



# Education Act 1997

## 1997 CHAPTER 44

### PART I

#### ASSISTED PLACES SCHEME

F1 .....

#### Textual Amendments

F1 S. 1 repealed (1.9.1997) by 1997 c. 59, ss. 6(3), 7(3)(a), Sch. Pt.I (with s. 1(3))

VALID FROM 01/04/1998

### PART II

#### SCHOOL DISCIPLINE

##### *Responsibility for discipline*

#### 2 Responsibility for discipline: LEA-maintained schools.

For section 154 of the Education Act 1996 there shall be substituted—

##### **“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—

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- (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).
- (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.”

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### Commencement Information

- II S. 2 wholly in force at 1.4.1998 see s. 58(3) and S.I. 1998/386, arts. 2(2), 4, Sch. 1 Pt. II, **Sch. 2 Pt. I para. 2** (subject to transitional provisions in Sch. 2 Pt. I para. 2)

## 3 Responsibility for discipline: grant-maintained and grant-maintained special schools.

- (1) After section 306 of the <sup>M1</sup>Education Act 1996 there shall be inserted—

### *“ Discipline*

#### **306A Responsibility of governing body and head teacher for discipline.**

- (1) The governing body of a grant-maintained 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

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- (b) have regard to any notification or guidance given to him under subsection (2)(b).
- (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.”
- (2) In Schedule 28 to that Act (government and conduct of grant-maintained special schools), in paragraph 15 (application of section 307 to such schools) for “Section” there shall be substituted “Each of sections 306A (responsibility for discipline) and”.

#### Commencement Information

- I2** S. 3 wholly in force at 1.4.1998 see s. 58(3) and S.I. 1998/386, arts. 2(2), 4, Sch. 1 Pt. II, **Sch. 2 Pt. I para. 2** (subject to transitional provisions in **Sch. 2 Pt. I para. 2**)

#### Marginal Citations

- M1** 1996 c. 56.

VALID FROM 01/09/1998

### *Power to restrain pupils*

#### **4 Power of members of staff to restrain pupils.**

After section 550 of the <sup>M2</sup>Education Act 1996 there shall be inserted—

### *“ Power to restrain pupils*

#### **550A Power of members of staff to restrain pupils.**

- (1) A member of the staff of a school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely—
- (a) committing any offence,
  - (b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
  - (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its

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pupils, whether that behaviour occurs during a teaching session or otherwise.

- (2) Subsection (1) applies where a member of the staff of a school is—
- (a) on the premises of the school, or
  - (b) elsewhere at a time when, as a member of its staff, he has lawful control or charge of the pupil concerned;

but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548.

- (3) Subsection (1) shall not be taken to prevent any person from relying on any defence available to him otherwise than by virtue of this section.

- (4) In this section—

“member of the staff”, in relation to a school, means any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school;

“offence” includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.”

#### Marginal Citations

M2 1996 c. 56.

VALID FROM 01/09/1998

### *Detention*

#### **5 Detention outside school hours lawful despite absence of parental consent.**

After the section 550A inserted in the <sup>M3</sup>Education Act 1996 by section 4 of this Act there shall be inserted—

#### *“ Detention*

#### **550B Detention outside school hours lawful despite absence of parental consent.**

- (1) Where a pupil to whom this section applies is required on disciplinary grounds to spend a period of time in detention at his school after the end of any school session, his detention shall not be rendered unlawful by virtue of the absence of his parent’s consent to it if the conditions set out in subsection (3) are satisfied.
- (2) This section applies to any pupil who has not attained the age of 18 and is attending—

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- (a) a school maintained by a local education authority;
  - (b) a grant-maintained or grant-maintained special school; or
  - (c) a city technology college or city college for the technology of the arts.
- (3) The conditions referred to in subsection (1) are as follows—
- (a) the head teacher of the school must have previously determined, and have—
    - (i) made generally known within the school, and
    - (ii) taken steps to bring to the attention of the parent of every person who is for the time being a registered pupil there, that the detention of pupils after the end of a school session is one of the measures that may be taken with a view to regulating the conduct of pupils;
  - (b) the detention must be imposed by the head teacher or by another teacher at the school specifically or generally authorised by him for the purpose;
  - (c) the detention must be reasonable in all the circumstances; and
  - (d) the pupil’s parent must have been given at least 24 hours’ notice in writing that the detention was due to take place.
- (4) In determining for the purposes of subsection (3)(c) whether a pupil’s detention is reasonable, the following matters in particular shall be taken into account—
- (a) whether the detention constitutes a proportionate punishment in the circumstances of the case; and
  - (b) any special circumstances relevant to its imposition on the pupil which are known to the person imposing it (or of which he ought reasonably to be aware) including in particular—
    - (i) the pupil’s age,
    - (ii) any special educational needs he may have,
    - (iii) any religious requirements affecting him, and
    - (iv) where arrangements have to be made for him to travel from the school to his home, whether suitable alternative arrangements can reasonably be made by his parent.
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude a notice from being given to a pupil’s parent under this section by any other effective method.”

#### Commencement Information

**I3** S. 5 wholly in force at 1.9.1998 see s. 58(3) and S.I. 1998/386, arts. 2(4), 4, Sch. 1 Pt. IV, Sch. 2 Pt. II (subject to transitional provisions in Sch. 2 Pt. II)

#### Marginal Citations

**M3** 1996 c. 56.

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VALID FROM 01/09/1998

### *Exclusion of pupils from school*

#### **6 Variation of limit on fixed-period exclusions: all maintained schools.**

- (1) In section 156 of the <sup>M4</sup>Education Act 1996 (exclusion of pupils from county, voluntary or maintained special school), in subsection (2) (which imposes a limit on fixed-period exclusions of 15 school days per term), for “15 school days in any one term” there shall be substituted “45 school days in any one school year”.
- (2) In section 307 of that Act (exclusion of pupils from grant-maintained school), in subsection (1) (which also imposes a limit on fixed-period exclusions of 15 school days per term), for “15 school days in any one term” there shall be substituted “45 school days in any one school year”.

#### **Commencement Information**

- I4** Ss. 6-8 wholly in force at 1.9.1998 see s. 58(3) and S.I. 1998/386, arts. 2(4), 4, Sch. 1 Pt. IV, Sch. 2 Pt. II (subject to transitional provisions in Sch. 2 Pt. II)

#### **Marginal Citations**

- M4** 1996 c. 56.

#### **7 Exclusion or reinstatement appeals: LEA-maintained schools.**

- (1) Schedule 16 to the <sup>M5</sup>Education Act 1996 (appeals against exclusion or reinstatement of pupils) shall be amended as follows.
- (2) After paragraph 7 there shall be inserted—
  - “7A (1) For the purpose of fixing the time (falling within the period mentioned in paragraph 7) at which the hearing of an appeal is to take place, the body mentioned in that paragraph shall take reasonable steps to ascertain any times falling within that period when—
    - (a) the relevant person, or
    - (b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 8 or 9, would be able to attend.
  - (2) Where in accordance with sub-paragraph (1) that body have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.”
- (3) For paragraph 8 there shall be substituted—

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“8

- (1) On an appeal by a pupil or parent the appeal committee shall give the appellant an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.
- (2) On such an appeal the committee shall allow—
  - (a) the head teacher to make written representations and to appear and make oral representations,
  - (b) the local education authority and the governing body to make written representations,
  - (c) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations, and
  - (d) the governing body to be represented.”
- (4) After paragraph 12 there shall be inserted—

“12A

- (1) In deciding—
  - (a) whether the pupil in question should be reinstated (and, if so, the time when this should take place), or
  - (b) whether any direction for the reinstatement of the pupil in question should be confirmed,
 an appeal committee shall have regard to both the interests of that pupil and the interests of other pupils at his school and members of its staff.
- (2) In making any such decision an appeal committee shall also have regard to the measures publicised by the head teacher under section 154(7).
- (3) Sub-paragraphs (1) and (2) do not apply where an appeal committee decides that the pupil in question was not guilty of the conduct which the head teacher relied on as grounds for his permanent exclusion.
- (4) Sub-paragraphs (1) and (2) shall not be read as precluding an appeal committee from having regard to any other relevant matters.”

#### Commencement Information

**I5** Ss. 6-8 wholly in force at 1.9.1998 see s. 58(3) and S.I. 1998/386, arts. 2(4), 4, Sch. 1 Pt. IV, Sch. 2 Pt. II (subject to transitional provisions in Sch. 2 Pt. II)

#### Marginal Citations

**M5** 1996 c. 56.

## 8 Exclusion appeals: grant-maintained and grant-maintained special schools.

- (1) After section 307 of the <sup>M6</sup>Education Act 1996 there shall be inserted—



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### **“307A Exclusion appeals.**

Schedule 25A to this Act has effect in relation to the procedure on any appeal which—

- (a) is made in pursuance of arrangements made by the governing body of a grant-maintained school by virtue of paragraph 6(1) and (2) of Schedule 23 (content of articles of government), and
  - (b) relates to a decision not to reinstate a pupil who has been permanently excluded from the school.”
- (2) After Schedule 25 to that Act there shall be inserted as Schedule 25A the Schedule set out in Schedule 1 to this Act.
- (3) At the end of Schedule 28 to that Act (government and conduct of grant-maintained special schools) there shall be added—

“16 Section 307A and Schedule 25A (exclusion appeals) apply in relation to a grant-maintained special school as they apply in relation to a grant-maintained school, but as if any reference in those provisions to any provision of Schedule 23 were a reference to that provision as it applies in accordance with regulations under paragraph 14 above.”

