



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER V

MISCELLANEOUS

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.

[^{F1}(1A) Subsection (1) above shall not apply to the admission of any person to any maintained school for the purpose of—

- (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—

- [^{F2}(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 [^{F3}68(8) of the Education Act 1993].

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- (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 [F368(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 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

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provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

Textual Amendments

- F1** 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.
- F2** S. 106(3)(a) substituted (1.10.1993) by 1993 c. 35, s. 280; S.I. 1993/1975, art. 9, Sch. 1
- F3** 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—
- 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
 - 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—
- 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
 - 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.

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- (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**

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

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- (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 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.

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Modifications etc. (not altering text)

- C7** 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**.
- 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 [^{F4}68(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
 - (b) his parents are in receipt of income support [^{F5}, 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

- F4** 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**.
- F5** 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

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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 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**.

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 [^{F6}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
 - [^{F7}(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
 - [^{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]the whole of the charges payable under this section shall be payable by the authority instead of by the pupil's parent.
- ^{F9}(4)
- (5) Where [^{F10}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 [^{F11}to another local education authority or] to the governing body of a grant-maintained school in respect of board and lodging [^{F12}. . .], 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—

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- (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

- F6** 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**.
- F7** 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**.
- F8** 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**.
- F9** 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.
- F10** 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**.
- F11** 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**.
- F12** 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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