



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

An Act to make new provision with respect to school education and the provision of nursery education otherwise than at school; to enable arrangements to be made for the provision of further education for young persons partly at schools and partly at further education institutions; to make provision with respect to the Education Assets Board; and for connected purposes. [24th July 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

**E1** Act: amendments and repeals are coextensive with the enactments affected, see [s. 145\(8\)](#).

### Modifications etc. (not altering text)

- C1** Act modified (1.10.1998) (temp.) by [S.I. 1998/2248, reg.2](#)
- C2** Act amended (1.9.1998) by [S.I. 1998/1973, reg. 3\(6\)](#)
- C3** Certain functions transferred (1.7.1999) by [S.I. 1999/672, art. 2\(1\), Sch.1.](#)
- C4** Act extended (1.9.1999) by [S.I. 1999/704, regs.11, 12, 16, 17, 19.](#)
- C5** Act excluded (26.5.1999) by [S.I. 1999/1287, reg. 5\(2\).](#)
- C6** Powers to delegate certain functions restricted (Wales) (1.9.1999) by [S.I. 1999/2242, reg. 42\(1\)-\(5\)](#)
- C7** Act: Certain functions of a local education authority made exercisable by authorised persons (E.) (1.4.2002) by [Contracting Out \(Local Education Authority Functions\) \(England\) Order 2002 \(S.I. 2002/928\), art. 3, Sch. 2](#)
- C8** Act applied (1.4.2005) by [The Central Sussex College \(Government\) Regulations 2005 \(S.I. 2005/397\), Sch. 2 para. 2](#)
- C9** Act modified (7.4.2005) by [Education Act 2005 \(c. 18\), s. 96\(2\)](#)
- C10** [Education Acts](#) modified (temp.) (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 6 para. 3\(3\); S.I. 2007/935, art. 5\(bb\)](#)

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## PART I

### MEASURES TO RAISE STANDARDS OF SCHOOL EDUCATION

#### CHAPTER I

##### LIMIT ON INFANT CLASS SIZES

### 1 Duty to set limit on infant class sizes.

- (1) The Secretary of State shall by regulations—
  - (a) impose a limit on class sizes for infant classes at maintained schools; and
  - (b) specify the school years in relation to which any such limit is to have effect.
- (2) Any limit imposed under this section shall specify the maximum number of pupils that a class to which the limit applies may contain while an ordinary teaching session is conducted by a single [<sup>F1</sup>school teacher].
- (3) Subject to subsections (4) and (5), regulations under this section shall be so framed that—
  - (a) the maximum number specified in pursuance of subsection (2) is 30, and
  - (b) that limit has effect in relation to the 2001-02 school year and any subsequent year.
- (4) Regulations under this section may—
  - (a) provide for any limit imposed under this section to take effect—
    - (i) at the same time in the case of each of the age groups into which the pupils in infant classes fall, or
    - (ii) at different times (which may be earlier than the beginning of the school year mentioned in subsection (3)) in the case of different such age groups;
  - (b) provide that, in any circumstances specified in the regulations, any such limit either is not to apply or is to operate in such manner as is so specified.
- (5) The Secretary of State may by order amend subsection (3)—
  - (a) by substituting for “30” such other number as is specified in the order; or
  - (b) by substituting for the reference to the 2001-02 school year a reference to such other school year as is so specified.
- (6) Where any limit imposed under this section applies to an infant class at a maintained school, the local education authority and the governing body shall exercise their functions with a view to securing that that limit is complied with in relation to that class.

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#### Textual Amendments

- F1** Words in s. 1 substituted (19.12.2002 for W., 1.8.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 87](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#); [S.I. 2003/1667, art. 3](#)
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#### Modifications etc. (not altering text)

- C11** S. 1 applied (with modifications) (18.10.1999) by [S.I. 1999/2666, reg. 8, Sch. paras. 1\(c\), 2-8](#).

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- S. 1 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8.
- C12** S. 1 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**
- C13** S. 1 applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, **Sch.** (with reg. 2(2))

## **F<sup>2</sup>2 Plans by LEAs for reducing infant class sizes.**

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**Textual Amendments**

**F2** S. 2 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **Sch. 5 Pt. 1**; S.I. 2005/394, **art. 2(1)(I)**; S.I. 2006/885, **art. 2(3)(b)**

## **3 Payment of grant in connection with reductions in infant class sizes.**

- [<sup>F3</sup>(1) Regulations shall make provision for the payment by the Secretary of State of grants to local education authorities in respect of expenditure incurred or to be incurred by them for the purpose of securing that any limit imposed under section 1 is complied with in relation to infant classes at schools maintained by them.
- (2) Regulations under this section shall provide for the Secretary of State—
- (a) to withhold grants under the regulations from a local education authority where no proposed arrangements by that authority have been approved by him under section 2; and
  - (b) when determining whether any grant (and, if so, what amount) should be paid by him under the regulations to a local education authority, to have regard to their proposed arrangements as so approved.
- (3) Regulations under this section may provide—
- (a) for the payment of grant under the regulations to be dependent on the fulfilment of such conditions as may be determined by or in accordance with the regulations, and
  - (b) for requiring local education authorities to whom payments have been made under the regulations to comply with such requirements as may be so determined.]

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**Textual Amendments**

**F3** S. 3 repealed (1.4.2003 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 18(1)(i), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

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

**C14** S. 3 modified (1.9.1998) (*temp.*) by S.I. 1998/1968, **reg.2**

## **4 Interpretation of Chapter I.**

In this Chapter—

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“class” means a group in which pupils are taught in an ordinary teaching session;

“infant class” means a class containing pupils the majority of whom will attain the age of five, six or seven during the course of the school year;

“ordinary teaching session” does not include a school assembly or other school activity usually conducted with large groups of pupils;

[<sup>F4</sup>“school teacher” means a person who is a school teacher for the purposes of section 122 of the Education Act 2002 (determination of school teachers’ pay and conditions)]

**Textual Amendments**  
**F4** Words in s. 4 substituted (19.12.2002 for W., 1.8.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 88](#) (with [ss. 210\(8\), 214\(4\)](#)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/1667, art. 3

## CHAPTER II

### GENERAL RESPONSIBILITIES OF LOCAL EDUCATION AUTHORITIES

#### *Duty to promote high standards of education*

#### <sup>F5</sup> **Duty of LEAs to promote high standards in primary and secondary education.**

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**Textual Amendments**  
**F5** S. 5 repealed (25.5.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 18 Pt. 6](#); S.I. 2007/935, art. 6(d); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

#### *Education development plans*

#### <sup>F6</sup> **Preparation of education development plans.**

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**Textual Amendments**  
**F6** S. 6 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\), Sch. 5 Pt. 1](#); S.I. 2005/394, [art. 2\(1\)\(i\)](#); S.I. 2006/885, [art. 2\(3\)\(b\)](#)

#### <sup>F7</sup> **Approval, modification and review of statement of proposals.**

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### Textual Amendments

- F7** S. 7 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); [S.I. 2005/394](#), [art. 2\(1\)\(f\)](#); [S.I. 2006/885](#), [art. 2\(3\)\(b\)](#)

### *Intervention by Secretary of State*

## **8 Reserve power of Secretary of State to secure proper performance of LEA's functions.**

After section 497 of the <sup>M1</sup>Education Act 1996 there shall be inserted—

### **“497A Power to secure proper performance of LEA's functions.**

- (1) This section applies to a local education authority's functions (of whatever nature) which relate 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.
- (2) If the Secretary of State is satisfied (either on a complaint by any person interested or otherwise) that a local education authority are failing in any respect to perform any function to which this section applies to an adequate standard (or at all), he may exercise his powers under subsection (3) or (4).
- (3) The Secretary of State may under this subsection direct an officer of the authority to secure that that function is performed in such a way as to achieve such objectives as are specified in the direction.
- (4) The Secretary of State may under this subsection give an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function—
  - (a) is performed, on behalf of the authority and at their expense, by such person as is specified in the direction, and
  - (b) is so performed in such a way as to achieve such objectives as are so specified;and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified.
- (5) Where the Secretary of State considers it expedient that the person specified in directions under subsection (4) should perform other functions to which this section applies in addition to the function to which subsection (2) applies, the directions under subsection (4) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.
- (6) Any direction under this section may either—

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- (a) have effect for an indefinite period until revoked by the Secretary of State, or
  - (b) have effect until any objectives specified in the direction have been achieved (as determined in accordance with the direction).
- (7) Any direction given under subsection (3) or (4) shall be enforceable, on an application made on behalf of the Secretary of State, by an order of mandamus.