#### **Commencement Information**

**I6** Ss. 6-8 wholly in force at 1.9.1998 see s. 58(3) and S.I. 1998/386, arts. 2(4), 4, Sch. 1 Pt. IV, Sch. 2 Pt. II (subject to transitional provisions in Sch. 2 Pt. II)

#### **Marginal Citations**

**M6** 1996 c. 56.

### *LEA plans*

#### **9 LEA plans relating to children with behavioural difficulties.**

After section 527 of the Education Act 1996 there shall be inserted—

*“ Plans relating to children with behavioural difficulties*

#### **527A Duty of LEA to prepare plan relating to children with behavioural difficulties.**

- (1) Every local education authority shall prepare, and from time to time review, a statement setting out the arrangements made or proposed to be made by the authority in connection with the education of children with behavioural difficulties.
- (2) The arrangements to be covered by the statement include in particular—

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- (a) the arrangements made or to be made by the authority for the provision of advice and resources to relevant schools, and other arrangements made or to be made by them, with a view to—
    - (i) meeting requests by such schools for support and assistance in connection with the promotion of good behaviour and discipline on the part of their pupils, and
    - (ii) assisting such schools to deal with general behavioural problems and the behavioural difficulties of individual pupils;
  - (b) the arrangements made or to be made by the authority in pursuance of section 19(1) (exceptional provision of education for children not receiving education by reason of being excluded or otherwise); and
  - (c) any other arrangements made or to be made by them for assisting children with behavioural difficulties to find places at suitable schools.
- (3) The statement shall also deal with the interaction between the arrangements referred to in subsection (2) and those made by the authority in relation to pupils with behavioural difficulties who have special educational needs.
- (4) In the course of preparing the statement required by this section or any revision of it the authority shall carry out such consultation as may be prescribed.
- (5) The authority shall—
- (a) publish the statement in such manner and by such date, and
  - (b) publish revised statements in such manner and at such intervals,
- as may be prescribed, and shall provide such persons as may be prescribed with copies of the statement or any revised statement.
- (6) In discharging their functions under this section a local education authority shall have regard to any guidance given from time to time by the Secretary of State.
- (7) In this section “relevant school”, in relation to a local education authority, means—
- (a) a school maintained by the authority (whether situated in their area or not), or
  - (b) a grant-maintained or grant-maintained special school situated in their area.”

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## PART III

### SCHOOL ADMISSIONS

#### CHAPTER I

##### COUNTY AND VOLUNTARY SCHOOLS

###### *Partially-selective schools*

#### 10 Restriction of right to refuse admission to partially-selective school.

In section 411(3) of the <sup>M7</sup>Education Act 1996 (cases where parental preference need not be complied with), for paragraph (c) there shall be substituted—

- “(c) if the arrangements for admission to the preferred school—
- (i) are wholly based on selection by reference to ability or aptitude, and
  - (ii) are so based with a view to admitting only pupils with high ability or with aptitude,
- and compliance with the preference would be incompatible with selection under those arrangements.”

#### Marginal Citations

M7 1996 c. 56.

###### *Children permanently excluded from two or more schools*

#### 11 No requirement to admit children permanently excluded from two or more schools.

After section 411 of the Education Act 1996 there shall be inserted—

**“411A No requirement to admit children permanently excluded from two or more schools.**

- (1) The duty imposed by section 411(2) does not apply in the case of a child to whom subsection (2) applies.
- (2) Where a child has been permanently excluded from two or more schools, this subsection applies to him during the period of two years beginning with the date on which the latest of those exclusions took effect.
- (3) Subsection (2) applies to a child whatever the length of the period or periods elapsing between those exclusions and regardless of whether it has applied to him on a previous occasion.
- (4) However, a child shall not be regarded as permanently excluded from a school for the purposes of this section if—

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- (a) although so excluded he was reinstated as a pupil at the school following the giving of a direction to that effect to the head teacher of the school; or
  - (b) he was so excluded at a time when he had not attained compulsory school age.
- (5) In this section “school” means—
- (a) a school maintained by a local education authority; or
  - (b) a grant-maintained or grant-maintained special school.
- (6) This section does not apply in relation to a child unless at least one of the two or more exclusions mentioned in subsection (2) took effect on or after the date of the coming into force of section 11 of the Education Act 1997.
- (7) For the purposes of this section the permanent exclusion of a child from a school shall be regarded as having taken effect on the school day as from which the head teacher decided that he should be permanently excluded.”

## 12 Appeals in the case of children permanently excluded from two or more schools.

- (1) After section 423 of the <sup>M8</sup>Education Act 1996 there shall be inserted—

**“423A Appeals relating to children to whom section 411A(2) applies.**

- (1) Nothing in section 423(1) or (2) requires any arrangements to be made for enabling the parent of a child to appeal against a decision—
    - (a) made by or on behalf of the admission authority for a county or voluntary school, and
    - (b) refusing the child admission to the school,
 in a case where, at the time when the decision is made, section 411A(2) applies to the child.
  - (2) Where a local education authority are the admission authority for a county or controlled school, the authority shall make arrangements for enabling the governing body of the school to appeal against any decision made by or on behalf of the authority to admit to the school a child to whom, at the time when the decision is made, section 411A(2) applies.
  - (3) Schedule 33A shall have effect in relation to the making and hearing of appeals pursuant to arrangements made under subsection (2).
  - (4) The decision of an appeal committee on an appeal made pursuant to arrangements under subsection (2) shall be binding—
    - (a) on the local education authority by or on whose behalf the decision under appeal was made, and
    - (b) on the governing body of any county or controlled school at which the appeal committee determines that a place should be offered to the child in question.”
- (2) After Schedule 33 to the Education Act 1996 there shall be inserted as Schedule 33A the Schedule set out in Schedule 2 to this Act.

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#### Marginal Citations

M8 1996 c. 56.

PROSPECTIVE

### Home-school partnership documents

F<sup>2</sup>13 .....

#### Textual Amendments

F2 Pt. III (ss. 10-14) repealed (1.2.1999 to the extent that it relates to the repeal of s. 13 of the amended Act) by 1998 c. 31, ss. 140(1)(3), Sch. 30 para. 208(c), Sch.31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(3), Sch.1 Pt. III

## CHAPTER II

### GRANT-MAINTAINED SCHOOLS

#### 14 Corresponding provisions about admissions to grant-maintained schools.

(1) After section 425 of the <sup>M9</sup>Education Act 1996 there shall be inserted—

**“425A Restrictions on admissions to grant-maintained schools.**

Schedule 33B to this Act, which provides for restrictions on admissions to grant-maintained schools in connection with—

- (a) home-school partnership documents,
- (b) partially-selective schools, and
- (c) persons permanently excluded from two or more schools,

shall have effect.”

(2) After the Schedule 33A to the Education Act 1996 inserted by section 12 of this Act there shall be inserted as Schedule 33B the Schedule set out in Schedule 3 to this Act.

#### Commencement Information

I7 S. 14 partly in force at 1.9.1997; s. 14 not in force at Royal Assent see s. 58(3); s. 14 in force to the extent that it relates to paragraphs 3 and 4 of the Schedule inserted as Schedule 33B to the 1996 Act set out in Schedule 3 to this Act at 1.9.1997 by S.I. 1997/1468, art. 2(2), Sch. 1 Pt. II

#### Marginal Citations

M9 1996 c. 56.

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## PART IV

### BASELINE ASSESSMENTS AND PUPILS' PERFORMANCE

VALID FROM 01/11/1997

#### CHAPTER I

##### BASELINE ASSESSMENTS

#### 15 **Introductory.**

In this Chapter—

“baseline assessment scheme” means a scheme designed to enable pupils at a maintained primary school to be assessed for the purpose of assisting the future planning of their education and the measurement of their future educational achievements;

“designated” means designated by the Secretary of State; and

“maintained primary school” means a primary school which is—

- (a) a county or voluntary school,
- (b) a grant-maintained school, or
- (c) a maintained or grant-maintained special school (other than one established in a hospital),

or (in relation only to Wales) a maintained nursery school.

