



# Education Act 1993

## 1993 CHAPTER 35

### PART V

#### SCHOOLS FAILING TO GIVE AN ACCEPTABLE STANDARD OF EDUCATION

### CHAPTER I

#### IDENTIFICATION OF SCHOOLS REQUIRING SPECIAL MEASURES

#### *Introductory*

#### **204 Extension of the Education (Schools) Act 1992**

- (1) This Chapter, in its application to inspections under section 9 of the Education (Schools) Act 1992 or by any member of the Inspectorate, applies to the inspection of any county, voluntary, maintained special, grant-maintained or grant-maintained special school.
- (2) In this Part of this Act—
- “appropriate appointing authority” means, in relation to any aided or special agreement school—
    - (a) the appropriate diocesan authority, if it is a Church of England school, Church in Wales school or Roman Catholic Church school, and
    - (b) in any other case, the person who appoints the foundation governors,
  - “appropriate authority”, in relation to any county, voluntary or maintained special school, means the school’s governing body or, if the governing body do not have a delegated budget, the local education authority and, in relation to a grant-maintained or grant-maintained special school, means the school’s governing body,
  - “inspection by a member of the Inspectorate” means a section 9 inspection carried out by a member of the Inspectorate or an inspection under section 2(2)(b), 3(1), 6(2)(b) or 7(1) of that Act,

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“member of the Inspectorate” means the Chief Inspector, any of Her Majesty’s Inspectors of Schools in England or, as the case may be, Wales and any additional inspector, and

“section 9 inspection” means an inspection under section 9 of that Act; and other expressions used in this Part and that Act have the same meaning in this Part as in that Act.

- (3) For the purposes of this Part of this Act, special measures are required to be taken in relation to a school if the school is failing or likely to fail to give its pupils an acceptable standard of education.
- (4) Paragraphs 9 to 12 of Schedule 2 to that Act shall cease to have effect in relation to county, voluntary, maintained special, grant-maintained and grant-maintained special schools.

### *Inspections and reports*

#### **205 Section 9 inspections by members of the Inspectorate**

- (1) Where an inspection of a school is required under section 9 of the Education (Schools) Act 1992 but the Chief Inspector is satisfied that it is not reasonably practicable to secure that the school is inspected by a suitable registered inspector, he shall secure that it is inspected by a member of the Inspectorate.
- (2) Where an inspection is conducted by a member of the Inspectorate by virtue of this section, that Act shall have effect (unless the context otherwise requires) in relation to the inspection as if the member of the Inspectorate were a registered inspector.
- (3) If the Chief Inspector so elects in the case of any inspection of a school by a member of the Inspectorate under section 2(2)(b), 3(1), 6(2)(b) or 7(1) of that Act, that inspection shall be treated for the purposes of section 9(1) and (2) of that Act and sections 209 to 212 of this Act as if it were an inspection under section 9 of that Act and the member of the Inspectorate were a registered inspector.

#### **206 Section 9 inspections by registered inspectors**

- (1) Where a section 9 inspection by a registered inspector has been completed, the inspector shall make in writing a report of the inspection and a summary of the report.
- (2) Where the inspector is of the opinion that special measures are required to be taken in relation to the school he shall submit a draft of the report of the inspection to the Chief Inspector.
- (3) If the Chief Inspector so requests, an inspector who has submitted a draft under subsection (2) above shall provide the Chief Inspector with such further information as the Chief Inspector may specify.
- (4) The Chief Inspector shall inform an inspector who has submitted a draft under subsection (2) above whether he agrees or disagrees with the inspector’s opinion.
- (5) Where—
  - (a) the Chief Inspector informs the inspector that he disagrees with the inspector’s opinion, but

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- (b) the inspector remains of the opinion that special measures are required to be taken in relation to the school,  
the inspector may not make a report expressing that opinion unless the terms in which he makes the report are substantially the same (except as to the statement required by subsection (7)(b) below) as the draft or as a subsequent draft submitted to the Chief Inspector under this subsection.
- (6) Where a subsequent draft is submitted under subsection (5) above, the Chief Inspector shall inform the inspector whether he agrees or disagrees with the inspector's opinion.
- (7) A report made by a registered inspector who is of the opinion that special measures are required to be taken in relation to the school shall—
- (a) state his opinion, and
  - (b) state whether the Chief Inspector agrees or disagrees with his opinion.
- (8) If a report of an inspection of a school by a registered inspector is made in circumstances where—
- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- the person making the report shall state his opinion in the report.

