



Education Act 1996

1996 CHAPTER 56

PART II

SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

CHAPTER VI

CONDUCT AND STAFFING OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

Articles of government

127 Articles of government.

- (1) For every county, voluntary and maintained special school there shall be an instrument (known as the articles of government) in accordance with which the school is to be conducted.
- (2) The articles of government shall be made by order of the local education authority.
- (3) The articles of government—
 - (a) shall contain such provisions as are required by this Chapter or by any other enactment; and
 - (b) shall not contain any provision which is inconsistent with any provision made by or under this Act or any other enactment.
- (4) The articles of government shall comply with any trust deed relating to the school.

128 Procedure for making and altering articles of government.

- (1) Before making an order under section 127, a local education authority shall consult the governing body and the head teacher of the school concerned.

Status: Point in time view as at 01/09/1998.

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- (2) Before making an order under section 127 in respect of a voluntary school, a local education authority shall also—
 - (a) secure the agreement of the governing body to the terms of the proposed order; and
 - (b) have regard to the way in which the school has been conducted.
- (3) Where the governing body of a county, voluntary or maintained special school make a proposal to the local education authority for the alteration of the provision made by the articles of government for the school, the authority shall consider their proposal.
- (4) Where a local education authority—
 - (a) propose to make an order under section 127 but cannot secure any agreement required by subsection (2), or
 - (b) refuse, in the case of a voluntary school, to make such an order in response to a proposal of a kind mentioned in subsection (3),
 the authority or (as the case may be) the governing body may refer the matter to the Secretary of State.
- (5) On a reference to him under subsection (4), the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the status of the school as a controlled, aided or (as the case may be) special agreement school.
- (6) Where it appears to the Secretary of State—
 - (a) that an order, or proposed order, under section 127 is in any respect inconsistent with the provisions of any trust deed relating to the school, and
 - (b) that it is expedient in the interests of the school that the provisions of the trust deed should be modified for the purpose of removing the inconsistency,
 he may by order make such modifications in the trust deed as appear to him to be just and expedient for that purpose.
- (7) References in this section to an order, or proposed order, under section 127 are references to an order, or proposed order, under that section embodying or varying the articles of government for a school.

129 Overriding, and amendment, of articles where school has a delegated budget.

- (1) During any period when a school has a delegated budget under such a scheme as is mentioned in section 101(1), any provisions of the articles of government of the school which are inconsistent with the operation during that period of any provisions of Chapter V or of the scheme shall be of no effect to the extent of the inconsistency.
- (2) If a school's articles of government contain any provisions to which subsection (1) applies ("inconsistent provisions"), the local education authority shall amend the articles so as to include in relation to each inconsistent provision the statement required by subsection (3).
- (3) The statement shall specify—
 - (a) the inconsistent provision,
 - (b) the provision of Chapter V or of the scheme with the operation of which it is inconsistent (the "overriding provision"), and
 - (c) the extent of the inconsistency,

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and shall indicate that, during any period when the school has a delegated budget, the inconsistent provision is superseded by the overriding provision to the extent of the inconsistency.

- (4) Any amendment required by subsection (2) shall be made within the period of five years beginning with the date on which begins the financial year in which the school first has a delegated budget under the scheme.
- (5) Any such amendment shall be made by order under section 127; but section 128 shall not apply in relation to an order made under section 127 by virtue of this subsection.

Modifications etc. (not altering text)

C1 S. 129 amended (1.4.1999) by S.I. 1999/711, reg. 3

Conduct of schools: general

130 Governing body to have general responsibility for conduct of school.

The articles of government for a county, voluntary or maintained special school shall provide for the conduct of the school to be under the direction of the governing body, but subject—

- (a) to any provision of the articles conferring specific functions on a person other than the governing body, and
- (b) to any provision (other than a provision of the articles) made by or under this Act or any other enactment.

131 Consultation with governing body not required in urgent cases.

Regulations may make provision as to the circumstances in which, in any case where—

- (a) any provision made by or under Chapter IV or this Chapter requires the governing body of a county, voluntary or maintained special school to be consulted before a particular step is taken by the local education authority or the head teacher, and
- (b) the authority or head teacher require to take that step as a matter of urgency but are unable to contact the chairman or vice-chairman of the governing body,

the authority or (as the case may be) the head teacher may proceed without consulting the governing body.

132 Separate departments of school to be treated as separate schools.

- (1) Where a county, voluntary or maintained special school is organised in two or more separate departments, each with a head teacher, any provision made by or under this Act which confers functions on or in relation to the head teacher of the school shall have effect as if each department were a separate school.
- (2) Subsection (1) does not apply where the school's articles of government provide otherwise.

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Modifications etc. (not altering text)

- C2** S. 132 excluded (26.5.1999) by S.I. 1999/1287, **reg. 3(1)**
 s. 132 modified (*temp.* 26.5.1999 to immediately before 1.9.1999) by S.I. 1999/1287, **reg. 3(2)**

Staffing of schools without delegated budgets

^{F1}133 Staffing of county, controlled, special agreement and maintained special schools without delegated budgets.

