there is more than one, each school session is to begin and end on any day.
- (5) The articles of government for every county, voluntary and maintained special school shall provide for the governing body to have power to require pupils in attendance at the school to attend at any place outside the school premises for the purpose of receiving any instruction or training included in the secular curriculum for the school.”

116 Provision for delegation of functions by governing bodies of county, voluntary and maintained special schools.

In section 8 of the 1986 Act (proceedings and tenure of office of governors of county, voluntary or maintained special school), in subsection (7) (provision that may be included in regulations made by the Secretary of State as to meetings and proceedings of governing bodies, etc.) the following paragraphs shall be inserted after paragraph (a)

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- “(aa) for the establishment of committees by the governing bodies of such schools (whether or not including persons who are not members of the governing body concerned) and for the constitution, meetings and proceedings of such committees;
- (ab) for the delegation of functions of the governing body of any such school in prescribed circumstances to committees established by that body, to any member of that body or to the head teacher;”.

Chapter V: general and supplementary provisions

117 Obligation to enter pupils for prescribed public examinations.

- (1) Subject to the following provisions of this section, the governing body of every maintained school shall secure that each registered pupil at the school is entered, at such time as they consider appropriate, for each prescribed public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.
- (2) Subsection (1) above shall not require a governing body to secure that a pupil is entered for any examination, or for any examination in any syllabus for that examination, if either—
- (a) the governing body consider that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus; or
 - (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that

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syllabus.^{F14} but this subsection does not apply to an examination which is part of the assessment arrangements for key stage four and applies in the case of that pupil; and in this subsection, in relation to that pupil, “assessment arrangements” has the meaning given by section 2(2)(c) of this Act and “key stage four” means the period referred to in section 3(3)(d) of this Act]

- (3) Subsection (1) above shall not require a governing body to secure that a pupil is entered for any examination in any syllabus for that examination if the governing body have secured that pupil’s entry for another prescribed public examination in a corresponding syllabus.
- (4) For the purposes of subsection (3) above, a syllabus for any such examination shall be regarded as corresponding to a syllabus for another such examination if the same course of study is provided at the school concerned in preparation for both syllabuses.
- (5) As soon as practicable after determining whether or not to secure the entry of any pupil for a prescribed public examination in any syllabus for which he is being prepared at the school the governing body of a maintained school shall notify the parent of the pupil in writing of their determination in relation to each such syllabus.

Textual Amendments

F14 Words in s. 117(2) inserted (27.7.1993) by 1993 c. 35, s. 240(5)

Modifications etc. (not altering text)

C17 S. 117 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), Sch. Pt.I.
S. 117 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), Sch.2.

118 General and supplementary provisions relating to charges.

- (1) Nothing in the provisions of this Chapter relating to charges shall be read as prohibiting or in any way restricting or regulating any request or invitation by or on behalf of the governing body of any maintained school or any local education authority for voluntary contributions for the benefit of the school or any school activities.
- (2) Any request or invitation made by or on behalf of any such body or authority for contributions for the benefit of any school or school activities shall not be regarded for the purposes of subsection (1) above as a request or invitation for voluntary contributions unless it is clear from the terms in which it is made—
 - (a) that there is no obligation to make any contribution; and
 - (b) that registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution in response to the request or invitation.
- (3) Nothing in section 106(6) of this Act shall prevent the parent of a registered pupil at a maintained school from being required to pay for or supply any materials for use for the purposes of the production in the course of the provision of education for the pupil at the school of any article incorporating those materials, where the parent has indicated before that requirement is made that he wishes the article to be owned by him or by the pupil.
- (4) Nothing in this Chapter relating to charges with respect to a registered pupil at a maintained school shall be read as relating to—

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- (a) charges made by persons other than the governing body or the local education authority; or
 - (b) charges to be paid by persons other than the parent of the pupil or the pupil himself.
- (5) The Secretary of State may make regulations requiring, in relation to every maintained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—
- (a) such information relevant for the purposes of this Chapter as to the school hours at the school; and
 - (b) such information as to the policies determined under section 110 which apply in relation to the school;
- as may be prescribed.
- (6) Any sum payable under section 108, 109 or 111 of this Act by the parent of any registered pupil at a maintained school shall be recoverable summarily as a civil debt.
- (7) In this Chapter—
- (a) “equipment ” does not include clothing;
 - (b) “the local education authority ” means, in relation to a maintained school which is a school maintained by a local education authority, the authority by whom the school is maintained;
 - (c) “maintained school ” means—
 - (i) any school maintained by a local education authority; and
 - (ii) any grant-maintained school;
 - (d) references to a public examination (including a prescribed public examination) are references to such an examination as it applies in relation to persons entered for any syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment for the purposes of determining the achievements of persons entered for that examination takes place;
 - (e) references to an examination requirement for a syllabus for any such examination are references to any requirement a pupil must meet in order to qualify for assessment for the purposes of determining his achievements in that examination in that syllabus; and
 - (f) “residential trip ” has the meaning given by section 106(10) of this Act.
- (8) For the purposes of subsection (7) above an assessment for the purposes of determining the achievements of persons entered for any examination is to be regarded as taking place on any occasion on which it is determined in relation to each person entered for any syllabus in that examination who has met the examination requirements for that syllabus whether that person has passed or failed and, if grades are assigned for the purposes of the examination, the grade to be assigned in his case.

Modifications etc. (not altering text)

C18 S. 118 modified (1.9.1994) by 1993 c. 35, s. 298, **Sch. 18 para.9(1)**; S.I. 1994/2038, art. 3(1), **Sch.2**.

C19 S. 118 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.1**.

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S. 118 applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt.1**

Interpretation of Part I

119 Interpretation of Part I.

- (1) For the purposes of this Part of this Act—
- (a) children are to be regarded as admitted to a school for nursery education if they are or are to be placed on admission in a nursery class; and
 - (b) “reception class ” means a class in which education is provided which is suitable to the requirements of pupils aged five and any pupils under or over that age whom it is expedient to educate together with pupils of that age.
- (2) References in this Part, in relation to proposals under section 28, [^{F15} . . . , 89 or 92] of this Act, to the date of publication of the proposals are references—
- (a) to the date on which the requirements of this Act, or of regulations under this Act, with respect to the publication of the proposals (or of any notice relating to the proposals) are satisfied; or
 - (b) where different requirements such as are mentioned in paragraph (a) above are satisfied on different dates, to the last of those dates;
- and references to the time at which such proposals are published shall be construed accordingly.
- (3) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (2) above be taken to be satisfied on the first date in respect of which it is satisfied.

Textual Amendments

F15 Words in s. 119 repealed (1.1.1994 for “52(4) ” otherwise *prosp.*) by 1993 c. 35, ss. 307(3), 308(3), **Sch. 21**, Pt. I; Which repeal was in force at 1.1.1994 for specified words by S.I. 1993/3106, art. 4, **Sch.1** Appendix (with art. 5 Sch. 2) (as amended by S.I. 1994/436, **art.2**).

Status:

Point in time view as at 01/04/1994.

Changes to legislation:

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