## **207 Reports of inspections by members of the Inspectorate**

- (1) Where on the completion of any inspection of a school under section 2(2)(b), 3(1), 6(2)(b) or 7(1) of the Education (Schools) Act 1992 by a member of the Inspectorate, he is of the opinion that special measures are required to be taken in relation to the school, he shall—
- (a) prepare in writing a report of the inspection and a summary of the report, and
  - (b) state his opinion in the report.
- (2) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- the member of the Inspectorate shall prepare in writing a report of the inspection and a summary of the report and state his opinion in the report.
- (3) A report of a section 9 inspection of a school by a member of the Inspectorate shall, if he is of the opinion that special measures are required to be taken in relation to the school, state his opinion.
- (4) If a report of a section 9 inspection of a school by a member of the Inspectorate is made in circumstances where—

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- (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
  - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- the member of the Inspectorate shall state his opinion in the report.

### **208 Timing of section 9 inspections by registered inspectors**

- (1) The carrying out of a section 9 inspection shall be completed by the time allowed under subsection (2) below and the making of the report required by section 206 of this Act shall be completed within the period allowed under subsection (2) below.
- (2) The time, and the period, allowed shall be such as may be prescribed, subject to any such extension of the period as the Chief Inspector may consider necessary to make; but the total period allowed must not exceed the prescribed period extended by three months.
- (3) The Chief Inspector shall give notice in writing of any extension under subsection (2) above to—
  - (a) the inspector,
  - (b) the local education authority in the case of a county, voluntary or maintained special school, and
  - (c) the governing body.
- (4) This section does not apply to a section 9 inspection carried out by a member of the Inspectorate.

### **209 Destination of reports**

- (1) In the case of a report of a section 9 inspection of a school, the person making it shall without delay—
  - (a) send a copy of the report together with the summary of it to the appropriate authority for the school and, if it is a grant-maintained or grant-maintained special school, to the Secretary of State, and
  - (b) if in the case of a county, voluntary or maintained special school it states that he is of the opinion that special measures are required to be taken in relation to the school, and either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, send a copy of the report and summary to the Secretary of State.
- (2) In the case of a report of an inspection of a school made by a member of the Inspectorate which is required by section 207(1)(b) of this Act to state that he is of the opinion that special measures are required to be taken in relation to the school, the member of the Inspectorate shall send a copy of the report together with the summary of it to the appropriate authority for the school and the Secretary of State.
- (3) In any case, copies of the report and summary shall be sent by the person who made the report—
  - (a) to the Chief Inspector (unless the report was made by a member of the Inspectorate),

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- (b) to the head teacher of the school,
  - (c) in the case of a county, voluntary or maintained special school, to whichever of the local education authority and the governing body are not the appropriate authority,
  - (d) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority,
  - (e) to any person named as a sponsor of the school in the instrument of government, and
  - (f) in the case of any school in a group of grant-maintained schools in respect of which any person has power to appoint an externally appointed core governor under a provision of the instrument of government made in pursuance of Schedule 8 to this Act, to that person.
- (4) The appropriate authority shall—
- (a) make a copy of any report and summary sent to the authority under subsection (1) or (2) above available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary as soon as is reasonably practicable.

### *Special measures*

## **210 Special measures by appropriate authority**

- (1) Where—
- (a) a report of a section 9 inspection of a school, or
  - (b) a report of an inspection of a school made by a member of the Inspectorate which is required by section 207(1)(b) of this Act to state that he is of the opinion that special measures are required to be taken in relation to the school,
- is sent to the appropriate authority they shall prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (2) It is the duty of the appropriate authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if, in the case of any report where the person making it states that he is of the opinion that special measures are required to be taken in relation to the school, and either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, the Secretary of State is of the opinion that the urgency of the case requires a shorter period, such period as the Secretary of State may direct,
- but this subsection does not relieve the appropriate authority of any duty to prepare a statement which has not been performed within that period.
- (3) Where such a statement has been prepared by the appropriate authority they shall, before the end of the prescribed period, send copies of it—