#### 16 **Adoption of baseline assessment schemes.**

- (1) The governing body of each maintained primary school with pupils who are required to be assessed under section 17 shall adopt a baseline assessment scheme for the school in accordance with the following provisions of this section; but subsections (2) to (5) below have effect subject to subsection (6).
- (2) A baseline assessment scheme may be so adopted if (and only if) the scheme has been accredited by a designated body in accordance with criteria determined with the approval of the Secretary of State, and published, by that body.
- (3) A local education authority may prepare, and seek accreditation of, a baseline assessment scheme with a view to its being adopted by the governing bodies of primary schools maintained by the authority.
- (4) Each local education authority shall select an accredited baseline assessment scheme which they consider suitable to be so adopted (and which may be a scheme prepared by them under subsection (3)).
- (5) However, in the case of any particular maintained primary school, the baseline assessment scheme which is to be adopted for the school under this section by its governing body shall be such scheme to which subsection (2) applies as is chosen—
  - (a) by the head teacher after consulting the governing body; or
  - (b) if such a scheme is not so chosen by him within a reasonable time, by the governing body;

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and, when choosing the scheme to be adopted for a school which is maintained by a local education authority, the head teacher or (as the case may be) the governing body shall ensure that the scheme selected by the authority under subsection (4) is considered (whether on its own or with any other schemes).

- (6) The Secretary of State may by order require the governing body of each maintained primary school with pupils who are required to be assessed under section 17 to adopt for their school such baseline assessment scheme as is referred to in the order; and so long as any such order is in force subsections (2) to (5) above shall not apply.

#### Commencement Information

- 18** S. 16 wholly in force at 1.4.1999; s. 16 not in force at Royal Assent see s. 58(3); s. 16(2)(3)(6) in force at 1.11.1997 and s.16(4) in force at 1.11.1997 in its application to England by S.I. 1997/1468, art. 2, Sch. 1 Pt. IV; s. 16(1)(5) in force at 1.4.1998 to the extent to which those subsections apply to England and s. 16(4) in force at 1.11.1998 to the extent that that subsection applies to Wales and s. 16(1)(5) in force at 1.4.1999 to the extent that those subsections apply to Wales by S.I. 1998/386, art. 2, Sch.1 Pts. II, V, VI

#### 17 Assessment of pupils in accordance with scheme.

- (1) Subject to subsections (3) and (4), all pupils at a maintained primary school who are at the relevant stage of their education must be assessed in accordance with a baseline assessment scheme adopted for the school under section 16.
- (2) The assessment must be completed before the end of the prescribed period.
- (3) Subsection (1) does not apply to a pupil if it appears to the head teacher from a record of a previous assessment under that subsection that such an assessment has already been carried out in relation to the pupil at another school.
- (4) Regulations may enable a head teacher of a maintained primary school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct—
- (a) that subsection (1) is not to apply to a particular registered pupil at the school, or
  - (b) that, for the purposes of the assessment under that subsection of a particular registered pupil at the school, the school's baseline assessment scheme is to have effect with such modifications as are specified in the direction.
- (5) Where the head teacher gives such a direction he shall notify—
- (a) the governing body, and
  - (b) if the school is maintained by a local education authority, that authority,
- of the matters set out in subsection (6); and he shall take such steps as are prescribed to notify a parent of the pupil concerned of those matters.
- (6) The matters referred to in subsection (5) are—
- (a) the fact that the head teacher has given the direction in question and his reasons for doing so;
  - (b) in the case of a direction under subsection (4)(b), the effect of the modifications specified in the direction; and
  - (c) whether the direction is to have permanent effect (and, if not, the period for which it is to have effect).

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- (7) In relation to any maintained primary school—
- (a) the governing body and (except in the case of a grant-maintained or grant-maintained special school) the local education authority shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,
- that subsection (1) is complied with.
- (8) Regulations shall prescribe the circumstances in which a pupil is to be regarded as being at the relevant stage of his education for the purposes of subsection (1), and any such circumstances may be framed by reference to, or to matters which include, the pupil's age.

#### Commencement Information

- I9** S. 17 wholly in force at 1.9.1999; s. 17 not in force at Royal Assent see s. 58(3); s. 17(4)(8) in force at 1.11.1997 by S.I. 1997/1468, art. 2, Sch. 1 Pt. IV; s. 17(1)-(3),(5)-(7) in force at 1.8.1998 to the extent that those subsections apply to England and in force at 1.9.1999 to the extent that those subsections apply to Wales by S.I. 1998/386, art. 2, Sch. 1 Pts. III, VII

### 18 Regulations for purposes of this Chapter.

- (1) The Secretary of State may by regulations confer or impose such functions—
- (a) on the governing body and the head teacher of a maintained primary school,
  - (b) (except in relation to any grant-maintained or grant-maintained special school) on a local education authority, and
  - (c) on a designated body,
- as appear to him to be required in connection with any provision of this Chapter.
- (2) Regulations under this section may in particular make provision requiring—
- (a) the local education authority, or (in the case of a grant-maintained or grant-maintained special school) a designated body, to be notified—
    - (i) of the baseline assessment scheme for the time being adopted for any maintained primary school with pupils who are required to be assessed under section 17, and
    - (ii) where any assessment has been carried out under that section at any such school, that it has been so carried out;
  - (b) the results of any assessments carried out under that section to be recorded and notified—
    - (i) to such persons as are specified in the regulations, and
    - (ii) where the pupils in question transfer to other schools, to those other schools.
- (3) Regulations under this section may also make provision requiring a local education authority—
- (a) to notify a designated body of any assessments notified to the authority in pursuance of regulations under subsection (2)(a)(ii); and
  - (b) to collect other information relating to assessments carried out under section 17 at schools maintained by the authority and to forward such information to a designated body.



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## CHAPTER II

### PUPILS’ PERFORMANCE

VALID FROM 01/04/1998

#### **19 School performance targets.**

- (1) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate for requiring the governing bodies of maintained schools to secure that annual targets are set in respect of the performance of pupils—
  - (a) in public examinations or in assessments for the purposes of the National Curriculum, in the case of pupils of compulsory school age; or
  - (b) in public examinations or in connection with the attainment of other external qualifications, in the case of pupils of any age over that age.
- (2) Regulations under this section may require—
  - (a) such targets, and
  - (b) the past performance of pupils in the particular examinations or assessments, or in connection with the attainment of the particular qualifications, to which such targets relate,to be published in such manner as is specified in the regulations.
- (3) In this section “maintained school” means—
  - (a) a county or voluntary school;
  - (b) a grant-maintained school; or
  - (c) a maintained or grant-maintained special school (other than one established in a hospital).

#### **20 Provision of information about individual pupils’ performance.**

After section 537 of the <sup>M10</sup>Education Act 1996 there shall be inserted—

##### **“537A Provision of information about individual pupils’ performance.**

- (1) The Secretary of State may by regulations make provision requiring—
  - (a) the governing body of every school which is—
    - (i) maintained by a local education authority, or
    - (ii) a grant-maintained school, or
    - (iii) a special school which is not maintained by a local education authority, and
  - (b) the proprietor of each independent school,to provide to the Secretary of State such individual performance information relating to pupils or former pupils at the school as may be prescribed.
- (2) In this section “individual performance information” means information about the performance of individual pupils (identified in the prescribed manner)—

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- (a) in any assessment made for the purposes of the National Curriculum or in accordance with a baseline assessment scheme (within the meaning of Chapter I of Part IV of the Education Act 1997);
  - (b) in any prescribed public examination;
  - (c) in connection with the attainment of any vocational qualification; or
  - (d) in any such other assessment or examination, or in connection with the attainment of any such other qualification, as may be prescribed.
- (3) The Secretary of State may provide any information received by him by virtue of subsection (1)—
- (a) to any prescribed body or person, or
  - (b) to any body or person falling within a prescribed category.
- (4) Any body or person holding any individual performance information may provide that information to any body to which this subsection applies; and any body to which this subsection applies—
- (a) may provide any information received by it under this subsection—
    - (i) to the Secretary of State, or
    - (ii) to the governing body or proprietor of the school attended by the pupil or pupils to whom the information relates; and
  - (b) may, at such times as the Secretary of State may determine, provide to any prescribed body such information received by it under this subsection as may be prescribed.
- (5) Subsection (4) applies to any body which, for the purposes of or in connection with the functions of the Secretary of State relating to education, is responsible for collating or checking information relating to the performance of pupils—
- (a) in any assessment or examination falling within subsection (2)(a), (b) or (d), or
  - (b) in connection with the attainment of any qualification falling within subsection (2)(c) or (d).
- (6) No individual performance information received under or by virtue of this section shall be published in any form which includes the name of the pupil or pupils to whom it relates.
- (7) References in this section to the attainment of a qualification of any description include references to the completion of any module or part of a course leading to any such qualification.”

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**Marginal Citations**

**M10** 1996 c. 56.

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## PART V

### SUPERVISION OF CURRICULUM FOR SCHOOLS AND EXTERNAL QUALIFICATIONS

VALID FROM 01/10/1997

#### CHAPTER I

##### THE QUALIFICATIONS AND CURRICULUM AUTHORITY

###### *Establishment of the Authority*

#### **21 The Qualifications and Curriculum Authority.**

- (1) There shall be a body corporate known as the Qualifications and Curriculum Authority.
- (2) The Authority shall consist of not less than 8 nor more than 13 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
  - (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State shall include among the members of the Authority—
  - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of education, or to have held, and to have shown capacity in, any position carrying responsibility for the provision of education;
  - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of training or to have held, and to have shown capacity in, any position carrying responsibility for the provision of training; and
  - (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.
- (5) Schedule 4 has effect in relation to the Authority.