- (1) A county, controlled, special agreement or maintained special school shall have a complement of teaching and non-teaching posts determined by the local education authority.
- (2) The complement shall include—
 - (a) all full-time teaching posts, and
 - (b) all part-time teaching posts which are to be filled by persons whose only employment with the authority will be at the school.
- (3) The complement shall not include any staff employed by the authority solely in connection with either or both of the following—
 - (a) the provision of meals;
 - (b) the supervision of pupils at midday.
- (4) Schedule 13 has effect in relation to the staffing of county, controlled, special agreement and maintained special schools.
- (5) The appointment and dismissal of staff (including teachers) at a county, controlled, special agreement or maintained special school shall be under the control of the local education authority, subject to—
 - (a) any provision made by the articles of government for the school in accordance with Schedule 13,
 - (b) section 135 and any provision made by the articles of government in accordance with that section (appointment and dismissal of clerk to governing body),
 - (c) sections 143 and 144 (appointment and dismissal of teachers of religious education), and
 - (d) in the case of a school for which there is a temporary governing body, Schedule 19 (conduct and staffing of new schools).
- (6) This section is subject to section 136 (staffing of county, controlled and special agreement schools with delegated budgets).

Textual Amendments

- F1** Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, **reg. 2, Sch. 1**

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F²134 Staffing of aided schools without delegated budgets.

- (1) In the case of an aided school the functions of the local education authority and of the governing body with respect to—
 - (a) the appointment of teachers, and
 - (b) subject to section 145 (dismissal of teachers of religious education), the dismissal of teachers,
 shall be regulated by the articles of government.
- (2) The articles of government shall make provision—
 - (a) for the appointment of the teachers by the governing body, and
 - (b) for enabling the local education authority to determine the number of teachers to be employed.
- (3) The articles of government shall make provision for enabling the local education authority—
 - (a) to prohibit the dismissal of teachers without the authority’s consent, except for reasons for which under section 145 the governing body may dismiss a teacher without the authority’s consent; and
 - (b) to require the dismissal of any teacher.
- (4) The articles of government may make such provision as may be agreed between the local education authority and the governing body or, in default of such agreement, as may be determined by the Secretary of State, for enabling the authority—
 - (a) to prohibit the appointment, without the authority’s consent, of teachers to be employed for giving secular education; and
 - (b) to give directions as to the educational qualifications of the teachers to be employed for giving secular education.
- (5) The local education authority may give directions to the governing body of an aided school as to the number and conditions of service of persons employed at the school for the purposes of the care and maintenance of the school premises.
- (6) Where the trust deed relating to the school provides for a person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement under section 151) the use of those premises is or would be under the control of any such person, the reference in subsection (5) to the governing body shall be read as a reference to that person.
- (7) This section is subject to section 137 (staffing of aided schools with delegated budgets).

Textual Amendments

F2 Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

135 Appointment etc. of clerk to governing body of school other than aided school.

- (1) The articles of government for a county or maintained special school shall provide for the clerk to the governing body to be appointed by the local education authority in accordance with arrangements determined by them in consultation with the governing body.

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- (2) The clerk to the governing body of a controlled or special agreement school shall be appointed—
 - (a) where the articles of government make provision in relation to his appointment, in accordance with that provision, or
 - (b) where paragraph (a) does not apply, by the local education authority in accordance with arrangements determined by them in consultation with the governing body.
- (3) Arrangements determined in respect of a school by virtue of subsection (1) or under subsection (2)(b) may be varied by the authority in consultation with the governing body.
- (4) The articles of government for a county or maintained special school shall require the local education authority not to dismiss the clerk except in accordance with arrangements determined by them in consultation with the governing body.
- (5) The clerk to the governing body of a controlled or special agreement school may not be dismissed except—
 - (a) where the articles of government make provision in relation to his dismissal, in accordance with that provision, or
 - (b) where paragraph (a) does not apply, in accordance with arrangements determined by the local education authority in consultation with the governing body.
- (6) The articles of government for a county, controlled, special agreement or maintained special school shall require the local education authority to consider any representations made to them by the governing body as to the dismissal of their clerk.
- (7) Subsections (1) to (6) are subject to section 136 (staffing of county, controlled, and special agreement schools with delegated budgets).
- (8) The articles of government for a county, controlled, special agreement or maintained special school shall enable the governing body, where the clerk fails to attend a meeting of theirs, to appoint one of their number to act as clerk for the purposes of that meeting (but without prejudice to his position as a governor).

Staffing of schools with delegated budgets

136 Staffing of county, controlled and special agreement schools with delegated budgets.

- (1) This section applies to a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) None of the following shall apply in relation to the school—
 - (a) section 133 and Schedule 13,
 - (b) section 135(1) to (6), and
 - (c) any provision made by the articles of government for the school in accordance with Schedule 13 or section 135(1) to (6).
- (3) Instead Schedule 14 has effect in relation to the staffing of the school, subject, however, to the provisions of sections 143 and 144 (appointment and dismissal of teachers of religious education).

Status: Point in time view as at 01/09/1998.