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- (a) to the Chief Inspector,
  - (b) in the case of a county, voluntary or maintained special school, to whichever of the governing body and the local education authority are not the appropriate authority,
  - (c) in the case of a grant-maintained or grant-maintained special school, to the Secretary of State, and
  - (d) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) If in the case of a county, voluntary or maintained special school—
- (a) the statement is prepared in response to a report of an inspection of the school in which the person who made the report expresses the opinion that special measures are required to be taken in relation to the school, and
  - (b) that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion,
- the appropriate authority shall, before the end of the prescribed period, send a copy of the statement to the Secretary of State.
- (5) The appropriate authority shall also send a copy of the statement—
- (a) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority,
  - (b) to any person named as a sponsor of the school in the instrument of government, and
  - (c) in the case of any school in a group of grant-maintained schools in respect of which any person has power to appoint an externally appointed core governor under a provision of the instrument of government made in pursuance of Schedule 8 to this Act, to that person.
- (6) The appropriate authority shall—
- (a) make any statement prepared by them under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
  - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (7) Where the governing body of a school have prepared a statement under this section, they shall in the report referred to in section 30 of the Education (No. 2) Act 1986 or, as the case may be, in paragraph 8 of Schedule 6 to this Act state the extent to which the proposals set out in the statement (or if there is more than one, the most recent statement) have been carried into effect.

## **211 Additional special measures by local education authority**

- (1) This section applies in circumstances where—
- (a) in a report of an inspection of a county, voluntary or maintained special school the governing body of which have a delegated budget the person who made the report expressed the opinion that special measures were required to be taken in relation to the school,

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- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion, and
  - (c) the local education authority receive a copy of a statement prepared under section 210 of this Act in response to the report or the period prescribed for the purposes of subsection (3) of that section expires.
- (2) The local education authority shall—
- (a) prepare a written statement of any action they propose to take in the light of the report, and the period within which they propose to take such action, or, if they do not propose to take any such action, of their reasons for not doing so, and
  - (b) send a copy of the statement prepared under paragraph (a) above, together with their comments on any statement prepared under section 210 of this Act of which they have received a copy, to the Secretary of State and the Chief Inspector and, in the case of an aided or special agreement school, to the person who appoints the foundation governors and (if different) to the appropriate appointing authority.
- (3) It is the duty of the local education authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
  - (b) if in the case of any report the Secretary of State is of the opinion that the urgency of the case requires a shorter period, such period as the Secretary of State may direct,
- but this subsection does not relieve the local education authority of any duty to prepare a statement which has not been performed within that period.

## **212 Monitoring special measures and further inspections**

- (1) This section applies in circumstances where—
- (a) in a report of an inspection of a school the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
  - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
  - (c) a statement has been prepared under section 210 of this Act or the period prescribed for the purposes of subsection (3) of that section has expired, and
  - (d) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school, he did not express the opinion in the report that special measures were not required to be taken in relation to the school.
- (2) Regulations may make provision with a view to securing that any measures taken by the appropriate authority and, in the case of a school which has a delegated budget, the local education authority for improving the standard of education at the school are monitored in accordance with the regulations by such persons as may be prescribed.
- (3) The regulations may, in particular, provide for reports to be made, by such persons and at such intervals as may be prescribed.

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- (4) The regulations may authorise the Secretary of State to require the Chief Inspector to conduct further inspections of the school and prepare further reports of such inspections.
- (5) In respect of cases where any report prepared in pursuance of a requirement imposed by virtue of subsection (4) above—
- (a) states that, in the opinion of the person who prepared the report, special measures are required to be taken in relation to the school, but the grounds for that opinion are substantially different from the grounds for the opinion in any preceding report by a registered inspector or member of the Inspectorate, or
  - (b) states that, in the opinion of that person, special measures are not required to be taken in relation to the school,
- the regulations may make provision corresponding to any of the provisions made by this Chapter.

## CHAPTER II

### NEW POWERS OVER SCHOOLS REQUIRING SPECIAL MEASURES

#### *Miscellaneous powers and restrictions*

#### **213 Schools to which sections 214 to 217 apply**

Sections 214 to 217 of this Act apply only to county, voluntary and maintained special schools and do not apply to a school at any time unless, at that time—

- (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Chapter I, he did not express the opinion in the report that special measures were not required to be taken in relation to the school, and
- (d) the Secretary of State has not exercised his powers under section 220 of this Act in relation to the school.