**497B Power to secure proper performance: further provisions.**

- (1) Where the Secretary of State gives directions under section 497A(4) to an officer of a local education authority, the person specified in those directions shall, in the performance of the function or functions specified in the directions, be entitled to exercise the powers conferred by this section.
- (2) The specified person shall have at all reasonable times—
- (a) a right of entry to the premises of the authority, and
  - (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the performance of the specified function or functions.
- (3) In exercising the right to inspect records or other documents under subsection (2), the specified person—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
 to afford him such assistance as he may reasonably require (including, in particular, the making of information available for inspection or copying in a legible form).
- (4) Without prejudice to subsection (2), the authority shall give the specified person all assistance in connection with the performance of the specified function or functions which they are reasonably able to give.
- (5) Subsection (2) shall apply in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
- (a) the governing body of any such school shall give the specified person 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.
- (6) Any reference in this section to the specified person includes a reference to any person assisting him in the performance of the specified function or functions.

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(7) In this section “document” and “records” each include information recorded in any form.”

**Marginal Citations**

M1 1996 c. 56.

*Parent governor representatives on education committees*

**9 Education committees to include representatives of parent governors.**

At the end of section 499 of the <sup>M2</sup>Education Act 1996 (power of Secretary of State to direct appointment of members of education committees) there shall be added—

“(6) Regulations may require—

- (a) any such committee as is mentioned in subsection (1) or (3), and
- (b) any sub-committee appointed by any authorities within subsection (1) or (3), or by any committee within paragraph (a) of this subsection, for the purpose mentioned in subsection (5)(b),

to include one or more persons elected, in accordance with the regulations, as representatives of parent governors at maintained schools in relation to which the committee or sub-committee acts.

(7) Regulations may make provision for—

- (a) the number of persons who are to be elected for the purposes of subsection (6) in the case of any local education authority;
- (b) the procedure to be followed in connection with the election of such persons and the persons who are entitled to vote at such an election;
- (c) the circumstances in which persons are qualified or disqualified for being so elected or for holding office once elected;
- (d) the term of office of persons so elected and their voting rights;
- (e) the application to any such committee or sub-committee, with or without any modification, of 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;
- (f) such other matters connected with such elections or persons so elected as the Secretary of State considers appropriate.

(8) Regulations may also make provision—

- (a) enabling the Secretary of State to determine, where he considers it expedient to do so in view of the small number of maintained schools in relation to which a committee or sub-committee acts, that the requirement imposed on the committee or sub-committee by virtue of subsection (6) is to have effect as if it referred to representatives of parents of registered pupils (rather than representatives of parent governors) at those schools;
- (b) for any regulations under subsection (7) to have effect, where the Secretary of State makes any such determination, with such modifications as may be prescribed.

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(9) In subsections (6) and (8) “maintained school” and “parent governor” have the same meaning as in the School Standards and Framework Act 1998.”

**Marginal Citations**  
M2 1996 c. 56.

**CHAPTER III**

EDUCATION ACTION ZONES

**10 Establishment of education action zones.**

(1) If the Secretary of State considers that it is expedient to do so with a view to improving standards in the provision of education at any particular [<sup>F8</sup>eligible schools], he may by order provide for those schools to constitute collectively an education action zone for the purposes of this Chapter.

[<sup>F9</sup>(1A) For the purposes of subsection (1) “eligible school” means—

- (a) a maintained school;
- (b) a nursery school;
- (c) a pupil referral unit; or
- (d) an independent school.]

(2) An education action zone shall be established in the first instance for three years; but the Secretary of State may, by an order made before the end of that period, provide for the zone to continue in existence for a further two years.

<sup>F10</sup>(3) .....

(4) No order shall be made by the Secretary of State under subsection (1) [<sup>F11</sup>or (2)] except on an application made for the purpose with the consent of the governing body of every school which it is proposed should be a participating school.

(5) Any school which ceases to be a participating school by virtue of subsection (2) may nevertheless be included in a further order under subsection (1).

(6) In this Chapter—

[<sup>F12</sup>(a) references to a governing body—

- (i) in relation to an independent school (other than an Academy, city technology college or city college for the technology of the arts), are to the proprietor of the school, and
- (ii) in relation to a new school, include the temporary governing body of the school;

(b) “participating school”, in relation to an education action zone, means one of the schools that—

- (i) for the time being is included in the order under subsection (1), or
- (ii) has been added to the zone by virtue of section 11B,

other than a school that has been removed from the zone in accordance with section 11C;



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- (c) “pupil referral unit” has the same meaning as in section 19 of the Education Act 1996 (c. 56);
- (d) “new school” has the meaning given in section 72(3).]

<sup>F13</sup>(7) . . . . .

(8) Unless the Secretary of State by order otherwise provides, nothing in this Chapter applies in relation to Wales.

**Textual Amendments**

- F8** Words in s. 10(1) substituted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 15 para. 2(1)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F9** S. 10(1A) inserted (1.10.2002 for E. for specified purposes, 1.9.2003 for E. so far as not already in force, 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 15 para. 2(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2003/1667, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F10** S. 10(3) repealed (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 15 para. 2(3), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F11** Words in s. 10(4) substituted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 15 para. 2(4)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F12** S. 10(6)(a)-(d) substituted for s. 10(6)(a) (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 15 para. 2(5)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F13** S. 10(7) repealed (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 15 para. 2(6), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

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

- C15** s. 10(1) modified (*temp.*) (4.8.1998) by S.I. 1998/1878, **reg. 2**
- C16** S. 10(6)(a)(i) modified (*temp.*) (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 15 para. 8(3)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

**11 Establishment of Education Action Forum for zone.**

(1) An order establishing an education action zone under section 10(1) shall provide for the establishment of an Education Action Forum for the zone.

(2) An Education Action Forum shall be a body corporate <sup>F14</sup>... .

<sup>F15</sup>(3) . . . . .

(4) Schedule 1 has effect in relation to an Education Action Forum.

(5) The Forum established for an education action zone shall be dissolved by order of the Secretary of State with effect from the time when the zone ceases to exist in accordance with section 10(2).

(6) An order under subsection (5) may make provision for the transfer of property, staff, rights and liabilities of the Forum and for the preparation of a final statement of accounts.

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#### Textual Amendments

- F14** Words in s. 11(2) repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 15 para. 3\(a\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F15** S. 11(3) repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 15 para. 3\(b\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

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

- C17** S. 11 extended (10.3.1999) by [S.I. 1999/362](#), [reg. 2\(4\)](#).

### [<sup>F16</sup>11A Constitution of Education Action Forum

- (1) The members of an Education Action Forum must include—
- (a) one person appointed by the governing body of each of the participating schools, unless the governing body of any such school choose not to make such an appointment, and
  - (b) one or two persons appointed by the Secretary of State, unless he chooses not to make such appointments.
- (2) Subject to that, an Education Action Forum—
- (a) shall initially be constituted in accordance with the order under section 10(1), and
  - (b) may subsequently alter its membership (as set out in that order or as previously altered under this paragraph).
- (3) In subsection (2) the references to altering the Forum’s membership include—
- (a) altering the number of members, and
  - (b) altering who may appoint members.
- (4) An alteration may be made under subsection (2)(b) only if it is made—
- (a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and
  - (b) with the consent of the Secretary of State.]