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Modifications etc. (not altering text)

- C3 Ss. 136-140 extended (1.4.1999) by S.I. 1999/711, **reg. 4**
Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, **reg. 2, Sch. 1**

137 Staffing of aided schools with delegated budgets.

- (1) This section applies to an aided school at any time when it has a delegated budget.
- (2) None of the following shall apply in relation to the school—
 - (a) any provision of the articles of government for the school conferring any functions on a local education authority with respect to the number, appointment or dismissal of teachers or other staff to be employed at the school (including any such provision which is required by section 134), and
 - (b) section 134(5).
- (3) If, apart from any provision of the articles of government excluded by subsection (2) (a) they would not otherwise have power to do so, the governing body may appoint, suspend and dismiss staff as they think fit.
- (4) Subsection (3) has effect subject to any provision of the articles of government (other than one excluded by subsection (2)(a)).
- (5) The governing body shall, on dismissing any member of the staff of the school employed by them, notify the local education authority in writing of the reasons for the dismissal.
- (6) Paragraphs 23 to 28 of Schedule 14 apply in relation to the dismissal or withdrawal from the school of any member of the staff who is employed by the local education authority as they apply in relation to the dismissal or withdrawal from a county, controlled or special agreement school which has a delegated budget of a person employed to work at the school.

Modifications etc. (not altering text)

- C4 Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, **reg. 2, Sch. 1**

138 Staffing of aided schools with delegated budgets: advisory rights of chief education officer.

- (1) Subsection (2) applies if, in the case of an aided school which has a delegated budget—
 - (a) the governing body of the school have agreed with the local education authority to accord to the authority's chief education officer advisory rights in relation to the appointment or dismissal of teachers at the school, or
 - (b) in default of such agreement, the Secretary of State has determined that it would be appropriate that such advisory rights should be accorded to the chief education officer.
- (2) During any period when the agreement or determination under subsection (1) is effective, the chief education officer, or an officer of the authority nominated by him, shall be entitled to attend all relevant proceedings of the governing body for the purpose of giving advice to the governing body.

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For this purpose “relevant proceedings” means proceedings (including interviews) relating to any action to which the advisory rights accorded to the chief education officer extend.

- (3) Advisory rights accorded by an agreement or determination under subsection (1) may relate to the appointment or dismissal, or both to the appointment and to the dismissal, either—
 - (a) of head teachers and deputy head teachers alone, or
 - (b) of all teachers at the school.
- (4) The agreement of a governing body for the purposes of subsection (1)(a) must be given in writing and may only be withdrawn by notice in writing to the local education authority.
- (5) A determination by the Secretary of State for the purposes of subsection (1)(b) may be withdrawn at any time (without prejudice to a further determination for those purposes).

Modifications etc. (not altering text)

C5 Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

139 Staffing of schools with delegated budgets: payments in respect of dismissal, etc.

- (1) This section applies to a county or voluntary school at any time when it has a delegated budget.
- (2) It shall be for the governing body to determine—
 - (a) whether any payment should be made by the local education authority 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) does not, however, apply in relation to a 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.
- (4) The local education authority—
 - (a) shall take such steps as may be required for giving effect to any determination of the governing body under subsection (2), and
 - (b) shall not make, or agree to make, a payment in relation to which that subsection applies except in accordance with such a determination.
- (5) ^{F3}Subject to subsection (5A),]Costs incurred by the local education authority in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of the 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.

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- [^{F4}(5A) Subsection (5) does not apply to costs incurred by the local education authority in respect of any premature retirement of a member of the staff of the school occurring on or after the date of the passing of the Education Act 1997; and such costs shall be met from the school’s budget share for one or more financial years except in so far as the authority agree with the governing body (whether before or after the retirement occurs) that they shall not be so met.
- (5B) The agreement of the local education authority for the purposes of subsection (5A) must be given in writing on or after the date of the passing of that Act.]
- (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).
- (7) In subsection (6) the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the ^{M1}Employment Rights Act 1996.

Textual Amendments

F3 Words in s. 139(5) inserted (21.3.1997) by 1997 c. 44, s. 50(2)(4)

F4 S. 139(5A)(5B) inserted (21.3.1997) by 1997 c. 44, s. 50(3)(4)

Marginal Citations

M1 1996 c. 18

140 Staffing for non-school activities in community schools.

- (1) This section applies to a county or voluntary school which has a delegated budget and is a community school.
- (2) For the purposes of this section a school is a “community school” if—
- activities other than school activities (“non-school activities”) are carried on on the school premises, and
 - all non-school activities which are so carried on are carried on under the management or control of the school’s governing body.
- (3) A scheme such as is mentioned in section 101(1) may provide for applying sections 136(2), 137(6) and 139 and Schedule 14 in relation to persons employed to work—
- partly for the purposes of school activities and partly for the purposes of non-school activities carried on on the premises of a school to which this section applies, or
 - solely for the purposes of non-school activities so carried on, as if all activities so carried on were school activities.

Modifications etc. (not altering text)

C6 Ss. 136, 140 extended (1.4.1999) by S.I. 1999/711, reg. 4

Ss. 133, 134, 136-140 amended (1.4.1999) by S.I. 1999/711, reg. 2, Sch. 1

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141 Amendment of articles of government relating to staffing.