#### **214 Appointment of additional governors**

- (1) If at any time—
- (a) this section applies in relation to any county, controlled or maintained special school, and
  - (b) the conditions in subsection (2) below are satisfied,
- the local education authority may appoint such number of additional governors as they think fit.
- (2) Those conditions are that—
- (a) a copy of a statement prepared—



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- (i) in the case of a school not having a delegated budget, under section 210 of this Act, and
    - (ii) in any other case, under section 211 of this Act,has been sent to the Secretary of State,
  - (b) the local education authority have received a notice in writing in which the Secretary of State acknowledges receipt of the copy, and
  - (c) not less than ten days have elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(c) above shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) In relation to any appointment made by the local education authority by virtue of subsection (1) above to the governing body of a school—
- (a) the instrument of government for the school, or
  - (b) if the governing body of the school are constituted in accordance with arrangements under section 12 of the Education (No. 2) Act 1986 (temporary governing bodies for new schools), those arrangements,
- shall have effect as if, notwithstanding paragraph (b) of section 3(2), (3), (4) and (5) of that Act (governing bodies for county schools, etc.), the instrument or, as the case may be, arrangements authorised the local education authority to appoint such number of additional governors as they think fit.
- (5) If at any time—
- (a) this section applies in relation to an aided or special agreement school, and
  - (b) the conditions in subsection (6) below are satisfied,
- the appropriate appointing authority may appoint such number of additional foundation governors as they think fit.
- (6) Those conditions are—
- (a) that a period of ten days has elapsed since—
    - (i) in the case of a school not having a delegated budget, the period prescribed for the purposes of section 210(3) of this Act expired, and
    - (ii) in any other case, the period allowed under section 211(3) of this Act for preparing a statement under that section expired, or
  - (b) that the Secretary of State has received a copy of a statement prepared—
    - (i) in the case of a school not having a delegated budget, under section 210 of this Act, and
    - (ii) in any other case, under section 211 of this Act,and has served notice in writing on the appropriate appointing authority stating that the power conferred by subsection (5) above is exercisable.
- (7) The Secretary of State may by notice in writing served on the appropriate appointing authority determine that subsection (6)(a) above shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (8) In the case of any appointment made by virtue of subsection (5) above to the governing body of a school—
- (a) the instrument of government for the school, or
  - (b) if the governing body are constituted in accordance with arrangements under section 12 of the Education (No. 2) Act 1986, those arrangements,

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shall have effect as if, notwithstanding section 4(3) of that Act (foundation governors for aided and special agreement schools), the instrument or, as the case may be, arrangements authorised the appropriate appointing authority to appoint such number of additional foundation governors as they think fit.

- (9) Where in the case of any aided or special agreement school which is not a Church of England school, Church in Wales school or Roman Catholic Church school there are different powers to appoint foundation governors, references in this section (other than subsection (6) and (7)) to the appropriate appointing authority are to—
- (a) all those persons who have any such power acting jointly, or
  - (b) if they are unable to agree, such of them acting jointly, or such one of them, as the Secretary of State may, after consulting all those persons, determine.

## **215 Suspension of right to delegated budget**

- (1) If at any time—
- (a) this section applies in relation to any county, controlled or maintained special school in respect of which financial delegation is required, and
  - (b) the conditions in subsection (2) below are satisfied,
- the local education authority may by giving the governing body of the school notice of suspension suspend the right to a delegated budget with effect from the receipt by the governing body of the notice; and a copy of the notice shall be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (2) Those conditions are that—
- (a) a copy of a statement prepared under section 211 of this Act has been sent to the Secretary of State,
  - (b) the local education authority have received a notice in writing in which the Secretary of State acknowledges receipt of the copy, and
  - (c) not less than ten days have elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(c) above shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) A suspension by virtue of this section shall have effect for the purposes of Chapter III of Part I of the Education Reform Act 1988 as if made under section 37 of that Act, but subsection (8)(a) of that section (right to appeal against imposition of suspension) does not apply in relation to a suspension by virtue of this section.
- (5) Expressions used in this section and that Chapter have the same meaning as in that Chapter.

## **216 Grouping and de-grouping**

- (1) If at any time—
- (a) this section applies in relation to any county, voluntary or maintained special school, and
  - (b) the local education authority have received a copy of the report referred to in section 213(a) of this Act,

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they may not pass a resolution under section 9 of the Education (No. 2) Act 1986 (grouping of schools under single governing body) for two or more schools to be grouped if any of the schools is a school to which this section applies.

