



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER III

FINANCE AND STAFF

Financial delegation: appointment and dismissal of staff

46 Staff: further provisions

- (1) The Secretary of State may by order amend paragraph (a) of section 3(5) of the Teachers' Pay and Conditions Act 1987 (order regulating remuneration and conditions of employment of teachers may confer discretion on the local education authority with respect to any matter) so as to provide for any discretion conferred on a local education authority by virtue of that paragraph to be exercisable instead by the governing body of any school to which section 44 or 45 of this Act for the time being applies.
- (2) Subject to subsection (3) below, it shall be for the governing body of any such school to determine—
 - (a) whether any payment should be made by the local education authority concerned in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and
 - (b) the amount of any such payment.
- (3) Subsection (2) above does not apply in relation to any payment which the authority are required to make—
 - (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or
 - (b) under any statutory provision.

Status: This is the original version (as it was originally enacted).

- (4) The local education authority concerned—
- (a) shall take such steps as may be required for giving effect to any determination of the governing body of any such school under subsection (2) above; and
 - (b) shall not make, or agree to make, any payment to which that subsection applies in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of any such school otherwise than in accordance with any such determination.
- (5) Costs incurred by the local education authority concerned in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of any such school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.
- (6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5) above.