



# School Inspections Act 1996

## 1996 CHAPTER 57

### PART II

#### POWERS OVER SCHOOLS REQUIRING SPECIAL MEASURES

##### *Miscellaneous powers and restrictions*

#### **26 Schools to which sections 27 to 30 apply**

Sections 27 to 30 apply only to county, voluntary and maintained special schools and do not apply to a school at any time unless, at that time—

- (a) there is a report of an inspection of the school in which the person who made it stated that in his opinion special measures were required to be taken in relation to the school,
- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
- (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Part I, he did not state in the report that in his opinion special measures were not required to be taken in relation to the school, and
- (d) the Secretary of State has not exercised his powers under section 33 in relation to the school.

#### **27 Appointment of additional governors**

(1) If at any time—

- (a) this section applies in relation to any county, controlled or maintained special school, and
- (b) the conditions in subsection (2) are satisfied,

the local education authority may appoint such number of additional governors as they think fit.

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- (2) Those conditions are that—
- (a) a copy of a statement prepared—
    - (i) (in the case of a school not having a delegated budget) under section 17, and
    - (ii) (in any other case) under section 18, has been sent to the Secretary of State;
  - (b) the local education authority have received a notice in writing in which the Secretary of State acknowledges receipt of the copy; and
  - (c) a period of not less than ten days has elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(c) above shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) In relation to any appointment made by the local education authority by virtue of subsection (1) to the governing body of a school—
- (a) the instrument of government for the school, or
  - (b) if the governing body of the school are constituted in accordance with arrangements under section 96 or 97 of the Education Act 1996 (temporary governing bodies for new schools), those arrangements,
- shall have effect as if, notwithstanding subsection (1) or (2) of section 79 of that Act (governing bodies for county schools, etc.), the instrument or, as the case may be, arrangements authorised the local education authority to appoint such number of additional governors as they think fit.
- (5) If at any time—
- (a) this section applies in relation to an aided or special agreement school, and
  - (b) the conditions in subsection (6) are satisfied,
- the appropriate appointing authority may appoint such number of additional foundation governors as they think fit.
- (6) Those conditions are—
- (a) that a period of not less than ten days has elapsed since the expiry of—
    - (i) (in the case of a school not having a delegated budget) the period prescribed for the purposes of section 17(3), or
    - (ii) (in any other case) the period allowed under section 18(3) for preparing a statement under section 18, and
  - (b) that the Secretary of State has received a copy of a statement prepared—
    - (i) (in the case of a school not having a delegated budget) under section 17, or
    - (ii) (in any other case) under section 18,
 and has served notice in writing on the appropriate appointing authority stating that the power conferred by subsection (5) is exercisable.
- (7) The Secretary of State may by notice in writing served on the appropriate appointing authority determine that subsection (6)(a) shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (8) In the case of any appointment made by virtue of subsection (5) to the governing body of a school—

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- (a) the instrument of government for the school, or
  - (b) if the governing body are constituted in accordance with arrangements under section 97 of the Education Act 1996, those arrangements,
- shall have effect as if, notwithstanding section 84(2) of that Act (foundation governors for aided and special agreement schools), the instrument or, as the case may be, arrangements authorised the appropriate appointing authority to appoint such number of additional foundation governors as they think fit.
- (9) Subject to subsection (10), references in this section to the appropriate appointing authority in relation to any aided or special agreement school are references—
- (a) to the appropriate diocesan authority, if it is a Church of England School, Church in Wales school or Roman Catholic Church school; or
  - (b) in any other case, to the person who appoints the foundation governors.
- (10) Where, in the case of any aided or special agreement school not falling within subsection (9)(a) there are different powers to appoint foundation governors, references in this section (excluding subsections (6) and (7)) to the appropriate appointing authority are references—
- (a) to all those persons who have any such power acting jointly, or
  - (b) if they are unable to agree, to such of them acting jointly, or such one of them, as the Secretary of State may, after consulting all those persons, determine.

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

- (1) If at any time—
- (a) this section applies in relation to a county, controlled or maintained special school in respect of which financial delegation is required, and
  - (b) the conditions in subsection (2) are satisfied,
- the local education authority may by giving the governing body of the school notice of suspension suspend the right to a delegated budget with effect from the receipt by the governing body of the notice; and a copy of the notice shall be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (2) Those conditions are that—
- (a) a copy of a statement prepared under section 18 has been sent to the Secretary of State;
  - (b) the local education authority have received a notice in writing in which the Secretary of State acknowledges receipt of the copy; and
  - (c) a period of not less than ten days has elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(c) shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) A suspension by virtue of this section shall have effect for the purposes of Chapter V of Part II of the Education Act 1996 as if made under section 117 of that Act, but section 119(1)(a) of that Act (right to appeal against imposition of suspension) does not apply in relation to a suspension by virtue of this section.
- (5) Expressions used in this section and that Chapter have the same meaning as in that Chapter.