- (1) Within the period of five years beginning with the date on which begins the financial year in which a county or voluntary school first has a delegated budget under a scheme, the local education authority shall amend the school's articles of government in accordance with this section.
- (2) If the school is a county, controlled or special agreement school, the articles of government shall be amended so as to include a statement—
 - (a) specifying the provisions made by the articles in accordance with Schedule 13 or section 135(1) to (6), and
 - (b) indicating that those provisions are superseded by section 136 and Schedule 14 during any period when the school has a delegated budget.
- (3) If the school is an aided school the articles of government shall be amended so as to include a statement—
 - (a) specifying the provisions of the articles which are within section 137(2)(a), and
 - (b) indicating that those provisions are superseded by sections 137 and 138 during any period when the school has a delegated budget.
- (4) An amendment under this section shall be made by order under section 127; but section 128 shall not apply in relation to an order made under section 127 by virtue of this section.

142 Application of provisions to maintained special schools.

Section 120(4) confers power on the Secretary of State to make in any of the following, namely—

- (a) sections 136 to 141,
- (b) Schedule 14, and
- (c) paragraphs 2 and 18 to 24 of Schedule 19,

amendments appearing to him to be required in consequence of any provision made in regulations under section 120(1) (application of schemes to maintained special schools).

Appointment and dismissal of teachers of religious education

143 Appointment etc. of reserved teachers in controlled schools.

- (1) Where the number of the teaching staff of a controlled school is more than two, the teaching staff shall include persons who—
 - (a) are selected for their fitness and competence to give such religious education as is required in accordance with arrangements under section 377(2) (arrangements for religious education in accordance with the school's trust deed or with the practice observed before the school became a controlled school), and
 - (b) are specifically appointed to do so.
- (2) In this Chapter "reserved teacher", in relation to a controlled school, means a person employed at the school in pursuance of subsection (1).

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- (3) The number of reserved teachers in a controlled school shall not exceed one-fifth of the number of the teaching staff, including the head teacher (and for this purpose, where the number of the teaching staff is not a multiple of five, it shall be treated as if it were the next higher multiple of five).
- (4) The head teacher of a controlled school shall not, while holding the post of head teacher of such a school, be a reserved teacher.
- (5) Where the local education authority propose to appoint a person to be a reserved teacher in a controlled school, the authority—
 - (a) shall consult the foundation governors, and
 - (b) shall not so appoint that person unless the foundation governors are satisfied as to his fitness and competence to give such religious education as is mentioned in subsection (1)(a).
- (6) If the foundation governors of a controlled school consider that a reserved teacher has failed to give such religious education efficiently and suitably, they may require the local education authority to dismiss him from employment as a reserved teacher in the school.
- (7) In subsection (5) “foundation governor” includes a temporary foundation governor.

144 Appointment etc. of reserved teachers in special agreement schools.

- (1) In this Chapter “reserved teacher”, in relation to a special agreement school, means a person who in pursuance of provision made in the special agreement is employed to give religious education—
 - (a) in accordance with any provisions of the trust deed relating to the school, or
 - (b) (where provision for that purpose is not made by any such deed) in accordance with the practice observed in the school before it became a voluntary school.
- (2) Where the special agreement made with respect to a special agreement school provides for the employment of reserved teachers and the local education authority propose to appoint a person to be a reserved teacher in the school, the authority—
 - (a) shall consult the foundation governors, and
 - (b) shall not appoint that person unless the foundation governors are satisfied as to his fitness and competence to give such religious education as is mentioned in subsection (1).
- (3) If the foundation governors of a special agreement school consider that a reserved teacher has failed to give such religious education efficiently and suitably, they may require the local education authority to dismiss him from employment as a reserved teacher in the school.
- (4) In subsection (2) “foundation governor” includes a temporary foundation governor.

145 Dismissal of teachers of religious education in aided schools.

If a teacher appointed to give religious education in an aided school (other than education in accordance with an agreed syllabus) fails to give such education efficiently and suitably, he may be dismissed on that ground by the governing body without the consent of the local education authority.

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Religious opinions of staff etc.

146 Religious opinions of staff etc.

- (1) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship—
 - (a) from being a teacher in a county school or from being a teacher (other than a reserved teacher) in a controlled or special agreement school, or
 - (b) from being employed (otherwise than as a teacher) for the purposes of a county or voluntary school.
- (2) No teacher in a county school, and no teacher (other than a reserved teacher) in a controlled or special agreement school, shall be required to give religious education.
- (3) No teacher in a county school, and no teacher (other than a reserved teacher) in a controlled or special agreement school, shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
 - (a) by reason of the fact that he does or does not give religious education, or
 - (b) by reason of his religious opinions or of his attending or omitting to attend religious worship.
- (4) No teacher in an aided school, and no reserved teacher in a controlled or special agreement school, shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
 - (a) by reason of the fact that he gives religious education, or
 - (b) by reason of his religious opinions or of his attending religious worship.