###### *Functions of the Authority*

#### **22 General function of Authority to advance education and training.**

- (1) The functions conferred on the Qualifications and Curriculum Authority by this Part shall be exercised by the Authority for the purpose of advancing education and training in England and (so far as such functions are exercisable there) in Wales and in Northern Ireland.
- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

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### **23 Functions of the Authority in relation to curriculum and assessment.**

- (1) The Qualifications and Curriculum Authority shall have the functions set out in subsection (2) with respect to pupils of compulsory school age at maintained schools in England.
- (2) The functions are—
  - (a) to keep under review all aspects of the curriculum for such schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; and
  - (f) so far as relevant to such schools, the functions conferred by section 24(2)(h) and (i).
- (3) The Authority shall have, in relation to England, the function of developing learning goals and related materials for children who are receiving nursery education in respect of which grants are (or are to be) made under arrangements under section 1 of the <sup>M11</sup>Nursery Education and Grant-Maintained Schools Act 1996.
- (4) The Authority shall have, in relation to England, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
  - (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
  - (b) any other function which may be conferred on the Authority by the Secretary of State.
- (5) In this section—
 

“assessment” includes examination and test; and

“maintained school” means—

  - (a) any county or voluntary school;
  - (b) any grant-maintained school; and
  - (c) any maintained or grant-maintained special school.

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#### **Marginal Citations**

**M11** 1996 c. 50.

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## **24 Functions of the Authority in relation to external vocational and academic qualifications.**

- (1) The Qualifications and Curriculum Authority shall have, in relation to England, the functions set out in subsection (2) with respect to external qualifications.
- (2) The functions are—
  - (a) to keep under review all aspects of such qualifications;
  - (b) to advise the Secretary of State on such matters concerned with such qualifications as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with such qualifications;
  - (d) to provide support and advice to persons providing courses leading to such qualifications with a view to establishing and maintaining high standards in the provision of such courses;
  - (e) to publish and disseminate, and assist in the publication and dissemination of, information relating to such qualifications;
  - (f) to develop and publish criteria for the accreditation of such qualifications;
  - (g) to accredit, where they meet such criteria, any such qualifications submitted for accreditation;
  - (h) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
  - (i) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.
- (3) Except to the extent that, by virtue of an order under section 30(1), they are for the time being exercisable with respect to such qualifications solely by the Qualifications, Curriculum and Assessment Authority for Wales, the functions set out in subsection (2)(a) to (g) shall be so exercisable in relation to Wales by the Qualifications and Curriculum Authority, and shall be so exercisable either—
  - (a) solely by the Authority, or
  - (b) if an order under section 30(1) so provides, by the Authority concurrently with the Qualifications, Curriculum and Assessment Authority for Wales.
- (4) The functions set out in subsection (2)(a) to (g) shall also be exercisable by the Qualifications and Curriculum Authority in relation to Northern Ireland but only with respect to National Vocational Qualifications.
- (5) Subsection (2)(a) to (e) do not apply to qualifications awarded or authenticated by institutions within the higher education sector other than those which have been submitted for accreditation under subsection (2)(g).
- (6) In this section “external qualification” means—
  - (a) any academic or vocational qualification authenticated or awarded by an outside person, except an academic qualification at first degree level or any comparable or higher level; or
  - (b) (whether within paragraph (a) or not) any National Vocational Qualification.
- (7) For the purposes of this section—
  - (a) a qualification is awarded by an outside person if the course of education or training leading to the qualification is provided by an institution or an

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employer and it is awarded by a person other than the institution or employer or a member of its or his staff; and

- (b) a qualification is authenticated by an outside person if it is awarded by an institution or employer and is authenticated by a person other than the institution or employer or a member of its or his staff.

## **25 Other functions of the Authority.**

- (1) The Qualifications and Curriculum Authority shall advise the Secretary of State on such matters connected with the provision of education or training in England as the Secretary of State may specify by order.
- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.

## **26 Supplementary provisions relating to discharge by Authority of their functions.**

- (1) In carrying out their functions under this Part the Qualifications and Curriculum Authority shall—
  - (a) comply with any directions given by the Secretary of State; and
  - (b) act in accordance with any plans approved by him; and
  - (c) so far as relevant, have regard to—
    - (i) the requirements of section 351 of the <sup>M12</sup>Education Act 1996 (general duties in respect of curriculum),
    - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
    - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by Her Majesty's Chief Inspector of Schools in England or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of their functions under this Part the Authority accredit or approve any qualification, they may do so on such terms (including terms as to payment) and subject to such conditions as they may determine.
- (4) Those conditions may in particular include conditions—
  - (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
  - (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of

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the qualification in question, by the persons receiving the accreditation or approval.

- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” means—
- (a) children with special educational needs (as defined in section 312 of the <sup>M13</sup>Education Act 1996); or
  - (b) persons (other than children as so defined) who—
    - (i) have a significantly greater difficulty in learning than the majority of persons of their age, or
    - (ii) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for persons of their age.

#### Marginal Citations

M12 1996 c. 56.

M13 1996 c. 56.

VALID FROM 01/10/2002

#### [<sup>F3</sup>26A Power of Authority to give directions

- (1) If it appears to the Qualifications and Curriculum Authority—
- (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
  - (b) that the failure—
    - (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
    - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.
- (2) It shall be the duty of the awarding body to comply with any direction under this section.
- (3) Any direction under this section is enforceable, on the application of the Qualifications and Curriculum Authority—
- (a) in England and Wales, by a mandatory order, or
  - (b) in Northern Ireland, by an order of mandamus.]

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### Textual Amendments

- F3** S. 26A inserted (1.10.2002) by Education Act 2002 (c. 32), s. 189, **Sch. 17 para. 4** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2**

VALID FROM 01/10/1997

## CHAPTER II

### THE QUALIFICATIONS, CURRICULUM AND ASSESSMENT AUTHORITY FOR WALES

#### *Renaming of the Authority*

#### **27 The Qualifications, Curriculum and Assessment Authority for Wales.**

- (1) The body corporate known as Awdurdod Cwricwlwm ac Asesu Cymru shall continue in existence but, as from the commencement of this section, shall be known as Awdurdod Cymwysterau, Cwricwlwm ac Asesu Cymru or the Qualifications, Curriculum and Assessment Authority for Wales.
- (2) The Authority shall consist of not less than 10 nor more than 15 members appointed by the Secretary of State.
- (3) Of the members of the Authority, the Secretary of State—
  - (a) shall appoint one as chairman, and
  - (b) may appoint another as deputy chairman.
- (4) The Secretary of State—
  - (a) shall include among the members of the Authority—
    - (i) persons who appear to him to have relevant knowledge or experience in education, and
    - (ii) persons who appear to him to have relevant knowledge or experience in training; and
  - (b) may include among those members persons who appear to him to have experience of occupations, trades or professions having an interest in education or training.
- (5) Schedule 5 to this Act, which replaces Schedule 30 to the Education Act 1996, has effect in relation to the Authority.

#### *Functions of the Authority*

#### **28 General function of Authority to advance education and training.**

- (1) The functions conferred on the Qualifications, Curriculum and Assessment Authority for Wales by this Part shall be exercised by the Authority for the purpose of advancing education and training in Wales.



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- (2) The Authority shall exercise their functions under this Part with a view to promoting quality and coherence in education and training in relation to which they have functions under this Part.

## 29 Functions of the Authority in relation to curriculum and assessment.

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall have the functions set out in subsection (2) with respect to pupils of compulsory school age at maintained schools in Wales.
- (2) The functions are—
- (a) to keep under review all aspects of the curriculum for such schools and all aspects of school examinations and assessment;
  - (b) to advise the Secretary of State on such matters concerned with the curriculum for such schools or with school examinations and assessment as he may refer to them or as they may see fit;
  - (c) to advise the Secretary of State on, and if so requested by him assist him to carry out, programmes of research and development for purposes connected with the curriculum for such schools or with school examinations and assessment;
  - (d) to publish and disseminate, and assist in the publication and dissemination of, information relating to the curriculum for such schools or to school examinations and assessment;
  - (e) to make arrangements with appropriate bodies for auditing the quality of assessments made in pursuance of assessment arrangements; and
  - (f) so far as relevant to such schools, the functions conferred by section 30(3).
- (3) The Authority shall have, in relation to Wales, the function of developing learning goals and related materials for children who are receiving nursery education in respect of which grants are (or are to be) made under arrangements under section 1 of the <sup>M14</sup>Nursery Education and Grant-Maintained Schools Act 1996.
- (4) The Authority shall have, in relation to Wales, the following functions in connection with baseline assessment schemes (within the meaning of Chapter I of Part IV), namely—
- (a) if designated by the Secretary of State for the purpose, any function of a designated body under that Chapter; and
  - (b) any other function which may be conferred on the Authority by the Secretary of State.
- (5) In this section “assessment” and “maintained school” have the same meaning as in section 23.