## **29 Grouping and de-grouping**

(1) If at any time—

- (a) this section applies in relation to a county, voluntary or maintained special school, and
- (b) the local education authority have received a copy of the report referred to in section 26(a),

they may not pass a resolution under section 89 of the Education Act 1996 (grouping of schools under single governing body) for two or more schools to be grouped if those schools would include the school to which this section applies.

(2) If at any time—

- (a) this section applies in relation to a county, voluntary or maintained special school, and
- (b) the Secretary of State has received a copy of the report referred to in section 26(a),

he may by order under section 95(1) of the Education Act 1996 bring to an end any grouping of schools under that section which includes the school to which this section applies, whether or not the grouping is one in respect of which his consent was at any time required under section 90 of that Act.

## **30 Prohibition on ballot under Part III of Education Act 1996**

(1) If at any time—

- (a) this section applies in relation to a county or voluntary school, and
- (b) the governing body have received a copy of the report referred to in section 26(a),

then, notwithstanding anything in section 186 or 187 of the Education Act 1996 (initiation of ballot procedure), the governing body of the school may not secure that any ballot is held under Chapter II of Part III of that Act.

(2) If at any time—

- (a) this section applies in relation to a maintained special school, and
- (b) the governing body have received a copy of the report referred to in section 26(a),

regulations under section 345 of that Act (maintained special school becoming grant-maintained special school) shall not apply in relation to the school.

### *Education associations*

## **31 Power to establish education associations**

(1) Where—

- (a) the powers conferred by section 33 are exercisable by the Secretary of State in relation to a county or voluntary school, and
- (b) he is of the opinion that the school should be conducted by a body corporate established under this section and that no suitable body corporate has been so established,

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

- (2) Bodies corporate established under this section shall be known as “education associations”.
- (3) An education association shall consist of not less than five members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (4) Before making an order under this section in the case of a voluntary school, the Secretary of State shall consult—
  - (a) if it is a Church of England school, Church in Wales school or Roman Catholic Church school, the appropriate diocesan authority; and
  - (b) in any other case, the person who appoints the foundation governors.
- (5) An education association—
  - (a) must include at least one member who appears to the Secretary of State—
    - (i) to have experience of, and to have shown capacity in, the provision of primary or secondary education, or
    - (ii) to have held, and shown capacity in, any position carrying responsibility for the provision of such education; and
  - (b) if the association conduct a school which was a voluntary school, must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, the provision of education in voluntary schools; and
  - (c) if the association conduct a special school, must include at least one member who appears to the Secretary of State to have experience of, and to have shown capacity in, providing for children with special educational needs;but one person may satisfy the requirement in paragraph (a) as well as that in paragraph (b) or (c).
- (6) Schedule 5 to this Act makes further provision with respect to education associations.
- (7) Subject to the following provisions of this Part—
  - (a) references in any enactment to the governing body of any school, or to the foundation governors of any school, are to be read, in relation to a school conducted by an education association, as references to that association; and
  - (b) references in any enactment to the governors of any school are to be read, in relation to a school conducted by an education association, as references to the members of the association.
- (8) Where an education association conduct more than one school, then, subject to the following provisions of this Part, any provision of an enactment which applies to schools shall apply separately in relation to each of the schools.

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

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

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- (3) The Secretary of State shall publish any directions given by him under this section in such manner as he thinks fit.

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

- (1) The powers conferred by this section are exercisable by the Secretary of State in relation to a county school or voluntary school at any time if, at that time—
- (a) there is a report of an inspection of the school in which the person who made it stated that in his opinion special measures were required to be taken in relation to the school;
  - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion;
  - (c) the Secretary of State has received a statement prepared under section 17 or the period allowed by subsection (2) of that section for the preparation of such a statement has expired; and
  - (d) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school, he did not state in the report that in his opinion special measures were not required to be taken in relation to the school.
- (2) Where—
- (a) the powers conferred by this section are exercisable by the Secretary of State in relation to a school,
  - (b) he is of the opinion that the school should be conducted by an education association, and
  - (c) if the school is a voluntary school, he has consulted the person who appoints the school's foundation governors and such other persons as he thinks appropriate,
- he may by order provide for the school to be conducted by an education association named in the order as from such date as may be specified in the order (referred to in this Act as the “transfer date”).
- (3) On making an order under this section the Secretary of State shall give notice in writing of the order to the governing body and head teacher of the school, to the local education authority and (except in the case of a school in Wales before the Schools Funding Council for Wales begin to exercise their functions) the funding authority.
- (4) On the transfer date—
- (a) the local education authority whose duty it was immediately before that date to maintain the school as a county or voluntary school shall cease to have that duty, and
  - (b) any special agreement relating to the school shall cease to have effect.