#### Textual Amendments

- F16** S. 11A inserted (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 15 para. 4](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

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

- C18** S. 11A modified (temp.) (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 15 para. 8\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

### [<sup>F17</sup>11B Expansion of zone

- (1) An Education Action Forum established for an education action zone may add—
- (a) any eligible school (within the meaning of section 10(1A)), or
  - (b) any new school which has a temporary governing body,

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to the zone.

- (2) But a school may be added under this section only if it is added—
  - (a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and
  - (b) with the consent of the governing body of the school and of the Secretary of State.
- (3) For the purposes of this section references to a school being added to an education action zone are to it becoming one of the schools which constitute collectively the zone.

#### Textual Amendments

**F17** Ss. 11B, 11C inserted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 15 para. 5 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

### 11C Removal from zone

- (1) An Education Action Forum established for an education action zone may remove a participating school from the zone.
- (2) But a school may be removed under this section only if it is removed—
  - (a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and
  - (b) with the consent of the Secretary of State.
- (3) For the purposes of this section references to a school being removed from an education action zone are to it ceasing to be one of the schools which constitute collectively the zone.]

#### Textual Amendments

**F17** Ss. 11B, 11C inserted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 15 para. 5 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

### [<sup>F18</sup>11D Information relating to a Forum and its zone

- (1) An Education Action Forum established for an education action zone must provide the Secretary of State with details of—
  - (a) any alteration made to its constitution under section 11A(2)(b),
  - (b) any addition of a school to the zone under section 11B, and
  - (c) any removal of a school from the zone under section 11C.
- (2) The Forum must also, on a request being made by any person, provide him with—
  - (a) the name of each member of the Forum and of the person or body that appointed him,
  - (b) the name of any other person or body entitled to appoint a member, and
  - (c) the name of each participating school in relation to the zone.

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- (3) But the duty under subsection (2) is subject, in such circumstances as the Forum may determine, to the payment by the person concerned of a reasonable fee determined by the Forum.]

#### Textual Amendments

**F18** S. 11D inserted (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 15 para. 6](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

## 12 Functions of Education Action Forum.

- (1) An Education Action Forum shall have as its main object the improvement of standards in the provision of education at each of the participating schools.

[<sup>F19</sup>(1A) With the consent of the Secretary of State, a Forum may also carry on any other activities which it considers will promote the provision of, or access to, education whether in a participating school or otherwise.]

- (2) A Forum may, under arrangements made by the governing body of a participating school in respect of any prescribed function of that body relating to the conduct of the school, either—

- (a) discharge that function on behalf of the governing body until such time as they may specify in a request to the Forum to cease discharging the function on their behalf; or
- (b) assume full responsibility for the discharge of that function during the whole of the period for which the Forum remains in existence.

- (3) Regulations may make provision—

- (a) as to the circumstances in which the governing body of a participating school may make arrangements under subsection (2);
- (b) for the procedure to be followed by such a governing body in connection with the making of any such arrangements;
- (c) for the procedure to be followed by an Education Action Forum when discharging any function by virtue of that subsection;
- (d) for statutory provisions relating to governing bodies of maintained schools to apply, with any prescribed modifications, to an Education Action Forum when discharging any function by virtue of paragraph (b) of that subsection.

- (4) Regulations may, in relation to the discharge by an Education Action Forum of any function of a governing body [<sup>F20</sup>under sections 35 to 37 of, or Schedule 2 to, the Education Act 2002 or under regulations made under those sections,] make any such provision as may be made by an order under section 81 (application of employment law during financial delegation).

- (5) The Secretary of State may by a direction provide for any scheme under Chapter IV of Part II of this Act which relates to a participating school to have effect with such modifications as he considers appropriate in a case where an Education Action Forum is discharging any function in relation to the school by virtue of subsection (2)(b).

- (6) Before giving a direction under subsection (5) the Secretary of State shall consult the local education authority.

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#### Textual Amendments

- F19** S. 12(1A) inserted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 15 para. 7** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F20** Words in s. 12(4) substituted (1.9.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 90** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

### 13 Disapplication of pay and conditions order in relation to teachers at participating schools.

[<sup>F21</sup>For section 3 of the <sup>M3</sup>School Teachers' Pay and Conditions Act 1991 there shall be substituted—

#### “ Special provisions as to schools in education action zones.

- (1) A pay and conditions order shall not apply to the statutory conditions of employment of the school teachers in a participating school the governing body of which—
  - (a) have, by notice to the Secretary of State, made an application for exemption; and
  - (b) pursuant to that application are for the time being exempted from subsections (6) and (7) of section 2 above by virtue of an order under subsection (4) below.
- (2) Before making an application under subsection (1) above, the governing body of the participating school concerned shall consult the school teachers employed at the school with respect to the proposed application.
- (3) A notice of application under subsection (1) above shall specify a date, at least three months after the date of the notice, with effect from which the governing body of the participating school concerned intend to make their own provision as to the statutory conditions of employment of the school teachers employed at the school.
- (4) On receipt of a notice of application under subsection (1) above the Secretary of State may, by statutory instrument, make an order—
  - (a) naming the school; and
  - (b) specifying, as the date with effect from which, by virtue of the order, subsections (6) and (7) of section 2 above are not to apply, the date specified in the notice of application or such other date as may be agreed between the governing body and the Secretary of State.
- (5) Where by virtue of an order under subsection (4) above a pay and conditions order ceases to apply in relation to any school, the statutory conditions of employment of the school teachers employed at the school shall be—
  - (a) such as may be determined by the governing body, or
  - (b) so far as the governing body have not made any determination with respect to any such conditions of employment, those having effect under the order immediately before it ceased to apply;

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and (so far as necessary) the local education authority shall give effect to any such determination of the governing body.

(6) In this section “participating school” means one of the schools for the time being included in an order under section 10(1) of the School Standards and Framework Act 1998 establishing an education action zone.”]

#### Textual Amendments

**F21** S. 13 ceased to have effect (1.10.2002 for E. and otherwise prosp.) by virtue of [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 91](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with [Sch.](#)); S. 13 repealed (prosp) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 1](#) (with ss. 210(8), 214(4))

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

**C19** S. 13 excluded (1.9.1998) (*temp.*) by S.I. 1998/2115, [reg.3](#)

#### Marginal Citations

**M3** 1991 c. 49.

## CHAPTER IV

### INTERVENTION IN SCHOOLS [<sup>F22</sup>IN WALES] CAUSING CONCERN

#### Textual Amendments

**F22** Words in [Pt. 1 Ch. 4](#) heading inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 3](#); S.I. 2007/935, [art. 5\(cc\)](#)

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

**C20** Pt. 1 Chapter 4: Power to modify conferred (prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 25](#), 216 (with ss. 210(8), 214(4))

**C21** Pt. 1 Ch. 4: power to modify conferred (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), [ss. 25\(1\)\(a\)](#), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, [art. 4](#)

#### *Intervention by LEAs*

### 14 Powers of intervention exercisable by LEAs.

(1) If at any time section 15 applies to a maintained school by virtue of any of the following provisions of that section, namely—

- (a) subsection (1) (school subject to formal warning),
- (b) subsection (4) (school [<sup>F23</sup>requiring significant improvement]), or
- (c) subsection (6) (school requiring special measures),

the provisions mentioned in subsection (2) below (which confer powers of intervention on local education authorities) shall also apply to the school at that time unless excluded by subsection (3) below (intervention by [<sup>F24</sup>Assembly]).

<sup>F25</sup>(1A) .....

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- (2) Those provisions are—
- (a) section 16 (power to appoint additional governors);
  - [<sup>F26</sup>(aa) section 16A (power to provide for governing body to consist of interim executive members);] and
  - (b) section 17 (power to suspend right to delegated budget).