### Marginal Citations

M14 1996 c. 50.

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### **30 Functions of the Authority in relation to external vocational and academic qualifications.**

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall have, in relation to Wales, such functions with respect to external qualifications as are for the time being conferred on the Authority by an order made by the Secretary of State under this subsection or by subsection (3).
- (2) The functions with respect to external qualifications which may be conferred on the Authority by an order under subsection (1) are functions falling within paragraphs (a) to (g) of section 24(2), and the functions in question may be so conferred so as to be exercisable either—
  - (a) solely by the Authority, or
  - (b) by the Authority concurrently with the Qualifications and Curriculum Authority.
- (3) The Authority shall have, in relation to Wales, the following functions with respect to external qualifications, namely—
  - (a) if designated by the Secretary of State for the purpose, to advise the Secretary of State on the exercise of his powers under section 37 (approval of external qualifications); and
  - (b) if designated by the Secretary of State for the purpose, to exercise any functions conferred on a designated body by regulations under that section.
- (4) Where an order under subsection (1) is made so as to come into force at any time after the day on which that subsection comes into force, the order may include provisions—
  - (a) for the transfer of staff, and
  - (b) for the transfer of property, rights and liabilities held, enjoyed or incurred in connection with any function which, as a result of the order, is to be exercisable by the Authority (whether solely or concurrently).
- (5) In this section “external qualification” has the same meaning as in section 24.

### **31 Other functions of the Authority.**

- (1) The Qualifications, Curriculum and Assessment Authority for Wales shall advise the Secretary of State on such matters connected with the provision of education or training in Wales as the Secretary of State may specify by order.
- (2) The Authority shall carry out such ancillary activities as the Secretary of State may direct.
- (3) For the purposes of subsection (2) activities are ancillary activities in relation to the Authority if the Secretary of State considers it is appropriate for the Authority to carry out those activities for the purposes of or in connection with the carrying out by the Authority of any of their other functions under this Part.
- (4) The Authority shall supply the Secretary of State with such reports and other information with respect to the carrying out of their functions as the Secretary of State may require.

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## **32 Supplementary provisions relating to discharge by Authority of their functions.**

- (1) In carrying out their functions under this Part the Qualifications, Curriculum and Assessment Authority for Wales shall—
  - (a) comply with any directions given by the Secretary of State; and
  - (b) act in accordance with any plans approved by him; and
  - (c) so far as relevant, have regard to—
    - (i) the requirements of section 351 of the <sup>M15</sup>Education Act 1996 (general duties in respect of curriculum),
    - (ii) the requirements of industry, commerce, finance and the professions regarding education and training (including required standards of practical competence), and
    - (iii) the requirements of persons with special learning needs.
- (2) In carrying out those functions the Authority shall in addition have regard to information supplied to them by Her Majesty’s Chief Inspector of Schools in Wales or by any body designated by the Secretary of State for the purposes of this section.
- (3) Where in carrying out any of their functions under this Part the Authority accredit or approve any qualification, they may do so on such terms (including terms as to payment) and subject to such conditions as they may determine.
- (4) Those conditions may in particular include conditions—
  - (a) placing a limit on the amount of the fee that can be demanded in respect of any award or authentication of the qualification in question; and
  - (b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation or approval.
- (5) Before exercising on any occasion their power to impose conditions falling within subsection (4)(a) the Authority shall obtain the consent of the Secretary of State as to such matters relating to the exercise of that power as he may determine.
- (6) In this section “persons with special learning needs” has the same meaning as in section 26.

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### **Marginal Citations**

**M15** 1996 c. 56.

VALID FROM 19/12/2002

### **[<sup>F4</sup>32A Power of Authority to give directions**

- (1) If it appears to the Qualifications, Curriculum and Assessment Authority for Wales—
  - (a) that any person (in this section referred to as “the awarding body”) who, either alone or jointly with others, awards or authenticates any qualification

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- accredited by the Authority has failed or is likely to fail to comply with any condition subject to which the accreditation has effect, and
- (b) that the failure—
- (i) prejudices or would be likely to prejudice the proper award or authentication of the qualification, or
  - (ii) prejudices or would be likely to prejudice persons who might reasonably be expected to seek to obtain the qualification,
- the Authority may direct the awarding body to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.

(2) It shall be the duty of the awarding body to comply with any direction under this section.

(3) Any direction under this section is enforceable, on the application of the Qualifications, Curriculum and Assessment Authority for Wales, by a mandatory order.]

#### Textual Amendments

- F4** S. 32A inserted (19.12.2002) by Education Act 2002 (c. 32), s. 189, Sch. 17 para. 8 (with ss. 210(8), 214(4)); S.I. 2002/3185, arts. 2, 4, Sch. Pt. 1

## CHAPTER III

### PROVISIONS SUPPLEMENTARY TO CHAPTERS I AND II

VALID FROM 01/03/1998

#### *Dissolution of existing bodies*

**33**     **Dissolution of existing bodies.**

The National Council for Vocational Qualifications and the School Curriculum and Assessment Authority are hereby dissolved.

#### *Transfer of property and staff*

**34**     **Transfer of property.**

- (1) The Secretary of State may by order provide for the transfer to the Qualifications and Curriculum Authority, or (as the case may be) to the Qualifications, Curriculum and Assessment Authority for Wales, of—
- (a) such of the land or other property of the National Council for Vocational Qualifications or the School Curriculum and Assessment Authority, and

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- (b) such of the rights and liabilities of either of those bodies (other than rights and liabilities arising under contracts of employment),  
as, in his opinion, need to be transferred to enable the transferee Authority to carry out their functions properly.
- (2) No order under subsection (1) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (3) Any order under subsection (1) made before the day on which section 21 comes into force shall come into force on that day.
- (4) Where, immediately after the end of the period within which an order under subsection (1) may be made, any property, rights or liabilities remain vested in the National Council for Vocational Qualifications or the School Curriculum and Assessment Authority, they shall forthwith vest in the Secretary of State.
- (5) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (2) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

### **35 Transfer of staff.**

- (1) This section applies to any person who—
- (a) is employed by the National Council for Vocational Qualifications (“the NCVQ”) or the School Curriculum and Assessment Authority (“the SCAA”) immediately before section 21 comes into force, and
- (b) is designated as respects the Qualifications and Curriculum Authority, or (as the case may be) the Qualifications, Curriculum and Assessment Authority for Wales, by order of the Secretary of State;
- and in this section “the relevant Authority” means, in relation to any such person, the Authority as respects which he is designated by the order.
- (2) A contract of employment between a person to whom this section applies and the NCVQ or the SCAA shall have effect, from the day on which the order under subsection (1)(b) comes into force, as if originally made between him and the relevant Authority.
- (3) Without prejudice to subsection (2)—
- (a) all the rights, powers, duties and liabilities of the NCVQ or the SCAA under or in connection with a contract to which that subsection applies shall by virtue of that subsection be transferred to the relevant Authority on the day on which the order under subsection (1)(b) comes into force, and
- (b) anything done before that day by or in relation to the NCVQ or the SCAA in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the relevant Authority.
- (4) Subsections (2) and (3) are without prejudice to any right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change shall not be taken to have occurred by reason only of the change in employer effected by subsection (2).
- (5) In subsection (4) the reference to an employee’s working conditions includes a reference to any rights (whether accrued or contingent) under any pension or

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superannuation scheme of which he was a member by virtue of his employment with the NCVQ or the SCAA (as the case may be).

- (6) An order under subsection (1)(b) may designate a person either individually or as falling within a class or description of employee.
- (7) No order under subsection (1)(b) may be made after the end of the period of six months beginning with the day on which section 21 comes into force.
- (8) Any order under subsection (1)(b) made before the day on which section 21 comes into force shall come into force on that day.
- (9) The Secretary of State may by order provide that there shall be substituted for the period mentioned in subsection (7) such shorter period as he may specify in the order, being a period ending no earlier than the day on which the order comes into force.

VALID FROM 01/12/1997

*Levy on bodies awarding accredited qualifications*

**36 Levy on bodies awarding qualifications accredited by relevant Authority.**

- (1) The Secretary of State may by regulations provide for a levy to be payable to the relevant Authority by persons who award vocational qualifications accredited by that Authority.
- (2) Regulations under this section shall—
  - (a) specify the rate of the levy or the method by which it is to be calculated (and, without prejudice to the generality of section 54(3), may make different provision in relation to different cases);
  - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy;
  - (c) provide for the relevant Authority to withdraw their accreditation of a qualification in cases of non-payment of the levy.
- (3) Any sums received by the relevant Authority in respect of the levy shall be applied by them in giving such financial assistance to other bodies as the Secretary of State may specify with a view to assisting that Authority to secure the development and improvement of standards in relation to vocational qualifications.
- (4) In this section “the relevant Authority” means—
  - (a) the Qualifications and Curriculum Authority in the case of a qualification accredited by that Authority; and
  - (b) the Qualifications, Curriculum and Assessment Authority for Wales in the case of a qualification accredited by that Authority.

