



Education Act 1996

1996 CHAPTER 56

PART I

GENERAL

CHAPTER I

THE STATUTORY SYSTEM OF EDUCATION

General

1 The stages of education

- (1) The statutory system of public education consists of three progressive stages: primary education, secondary education and further education.
- (2) This Part—
 - (a) confers functions on the Secretary of State and local education authorities with respect to primary, secondary and further education; and
 - (b) provides for functions with respect to primary and secondary education to be conferred on the funding authorities constituted under Chapter IV.
- (3) Part I of the Further and Higher Education Act 1992 confers functions with respect to further education on the further education funding councils established under section 1 of that Act.
- (4) Apart from section 10 (general duty of Secretary of State), nothing in this Act confers any functions with respect to higher education.

2 Definition of primary, secondary and further education

- (1) In this Act “primary education” means —

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- (a) full-time education suitable to the requirements of junior pupils who have not attained the age of 10 years and six months; and
 - (b) full-time education suitable to the requirements of junior pupils who have attained that age and whom it is expedient to educate together with junior pupils within paragraph (a).
- (2) In this Act “secondary education” means—
- (a) full-time education suitable to the requirements of pupils of compulsory school age who are either—
 - (i) senior pupils, or
 - (ii) junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with senior pupils of compulsory school age; and
 - (b) (subject to subsection (5)) full-time education suitable to the requirements of pupils who are over compulsory school age but under the age of 19 which is provided at a school at which education within paragraph (a) is also provided.
- (3) Subject to subsection (5), in this Act “further education” means—
- (a) full-time and part-time education suitable to the requirements of persons who are over compulsory school age (including vocational, social, physical and recreational training), and
 - (b) organised leisure-time occupation provided in connection with the provision of such education,
- except that it does not include secondary education or (in accordance with subsection (7)) higher education.
- (4) Accordingly, unless it is education within subsection (2)(b), full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19 is further education for the purposes of this Act and not secondary education.
- (5) For the purposes of this Act education provided for persons who have attained the age of 19 is further education not secondary education; but where a person—
- (a) has begun a particular course of secondary education before attaining the age of 18, and
 - (b) continues to attend that course,
- the education does not cease to be secondary education by reason of his having attained the age of 19.
- (6) In subsection (3)(b) “organised leisure-time occupation” means leisure-time occupation, in such organised cultural training and recreative activities as are suited to their requirements, for any persons over compulsory school age who are able and willing to profit by facilities provided for that purpose.
- (7) References in this section to education do not include references to higher education.

3 Definition of pupil etc

- (1) In this Act “pupil” means a person for whom education is being provided at a school, other than—
- (a) a person who has attained the age of 19 for whom further education is being provided, or

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- (b) a person for whom part-time education suitable to the requirements of persons of any age over compulsory school age is being provided.
- (2) In this Act—
- “junior pupil” means a child who has not attained the age of 12; and
 - “senior pupil” means a person who has attained the age of 12 but not the age of 19.
- (3) The definition of “pupil” in subsection (1) also applies (unless the context otherwise requires) for the purposes of any instrument made or having effect as if made under the Education Acts.

Educational institutions

4 Schools: general

- (1) In this Act “school” means an educational institution which is outside the further education sector and the higher education sector and is an institution for providing any one or more of the following—
- (a) primary education,
 - (b) education which is secondary education by virtue of section 2(2)(a), or
 - (c) full-time education suitable to the requirements of persons who are over compulsory school age but under the age of 19,
- whether or not the institution also provides part-time education suitable to the requirements of junior pupils, further education or secondary education not within paragraph (b).
- (2) For the purposes of this Act an educational institution that would fall within subsection (1) but for the fact that it provides part-time rather than full-time education shall nevertheless be treated as a school if that part-time education is provided under arrangements made under section 19(1) (pupil referral units).
- (3) For the purposes of this Act an institution is outside the further education sector if it is not—
- (a) an institution conducted by a further education corporation established under section 15 or 16 of the Further and Higher Education Act 1992, or
 - (b) a designated institution for the purposes of Part I of that Act (defined in section 28(4) of that Act);
- and references to institutions within that sector shall be construed accordingly.
- (4) For the purposes of this Act an institution is outside the higher education sector if it is not—
- (a) a university receiving financial support under section 65 of that Act,
 - (b) an institution conducted by a higher education corporation within the meaning of that Act, or
 - (c) a designated institution for the purposes of Part II of that Act (defined in section 72(3) of that Act);
- and references to institutions within that sector shall be construed accordingly.