(2) If at any time—

- (a) this section applies in relation to any county, voluntary or maintained special school, and
- (b) the Secretary of State has received a copy of the report referred to in section 213(a) of this Act,

he may by order under section 9(6) of the Education (No. 2) Act 1986 bring to an end any grouping under that section of schools which include a school to which this section applies, whether or not the grouping is one in respect of which his consent was at any time required under section 10 of that Act.

## **217 Prohibition on ballot under Part II**

(1) If at any time—

- (a) this section applies in relation to any county or voluntary school, and
- (b) the governing body have received a copy of the report referred to in section 213(a) of this Act,

then, notwithstanding anything in sections 25 or 26 of this Act, the governing body of the school may not secure that any ballot is held under Chapter II of Part II of this Act.

(2) If at any time—

- (a) this section applies in relation to a maintained special school, and
- (b) the governing body have received a copy of the report referred to in section 213(a) of this Act,

regulations under section 186 of this Act shall not apply in relation to the school.

### *Education associations*

## **218 Power to establish education associations**

(1) Where—

- (a) the powers conferred by section 220 of this Act are exercisable by the Secretary of State in relation to a school, and
- (b) he is of the opinion that the school should be conducted by a body corporate established under this section and that no suitable body corporate have been so established,

he may by order provide for the establishment of a body corporate under the name given in the order.

- (2) Bodies corporate established under this section shall be known as “education associations”.
- (3) An education association shall consist of not less than five members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (4) Before making an order under this section in the case of a voluntary school, the Secretary of State shall consult—

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- (a) if it is a Church of England school, Church in Wales school or Roman Catholic Church school, the appropriate diocesan authority, and
  - (b) in any other case, the person who appoints the foundation governors.
- (5) An education association—
- (a) must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and shown capacity in, any position carrying responsibility for the provision of such education,
  - (b) if the association conduct any school which was a voluntary school, must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, the provision of education in voluntary schools, and
  - (c) if the association conduct a special school, must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, providing for children with special educational needs,
- but one person may satisfy the requirement in paragraph (a) above as well as that in paragraph (b) or (c) above.
- (6) Schedule 12 to this Act has effect in respect of education associations.
- (7) Subject to the following provisions of this Chapter—
- (a) references in any enactment to the governing body of any school, or to the foundation governors of any school, are to be read, in relation to a school conducted by an education association, as references to that association, and
  - (b) references in any enactment to the governors of any school are to be read, in relation to a school conducted by an education association, as references to the members of the association.
- (8) Where an education association conduct more than one school, then, subject to the following provisions of this Chapter, any provision of an enactment which applies to schools shall apply separately in relation to each of the schools.

## **219 Supervision of education associations by the Secretary of State**

- (1) An education association shall, in exercising their functions, comply with any directions given by the Secretary of State.
- (2) Before giving a direction under this section, the Secretary of State shall consult the education association or (as the case may be) each education association to which the direction applies unless, for reasons of urgency, it is not in his opinion reasonably practicable for him to do so.
- (3) The Secretary of State shall publish any directions given by him under this section in such manner as he thinks fit.

## **220 Transfer of responsibility for conducting school to an education association**

- (1) The powers conferred by this section are exercisable by the Secretary of State in relation to any county school or voluntary school at any time if, at that time—
  - (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,

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- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
  - (c) the Secretary of State has received a statement prepared under section 210 of this Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired, and
  - (d) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school, he did not express the opinion in the report that special measures were not required to be taken in relation to the school.
- (2) Where—
- (a) the powers conferred by this section are exercisable by the Secretary of State in relation to a school,
  - (b) he is of the opinion that the school should be conducted by an education association, and
  - (c) if the school is a voluntary school, he has consulted the person who appoints the school's foundation governors and such other persons as he thinks appropriate,
- he may by order provide for the school to be conducted by an education association named in the order as from such date as may be specified in the order (referred to in this Part of this Act as the “transfer date”).
- (3) On making an order under this section the Secretary of State shall give notice in writing of the order to the governing body and head teacher of the school, to the local education authority and (except in the case of a school in Wales before the Schools Funding Council for Wales begin to exercise their functions) the funding authority.
- (4) On the transfer date—
- (a) the local education authority whose duty it was immediately before that date to maintain the school as a county or voluntary school shall cease to have that duty, and
  - (b) any special agreement relating to the school shall cease to have effect.