[<sup>F27</sup>(3) Those provisions shall not apply to a school to which section 15 applies by virtue of subsection (4) or (6) of that section (school [<sup>F28</sup>requiring significant improvement] or requiring special measures) if, in connection with the same inspection falling within subsection (4)(a) or (6)(a) of that section—

- (a) the [<sup>F29</sup>Assembly] has exercised in relation to the school [<sup>F29</sup>its] power under section 18 (power to appoint additional governors) and any additional governors appointed in the exercise of that power remain in office; or
- (b) [<sup>F30</sup>the Assembly] has exercised in relation to the school [<sup>F30</sup>its] power under section 19 (power to direct closure of school).]

[<sup>F31</sup>(3A) In this Chapter “maintained school” means any school in Wales that is—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.]

[<sup>F32</sup>(4) In this Chapter—

- [<sup>F33</sup>(a) “Chief Inspector” means Her Majesty's Chief Inspector of Education and Training in Wales,]
- [<sup>F34</sup>(b) . . . . .]
- (c) references to special measures being, or not being, required to be taken in relation to a school are to be read in accordance with section 44(1) of that Act, and
- (d) references to a school requiring, or not requiring, significant improvement are to be read in accordance with section 44(2) of that Act.]

#### Textual Amendments

- F23** Words in s. 14(1)(b) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 9 para. 14\(2\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F24** Word in s. 14(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 4\(2\)](#); S.I. 2007/935, art. 5(cc)
- F25** S. 14(1A) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 7 para. 4(3), [Sch. 18 Pt. 4](#); S.I. 2007/935, art. 5(cc)(ii)
- F26** S. 14(2)(aa) inserted (2.9.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 57\(1\)](#), 216(4) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2002, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1
- F27** S. 14(3) substituted (2.9.2002 for E., 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 56\(3\)](#), 216, [Sch. 5 para. 1](#) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F28** Words in s. 14(3) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 9 para. 14\(2\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F29** Words in s. 14(3)(a) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 4\(4\)\(a\)](#); S.I. 2007/935, art. 5(cc)
- F30** Words in s. 14(3)(b) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 4\(4\)\(b\)](#); S.I. 2007/935, art. 5(cc)
- F31** S. 14(3A) inserted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 4\(5\)](#); S.I. 2007/935, art. 5(cc)

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- F32** S. 14(4) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 9 para. 14(3)**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F33** S. 14(4)(a) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 4(6)(a)**; S.I. 2007/935, art. 5(cc)
- F34** S. 14(4)(b) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 7 para. 4(6)(b), **Sch. 18 Pt. 4**; S.I. 2007/935, art. 5(cc)(ii)

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

- C22** S. 14(2) modified (E.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 4(c)**
- C23** S. 14(2)(a) modified (W.) (19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 3(c)**
- C24** S. 14(2)(b) modified (W.) (19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 3(c)**

**15 Cases where LEA may exercise powers of intervention.**

- (1) This section applies to a maintained school by virtue of this subsection if—
- (a) the local education authority have—
    - (i) given the governing body a warning notice in accordance with subsection (2), and
    - (ii) given the head teacher of the school a copy of the notice at the same time as the notice was given to the governing body;
  - (b) the governing body have failed to comply, or secure compliance, with the notice to the authority’s satisfaction within the compliance period; and
  - (c) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under <sup>F35</sup>any one or more of sections 16, 16A and 17] (whether or not the notice is combined with a notice under section 62(3)(c)).
- (2) A local education authority may give a warning notice to the governing body of a maintained school where—
- (a) the authority are satisfied—
    - (i) that the standards of performance of pupils at the school are unacceptably low and are likely to remain so unless the authority exercise their powers under <sup>F36</sup>any one or more of sections 16, 16A and 17], or
    - (ii) that there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or
    - (iii) that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise); and
  - (b) the authority have previously informed the governing body and the head teacher of the matters on which that conclusion is based; and
  - (c) those matters have not been remedied to the authority’s satisfaction within a reasonable period.
- (3) For the purposes of subsections (1) and (2) a “warning notice” is a notice in writing by the local education authority setting out—
- (a) the matters referred to in subsection (2)(b);



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- (b) the action which they require the governing body to take in order to remedy those matters; and
- (c) the period within which that action is to be taken by the governing body (“the compliance period”).

[<sup>F37</sup>(3A) For the purposes of subsection (2)(a) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—

- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain,
- (b) where relevant, the standards previously attained by them, or
- (c) the standards attained by pupils at comparable schools.]

[<sup>F38</sup>(4) This section applies to a maintained school by virtue of this subsection if—

- (a) following an inspection of the school under Chapter 3 of Part 1 of the Education Act 2005, the Chief Inspector has given the Assembly a notice under subsection (2) of section 37 of that Act in a case falling within subsection (1)(a)(ii) or (b)(ii) of that section (school requiring significant improvement), and
- (b) where any subsequent inspection of the school has been made under that Chapter, the notice has not been superseded by—
  - (i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or
  - (ii) the Chief Inspector giving the Assembly a notice under subsection (2) of section 37 of that Act in case falling within subsection (1)(a)(i) or (1)(b)(i) of that section (school requiring special measures).]

<sup>F39</sup>(5) .....

[<sup>F40</sup>(6) This section applies to a maintained school by virtue of this subsection if—

- (a) following an inspection of the school under Chapter 3 of Part 1 of the Education Act 2005, the Chief Inspector has given the Assembly a notice under subsection (2) of section 37 of that Act in a case falling within subsection (1)(a)(i) or (b)(i) of that section (school requiring special measures), and
- (b) where any subsequent inspection of the school has been made under that Chapter, the notice has not been superseded by the person making the subsequent inspection making a report stating that in his opinion the school no longer requires special measures.]

<sup>F41</sup>(7) .....

#### Textual Amendments

- F35** Words in s. 15(1)(c) substituted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 1\(2\)](#); S.I. 2008/1429, art. 3(2), Sch. Pt. 2
- F36** Words in s. 15(2)(a)(i) substituted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 1\(2\)](#); S.I. 2008/1429, art. 3(2), Sch. Pt. 2
- F37** S. 15(3A) inserted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 1\(3\)](#); S.I. 2008/1429, art. 3(2), Sch. Pt. 2
- F38** S. 15(4) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 5\(2\)](#); S.I. 2007/935, art. 5(cc) (with art. 8(1))

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- F39** S. 15(5) repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 9 para. 15(3), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F40** S. 15(6) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 5(3)**; S.I. 2007/935, art. 5(cc) (with art. 8(1))
- F41** S. 15(7) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 7 para. 5(4), **Sch. 18 Pt. 4**; S.I. 2007/935, art. 5(cc)(ii) (with art. 8(1))

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

- C25** S. 15(4) modified (E.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113 ), {reg. 4(a)}
- S. 15(4) modified (W.) (19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 3(a)**
- C26** S. 15(6) modified (E.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 4(a)**
- S. 15(6) modified (W.) (19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 3(a)**

**16 Power of LEA to appoint additional governors.**

- (1) If at any time this section applies to a maintained school in accordance with section 14(1), then (subject to subsections (2) and (3)) the local education authority may appoint such number of additional governors as they think fit.
- (2) Where this section so applies in the case of a school falling within section 15(1) (school subject to formal warning), the power conferred by subsection (1) above is only exercisable within the period of two months following the end of the compliance period.
- [<sup>F42</sup>(3) Where this section so applies in the case of a school falling within section 15(4) (school [<sup>F43</sup>requiring significant improvement]) or section 15(6)(school requiring special measures), the power conferred by subsection (1) above is exercisable only if the following conditions are satisfied, namely—
- [<sup>F44</sup>(a) the Chief Inspector has given the local education authority a notice under section <sup>F45</sup>... 37(2) of the Education Act 2005]
- (b) a period of not less than ten days has elapsed since the date of the notice.]
- (4) <sup>F46</sup>.....
- (5) In relation to any appointment made by the local education authority by virtue of subsection (1) to the governing body of a school, the instrument of government for the school shall have effect as if [<sup>F47</sup>(despite anything in regulations under section 19 of the Education Act 2002)] it provided for the local education authority to appoint such number of additional governors as they think fit.
- (6) If at any time—
- (a) this section applies to a voluntary aided school other than one falling within [<sup>F48</sup>section 15(4) or (6)] , and
- (b) the local education authority have exercised their power to appoint additional governors under subsection (1),
- the appropriate appointing authority may appoint such number of additional foundation governors as is equal to the number of additional governors appointed by the authority.