School terms, holidays and sessions

147 Responsibility for determining dates of terms and holidays and times of sessions.

- (1) In the case of a county, controlled or maintained special school—
 - (a) the articles of government shall require the local education authority to determine the dates when the school terms and holidays are to begin and end; and
 - (b) the governing body shall determine the times of the school sessions.
- (2) In the case of an aided or a special agreement school the articles of government shall require the governing body to determine—
 - (a) the dates and times when the school terms and holidays are to begin and end, and
 - (b) the times of the school sessions.
- (3) In this section and section 148 “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

148 Procedure for changing times of sessions at a county, controlled or maintained special school.

- (1) Where the governing body of a county, controlled or maintained special school propose to make any change in the times of the school sessions, they shall—

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- (a) before taking any of the actions mentioned in paragraphs (b) to (h), consult the local education authority and the head teacher;
 - (b) prepare a statement—
 - (i) indicating that they propose to make a change in those times,
 - (ii) specifying the proposed change and when they propose that it should take effect,
 - (iii) drawing attention to any comment on the proposal included as an annex to the statement by virtue of paragraph (c) and including such response to the comment as they may consider appropriate, and
 - (iv) giving details of the date, time and place of the meeting which they are required to hold by virtue of paragraph (f);
 - (c) if so required by the local education authority, include as an annex to that statement such written comment on the proposal as the authority may provide for that purpose;
 - (d) produce that statement and any annex in such language or languages (in addition to English), if any, as they consider appropriate or as the local education authority may direct;
 - (e) take such steps as are reasonably practicable to secure—
 - (i) that the parents of all registered pupils at the school are given (free of charge) a copy of the statement and any annex not less than two weeks before the meeting which the governing body are required to hold by virtue of paragraph (f), and
 - (ii) that copies of the statement and any annex are available for inspection (at all reasonable times and free of charge) at the school during the two-week period immediately preceding that meeting;
 - (f) provide an opportunity for discussion of the proposal at a meeting which is open to —
 - (i) all parents of registered pupils at the school,
 - (ii) the head teacher, and
 - (iii) such other persons as the governing body may invite;
 - (g) consider any comments made at the meeting on the proposal before determining whether any change in those times should be made and (if so) whether the proposal should be implemented with or without any modification; and
 - (h) not less than three months before any change in those times is to take effect—
 - (i) inform the local education authority of the change and of when it is to take effect, and
 - (ii) take such steps as are reasonably practicable to secure that the parents of all registered pupils at the school are so informed.
- (2) No change in the times of a school session shall be made under this section so as to take effect otherwise than at the beginning of a school year.
- (3) The proceedings at any meeting required to be held by virtue of subsection (1)(f) shall be under the control of the governing body.
- (4) Any question whether any person is to be treated for the purposes of this section as the parent of a registered pupil at the school shall be determined by the local education authority.
- (5) Section 147(3) applies for the purposes of this section.

Status: Point in time view as at 01/09/1998.

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Control of school premises

149 County and maintained special schools: control of use of premises outside school hours.

- (1) The articles of government for every county and maintained special school shall provide—
- (a) for the use of the school premises outside school hours to be under the control of the governing body except to the extent provided by any transfer of control agreement into which they may enter by virtue of paragraph (c);
 - (b) for the governing body in exercising control of the use of the school premises outside school hours—
 - (i) to comply with any directions given to them by the local education authority by virtue of this sub-paragraph; and
 - (ii) to have regard to the desirability of the premises being made available for community use;
 - (c) for the governing body to have power to enter into a transfer of control agreement if their purpose, or one of their purposes, in doing so is to promote community use of the school premises outside school hours; and
 - (d) for the governing body, where they enter into a transfer of control agreement, to secure so far as reasonably practicable that the controlling body exercises control in accordance with any directions given to the governing body by virtue of paragraph (b)(i).
- (2) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of any directions given to the governing body by virtue of subsection (1)(b)(i);
 - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
 - (i) shall do so in accordance with any directions from time to time notified to that body in pursuance of paragraph (a) above; and
 - (ii) shall have regard to the desirability of the premises being made available for community use outside school hours; and
 - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
 - (i) the use of the specified premises at those times shall be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
 even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (3) Subsection (4) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.

Status: Point in time view as at 01/09/1998.

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- (4) In such a case paragraph (c) of subsection (2) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (5) In this section—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
- “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;
- “school hours” means any time during a school session or during a break between sessions on the same day, and “outside school hours” shall be construed accordingly;
- “school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with sections 147 and 148; and
- “transfer of control agreement” means an agreement which (subject to subsection (2) above) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times outside school hours as may be so specified, of such body or person as may be so specified.

150 Voluntary schools: control of use of premises.

- (1) The occupation and use of the premises of a voluntary school shall be under the control of the governing body, subject to—
- (a) any directions given by the local education authority under subsection (2) (in the case of a controlled school) or section 152(3) (in the case of an aided or special agreement school);
 - (b) any transfer of control agreement entered into by the governing body under section 151; and
 - (c) any requirements of an enactment other than this Act or regulations made under it.
- (2) The local education authority may give such directions as to the occupation and use of the premises of a controlled school as they think fit, subject to section 152(1) and (2).
- (3) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under section 151) the use of those premises is or would be under the control of such a person—
- (a) this section, and
 - (b) sections 151 and 152,
- shall have effect in relation to the school with the substitution of references to that person for references to the governing body.