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5 Primary schools, secondary schools and middle schools

- (1) In this Act “primary school” means (subject to regulations under subsection (4)) a school for providing primary education, whether or not it also provides part-time education suitable to the requirements of junior pupils or further education.
- (2) In this Act “secondary school” means (subject to regulations under subsection (4)) a school for providing secondary education, whether or not it also provides further education.
- (3) In this Act “middle school” means a school in respect of which proposals authorised by section 49, 198(6) or 291 are implemented (that is, a school providing full-time education suitable to the requirements of pupils who have attained a specified age below 10 years and six months and are under a specified age above 12 years).
- (4) The Secretary of State shall make regulations for determining, or enabling him to determine, whether a middle school is to be treated for the purposes of this Act and the other enactments relating to education as a primary school or as a secondary school.
- (5) The powers conferred by sections 49, 198(6) and 291 and subsection (4) above are exercisable—
 - (a) notwithstanding anything in this Act (and in particular section 1); but
 - (b) without prejudice to the exercise of any other power conferred by this Act.

6 Nursery schools and special schools

- (1) A primary school is a nursery school if it is used mainly for the purpose of providing education for children who have attained the age of two but are under the age of five.
- (2) A school is a special school if it is specially organised, and for the time being approved, as mentioned in section 337(1).

Compulsory education

7 Duty of parents to secure education of children of compulsory school age

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (a) to his age, ability and aptitude, and
 - (b) to any special educational needs he may have,
- either by regular attendance at school or otherwise.

8 Compulsory school age

- (1) Subsections (2) and (3) apply to determine for the purposes of any enactment whether a person is of compulsory school age.
- (2) A person begins to be of compulsory school age when he attains the age of five.
- (3) A person ceases to be of compulsory school age at the end of the day which is the school leaving date for any calendar year—
 - (a) if he attains the age of 16 after that day but before the beginning of the school year next following,

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- (b) if he attains that age on that day, or
 - (c) (unless paragraph (a) applies) if that day is the school leaving date next following his attaining that age.
- (4) The Secretary of State may by order determine the day in any calendar year which is to be the school leaving date for that year.

Education in accordance with parental wishes

9 Pupils to be educated in accordance with parents' wishes

In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of State, local education authorities and the funding authorities shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.

CHAPTER II

FUNCTIONS OF THE SECRETARY OF STATE

10 General duty of Secretary of State

The Secretary of State shall promote the education of the people of England and Wales.

11 Duty in the case of primary, secondary and further education

- (1) The Secretary of State shall exercise his powers in respect of those bodies in receipt of public funds which—
- (a) carry responsibility for securing that the required provision for primary, secondary or further education is made—
 - (i) in schools, or
 - (ii) in institutions within the further education sector, in or in any area of England or Wales, or
 - (b) conduct schools or institutions within the further education sector in England and Wales,
- for the purpose of promoting primary, secondary and further education in England and Wales.
- (2) The Secretary of State shall, in the case of his powers to regulate the provision made in schools and institutions within the further education sector in England and Wales, exercise his powers with a view to (among other things) improving standards, encouraging diversity and increasing opportunities for choice.