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## CHAPTER IV

### CONTROL OF CERTAIN COURSES LEADING TO EXTERNAL QUALIFICATIONS

#### 37 Requirement for approval of certain publicly-funded and school courses leading to external qualifications.

- (1) The Secretary of State may by regulations provide—
- (a) that no course of study leading to an external qualification is to be provided with the use of any specified public funding, and
  - (b) that no course of study leading to an external qualification is to be provided for pupils of compulsory school age by or on behalf of a maintained school, unless (in each case) the qualification is for the time being approved by the Secretary of State or a designated body in accordance with the regulations.
- (2) Regulations under this section may in particular make provision—
- (a) prescribing the conditions required to be satisfied before any qualification may be so approved and the circumstances in which any approval may be withdrawn;
  - (b) conferring functions on a designated body in relation to any such conditions; and
  - (c) imposing duties on governing bodies of institutions providing courses of study to which the regulations apply, and on head teachers, principals and other heads of such institutions, to secure compliance with the regulations.
- (3) Regulations under this section shall not apply to—
- (a) any course of study provided at an institution within the higher education sector; or
  - (b) any course of study leading to a qualification awarded or authenticated by any such institution.
- (4) In this section—
- “designated” means designated by the Secretary of State;
  - “external qualification” has the same meaning as in section 24;
  - “maintained school” has the same meaning as in section 23; and
  - “specified public funding” means public funding of such description as is specified in or determined in accordance with regulations under this section.
- (5) Sections 400 and 401 of the <sup>M16</sup>Education Act 1996 (courses leading to external qualifications provided at schools and further education institutions), which are superseded by this section, shall cease to have effect.

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#### Commencement Information

**I10** S. 37 partly in force; s. 37 not in force at Royal Assent see s. 58(3); s. 37(1)-(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, Sch. 1

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#### Marginal Citations

**M16** 1996 c. 56.

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## PART VI

### INSPECTION OF LOCAL EDUCATION AUTHORITIES AND SCHOOL INSPECTIONS

#### CHAPTER I

##### INSPECTION OF LOCAL EDUCATION AUTHORITIES

### 38 Inspection of LEAs.

- (1) The Chief Inspector—
  - (a) may, and
  - (b) if requested to do so by the Secretary of State, shall, arrange for any local education authority to be inspected under this section.
- (2) An inspection of a local education authority under this section shall consist of a review of the way in which the authority are performing any function of theirs (of whatever nature) which relates to the provision of education—
  - (a) for persons of compulsory school age (whether at school or otherwise), or
  - (b) for persons of any age above or below that age who are registered as pupils at schools maintained by the authority.
- (3) A request by the Secretary of State under this section may relate to one or more local education authorities, and shall specify both—
  - (a) the local education authority or authorities concerned, and
  - (b) the functions of theirs to which the inspection is to relate.
- (4) Before making any such request the Secretary of State shall consult the Chief Inspector as to the matters to be specified in the request in accordance with subsection (3).
- (5) Any inspection under this section shall be conducted—
  - (a) by one of Her Majesty’s Inspectors of Schools in England or (as the case may require) Wales, or
  - (b) by any additional inspector authorised under paragraph 2 of Schedule 1 to the <sup>M17</sup>School Inspections Act 1996;

but he may be assisted by such other persons (whether or not members of the Chief Inspector’s staff) as the Chief Inspector thinks fit.
- (6) For the purposes of this section a local education authority shall provide the Chief Inspector with such information as may be prescribed, and shall do so in such form and—
  - (a) within such period following a request made by the Chief Inspector in any prescribed circumstances, or
  - (b) at such other times,

as regulations may provide.
- (7) In this section and sections 39 to 41 “the Chief Inspector” means—
  - (a) in relation to a local education authority in England, Her Majesty’s Chief Inspector of Schools in England; and
  - (b) in relation to a local education authority in Wales, Her Majesty’s Chief Inspector of Schools in Wales;



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and in those sections references to “the inspector” in relation to an inspection under this section are references to the person conducting the inspection.

**Marginal Citations**

M17 1996 c. 57.

**39 Reports of inspections under s. 38 and action plan by LEA.**

- (1) Where an inspection under section 38 has been completed, the inspector shall make a written report on the matters reviewed in the course of the inspection, and shall send copies of the report to—
  - (a) any local education authority to which the inspection relates; and
  - (b) the Secretary of State.
- (2) Where a local education authority receive a copy of a report under this section, they shall prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (3) The authority shall publish—
  - (a) the report, and
  - (b) the statement prepared under subsection (2),within such period, and in such manner, as may be prescribed.
- (4) The Chief Inspector may arrange for any report under this section to be published in such manner as he considers appropriate.

**40 Inspector’s rights of entry etc.**

- (1) The inspector in the case of any inspection under section 38, and any person assisting him, shall have at all reasonable times—
  - (a) a right of entry to the premises of any local education authority to which the inspection relates, and
  - (b) a right to inspect, and take copies of, any records kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the exercise of his functions;and section 42 of the <sup>M18</sup>School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of this section as it applies for the purposes of Part I of that Act.
- (2) Without prejudice to subsection (1) above, a local education authority to which an inspection under section 38 relates shall give the inspector, and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give.
- (3) In the case of any inspection under section 38, subsection (1) above shall apply in relation to any school maintained by any local education authority to which the inspection relates as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—

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- (a) the governing body of any such school shall give the inspector, and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give; and
  - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (4) In this section “document” and “records” each include information recorded in any form.

**Marginal Citations**

**M18** 1996 c. 57.

**41 Inspections involving collaboration of Audit Commission.**

- (1) If requested to do so by the Chief Inspector, the Audit Commission may assist with any inspection under section 38; and subsections (2) to (5) below have effect where the Commission assist with any such inspection.
- (2) Section 40 shall apply to the Commission and to any authorised person as it applies to the inspector.
- (3) Any information obtained by virtue of section 40 by a person falling within one of the categories mentioned in subsection (4) may be disclosed for the purposes of the inspection, or the preparation or making of the report under section 39(1), to a person falling within the other category.
- (4) Those categories are—
  - (a) the Commission and any authorised person; and
  - (b) the inspector and any person assisting him.
- (5) Any report prepared under section 39(1) shall be prepared by the inspector acting in conjunction with the Commission.
- (6) The Commission shall not provide assistance under this section unless, before it does so, the Chief Inspector has agreed to pay the Commission an amount equal to the full costs incurred by the Commission in providing the assistance.
- (7) In this section—
  - “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales; and
  - “authorised person” means a person authorised by the Audit Commission for the purposes of this section.

**Modifications etc. (not altering text)**

**C1** S. 41 restricted (11.9.1998) by 1998 c. 18, ss. 1(5), 55(2), **Sch. 1 para. 8(2)(e)**

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## CHAPTER II

### SCHOOL INSPECTIONS

#### 42 Miscellaneous amendments relating to school inspections.

Schedule 6 (which contains amendments relating to inspections under the <sup>M19</sup>School Inspections Act 1996 and the <sup>M20</sup>Nursery Education and Grant-Maintained Schools Act 1996) shall have effect.

#### Marginal Citations

**M19** 1996 c. 57.

**M20** 1996 c. 50.

## PART VII

### CAREERS EDUCATION AND GUIDANCE

VALID FROM 01/09/1998

#### 43 Provision of careers education in schools.

- (1) All registered pupils at a school to which this section applies must be provided, during the relevant phase of their education, with a programme of careers education.
- (2) This section applies to—
  - (a) county and voluntary schools;
  - (b) grant-maintained schools;
  - (c) maintained or grant-maintained special schools (other than those established in hospitals);
  - (d) city technology colleges and city colleges for the technology of the arts; and
  - (e) pupil referral units.
- (3) It is the duty of each of the following to secure that subsection (1) is complied with, namely—
  - (a) in the case of a school falling within subsection (2)(a) to (c), the governing body of the school and its head teacher,
  - (b) in the case of a school falling within subsection (2)(d), the proprietors of the school and its head teacher, and
  - (c) in the case of a pupil referral unit, the local education authority maintaining the unit and the teacher in charge of it.
- (4) Each of sections 496 and 497 of the <sup>M21</sup>Education Act 1996 (default powers of Secretary of State) shall, in relation to the duty imposed by subsection (3) above, have effect as if any reference to a body to which that section applies included a reference to the proprietors of a school falling within subsection (2)(d) above.
- (5) For the purposes of this section the relevant phase of a pupil's education is the period—

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- (a) beginning at the same time as the school year in which the majority of pupils in his class attain the age of 14; and
  - (b) ending with the expiry of the school year in which the majority of pupils in his class attain the age of 16.
- (6) In this section—
- “career” includes the undertaking of any training, employment or occupation or any course of education;
  - “careers education” means education designed to prepare persons for taking decisions about their careers and to help them implement such decisions;
  - “class”, in relation to a particular pupil, means—
    - (a) the teaching group in which he is regularly taught, or
    - (b) if he is taught in different groups for different subjects, such one of those groups as is designated by the head teacher of the school or, in the case of a pupil at a pupil referral unit, by the teacher in charge of the unit.