Status: Point in time view as at 01/09/1998.

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151 Voluntary schools: transfer of control agreements.

- (1) Subject to subsection (2), the governing body of any voluntary school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
 - (a) they may do so even though the trust deed for the school would, apart from this subsection, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
 - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would apply if control were being exercised by the governing body.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the local education authority's consent to the agreement in so far as it makes such provision.
- (3) A transfer of control agreement shall be taken to include the following terms, namely—
 - (a) that the governing body shall notify the controlling body of—
 - (i) any directions given to the governing body under section 150(2) (in the case of a controlled school) or section 152(3) (in the case of an aided or special agreement school); and
 - (ii) any determination made by the foundation governors under section 152(2) (in the case of a controlled school);
 - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
 - (i) shall do so in accordance with any directions or determinations from time to time notified to that body in pursuance of paragraph (a); and
 - (ii) shall have regard to the desirability of the premises being made available for community use; and
 - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
 - (i) the use of the specified premises at those times shall be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
 even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (4) Subsection (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.

Status: Point in time view as at 01/09/1998.

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- (5) In such a case paragraph (c) of subsection (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (6) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of subsection (3)(a).
- (7) In this section—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
- “the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;
- “school hours” means any time during a school session or during a break between sessions on the same day;
- “school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with sections 147 and 148; and
- “transfer of control agreement” means an agreement which (subject to subsection (3) above) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.
- (8) Section 150(3) applies for the purposes of this section.

152 Voluntary schools: use of premises outside school hours.

- (1) The governing body may determine the use to which the premises of a controlled school (or any part of them) are put on Saturdays when not required—
- (a) for the purposes of the school, or
 - (b) for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises (or on the part in question).
- (2) The foundation governors may determine the use to which the premises of a controlled school (or any part of them) are put on Sundays.
- (3) If the local education authority—
- (a) desire to provide accommodation for any purpose connected with education or with the welfare of the young, and
 - (b) are satisfied that there is no suitable alternative accommodation in their area for that purpose,
- they may direct the governing body of an aided or special agreement school to provide accommodation free of charge for that purpose on the school premises (or any part of them) on any weekday when not needed for the purposes of the school.
- (4) The local education authority shall not exercise their power under subsection (3) so as to direct the governing body to provide accommodation on more than three days in any week.

Status: Point in time view as at 01/09/1998.

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(5) Section 150(3) applies for the purposes of this section.

Instruction or training outside school premises

153 Instruction or training outside school premises.

The articles of government for a county, voluntary or maintained special school shall enable the governing body to require pupils in attendance at the school to attend at any place outside the school premises for the purpose of receiving any instruction or training included in the secular curriculum for the school.

Discipline: general

[^{F5}154 Responsibility of governing body and head teacher for discipline.

- (1) The governing body of a county, voluntary or maintained special school shall ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
- (2) In particular, the governing body—
 - (a) shall make, and from time to time review, a written statement of general principles to which the head teacher is to have regard in determining any measures under subsection (4); and
 - (b) where they consider it desirable that any particular measures should be so determined by the head teacher or that he should have regard to any particular matters—
 - (i) shall notify him of those measures or matters, and
 - (ii) may give him such guidance as they consider appropriate;
 and in exercising their functions under this subsection the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (3) Before making or revising the statement required by subsection (2)(a) the governing body shall consult (in such manner as appears to them to be appropriate)—
 - (a) the head teacher; and
 - (b) parents of registered pupils at the school.
- (4) The head teacher shall determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
 - (a) promoting, among pupils, self-discipline and proper regard for authority;
 - (b) encouraging good behaviour and respect for others on the part of pupils;
 - (c) securing that the standard of behaviour of pupils is acceptable; and
 - (d) otherwise regulating the conduct of pupils.
- (5) The head teacher shall, in determining such measures—
 - (a) act in accordance with the current statement made by the governing body under subsection (2)(a); and
 - (b) have regard to any notification or guidance given to him under subsection (2)(b).

Status: Point in time view as at 01/09/1998.

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- (6) The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the head teacher, so far as it is not determined by the governing body.
- (7) The measures determined by the head teacher under subsection (4) shall be publicised by him in the form of a written document as follows—
 - (a) he shall make the measures generally known within the school and to parents of registered pupils at the school; and
 - (b) he shall in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons employed at the school.
- (8) The governing body and the head teacher shall, before any measures are determined under subsection (4), consult the local education authority on any matter arising from the proposed measures which can reasonably be expected—
 - (a) to lead to increased expenditure by the authority, or
 - (b) to affect the responsibilities of the authority as an employer.]