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CHAPTER III

LOCAL EDUCATION AUTHORITIES

The authorities

12 Local education authorities and their areas

- (1) The local education authority for a county in England having a county council is the county council.
- (2) The local education authority for a district in England which is not in a county having a county council is the district council.
- (3) The local education authority for a London borough is the borough council.
- (4) The local education authority for the City of London (which for the purposes of this Act shall be treated as including the Inner Temple and the Middle Temple) is the Common Council of the City of London (in their capacity as a local authority).
- (5) As respects Wales—
 - (a) the local education authority for a county is the county council; and
 - (b) the local education authority for a county borough is the county borough council.
- (6) Any reference in this Act to the area of a local education authority shall be construed in accordance with the preceding provisions of this section.

General functions

13 General responsibility for education

- (1) A local education authority shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education, secondary education and further education are available to meet the needs of the population of their area.
- (2) The duty imposed by subsection (1) does not extend to matters in respect of which any duty is imposed on—
 - (a) the further education funding councils established under section 1 of the Further and Higher Education Act 1992, or
 - (b) the higher education funding councils established under section 62 of that Act.

14 Functions in respect of provision of primary and secondary schools

- (1) A local education authority shall secure that sufficient schools for providing—
 - (a) primary education, and
 - (b) education that is secondary education by virtue of section 2(2)(a),are available for their area.

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- (2) The schools available for an area shall not be regarded as sufficient for the purposes of subsection (1) unless they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education.
- (3) In subsection (2) “appropriate education” means education which offers such variety of instruction and training as may be desirable in view of—
 - (a) the pupils' different ages, abilities and aptitudes, and
 - (b) the different periods for which they may be expected to remain at school, including practical instruction and training appropriate to their different needs.
- (4) A local education authority is not by virtue of subsection (1)(a) under any duty in respect of children under the age of five.
- (5) A local education authority may secure the provision for their area of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, including provision for persons from other areas.
- (6) In exercising their functions under this section, a local education authority shall in particular have regard to—
 - (a) the need for securing that primary and secondary education are provided in separate schools;
 - (b) the need for securing that special educational provision is made for pupils who have special educational needs; and
 - (c) the expediency of securing the provision of boarding accommodation (in boarding schools or otherwise) for pupils for whom education as boarders is considered by their parents and the authority to be desirable.
- (7) The duty imposed by subsection (6)(a) does not apply in relation to middle schools or special schools.

15 Functions in respect of provision of further education

- (1) A local education authority shall secure the provision for their area of adequate facilities for further education.
- (2) The duty imposed by subsection (1) does not apply in relation to—
 - (a) education to which section 2(1) of the Further and Higher Education Act 1992 applies (that is, full-time education suitable to the requirements of persons who are over compulsory school age and under the age of 19); or
 - (b) education to which section 3(1) of that Act applies (that is—
 - (i) part-time education suitable to the requirements of persons of any age over compulsory school age, and
 - (ii) full-time education suitable to the requirements of persons who have attained the age of 19,where the education is provided by means of a course of a description mentioned in Schedule 2 to that Act).
- (3) However, in respect of further education falling within subsection (2)(b), a local education authority may secure the provision for their area of such facilities as appear to them to be appropriate for meeting the needs of the population of their area.
- (4) A local education authority may secure the provision of further education for persons from other areas.

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- (5) In exercising their functions under this section a local education authority shall have regard to—
- (a) any educational facilities provided—
 - (i) by institutions within the higher education sector or the further education sector, and
 - (ii) by other bodies,
 which are provided for, or available for use by persons in, their area, and
 - (b) the requirements of persons over compulsory school age who have learning difficulties.
- (6) Subject to subsection (7), a person has a “learning difficulty” for the purposes of subsection (5) if—
- (a) he has a significantly greater difficulty in learning than the majority of persons of his age, or
 - (b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided in pursuance of the duty under subsection (1) for persons of his age.
- (7) A person is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (8) A local education authority may do anything which appears to them to be necessary or expedient for the purposes of or in connection with the exercise of their functions under this section.