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- (7) Any additional foundation governors appointed under subsection (6)—
- (a) shall cease to hold office at the time when the additional governors appointed by the authority cease to do so; and
  - (b) shall not be eligible for re-appointment except where, and to the extent that, those governors are re-appointed.
- (8) If—
- (a) at any time this section applies to a voluntary aided school falling within [F49]section 15(4) or (6)] , and
  - [F50](b) paragraph (a) of section 14(3) does not apply in connection with the same inspection falling within subsection (4)(a) or (6)(a) of section 15,]
- the appropriate appointing authority may (subject to subsection (9)) appoint such number of additional foundation governors as they think fit.
- [F51](9) The power conferred by subsection (8) is only exercisable if the following conditions are satisfied, namely—
- (a) the appropriate appointing authority have received a notice in writing from the [F52]Assembly] informing them that [F53]it] has received from the Chief Inspector a notice under [F54]section F55 ... 37(2) of the Education Act 2005], and
  - (b) a period of not less than ten days has elapsed since the date of the notice from the [F45]Assembly].]
- (10) In the case of any appointment made by virtue of subsection (6) or (8) to the governing body of a school, the instrument of government for the school shall have effect as if [F56](despite anything in regulations under section 19 of the Education Act 2002)] the instrument provided for the appropriate appointing authority to appoint such number of additional foundation governors as they are authorised to appoint under subsection (6) or (8) (as the case may be).
- (11) Subject to subsection (12), references in this section to the appropriate appointing authority in relation to any voluntary aided school are references—
- (a) to the appropriate diocesan authority, if it is a Church of England school, Church in Wales school or Roman Catholic Church school; or
  - (b) in any other case, to the person or persons by whom the foundation governors are appointed.
- (12) Where, in the case of any voluntary aided school not falling within subsection (11)(a), there are different powers to appoint foundation governors, references in this section to the appropriate appointing authority are references—
- (a) to all those persons who have any such power acting jointly, or
  - (b) if they are unable to agree, to such of them acting jointly, or such one of them, as the [F57]Assembly] may, after consulting all those persons, determine.
- [F58](12A) The [F59]Assembly] may in respect of any particular school determine that subsections (3)(b) and (9)(b) shall have effect as if the reference to ten days were to such shorter period as [F60]the Assembly] may determine.]
- (13) F61 .....

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.  
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### Textual Amendments

- F42** S. 16(3) substituted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 2\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F43** Words in s. 16(3) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 16\(2\)\(a\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F44** S. 16(3)(a) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 16\(2\)\(b\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F45** Words in s. 16(3)(a) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(2\), Sch. 18 Pt. 4](#); S.I. 2007/935, art. 5(cc)(ii) (with art. 8(2))
- F46** S. 16(4) repealed (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 215\(2\), 216, Sch. 5 para. 2\(3\), Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F47** Words in s. 16(5) substituted (1.9.2003 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 93\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.
- F48** Words in s. 16(6)(a) substituted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 2\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F49** Words in s. 16(8)(a) substituted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 2\(5\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F50** S. 16(8)(b) substituted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 2\(5\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F51** S. 16(9) substituted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 2\(6\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F52** Word in s. 16(9) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(3\)\(a\)](#); S.I. 2007/935, art. 5(cc) (with art. 8(2))
- F53** Word in s. 16(9)(a) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(3\)\(b\)\(i\)](#); S.I. 2007/935, art. 5(cc) (with art. 8(2))
- F54** Words in s. 16(9)(a) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 16\(3\)](#); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F55** Words in s. 16(9)(a) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(3\)\(b\)\(ii\), Sch. 18 Pt. 4](#); S.I. 2007/935, art. 5(cc)(ii) (with art. 8(2))
- F56** Words in s. 16(10) substituted (1.9.2003 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 93\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.
- F57** Word in s. 16(12)(b) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(4\)](#); S.I. 2007/935, art. 5(cc) (with art. 8(2))
- F58** S. 16(12A) inserted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 2\(7\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F59** Word in s. 16(12A) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(5\)\(a\)](#); S.I. 2007/935, art. 5(cc) (with art. 8(2))
- F60** Words in s. 16(12A) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 6\(5\)\(b\)](#); S.I. 2007/935, art. 5(cc) (with art. 8(2))
- F61** S. 16(13) repealed (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, 215\(2\), Sch. 5 para. 2\(8\), Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1

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

- C27** S. 16 modified (E.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [reg. 4\(c\)](#)  
S. 16 modified (W.) (19.12.2002) by [The Education Act 2002 \(Transitional Provisions\) \(Wales\) Regulations 2002 \(S.I. 2002/3184\)](#), [reg. 3\(c\)](#)

#### Commencement Information

- II** S. 16 wholly in force at 1.9.1999; s. 16 not in force at Royal Assent see s. 145(3); s. 16(1)–(5) and (13) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); s. 16 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

### [<sup>F62</sup>16A Power of LEA to provide for governing body to consist of interim executive members

- (1) If at any time this section applies to a maintained school in accordance with section 14(1), then (subject to subsections (2) and (3)) the local education authority may, with the consent of the [<sup>F63</sup>Assembly], give the governing body a notice in writing stating that, as from a date specified in the notice, the governing body are to be constituted in accordance with Schedule 1A (governing bodies consisting of interim executive members).
- (2) Where this section so applies in the case of a school falling within section 15(4) (school [<sup>F64</sup>requiring significant improvement]) or section 15(6)(school requiring special measures), the power conferred by subsection (1) above is exercisable only if the following conditions are satisfied, namely—
  - [ the Chief Inspector has given the local education authority a notice under <sup>F65</sup>(a) section <sup>F66</sup>... 37(2) of the Education Act 2005, and]
  - (b) a period of not less than ten days has elapsed since the date of the notice.
- (3) The [<sup>F67</sup>Assembly] may in respect of any particular school determine that subsection (2)(b) shall have effect as if the reference to ten days were to such shorter period as [<sup>F68</sup>the Assembly] may determine.
- (4) Before exercising the power conferred by subsection (1), the local education authority shall consult—
  - (a) the governing body of the school,
  - (b) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.]

#### Textual Amendments

- F62** S. 16A inserted (2.9.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 57\(2\)](#), 216(4) (with [ss. 210\(8\)](#), 214(4)); [S.I. 2002/2002](#), [art. 4](#); [S.I. 2007/3611](#), [art. 4\(1\)](#), [Sch. Pt. 1](#)
- F63** Word in s. 16A(1) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [s. 188\(3\)](#), [Sch. 7 para. 7\(2\)](#); [S.I. 2007/935](#), [art. 5\(cc\)](#) (with [art. 8\(3\)](#))
- F64** Words in s. 16A(2) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), [s. 125\(4\)](#), [Sch. 9 para. 17\(a\)](#); [S.I. 2005/2034](#), [art. 4](#); [S.I. 2006/1338](#), [art. 3](#), [Sch. 1](#)

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- F65** S. 16A(2)(a) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 9 para. 17(b)**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F66** Words in s. 16A(2)(a) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 7 para. 7(3), **Sch. 18 Pt. 4**; S.I. 2007/935, art. 5(cc)(ii) (with art. 8(3))
- F67** Word in s. 16A(3) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 7(4)(a)**; S.I. 2007/935, art. 5(cc) (with art. 8(3))
- F68** Words in s. 16A(3) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 7(4)(b)**; S.I. 2007/935, art. 5(cc) (with art. 8(3))

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

- C28** S. 16A modified (E.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 4(c)**