Textual Amendments

F5 S. 154 substituted (1.4.1998) by 1997 c. 44, s.2 (with s. 57(3)); S.I. 1998/386, art. 2, Sch. 1 Pt. II

155 LEA's reserve power to prevent a breakdown of discipline.

- (1) The local education authority may, in the circumstances mentioned in subsection (3), take such steps in relation to a county, controlled or maintained special school as they consider are required to prevent the breakdown, or continuing breakdown, of discipline at the school.
- (2) The governing body and the head teacher of an aided or a special agreement school shall, in the circumstances mentioned in subsection (3), consider any representations made to them by the local education authority.
- (3) The circumstances are that—
 - (a) in the opinion of the authority—
 - (i) the behaviour of registered pupils at the school, or
 - (ii) any action taken by such pupils or their parents,
 is such that the education of any registered pupils at the school is (or is likely in the immediate future to become) severely prejudiced; and
 - (b) the governing body have been informed in writing of the authority's opinion.
- (4) Steps taken by a local education authority under subsection (1) may include the giving of any direction to the governing body or head teacher.

156 Power of head teacher to exclude pupils.

- (1) The articles of government for a county, voluntary or maintained special school shall provide for the power to exclude a pupil from the school (whether by suspension, expulsion or otherwise) to be exercisable only by the head teacher.
- (2) The head teacher of any such school may not—

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- (a) so exercise the power to exclude a pupil from the school for one or more fixed periods that the pupil is so excluded for more than [^{F6}45 school days in any one school year], or
- (b) exclude a pupil from the school for an indefinite period;

but this subsection is without prejudice to the power to exclude a pupil from the school permanently.

[^{F7}(3) Subsection (2) has effect despite anything in the articles of government for the school.]

Textual Amendments

- F6** Words in s. 156(2) substituted (1.9.1998) by 1997 c. 44, s. 6(1); S.I. 1998/386, art. 2, Sch. 1 Pt. IV
- F7** S. 156(3) substituted (1.9.1998) by 1997 c. 44, s. 57(1), Sch. 7 para. 16; S.I. 1998/386, art. 2, Sch. 1 Pt. IV

157 Exclusion of pupils: duty to inform parents etc.

- (1) The head teacher of a county, voluntary or maintained special school shall have the following duties in relation to the exclusion of pupils from the school.
- (2) Where the head teacher excludes any pupil, the head teacher shall (without delay) take reasonable steps to inform the relevant person—
 - (a) of the period of the exclusion (or, if the pupil is being permanently excluded, that he is being so excluded); and
 - (b) of the reasons for the exclusion; and
 - (c) that the relevant person may make representations about the exclusion to the governing body and the local education authority.
- (3) Where the head teacher excludes any pupil in circumstances in which the pupil would, as a result of the exclusion—
 - (a) be excluded from the school for a total of more than five school days in any one term, or
 - (b) lose an opportunity to take any public examination,
 the head teacher shall (without delay) inform the local education authority and the governing body of the period of the exclusion (or, if the pupil is being permanently excluded, that he is being so excluded) and of the reasons for it.
- (4) Where the head teacher decides that any exclusion of a pupil for a fixed period should be made permanent, he shall (without delay)—
 - (a) inform the local education authority and the governing body of his decision and of the reasons for it, and
 - (b) take reasonable steps to inform the relevant person—
 - (i) of his decision and of the reasons for it, and
 - (ii) that that person may make representations about the decision to the governing body and the local education authority.
- (5) In this section “the relevant person” means—
 - (a) in relation to a pupil under the age of 18, a parent of his;
 - (b) in relation to a pupil who has attained that age, the pupil himself.

Status: Point in time view as at 01/09/1998.

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158 Reinstatement of excluded pupils.

Schedule 15 has effect in relation to the reinstatement of pupils excluded from county, voluntary or maintained special schools.

159 Appeals against exclusion or reinstatement of pupils.

- (1) A local education authority shall make arrangements—
 - (a) for enabling the relevant person to appeal against any decision not to reinstate a registered pupil who has been permanently excluded from a county, controlled or special school maintained by the authority, and
 - (b) for enabling the governing body of the school to appeal against any direction for the reinstatement of any such pupil which has been given to the head teacher of the school by the authority.
- (2) The governing body of an aided or a special agreement school shall make arrangements for enabling the relevant person to appeal against any decision not to reinstate a registered pupil who has been permanently excluded from the school.
- (3) Joint arrangements may be made under subsection (2) by the governing bodies of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Schedule 16 has effect in relation to the making and hearing of appeals pursuant to arrangements made under subsection (1) or (2); and in subsections (5) and (6) “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33 (school admission appeals), as it applies in accordance with paragraph 4 of Schedule 16.
- (5) The decision of an appeal committee on an appeal pursuant to arrangements made under subsection (1) or (2) shall be binding on the persons concerned.
- (6) Where on such an appeal the appeal committee determines that the pupil in question should be reinstated, the committee shall either direct that he is to be reinstated immediately or direct that he is to be reinstated by a date specified in the direction.
- (7) In this section “the relevant person” means—
 - (a) in relation to a pupil who is under the age of 18, a parent of his;
 - (b) in relation to a pupil who has attained that age, the pupil himself.

160 Additional provision for appeals against exclusion of pupils.

- (1) Where the articles of government for a county, voluntary or maintained special school provide—
 - (a) for the parents of an excluded pupil to have the right to appeal against his exclusion to a person specified by the articles, and
 - (b) for the procedure to be followed on such an appeal,
 any decision on such an appeal that the pupil should be reinstated, or that he should be reinstated earlier than would otherwise be the case, shall be binding on the head teacher.
- (2) In subsection (1) “excluded pupil” means a pupil who is excluded from the school in circumstances in which no right of appeal is given by virtue of section 159.