Establishment etc. of schools

16 Power to establish, maintain and assist primary and secondary schools

- (1) For the purpose of fulfilling their functions under this Act, a local education authority may—
- (a) establish primary schools and secondary schools;
 - (b) maintain primary and secondary schools, whether established by them or not; and
 - (c) assist any primary or secondary school which is not maintained by them.
- (2) A local education authority may under subsection (1) establish, maintain and assist schools outside as well as inside their area.
- (3) A local education authority may not under subsection (1) establish a school to provide—
- (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 19.

17 Powers in respect of nursery education

- (1) A local education authority may—
- (a) establish nursery schools;

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- (b) maintain nursery schools established by them or by an authority which was a local education authority within the meaning of any enactment repealed by the Education Act 1944 or an earlier Act; and
 - (c) assist any nursery school not so established.
- (2) Section 14(4) does not affect a local education authority's power under section 16(1) to establish, maintain and assist schools at which education is provided both for children under the age of five and for older pupils (including schools at which there are nursery classes for children under the age of five).

Other arrangements for provision of education

18 Power to arrange provision of education at non-maintained schools

A local education authority may make arrangements for the provision of primary and secondary education for pupils at schools not maintained by them or another local education authority.

19 Exceptional provision of education in pupil referral units or elsewhere

- (1) Each local education authority shall make arrangements for the provision of suitable full-time or part-time education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
- (2) Any school established (whether before or after the commencement of this Act) and maintained by a local education authority which—
- (a) is specially organised to provide education for such children, and
 - (b) is not a county school or a special school,
- shall be known as a “pupil referral unit”.
- (3) A local education authority may secure the provision of boarding accommodation at any pupil referral unit.
- (4) A local education authority may make arrangements for the provision of suitable full-time or part-time education otherwise than at school for those young persons who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
- (5) Any child for whom education is provided otherwise than at school in pursuance of this section, and any young person for whom full-time education is so provided in pursuance of this section, shall be treated for the purposes of this Act as a pupil.
- (6) In this section “suitable education”, in relation to a child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (7) Schedule 1 has effect in relation to pupil referral units.

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

CHAPTER IV

THE FUNDING AUTHORITIES

The Authorities

20 The Funding Agency for Schools

- (1) The Funding Agency for Schools shall continue in existence as a body corporate exercising in relation to England the functions conferred on them.
- (2) The agency shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (3) In appointing the members of the agency the Secretary of State shall have regard to the desirability of including—
 - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of such education;
 - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of education in voluntary schools, or in grant-maintained schools having foundation governors;
 - (c) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession; and
 - (d) persons who appear to him to have experience of, and to have shown capacity in, providing for children with special educational needs.
- (4) Before appointing any member of the agency the Secretary of State shall consult—
 - (a) a body appearing to him to be representative of the Church of England, and
 - (b) a body appearing to him to be representative of the Roman Catholic Church, in matters relating to the provision of education in voluntary schools, or in grant-maintained schools having foundation governors.
- (5) Schedule 2 has effect in relation to the agency.

21 The Schools Funding Council for Wales

- (1) The Secretary of State may by order make provision for the establishment of a body corporate to be known as the Schools Funding Council for Wales to exercise in relation to Wales, as from such date as may be specified in the order, the functions conferred on them.
- (2) The council shall consist of not less than eight nor more than 12 members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (3) In appointing the members of the council the Secretary of State shall have regard to the desirability of including—
 - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of such education;

- (b) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession; and
 - (c) persons who appear to him to have experience of, and to have shown capacity in, providing for children with special educational needs.
- (4) Schedule 2 has effect in relation to the council.