**17 Power of LEA to suspend right to delegated budget.**

- (1) If at any time—
- (a) this section applies to a maintained school in accordance with section 14(1), and
  - (b) the school has a delegated budget within the meaning of Part II of this Act, then (subject to subsections (2) and (3)) the local education authority may, by giving the governing body of the school notice in writing of the suspension, suspend the governing body's right to a delegated budget with effect from the receipt of the notice by the governing body.
- (2) Where this section so applies in the case of a school falling within section 15(1) (school subject to formal warning), the power conferred by subsection (1) above is only exercisable within the period of two months following the end of the compliance period.
- [<sup>F69</sup>(3) Where this section so applies in the case of a school falling within section 15(4) (school [<sup>F70</sup>requiring significant improvement]) or section 15(6)(school requiring special measures), the power conferred by subsection (1) above is exercisable only if the following conditions are satisfied, namely—
- [<sup>F71</sup>(a) the Chief Inspector has given the local education authority a notice under section <sup>F72</sup>... 37(2) of the Education Act 2005, and]
  - (b) a period of not less than ten days has elapsed since the date on which the copy was given.]
- (4) The [<sup>F73</sup>Assembly] may in respect of any particular school determine that [<sup>F74</sup>subsection (3)(b)] shall have effect as if the reference to ten days were to such shorter period as [<sup>F75</sup>the Assembly] may determine.
- (5) A copy of a notice given under subsection (1) shall be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (6) A suspension imposed under this section shall have effect for the purposes of Chapter IV of Part II of this Act as if made under paragraph 1 of Schedule 15 to this Act, [<sup>F76</sup>but there shall be no right of appeal under paragraph 3 of that Schedule against such a suspension].

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### Textual Amendments

- F69** S. 17(3) substituted (2.9.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 3\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F70** Words in s. 17(3) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 18\(a\)](#); S.I. 2005/2034, [art. 4](#); S.I. 2006/1338, [art. 3](#), Sch. 1
- F71** S. 17(3)(a) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 9 para. 18\(b\)](#); S.I. 2005/2034, [art. 4](#); S.I. 2006/1338, [art. 3](#), Sch. 1
- F72** Words in s. 17(3) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 8\(2\), Sch. 18 Pt. 4](#); S.I. 2007/935, [art. 5\(cc\)\(ii\)](#) (with [art. 8\(4\)](#))
- F73** Word in s. 17(4) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 8\(3\)\(a\)](#); S.I. 2007/935, [art. 5\(cc\)](#) (with [art. 8\(4\)](#))
- F74** Words in s. 17(4) substituted (2.9.2002 for E. and 19.12.2002 for W. ) by [Education Act 2002 \(c. 32\), ss. 56\(3\), 216, Sch. 5 para. 3\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F75** Words in s. 17(4) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 8\(3\)\(b\)](#); S.I. 2007/935, [art. 5\(cc\)](#) (with [art. 8\(4\)](#))
- F76** Words in s. 17(6) repealed (8.2.2007 for E., 2.4.2010 for W.) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 5 para. 1, Sch. 18 Pt. 6](#); S.I. 2006/3400, [art. 4\(c\)\(d\)](#); S.I. 2010/736, [art. 3\(c\)\(d\)](#)

### Modifications etc. (not altering text)

- C29** S. 17 modified (E.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\), reg. 4\(c\)](#)  
S. 17 modified (W.) (19.12.2002) by [The Education Act 2002 \(Transitional Provisions\) \(Wales\) Regulations 2002 \(S.I. 2002/3184\), reg. 3\(c\)](#)

## *Intervention by <sup>F77</sup>Assembly*

### Textual Amendments

- F77** Word in s. 18 cross-heading substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 9](#); S.I. 2007/935, [art. 5\(cc\)](#)

## **18 Power of <sup>F78</sup>Assembly to appoint additional governors.**

<sup>F79</sup>(1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely—

- (a) subsection (4)(school <sup>F80</sup>requiring significant improvement)], or
- (b) subsection (6)(school requiring special measures),

<sup>F81</sup>the Assembly] may appoint such number of additional governors as he thinks fit; and he may nominate one of those governors to be the chairman of the governing body in place of any person who has been elected as chairman of that body.]

(2) Before making any such appointment in relation to a voluntary aided school, <sup>F81</sup>the Assembly] shall consult—

- (a) in the case of a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority; or
- (b) in any other case, the person who appoints the foundation governors.

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- (3) A governor appointed under this section—
- (a) shall hold office as governor for such term, and
  - (b) if nominated as chairman of the governing body, shall be chairman of that body for such period,
- as <sup>F81</sup>the Assembly] may determine.
- (4) <sup>F81</sup>The Assembly] may pay to any governor appointed under this section such remuneration and allowances as <sup>F81</sup>the Assembly] may determine.
- (5) In relation to any appointment made by <sup>F81</sup>the Assembly] by virtue of subsection (1) to the governing body of a school, the instrument of government for the school shall have effect as if <sup>F82</sup>(despite anything in regulations under section 19 of the Education Act 2002)] it provided for <sup>F81</sup>the Assembly] to appoint such number of additional governors as he thinks fit.
- (6) Where <sup>F81</sup>the Assembly] has exercised <sup>F83</sup>the Assembly's] power under this section in relation to a school, then—
- (a) in any such case—
    - (i) the local education authority may not exercise their power under paragraph 1 of Schedule 15 to suspend the governing body's right to a delegated budget, and
    - (ii) if they have already exercised that power or their power under section 17(1), <sup>F81</sup>the Assembly] shall, if requested to do so by the governing body, revoke the suspension; and
  - (b) in the case of a voluntary aided school, nothing in <sup>F84</sup>regulations under section 19 of the Education Act 2002] shall be read as authorising the appointment of foundation governors for the purpose of outnumbering the other governors as augmented by those appointed by <sup>F81</sup>the Assembly] under this section.
- (7) The revocation of a suspension under subsection (6)(a) shall—
- (a) be notified to the local education authority in writing; and
  - (b) take effect from such date as is specified in that notification.

#### Textual Amendments

- F78** Word in s. 18 heading substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 10(4)**; S.I. 2007/935, art. 5(cc)
- F79** S. 18(1) substituted (2.9.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), **ss. 56(1), 216** (with **ss. 210(8), 214(4)**); S.I. 2002/2002, **art. 4**; S.I. 2002/3185, **art. 4**, Sch. Pt. 1
- F80** Words in s. 18(1)(a) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 9 para. 19**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F81** Words in s. 18 substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 10(2)**; S.I. 2007/935, art. 5(cc)
- F82** Words in s. 18(5) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 94(2)** (with **ss. 210(8), 214(4)**); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.
- F83** Words in s. 18(6) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 10(3)**; S.I. 2007/935, art. 5(cc)
- F84** Words in s. 18(6)(b) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 94(3)** (with **ss. 210(8), 214(4)**); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.



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

- C30** S. 18(1) modified (E.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [reg. 4\(b\)](#)  
S. 18(1) modified (W.) (19.12.2002) by [The Education Act 2002 \(Transitional Provisions\) \(Wales\) Regulations 2002 \(S.I. 2002/3184\)](#), [reg. 3\(b\)](#)

### [<sup>F85</sup>18A Power of [<sup>F86</sup>Assembly] to provide for governing body to consist of interim executive members

- (1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely—
- (a) subsection (4)(school [<sup>F87</sup>requiring significant improvement]), or
  - (b) subsection (6)(school requiring special measures),
- the [<sup>F86</sup>Assembly] may give the governing body a notice in writing stating that, as from the date specified in the notice, the governing body are to be constituted in accordance with Schedule 1A (governing bodies consisting of interim executive members).
- (2) Before exercising the power conferred by subsection (1), the [<sup>F86</sup>Assembly] shall consult—
- (a) the local education authority,
  - (b) the governing body of the school,
  - (c) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) The [<sup>F86</sup>Assembly] is not obliged to consult the persons mentioned in subsection (2)(b), (c) and (d) if the local education authority have consulted them under subsection (4) of section 16A in relation to a proposed notice under subsection (1) of that section.]