#### Marginal Citations

M21 1996 c. 56.

#### 44 Schools and other institutions to co-operate with careers advisers.

- (1) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be provided with—
  - (a) the name and address of every relevant pupil or student at the institution; and
  - (b) any information in the institution’s possession about any such pupil or student which the careers adviser needs in order to be able to provide him with advice and guidance on decisions about his career or with other information relevant to such decisions.
- (2) If the registered address of a parent of any such pupil is different from the pupil’s registered address, subsection (1)(a) requires the parent’s address to be provided as well.
- (3) Paragraph (a) or (as the case may be) paragraph (b) of subsection (1) does not, however, apply to any pupil or student to the extent that—
  - (a) (where he is under the age of 18) a parent of his, or
  - (b) (where he has attained that age) he himself,
 has indicated that any information falling within that paragraph should not be provided to the careers adviser.
- (4) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any relevant pupil or student specified by him, access to that person—
  - (a) on the institution’s premises, and

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- (b) at a reasonable time agreed by or on behalf of the head teacher, principal or other head of the institution,  
for the purpose of enabling him to provide that person with advice and guidance on decisions about his career and with any other information relevant to such decisions.
- (5) Such access shall include an opportunity for the careers adviser to interview that person about his career, if he agrees to be so interviewed.
- (6) Where a careers adviser has responsibilities in relation to persons attending an educational institution to which this section applies, he shall on request be permitted to have, in the case of any group of relevant pupils or students specified by him, access—
- (a) to that group of persons in the manner specified in subsection (4)(a) and (b), and
- (b) to such of the institution’s facilities as can conveniently be made available for his use,  
for the purpose of enabling him to provide those persons with group sessions on any matters relating to careers or to advice or guidance about careers.
- (7) Any request made for the purposes of subsection (1), (4) or (6) must be made in writing to the head teacher, principal or other head of the institution in question.
- (8) This section applies to—
- (a) the schools listed in section 43(2)(a) to (d); and
- (b) institutions within the further education sector.
- (9) It is the duty of each of the following to secure that subsections (1), (4) and (6) are complied with, namely—
- (a) in the case of a school falling within section 43(2)(a) to (c) or an institution within the further education sector, the governing body of the school or institution and its head teacher, principal or other head, and
- (b) in the case of a school falling within section 43(2)(d), the proprietors of the school and its head teacher;  
and section 43(4) shall apply in relation to that duty as it applies in relation to the duty imposed by section 43(3).
- (10) For the purposes of this section—
- (a) a pupil at a school is a relevant pupil—
- (i) at any time during the period which is the relevant phase of his education for the purposes of section 43, or
- (ii) if he is over compulsory school age and receiving secondary education; and
- (b) a person is a relevant student at an institution within the further education sector if he is receiving at the institution either—
- (i) full-time education, or
- (ii) part-time education of a description commonly undergone by persons in order to fit them for employment.
- (11) For the purposes of this section—
- (a) “careers adviser” means a person who is employed by a body providing services in pursuance of arrangements made or directions given under section 10 of the <sup>M22</sup>Employment and Training Act 1973 and who is acting, in

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the course of his employment by that body, for the purposes of the provision of any such services; and

- (b) a careers adviser has responsibilities for any persons if his employment by that body includes the provision of any such services for them.

(12) In this section “career” has the same meaning as in section 43.

**Marginal Citations**

**M22** 1973 c. 35.

**45 Provision of careers information at schools and other institutions.**

- (1) Persons attending an educational institution to which this section applies must be provided with access to both—
- (a) guidance materials, and
  - (b) a wide range of up-to-date reference materials, relating to careers education and career opportunities.
- (2) This section applies to—
- (a) the schools listed in section 43(2)(a) to (d); and
  - (b) institutions within the further education sector.
- (3) It is the duty of each of the following to secure that subsection (1) is complied with, namely—
- (a) in the case of a school falling within section 43(2)(a) to (c) or an institution within the further education sector, the governing body of the school or institution and its head teacher, principal or other head, and
  - (b) in the case of a school falling within section 43(2)(d), the proprietors of the school and its head teacher;
- and section 43(4) shall apply in relation to that duty as it applies in relation to the duty imposed by section 43(3).
- (4) The persons who under subsection (3) above are responsible for discharging that duty in relation to an institution shall seek assistance with discharging it from a body providing services in pursuance of arrangements made or directions given under section 10 of the <sup>M23</sup>Employment and Training Act 1973.
- (5) In this section “career” and “careers education” have the same meaning as in section 43.
- (6) Nothing in this section applies to any primary school.

**Marginal Citations**

**M23** 1973 c. 35.

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**Status:** Point in time view as at 01/09/1997. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Education Act 1997 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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#### **46 Extension or modification of provisions of ss. 43 to 45.**

- (1) The Secretary of State may by regulations extend the scope of operation of section 43 or section 44 by substituting for the period specified in section 43(5) or section 44(10) (a)(i) such other period as is specified.
- (2) The Secretary of State may by regulations make provision for extending the scope of operation of section 43, 44 or 45 to primary schools or to any specified description of such schools.
- (3) The Secretary of State may by regulations make provision for requiring—
  - (a) the governing bodies of institutions within the further education sector, and
  - (b) the principals or other heads of such institutions,to secure that a programme of careers education is provided for any specified description of persons attending such institutions.
- (4) The Secretary of State may by regulations amend the definition of “careers adviser” set out in section 44(11)(a).
- (5) In this section—

“careers education” has the same meaning as in section 43;  
“specified” means specified in the regulations in question.

### **PART VIII**

#### **MISCELLANEOUS AND GENERAL**

VALID FROM 01/09/1998

#### *Exceptional educational provision*

#### **47 Functions of LEAs as regards exceptional educational provision.**

- (1) Section 19 of the <sup>M24</sup>Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere) shall be amended as follows.
- (2) In subsection (1) (duty of local education authority to make arrangements for provision of suitable full-time or part-time education, at school or otherwise, for excluded children etc.), the words “full-time or part-time” shall be omitted.
- (3) In subsection (4) (power of local education authority to make arrangements for provision of suitable full-time or part-time education, otherwise than at school, for excluded young persons etc.), the words “full-time or part-time” shall be omitted.
- (4) After that subsection there shall be inserted—

“(4A) In determining what arrangements to make under subsection (1) or (4) in the case of any child or young person a local education authority shall have regard to any guidance given from time to time by the Secretary of State.”

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### Marginal Citations

M24 1996 c. 56.

VALID FROM 01/12/1997

### *Management committees for pupil referral units*

#### **48 Management committees for pupil referral units.**

At the end of Schedule 1 to the Education Act 1996 (pupil referral units) there shall be added—

#### **Management committees**

“15 (1) Regulations may make provision—

- (a) for requiring any local education authority who maintain a pupil referral unit to establish a committee to act as the management committee for the unit; and
- (b) for that committee to discharge on behalf of the authority such of their functions in connection with the unit as are delegated by them to the committee in accordance with the regulations.

(2) Regulations under this paragraph may in particular make provision—

- (a) for enabling a local education authority to establish a joint committee to act as the management committee for two or more pupil referral units maintained by the authority;
- (b) for requiring the approval of the Secretary of State to be obtained before any such joint committee is established;
- (c) as to the composition of a management committee established under the regulations and—
  - (i) the appointment and removal of its members, and
  - (ii) their terms of office,

and in particular for requiring such a committee to include persons representing schools (including grant-maintained schools) situated in the area from which the unit or units in question may be expected to draw pupils;

- (d) for requiring or (as the case may be) prohibiting the delegation by a local education authority to a management committee of such functions in connection with pupil referral units as are specified in the regulations;
- (e) for authorising a management committee to establish sub-committees;
- (f) for enabling (subject to any provisions of the regulations) a local education authority or a management committee to determine to any extent the committee’s procedure and that of any sub-committee;



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- (g) for limiting the personal liability of members of any such committee or sub-committee in respect of their acts or omissions as such members;
- (h) for applying to any such committee or sub-committee, with or without modification—
  - (i) any provision of the Education Acts, or
  - (ii) any provision made by or under any other enactment and relating to committees or (as the case may be) sub-committees of a local authority.”