Functions

22 Functions of funding authorities

- (1) The functions which are or may be exercisable by a funding authority include in particular those which are or may be so exercisable by virtue of—
- (a) section 23 (value-for-money studies of grant-maintained schools);
 - (b) section 27 (responsibility for provision of school places to be held together with, or to the exclusion of, local education authority); and
 - (c) Chapter VI of Part III (funding of grant-maintained schools).
- (2) Schedule 3 enables the Secretary of State to transfer to a funding authority certain functions of his with respect to education.

23 Value-for-money studies of grant-maintained schools

- (1) Each funding authority shall make arrangements for carrying out such value-for-money studies of grant-maintained schools in England or, as the case may be, Wales as in their opinion are required or as the Secretary of State may direct.
- (2) The authority shall, in particular—
- (a) in forming an opinion as to whether any value-for-money study is required to be carried out in pursuance of this section, have regard to the desirability of value-for-money studies being carried out at regular intervals, and
 - (b) in determining the scope of any value-for-money study to be carried out in pursuance of this section otherwise than on the direction of the Secretary of State, have regard to the scope of any value-for-money study which is being or has recently been carried out.
- (3) In this section “value-for-money study”, in relation to any grant-maintained school, means—
- (a) any examination into the economy, efficiency and effectiveness with which the governing body of the school have, in discharging their functions, used grant made by the authority, and
 - (b) any study designed to improve economy, efficiency and effectiveness in the management or operations of the school.

24 Supervision of funding authorities by the Secretary of State

- (1) In exercising their functions each funding authority shall comply with any directions contained in an order made by the Secretary of State.

- (2) In respect of the exercise by the funding authority of functions in respect of any grant-maintained school, such directions may relate to grant-maintained schools generally or to any class or description of such schools.
- (3) Before making an order under this section, the Secretary of State shall consult the funding authority unless, for reasons of urgency, it is not in his opinion reasonably practicable for him to do so.
- (4) Sections 496 and 497 (powers of Secretary of State where local education authority etc. are acting unreasonably or are in default) shall apply in relation to a funding authority and the functions conferred on them by or under the Education Acts as they apply in relation to local education authorities and the functions conferred on them by or under this Act.
- (5) Subsection (4) does not prejudice the generality of subsection (1).

Supplemental

25 Grants to funding authorities

The Secretary of State may make grants to a funding authority of such amounts and subject to such terms and conditions as he may determine.

26 Meaning of “funding authority”

- (1) Any reference in this Act to a funding authority—
 - (a) in relation to schools, or local education authority areas, in England is to the Funding Agency for Schools, and
 - (b) in relation to schools, or local education authority areas, in Wales is, subject to subsection (2), to the Schools Funding Council for Wales,
 and in any other context is to the agency or the council.
- (2) Before the Schools Funding Council for Wales begin to exercise their functions, any reference in this Act (other than this Part) to a funding authority in relation to schools, or local education authority areas, in Wales is to be read as a reference to the Secretary of State.

CHAPTER V

ALLOCATION OF RESPONSIBILITY FOR EDUCATION AT
SCHOOL BETWEEN LEA AND FUNDING AUTHORITY

27 Responsibility for providing sufficient school places

- (1) In respect of the area of any local education authority, the Secretary of State may—
 - (a) where he wishes responsibility for providing sufficient school places to be held by the funding authority as well as the local education authority, make an order under this paragraph, and
 - (b) where he wishes that responsibility to be held by the funding authority alone, make an order under this paragraph;

and such an order may relate to primary education, to secondary education or to both.