### **34 Effect of order under section 33**

- (1) This section applies in relation to a school where an order under section 33 has been made.
- (2) A school conducted by an education association may not cease to be so conducted unless—
- (a) it becomes a grant-maintained school, or

- (b) the school is discontinued.
- (3) The following subsections have effect subject to the following provisions of this Part.
- (4) Subject to section 10(4) and subsection (7) below, references in any enactment to grant-maintained schools include schools conducted by education associations.
- (5) References in any enactment to schools the governing bodies of which are incorporated under Chapter II of Part III of the Education Act 1996 (however expressed) include schools conducted by education associations.
- (6) Subject to subsection (7) below, references in any enactment—
  - (a) to any school becoming grant-maintained (whether the reference is to its acquiring grant-maintained status or is expressed in any other form), or
  - (b) to the date of implementation of the proposals under which it becomes grant-maintained,are in the case of schools conducted by education associations references to the school beginning to be conducted by the association or, as the case may be, to the transfer date.
- (7) References in any enactment to schools the governing bodies of which are incorporated under Chapter IV of Part III of the Education Act 1996 (however expressed) do not include schools conducted by education associations.

### **35 Functions of education associations**

- (1) Where an order under section 33 provides for an education association to conduct a school, the association may as from the transfer date conduct the school; and their power under this subsection is to conduct a school of the same description as the school as it was immediately before that date.
- (2) An education association shall conduct any school for which they are the governing body so as to secure, so far as it is practicable to do so, the elimination of any deficiencies in the conduct of the school identified in any report made by a registered inspector or member of the Inspectorate.
- (3) A school conducted by an education association shall not, where changes have been made in the character or premises of the school since the transfer date, be regarded as being of a different description from the school as it was immediately before that date if the changes—
  - (a) did not require authorisation under Chapter VII of Part III of the Education Act 1996, or
  - (b) were authorised under that Chapter.
- (4) Subject to any provision made by the articles of government for the school, an education association may provide education at any school conducted by them which is neither primary nor secondary education if—
  - (a) it is part-time education suitable to the requirements of persons of any age over compulsory school age, or full-time education suitable to the requirements of persons who have attained the age of 19;
  - (b) it is part-time education suitable to the requirements of junior pupils who have not attained the age of 5 and the school provides full-time education for junior pupils of the same age; or
  - (c) they do so as agents for a local education authority under arrangements made with the authority for the purpose.

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### **36 Conduct of school**

- (1) Each school conducted by an education association shall be conducted in accordance with an instrument to be known as the articles of government.
- (2) Subject to any express provision of the articles of government, the school shall be conducted in accordance with any trust deed relating to it.
- (3) The initial articles of government for such a school shall be such as are prescribed and, subject to subsection (4), shall have effect as from the transfer date.
- (4) Such of the articles as may be prescribed shall have effect as from such date prior to the transfer date as may be prescribed.
- (5) The education association may, with the consent of the Secretary of State—
  - (a) make new articles of government in place of the existing articles for the school, or
  - (b) modify the existing articles for the school.
- (6) The Secretary of State may by a direction under this section, in the case of—
  - (a) schools conducted by education associations,
  - (b) any class of such schools specified in the direction, or
  - (c) any particular school conducted by an education association so specified,require each education association conducting any school to which the direction applies to modify its articles of government in any manner so specified.
- (7) Before giving a direction under this section, the Secretary of State shall consult each education association conducting any school to which the direction applies.

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

- (1) Where the Secretary of State—
  - (a) has received a copy of a report under section 40(2) in respect of a school conducted by an education association, and
  - (b) is of the opinion that the school should become a grant-maintained school,he may give notice in writing of his opinion to the head teacher of the school, the education association, the local education authority and (except in the case of a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions) the funding authority.
- (2) An education association which receive a notice under subsection (1) above in respect of a school shall, within the period of three months beginning with the receipt of the notice, publish proposals under section 193 of the Education Act 1996 (proposals to seek grant-maintained status).
- (3) In relation to proposals published under that section by virtue of this section and the incorporation of a governing body in pursuance of such proposals, Chapters II and V of Part III of that Act shall have effect—
  - (a) as if the school to which the proposals relate had continued, after the transfer date, to be a county or, as the case may be, voluntary school, and
  - (b) with such other modifications as may be prescribed.