#### Textual Amendments

- F85** S. 18A inserted (2.9.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 58](#), 216(4) (with [ss. 210\(8\)](#), 214(4)); [S.I. 2002/2002](#), [art. 4](#); [S.I. 2007/3611](#), [art. 4\(1\)](#), Sch. Pt. 1
- F86** Word in s. 18A and heading substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [s. 188\(3\)](#), [Sch. 7 para. 11](#); [S.I. 2007/935](#), [art. 5\(cc\)](#)
- F87** Words in s. 18A(1)(a) substituted (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), [s. 125\(4\)](#), [Sch. 9 para. 20](#); [S.I. 2005/2034](#), [art. 4](#); [S.I. 2006/1338](#), [art. 3](#), Sch. 1

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

- C31** S. 18A modified (E.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [reg. 4\(b\)](#)

### 19 Power of [<sup>F88</sup>Assembly] to direct closure of school.

- [<sup>F89</sup>(1) If at any time section 15 applies to a maintained school by virtue of subsection (6) of that section (school requiring special measures), the [<sup>F88</sup>Assembly] may give a direction to the local education authority requiring the school to be discontinued on a date specified in the direction.]

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- (2) Before giving a direction under subsection (1), the [<sup>F88</sup>Assembly] shall consult—
- (a) the local education authority and the governing body of the school;
  - (b) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority;
  - (c) in the case of any other foundation or voluntary school, the person who appoints the foundation governors;
  - <sup>F90</sup>(ca) . . . . .
  - (d) such other persons as the [<sup>F88</sup>Assembly] considers appropriate.
- (3) On giving a direction under subsection (1) the [<sup>F88</sup>Assembly] shall give notice in writing of the direction to the governing body of the school and its head teacher.
- (4) Where the local education authority are given a direction under subsection (1), they shall discontinue the school in question on the date specified in the direction; and nothing in sections 29 to 33 shall apply to their discontinuance of the school under this section.
- (5) In this section any reference to the discontinuance of a maintained school is to the local education authority ceasing to maintain it.

#### Textual Amendments

- F88** Word in s. 19 and heading substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 12(2)**; S.I. 2007/935, art. 5(cc)
- F89** S. 19(1) substituted (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), **ss. 45, 125(4)** (with s. 119); S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1
- F90** S. 19(2)(ca) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 7 para. 12(3), **Sch. 18 Pt. 4**; S.I. 2007/935, art. 5(cc)(ii)

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

- C32** S. 19 applied (with modifications) (E.) (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 1 para. 4**
- C33** S. 19 applied (with modifications) (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 1 para. 4**
- C34** S. 19(1) modified (E.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 4(b)**  
 S. 19(1) modified (W.) (19.12.2002) by The Education Act 2002 (Transitional Provisions) (Wales) Regulations 2002 (S.I. 2002/3184), **reg. 3(b)**

*[<sup>F91</sup>Governing bodies consisting of interim executive members*

#### Textual Amendments

- F91** S. 19A and cross-heading inserted (2.9.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), **ss. 59(1), 216(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

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## 19A Governing bodies consisting of interim executive members

The provisions of Schedule 1A shall have effect in relation to any school in respect of which a notice has been given—

- (a) under section 16A(1), by the local education authority, or
- (b) under section 18A(1), by the [<sup>F92</sup>Assembly].]

### Textual Amendments

**F92** Word in s. 19A(b) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 13](#); [S.I. 2007/935, art. 5\(cc\)](#)

### Modifications etc. (not altering text)

**C35** S. 19A modified (E.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\), reg. 4\(b\)](#)

## PART II

### NEW FRAMEWORK FOR MAINTAINED SCHOOLS

#### CHAPTER I

##### INTRODUCTORY

##### *The new categories of schools*

## 20 New categories of maintained schools.

- (1) Schools maintained by local education authorities on or after the appointed day shall be divided into the following categories—
  - (a) community schools;
  - (b) foundation schools;
  - (c) voluntary schools, comprising—
    - (i) voluntary aided schools, and
    - (ii) voluntary controlled schools;
  - (d) community special schools; and
  - (e) foundation special schools.
- (2) A school maintained by a local education authority is a school falling within one of the categories set out in subsection (1) if—
  - (a) it became a school of that category on the appointed day in accordance with Schedule 2 (and has not changed its category under [<sup>F93</sup>the change of category provisions]); or
  - (b) it was established as a school of that category under [<sup>F94</sup>any enactment] (and has not changed its category under [<sup>F93</sup>the change of category provisions]); or
  - (c) it has become a school of that category in accordance with [<sup>F93</sup>the change of category provisions].

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- [<sup>F95</sup>(2A) In subsection (2) “the change of category provisions” means—
- (a) in the case of a school in England, Schedule 8 to this Act or sections 18 to 24 of the Education and Inspections Act 2006, and
  - (b) in the case of a school in Wales, Schedule 8 to this Act.]
- (3) Schedule 2 makes provision for, and in connection with, the allocation to the categories set out in subsection (1) of schools which immediately before the appointed day were (within the meaning of the <sup>M4</sup>Education Act 1996)—
- (a) county, voluntary or maintained special schools, or
  - (b) grant-maintained or grant-maintained special schools.
- (4) As from the appointed day a local education authority shall maintain (as a school falling within one of those categories)—
- (a) any school within subsection (3)(a) which was maintained by the authority immediately before that day; and
  - (b) (subject to subsection (5)) any school within subsection (3)(b) which immediately before that day was situated within the authority’s area.
- (5) Where a grant-maintained school within subsection (3)(b)—
- (a) was, immediately before becoming such a school, maintained by a local education authority (“the former maintaining authority”) other than the one within whose area it was then situated, and
  - (b) remains outside the area of the former maintaining authority immediately before the appointed day,
- nevertheless, if an order made by the Secretary of State before that day so provides, as from that day the school shall be maintained (as a school falling within one of the categories set out in subsection (1)) by the former maintaining authority rather than the authority in whose area it is situated on that day.
- (6) In this section “school” means a primary, secondary or special school, including a nursery school which is a special school but excluding—
- (a) a nursery school which is not a special school; and
  - (b) a pupil referral unit.
- (7) In this Act—
- “the appointed day” (except in Part I of Schedule 32) means such day as may be appointed for the purposes of this section by an order made by the Secretary of State;
- “maintained school” means (unless the context otherwise requires) a community, foundation or voluntary school or a community or foundation special school.
- (8) Any reference in this Act to the categories set out in subsection (1) or to any such category is to be read, in its application to voluntary schools, as (or as including) a reference to the sub-categories set out in subsection (1)(c)(i) and (ii) or to any such sub-category.

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**Subordinate Legislation Made**

**P1** S. 20: power conferred by s. 20(7) exercised: 1.9.1999 appointed by [S.I. 1998/2083](#), [art. 2](#)

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### Textual Amendments

- F93** Words in s. 20(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 13(2)**; S.I. 2007/935, art. 7(o)
- F94** Words in s. 20(2)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 95** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F95** S. 20(2A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 13(3)**; S.I. 2007/935, art. 7(o)

### Modifications etc. (not altering text)

- C36** S. 20 extended (1.4.1999) by S.I. 1999/704, **reg. 2(4)**.

### Marginal Citations

- M4** 1996 c. 56.

## 21 Kinds of foundation and voluntary schools and types of foundations.

- (1) There may be three kinds of foundation school—
- (a) those having a foundation established otherwise than under this Act;
  - (b) those belonging to a group of schools for which a foundation body acts under this section; and
  - (c) those not falling within either of paragraphs (a) and (b).
- (2) There may be three kinds of voluntary controlled or voluntary aided school—
- (a) those having a foundation established otherwise than under this Act;
  - (b) those belonging to a group of schools for which a foundation body acts under this section; and
  - (c) those not falling within either of paragraphs (a) and (b) but having been either of the following immediately before the appointed day, namely—
    - (i) a voluntary school, or
    - (ii) a grant-maintained school that was a voluntary school immediately before becoming grant-maintained,
 within the meaning of the <sup>M5</sup>Education Act 1996.
- (3) For the purposes of this Act—
- (a) “foundation”, in relation to a foundation or voluntary school, means—
    - (i) any body of persons (whether incorporated or not but excluding the governing body) which holds land on trust for the purposes of the school, or
    - (ii) a foundation body;
  - (b) a school “has” a foundation if—
    - (i) such a body of persons exists for holding land on trust for the purposes of the school, or
    - (ii) the school belongs to a group of schools for which a foundation body acts under this section; and
  - (c) references to land or other property held on trust, or by trustees, for the purposes of a school include references to land or other property which—
    - (i) is held on trust for purposes which (whether the trust deed expressly so provides or not) include the purposes of the school, and

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(ii) is used for the purposes of the school.