VALID FROM 01/10/1997

*Teachers not under contract of employment and persons having access to those under 19*

**49 Power to make regulations: teachers not under contract of employment and persons having access to those under 19.**

- (1) Section 218 of the <sup>M25</sup>Education Reform Act 1988 (power of Secretary of State to make regulations in respect of schools and further and higher education institutions) shall be amended as follows.
- (2) After subsection (6) there shall be inserted—
  - “(6A) The Secretary of State may by regulations impose requirements on—
    - (a) local education authorities,
    - (b) the governing bodies of schools or institutions falling within subsection (10) below, or
    - (c) the proprietors of independent schools,for the purpose of prohibiting or restricting, on medical grounds or in cases of misconduct, access to persons who have not attained the age of nineteen years by persons (not falling within subsection (6) above) who provide services falling within subsection (6B).
  - (6B) Those services are services provided in relation to the school or institution or persons attending it which—
    - (a) are provided by whatever means and whether under contract or otherwise, and
    - (b) bring the persons providing them regularly into contact with persons who have not attained the age of nineteen years.”
- (3) In subsection (12) (definition of “school”), after “(6)(d)” there shall be inserted “ or (6A) ”.
- (4) After subsection (12) there shall be inserted—
  - “(13) For the purposes of this section—
    - (a) any reference to persons employed as teachers includes a reference to persons engaged to provide their services as teachers otherwise than under contracts of employment; and

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(b) any reference to teachers or other persons employed by local education authorities or by any description of governing bodies or proprietors includes a reference to teachers or other persons engaged to provide their services for such authorities, governing bodies or proprietors (as the case may be) otherwise than under contracts of employment;

and any reference to employment (or further employment) shall be construed accordingly.”

**Commencement Information**

**I11** S. 49 partly in force; s. 49 not in force at Royal Assent see s. 58(3); s. 49(1) in force for certain purposes at 1.10.1997 and s. 49(2)(3) in force at 1.10.1997 by [S.I. 1997/1468, art. 2, Sch. 1 Pt. I](#); s. 49(1) in force for all other purposes at 1.3.1998 and s. 49(4) in force at 1.3.1998 by [S.I. 1998/386, art. 2 Sch. 1 Pt. I](#)

**Marginal Citations**

**M25** [1988 c. 40.](#)

*Costs of teachers' premature retirement*

**50 Recoupment by local education authority of costs of teachers' premature retirement.**

- (1) Section 139 of the <sup>M26</sup>Education Act 1996 (payments in respect of dismissal etc. of teachers at schools with delegated budgets) shall be amended as follows.
- (2) In subsection (5) (local education authority's costs in respect of teacher's dismissal or premature retirement not normally to be met from school's budget share), at the beginning there shall be inserted “ Subject to subsection (5A), ”.
- (3) After that subsection there shall be inserted—
  - “(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.”
- (4) For the avoidance of doubt, the provisions inserted by this section have effect in relation to a school despite anything in any scheme prepared by the local education authority under section 103 of the Education Act 1996 (schemes providing for financial delegation).

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#### Marginal Citations

M26 1996 c. 56.

### *Definition of “school”*

#### **51 Definition of “school”.**

In section 4 of the Education Act 1996 (definition of “school”), for subsection (1) there shall be substituted—

“(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—

- (a) primary education,
- (b) secondary education, or
- (c) both primary and secondary education,

whether or not the institution also provides part-time education suitable to the requirements of junior pupils or further education.”

### *Compulsory school age*

#### **52 Commencement of compulsory school age.**

(1) Section 8 of the <sup>M27</sup>Education Act 1996 (compulsory school age) shall be amended in accordance with subsections (2) and (3).

(2) For subsection (2) there shall be substituted—

“(2) A person begins to be of compulsory school age—

- (a) when he attains the age of five, if he attains that age on a prescribed day, and
- (b) otherwise at the beginning of the prescribed day next following his attaining that age.”

(3) For subsection (4) there shall be substituted—

“(4) The Secretary of State may by order—

- (a) provide that such days in the year as are specified in the order shall be, for each calendar year, prescribed days for the purposes of subsection (2);
- (b) determine the day in any calendar year which is to be the school leaving date for that year.”

(4) The Secretary of State may also make an order providing that such days in the year as are specified in the order shall be, for each calendar year during the whole or part of which section 8 of the Education Act 1996 is not wholly in force, prescribed days for the purposes of paragraph 1(2) of Schedule 40 to that Act (transitory provisions pending coming into force of section 8 of that Act) as it has effect in accordance with subsection (5) below.

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- (5) Where a person does not attain the age of five on any of those prescribed days, he shall be regarded for the purposes of paragraph 1(2) of that Schedule—
- (a) as not attaining that age, and
  - (b) accordingly as not being of compulsory school age,
- until the beginning of the prescribed day next following his fifth birthday.

#### Commencement Information

**I12** S. 52 partly in force; s. 52 not in force at Royal Assent see s. 58(3); s. 52(4) in force at 1.9.1997 by S.I. 1997/1468, art. 2, **Sch. 1 Pt. II**; s. 52(1)-(3) in force at 1.8.1998 by S.I. 1998/386, art. 2, **Sch. 1 Pt. III**

#### Marginal Citations

**M27** 1996 c. 56.

### General provisions

VALID FROM 01/10/1997

#### 53 Stamp duty.

- (1) Subject to subsection (2), stamp duty shall not be chargeable in respect of any transfer effected by virtue of section 30 or 34.
- (2) No instrument (other than a statutory instrument) made or executed in pursuance of either of the provisions mentioned in subsection (1) shall be treated as duly stamped unless it is stamped with the duty to which it would, but for this section (and, if applicable, section 129 of the <sup>M28</sup>Finance Act 1982), be liable or it has, in accordance with the provisions of section 12 of the <sup>M29</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.

#### Marginal Citations

**M28** 1982 c. 39.

**M29** 1891 c. 39.

#### 54 Orders and regulations.

- (1) Any power of the Secretary of State to make orders or regulations under this Act, except an order under section 25 or 31, shall be exercised by statutory instrument.
- (2) A statutory instrument containing any order or regulations under this Act, except an order under section 58, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any order or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

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- (4) Without prejudice to the generality of subsection (3), any order or regulations under this Act may make in relation to Wales provision different from that made in relation to England.

#### Subordinate Legislation Made

- P1** S. 54(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)  
s. 54(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)  
S. 54(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)

## 55 Financial provisions.

There shall be paid out of money provided by Parliament—

- (a) any sums required for the payment by the Secretary of State of grants under this Act;
- (b) any administrative expenses incurred by the Secretary of State in consequence of this Act; and
- (c) any increase attributable to this Act in the sums so payable under any other Act.

## 56 Construction.

- (1) In this Act—
  - “prescribed” means prescribed by regulations; and
  - “regulations” means regulations made by the Secretary of State under this Act.
- (2) This Act shall be construed as one with the <sup>M30</sup>Education Act 1996.
- (3) Where, however, an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of that Act, the meaning given for the purposes of that provision shall apply instead of the one given for the purposes of that Act.

#### Marginal Citations

- M30** 1996 c. 56.

## 57 Minor and consequential amendments, repeals etc.

- (1) The minor and consequential amendments set out in Schedule 7 shall have effect.
- (2) Any reference in any enactment to Part I of Schedule 33 to the <sup>M31</sup>Education Act 1996 (appeal committees for hearing admission appeals), or to any provision of that Part of that Schedule, shall (so far as the context permits) be read as including a reference to that Part of that Schedule, or (as the case may be) to that provision of that Part, as applied by paragraph 4 of Schedule 16 or paragraph 3 of Schedule 33A to that Act.

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- (3) For the avoidance of doubt, the provisions inserted in the Education Act 1996 by Parts II and III of this Act have effect despite anything in the articles (or, as the case may be, in the instrument or articles) of government of a school to, or in relation to, which those inserted provisions apply or are applied.
- (4) The enactments specified in Schedule 8 are repealed to the extent specified.

#### Commencement Information

**I13** S. 57 partly in force; S. 57(1) partly in force at Royal Assent see s. 58(4); s. 57(4) in force for certain purposes at 4.4.1997 by S.I. 1997/1153, art. 2; s. 57(1)(4) in force for certain purposes at 14.6.1997, 1.9.1997 and 1.10.1997 and s. 57(2)(3) in force at 1.9.1997 by S.I. 1997/1468, art. 2, Sch. 1, Pts. I, II, III

#### Marginal Citations

**M31** 1996 c. 56.

### 58 Short title, commencement and extent etc.

- (1) This Act may be cited as the Education Act 1997.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the <sup>M32</sup>Education Act 1996.
- (3) Subject to subsection (4), this Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions and for different purposes.
- (4) The following provisions come into force on the day on which this Act is passed—
  - section 50,
  - section 54,
  - paragraph 48(2) of Schedule 7 and section 57(1) so far as relating thereto, and this section.
- (5) Subject to subsections (6) and (7), this Act extends to England and Wales only.
- (6) The following provisions extend to Northern Ireland—
  - sections 21 and 22,
  - section 24(4),
  - section 26,
  - sections 34 to 36,
  - section 53,
  - section 54,
  - this section, and
  - Schedule 4.
- (7) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

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### Subordinate Legislation Made

- P2** S. 58(3) power partly exercised (3.4.1997): 4.4.1997 appointed for specified provisions by [S.I. 1997/1153](#)
- S. 58(3) power partly exercised (5.6.1997): different dates appointed for specified provisions by [S.I. 1997/1468](#) (with savings and transitional provisions)
- S. 58(3) power partly exercised (24.2.1998): different dates appointed for specified provisions by [S.I. 1998/386](#) (with savings and transitional provisions)
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### Marginal Citations

- M32** 1996 c. 56.

**Status:**

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