## **221 Effect of order under section 220**

- (1) This section applies in relation to a school where an order under section 220 of this Act has been made.
- (2) A school conducted by an education association may not cease to be so conducted unless—
  - (a) it becomes a grant-maintained school, or
  - (b) the school is discontinued.
- (3) The following subsections have effect subject to the following provisions of this Chapter.
- (4) Subject to subsection (7) below, references in any enactment to grant-maintained schools include schools conducted by education associations.
- (5) References in any enactment to schools the governing bodies of which are incorporated under Chapter II of Part II of this Act (however expressed) include schools conducted by education associations.

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

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- (6) Subject to subsection (7) below, references in any enactment—
- (a) to any school becoming grant-maintained (whether the reference is to its acquiring grant-maintained status or is expressed in any other form), or
  - (b) to the date of implementation of the proposals under which it becomes grant-maintained,
- are in the case of schools conducted by education associations references to the school beginning to be conducted by the association or, as the case may be, to the transfer date.
- (7) References in any enactment to schools the governing bodies of which are incorporated under Chapter IV of Part II of this Act (however expressed) do not include schools conducted by education associations.

## **222 Functions of education associations**

- (1) Where an order under section 220 of this Act provides for an education association to conduct a school, the association may as from the transfer date conduct the school; and their power under this subsection is to conduct a school of the same description as the school immediately before that date.
- (2) An education association shall conduct any school for which they are the governing body so as to secure, so far as it is practicable to do so, the elimination of any deficiencies in the conduct of the school identified in any report made by a registered inspector or member of the Inspectorate.
- (3) A school conducted by an education association shall not be regarded as of a different description, where changes have been made in the character or premises of the school since the transfer date, to that immediately before that date if the changes—
  - (a) did not require authorisation under Chapter VII of Part II of this Act, or
  - (b) were authorised under that Chapter.
- (4) Subject to any provision made by the articles of government for the school, an education association may provide education at any school conducted by them which is neither primary nor secondary education if—
  - (a) it is part-time education suitable to the requirements of persons of any age over compulsory school age, or full-time education suitable to the requirements of persons who have attained the age of nineteen years,
  - (b) it is part-time education suitable to the requirements of junior pupils who have not attained the age of five years and the school provides full-time education for junior pupils of the same age, or
  - (c) they do so as agents for a local education authority under arrangements made with the authority for the purpose.

## **223 Conduct of school**

- (1) Each school conducted by an education association shall be conducted in accordance with an instrument to be known as the articles of government.
- (2) Subject to any express provision of the articles of government, the school shall be conducted in accordance with any trust deed relating to it.
- (3) The initial articles of government for such a school shall be such as are prescribed and, subject to subsection (4) below, shall have effect as from the transfer date.

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

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- (4) Such of the articles as may be prescribed shall have effect as from such date prior to the transfer date as may be prescribed.
- (5) The education association may, with the consent of the Secretary of State—
  - (a) make new articles of government in place of the existing articles for the school, or
  - (b) modify the existing articles for the school.
- (6) The Secretary of State may by a direction under this section, in the case of schools conducted by education associations, any class of such schools specified in the direction or any particular school conducted by an education association so specified, require each education association conducting any school to which the direction applies to modify its articles of government in any manner so specified.
- (7) Before giving a direction under this section, the Secretary of State shall consult each education association conducting any school to which the direction applies.

#### **224 School conducted by education association acquiring grant-maintained status**

- (1) Where the Secretary of State—
  - (a) has received a copy of a report under section 227(2) of this Act in respect of a school conducted by an education association, and
  - (b) is of the opinion that the school should become a grant-maintained school, he may give notice in writing of his opinion to the head teacher of the school, the education association, the local education authority and (except in the case of a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions) the funding authority.
- (2) An education association which receive a notice under subsection (1) above in respect of a school shall, within the period of three months beginning with the receipt of the notice, publish proposals under section 32 of this Act.
- (3) In relation to proposals published under section 32 of this Act by virtue of this section and the incorporation of a governing body in pursuance of such proposals, Chapters II and V of Part II of this Act shall have effect—
  - (a) as if the school to which the proposals relate had continued, after the transfer date, to be a county or, as the case may be, voluntary school, and
  - (b) with such other modifications as may be prescribed.