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

- (1) Where the Secretary of State is of the opinion that a school conducted by an education association should be discontinued, he shall give notice in writing of his opinion and of the discontinuance date to—
  - (a) the education association;
  - (b) the local education authority;
  - (c) the funding authority (except in the case of a school in Wales before the Schools Funding Council for Wales have begun to exercise their functions); and
  - (d) if the school provides education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council.
- (2) The education association shall cease to conduct the school—
  - (a) on the date specified in the notice; or
  - (b) if at the request of the education association the Secretary of State subsequently fixes another date (whether in substitution for the date specified in the notice or in substitution for a date previously fixed under this subsection), on that date.
- (3) Where the Secretary of State has given notice under this section, he may by order make provision for the disposal of the school property and the discharge of any liabilities of the education association in respect of the school.
- (4) An order under subsection (3) may make any such provision (except provision for the dissolution of the education association) as is made by, or may be made by an order under, sections 274 to 279 of the Education Act 1996 (winding up and disposal of property) where proposals for the discontinuance of a grant-maintained school have been approved under section 269 of that Act.

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

- (1) Where this section applies to the school or, as the case may be, each of the schools conducted or formerly conducted by an education association, the Secretary of State may by order provide for the dissolution of the association and the transfer to him of the property, rights and liabilities of the association.
- (2) This section applies where—
  - (a) the Secretary of State has approved proposals for the school to become a grant-maintained school, or
  - (b) the Secretary of State has given notice under section 38 of his opinion that the school should be discontinued.

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

- (1) Where, on the completion of any inspection of a school conducted by an education association which is carried out under section 2(2)(b), 3(1), 5(2)(b) or 6(1) by a member of the Inspectorate, that person is of the opinion that special measures are not required to be taken in relation to the school, he shall prepare in writing a report of the inspection and a summary of the report and state his opinion in the report.

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- (2) The member of the Inspectorate shall send a copy of the report, together with a summary of it, to the head teacher of the school, the education association and the Secretary of State.
- (3) The education association shall—
  - (a) make any copy report and summary sent to them under subsection (2) available for inspection by members of the public at such times and at such place as may be reasonable;
  - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one; and
  - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary as soon as is reasonably practicable.

#### **41 Regulations for the purposes of Part II**

- (1) Regulations may provide for any relevant enactments to have effect in relation to—
  - (a) the transfer to an education association under section 33 of responsibility for the conduct of any school and the subsequent conduct of the school by the association,
  - (b) the transfer to a governing body incorporated in pursuance of proposals published by virtue of section 37 of responsibility for the conduct of any school conducted by an education association, and
  - (c) the discontinuance under section 38 of any school conducted by an education association,
 with such modifications as seem to the Secretary of State to be necessary or desirable.
- (2) In subsection (1) “relevant enactment” means any enactment relating to grant-maintained schools (or schools including grant-maintained schools), including an enactment relating to the acquisition of grant-maintained status.
- (3) Subsection (1) does not apply in relation to schools which are or were maintained special schools; but regulations may provide for sections 33 to 40 to have effect in relation to any such schools as they have effect in relation to county schools but with such modifications as seem to the Secretary of State to be necessary or desirable.
- (4) Regulations may make such provision as the Secretary of State considers necessary or desirable in relation to—
  - (a) the transfer to an education association under section 33 of responsibility for the conduct of any maintained special school and the subsequent conduct of the school by the association, and
  - (b) where a former maintained special school is being conducted by an education association, the discontinuance of the school under section 38.
- (5) In relation to any former maintained special school being conducted by an education association—
  - (a) section 345 of the Education Act 1996 (maintained special school becoming grant-maintained school) shall apply as it applies to any maintained special school, but as if the reference in subsection (1) to the school ceasing to be maintained by the local education authority were to its ceasing to be conducted by an education association, and

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- (b) section 37 above shall apply—
  - (i) as if the reference in subsection (1) to a grant-maintained school were to a grant-maintained special school,
  - (ii) as if the reference in subsection (2) to section 193 of that Act were to section 345 of that Act, and
  - (iii) with the omission of subsection (3).