- (2) An order under subsection (1) shall state—
- (a) the local education authority area to which the order applies;
 - (b) whether the order is made under paragraph (a) or (b) of that subsection;
 - (c) the kind (that is primary or secondary) or kinds of education to which the order relates; and
 - (d) the date as from which the order is to have effect.
- (3) No order may be made in respect of any area under subsection (1) unless—
- (a) in the case of an order under subsection (1)(a) or (b), it appears to the Secretary of State that subsection (4) is, or has at any time been, satisfied, or
 - (b) in the case of an order under subsection (1)(b), the local education authority have at any time requested the Secretary of State to make the order and subsection (4) is, or has at any time been, satisfied,
- in relation to the kind of education to which the order relates or, as the case may be, each of the kinds of education to which the order relates.
- (4) This subsection is satisfied—
- (a) for the purposes of—
 - (i) subsection (3)(a) in its application to an order under subsection (1)(a), or
 - (ii) subsection (3)(b),if not less than 10 per cent. of the pupils for whom education is provided in county, voluntary and grant-maintained schools in the area are registered pupils at grant-maintained schools;
 - (b) for the purposes of subsection (3)(a) in its application to an order under subsection (1)(b), if not less than 75 per cent. of the pupils for whom education is provided in county, voluntary and grant-maintained schools in the area are registered pupils at grant-maintained schools.
- (5) For the purposes of subsection (3) the kind of education to which an order relates—
- (a) where an order is expressed to relate only to primary education, includes any secondary education provided in a primary school and excludes any primary education provided in a secondary school, and
 - (b) where an order is expressed to relate only to secondary education, includes any primary education provided in a secondary school and excludes any secondary education provided in a primary school.
- (6) The effect of an order under this section is set out in Schedule 4.
- (7) The kind or kinds of education to which an order under subsection (1)(a) or (b) relates are referred to in this Act, in relation to such an order, as “relevant education”.

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

CHAPTER VI

SUPPLEMENTAL

Allocation of functions

28 Resolution of disputes as to allocation of functions

Any dispute as to whether any functions are exercisable by a funding authority or a local education authority shall be determined by the Secretary of State.

Provision of information

29 Provision of information by local education authorities

- (1) A local education authority shall—
 - (a) make such reports and returns to the Secretary of State, and
 - (b) give to the Secretary of State such information,as he may require for the purpose of the exercise of his functions under this Act.
- (2) A local education authority shall—
 - (a) make such reports and returns to the funding authority, and
 - (b) give to the funding authority such information,as the funding authority may require for the purpose of the exercise of their functions.
- (3) A local education authority shall—
 - (a) compile such information, and
 - (b) make such provision for conducting, or assisting the conduct of, research,as may be required for the purpose of providing the Secretary of State and the funding authority, in such form and at such times as may be prescribed, with such information relating to the provision of primary or secondary education in the area of the local education authority as may be prescribed.
- (4) The Secretary of State shall exercise his powers under subsection (3) so as to secure, in particular, the provision of information relating to the provision of education for children with special educational needs.
- (5) A local education authority shall, at such time or times and in such manner as may be required by regulations, publish such information as may be so required with respect to their policy and arrangements in respect of any matter relating to primary or secondary education.
- (6) Nothing in subsection (5) applies in relation to—
 - (a) nursery schools, or
 - (b) children who will be under the age of five at the time of their proposed admission.

30 Provision of information by funding authorities

- (1) A funding authority—

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- (a) shall provide the Secretary of State with such information or advice in connection with any function of his relating to the provision of education as he may from time to time require; and
 - (b) may provide the Secretary of State with such information or advice relating to such provision as they think fit.
- (2) The information and advice provided under subsection (1) shall be provided in such manner as the Secretary of State may from time to time determine.
- (3) A funding authority shall—
 - (a) make such reports and returns to any local education authority, and
 - (b) give to any local education authority such information,as the local education authority may require for the purpose of the exercise of their functions.
- (4) A funding authority shall—
 - (a) compile such information, and
 - (b) make such provision for conducting, or assisting the conduct of, research,as may be required for the purpose of providing the Secretary of State and local education authorities, in such form and at such times as may be prescribed, with such information relating to the provision of education in any area to which an order under section 27 applies as may be prescribed.
- (5) The Secretary of State shall exercise his powers under subsection (4) so as to secure, in particular, the provision of information relating to the provision of education for children with special educational needs.