#### **225 Discontinuance of school conducted by education association**

- (1) Where the Secretary of State is of the opinion that a school conducted by an education association should be discontinued, he shall give notice in writing of his opinion and of the discontinuance date to—
  - (a) the education association,
  - (b) the local education authority,
  - (c) the funding authority (except in the case of a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions), and
  - (d) if the school provides education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council.

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

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- (2) The education association shall cease to conduct the school—
  - (a) on the date specified in the notice, or
  - (b) if at the request of the education association the Secretary of State subsequently fixes another date (whether in substitution for the date specified in the notice or in substitution for a date previously fixed under this subsection), on that date.
- (3) Where the Secretary of State has given notice under this section, he may by order make provision for the disposal of the school property and the discharge of any liabilities of the education association in respect of the school.
- (4) An order under subsection (3) above may make any such provision (except provision for the dissolution of the education association) as is made by, or may be made by an order under, sections 111 to 116 of this Act where proposals for the discontinuance of a grant-maintained school have been approved under section 106 of this Act.

## **226 Winding-up of education association**

- (1) Where subsection (2) below applies to the school or, as the case may be, each of the schools conducted or formerly conducted by an education association, the Secretary of State may by order provide for the dissolution of the association and the transfer to him of the property, rights and liabilities of the association.
- (2) This section applies where—
  - (a) the Secretary of State has approved proposals for the school to become a grant-maintained school, or
  - (b) the Secretary of State has given notice under section 225 of this Act of his opinion that the school should be discontinued.

## **227 Reports showing school no longer requires special measures**

- (1) Where, on the completion of any inspection of a school conducted by an education association under section 2(2)(b), 3(1), 6(2)(b) or 7(1) of the Education (Schools) Act 1992 by a member of the Inspectorate, he is of the opinion that special measures are not required to be taken in relation to the school, he shall prepare in writing a report of the inspection and a summary of the report and state his opinion in the report.
- (2) The member of the Inspectorate shall send a copy of the report, together with a summary of it, to the head teacher of the school, the education association and the Secretary of State.
- (3) The education association shall—
  - (a) make any copy report and summary sent to them under subsection (2) above available for inspection by members of the public at such times and at such place as may be reasonable,
  - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary as soon as is reasonably practicable.
- (4) Section 9 of that Act does not apply to schools conducted by education associations.



## **228 Regulations for the purposes of Chapter II**

- (1) Regulations may provide for any enactments relating to grant-maintained schools (or schools including grant-maintained schools), including enactments relating to the acquisition of grant-maintained status, to have effect in relation to—
  - (a) the transfer to an education association under section 220 of this Act of responsibility for the conduct of any school and the subsequent conduct of the school by the association,
  - (b) the discontinuance under section 225 of this Act of any school conducted by an education association, and
  - (c) the transfer to a governing body incorporated in pursuance of proposals published by virtue of section 224 of this Act of responsibility for the conduct of any school conducted by an education association,with such modifications as seem to the Secretary of State to be necessary or desirable.
- (2) Subsection (1) above does not apply in relation to schools which are or were maintained special schools; but regulations may provide for sections 220 to 227 of this Act to have effect in relation to any such schools as they have effect in relation to county schools but with such modifications as seem to the Secretary of State to be necessary or desirable.
- (3) Regulations may make such provision as the Secretary of State considers necessary or desirable in relation to—
  - (a) the transfer to an education association under section 220 of this Act of responsibility for the conduct of any maintained special school and the subsequent conduct of the school by the association, and
  - (b) where a former maintained special school is being conducted by an education association, the discontinuance of the school under section 225 of this Act.
- (4) In relation to any former maintained special school being conducted by an education association—
  - (a) section 186 of this Act shall apply as it applies to any maintained special school, but as if the reference in subsection (1) to the school ceasing to be maintained by the local education authority were to its ceasing to be conducted by an education association, and
  - (b) section 224 of this Act shall apply—
    - (i) as if the reference in subsection (1) to a grant-maintained school were to a grant-maintained special school,
    - (ii) as if the reference in subsection (2) to section 32 of this Act were to section 186 of this Act, and
    - (iii) with the omission of subsection (3).