Status: Point in time view as at 01/09/1998.

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Reports, meetings and information

161 Governors' annual reports.

- (1) The articles of government for a county, voluntary or maintained special school shall require the governing body to prepare once in every school year a report (referred to in this Chapter as “the governors’ report”) containing—
 - (a) a summary of the steps taken by the governing body in the discharge of their functions during the period since their last governors’ report, and
 - (b) such other information as the articles may require.
- (2) Schedule 17 has effect in relation to governors’ reports.
- (3) The articles of government shall—
 - (a) enable the governing body to produce the governors’ report in such language or languages (in addition to English) as they consider appropriate, and
 - (b) require them to produce it in such language or languages (in addition to English and any other language in which they propose to produce it) as the local education authority may direct.
- (4) The articles of government shall require the governing body to take such steps as are reasonably practicable to secure—
 - (a) that the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the governors’ report;
 - (b) that copies of the report are available for inspection (at all reasonable times and free of charge) at the school; and
 - (c) that, where (by virtue of section 162) there is an obligation on the governing body to hold an annual parents’ meeting, copies of the report to be considered at that meeting are given to parents not less than two weeks before that meeting.

162 Annual parents’ meetings.

- (1) Subject to section 163 (special schools in hospitals and boarding schools), the articles of government for a county, voluntary or maintained special school shall require the governing body to hold a meeting once in every school year (referred to in this Chapter as an “annual parents’ meeting”) which is open to—
 - (a) all parents of registered pupils at the school;
 - (b) the head teacher; and
 - (c) such other persons as the governing body may invite.
- (2) The purpose of the meeting shall be to provide an opportunity for discussion of—
 - (a) the governors’ report; and
 - (b) the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school.
- (3) Schedule 18 has effect in relation to annual parents’ meetings.

Status: Point in time view as at 01/09/1998.

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163 No annual parents' meeting required in case of certain special and boarding schools.

- (1) The articles of government for a maintained special school which is established in a hospital shall provide that, where the governing body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year, they may refrain from holding such a meeting in that year.
- (2) Where, in the case of a county, voluntary school or maintained special school (other than a special school established in a hospital), the proportion of registered pupils at the school who are boarders is, or is likely to be, at least 50 per cent., the articles of government for the school shall provide that, where—
 - (a) the governing body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year, and
 - (b) at least 50 per cent. of the registered pupils at the school are boarders at the time when they form that opinion,
 they may refrain from holding such a meeting in that year.

164 Governors' reports and annual parents' meetings for grouped schools.

- (1) This section applies where two or more schools are grouped under section 89.
- (2) In discharging their duty (by virtue of section 161) to prepare governors' reports, the governing body for the group shall prepare separate reports in relation to each of the schools within the group, except that if they decide to hold a joint annual parents' meeting under subsection (4) they may prepare a single report covering all the schools within the group.
- (3) If the governing body prepare a single report covering all the schools within the group, they shall secure that any matters which they propose to report on and which are likely to be mainly of interest to the parents of registered pupils at a particular school within the group are treated separately in the report.
- (4) In discharging their duty (by virtue of section 162) to hold an annual parents' meeting for any grouped school, the governing body may, if they think fit, hold a joint annual parents' meeting for all of the schools within the group.
- (5) Where—
 - (a) a joint annual parents' meeting is held, and
 - (b) the governing body have prepared a separate governors' report in relation to each of the schools within the group,
 the governing body shall, when discharging the duty imposed on them by virtue of section 161(4), attach to the report prepared in relation to a particular school within the group copies of the reports prepared for each of the other schools within it.
- (6) Where at a joint annual parents' meeting the question is put on any proposed resolution which concerns one or more, but not all, of the schools within the group—
 - (a) only parents of registered pupils at the school or schools which the proposed resolution concerns may vote on the question; and
 - (b) the registered pupils at the other schools shall be disregarded for the purposes of any provision made by virtue of paragraph 2 of Schedule 18 (resolution may be passed by simple majority where required number of parents of registered pupils present) as it applies in relation to the proposed resolution.

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- (7) Where at a joint annual parents' meeting there is any disagreement as to which schools within the group a proposed resolution concerns, the matter shall be decided by the chairman of the governing body.

165 Provision of information by governing body and head teacher.

- (1) The articles of government for a county, voluntary or maintained special school shall provide—
- (a) for the governing body to provide the local education authority with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time); and
 - (b) for the head teacher to provide the governing body or (as the case may be) the local education authority with such reports in connection with the discharge of his functions as the governing body or the authority may so require.
- (2) The articles of government for an aided school shall provide—
- (a) for the local education authority to notify the governing body of any requirement of a kind mentioned in subsection (1)(b) which is imposed by them on the head teacher; and
 - (b) for the head teacher to provide the governing body with a copy of any report which he makes in complying with such a requirement.

New schools

166 Conduct and staffing of new schools.

Schedule 19 has effect in relation to the conduct and staffing of new schools.

Status:

Point in time view as at 01/09/1998.

Changes to legislation:

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