(4) For the purposes of this Act—

- (a) “foundation body” means a body corporate established under this section to perform, in relation to three or more schools each of which is either a foundation or a voluntary school, the following functions, namely—
  - (i) to hold property of those schools for the purposes of the schools, and
  - (ii) to appoint foundation governors for those schools; and
- (b) “the group”, in relation to a foundation body, means the group of three or more schools for which the body performs those functions.

(5) The Secretary of State may by regulations make provision for and in connection with—

- (a) the establishment, membership, functions and winding up of a foundation body, and
- (b) the steps to be taken in connection with schools joining or leaving the group.

(6) Regulations under subsection (5) may, in particular, make provision—

- (a) with respect to the transfer of property, rights and liabilities to and from a foundation body when schools join or leave the group but do not change category in accordance with Schedule 8 [<sup>F96</sup>or under section 19 of the Education and Inspections Act 2006];
- (b) with respect to the revision or replacement of the instruments of government of schools joining or leaving the group in such circumstances and the reconstitution of their governing bodies;
- (c) authorising a foundation body to appoint foundation governors to every school in the group;
- (d) prescribing a model instrument of government for adoption by a foundation body subject to variations approved by the Secretary of State;
- (e) for conferring functions with respect to the resolution of disputes—
  - (i) between schools in the group, or
  - (ii) between one or more such schools and a foundation body,
 on such person or body as may be specified in the regulations;
- (f) in connection with a school leaving the group—
  - (i) for requiring the publication of proposals under paragraph 2 of Schedule 8 [<sup>F97</sup>or under section 19 of the Education and Inspections Act 2006] (procedure for changing category of school);
  - (ii) for enabling the Secretary of State to require the publication under that paragraph [<sup>F98</sup>or that section] of proposals for the school to become a school of a category specified by him;
  - (iii) for preventing a voluntary school [<sup>F99</sup>in Wales] from becoming one falling within subsection (2)(a) unless any conditions specified in pursuance of paragraph 4(2)(b) of that Schedule are satisfied in relation to the school;
- (g) for the dissolution of a foundation body by order of the Secretary of State;
- (h) for enabling the Secretary of State, in the case of any land held by a foundation body immediately before its dissolution which by virtue of this Act could not be disposed of without his consent [<sup>F100</sup>or to the disposal of which paragraph A9 of Schedule 22 would apply], to determine how that land is to be dealt with on its dissolution;

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- (i) for conferring functions on <sup>F101</sup>... adjudicators including any functions which might otherwise be conferred on the Secretary of State.
- (7) Regulations made in pursuance of subsection (6)(b) may, in connection with the making or variation of instruments of government in preparation for schools joining or leaving the group, modify paragraph 1 of Schedule 12 in its operation in relation to such instruments of government.
- (8) The Secretary of State may, after consulting a foundation body, make an order modifying the instrument of government adopted by that body.
- (9) Regulations may make provision for applying to foundation special schools, with or without modifications—
  - (a) any of the provisions of subsections (3) to (8); or
  - (b) any provision of Schedule 21 to this Act (transfers of land on appointed day).

#### Textual Amendments

- F96** Words in s. 21(6)(a) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 14\(a\)](#); S.I. 2007/935, art. 7(o)
- F97** Words in s. 21(6)(f)(i) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 14\(b\)\(i\)](#); S.I. 2007/935, art. 7(o)
- F98** Words in s. 21(6)(f)(ii) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 14\(b\)\(ii\)](#); S.I. 2007/935, art. 7(o)
- F99** Words in s. 21(6)(f)(iii) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 14\(b\)\(iii\)](#); S.I. 2007/935, art. 7(o)
- F100** Words in s. 21(6)(h) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 14\(c\)](#); S.I. 2007/935, art. 7(o)
- F101** Words in s. 21(6)(i) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 14\(d\), Sch. 18 Pt. 3](#); S.I. 2007/935, art. 7(o)(q)

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

- C37** [S. 21\(3\) applied \(with modifications\) \(E.\) \(25.5.2007\) by The School Organisation \(Foundation Special Schools\) \(Application of Provisions Relating to Foundations\) \(England\) Regulations 2007 \(S.I. 2007/1329\), regs. 1\(1\), 2](#)

#### Marginal Citations

- M5** [1996 c. 56.](#)

## 22 Maintenance and other funding of schools. **E**

- (1) A local education authority are under a duty to maintain the following schools—
  - (a) any maintained schools which they are required to maintain by virtue of section 20(4) or (5);
  - (b) any maintained schools established by them <sup>F102</sup>...;
  - (c) any maintained schools established in their area <sup>F103</sup>... otherwise than by them or any other local education authority; and
  - (d) any maintained nursery school established by them.

[<sup>F104</sup>(2) Subsection (1) has effect subject to any statutory provision authorising the discontinuance of a maintained school or maintained nursery school.]

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- (3) In the case of a community school, a community special school or a maintained nursery school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - (b) the duty of making premises available to be used for the purposes of the school.
- (4) In the case of a foundation, voluntary controlled or foundation special school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - (b) the duty, [<sup>F105</sup>under any enactment of providing new premises for the school].
- (5) In the case of a voluntary aided school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, except any [<sup>F106</sup>expenditure that by virtue of paragraph 3 of Schedule 3 is to be met] by the governing body, and
  - (b) the duty, [<sup>F107</sup>under any enactment of providing new premises for the school].
- (6) For the purposes of this Act the expenses of maintaining a foundation, voluntary or foundation special school include the payment of rates.
- (7) Schedule 3 (which makes provision as to the functions of governing bodies, local education authorities and the Secretary of State as to the funding of foundation, voluntary and foundation special schools) shall have effect.
- (8) In this Act—
- (a) in relation to a school maintained (or proposed to be maintained) by a local education authority, “the local education authority” means that authority; and
  - (b) in relation to schools falling within subsections (3) to (6), “maintain” shall be read in accordance with those subsections.
- (9) In this Act “maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school.

#### Extent Information

**E2** This version of this provision extends to England only; a separate version has been created for Wales.

#### Textual Amendments

**F102** Words in s. 22(1)(b) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(2\)\(a\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F103** Words in s. 22(1)(c) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(2\)\(b\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F104** S. 22(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 15](#); S.I. 2007/935, art. 7(o)

**F105** Words in s. 22(4)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F106** Words in s. 22(5)(a) substituted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), [art. 3](#)



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**F107** Words in s. 22(5)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 21 para. 96\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

## 22 Maintenance and other funding of schools. **W**

- (1) A local education authority are under a duty to maintain the following schools—
- (a) any maintained schools which they are required to maintain by virtue of section 20(4) or (5);
  - <sup>F1017</sup>(b) any maintained schools established by them <sup>F1018</sup> . . . ;
  - <sup>F1019</sup>(c) any maintained schools established in their area <sup>F1020</sup> . . . otherwise than by them or any other local education authority; and
  - (d) any maintained nursery school established by them.

[<sup>F104</sup>(2) Subsection (1) has effect subject to any statutory provision authorising the discontinuance of a maintained school or maintained nursery school.]

- (3) In the case of a community school, a community special school or a maintained nursery school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - (b) the duty of making premises available to be used for the purposes of the school.

- (4) In the case of a foundation, voluntary controlled or foundation special school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - <sup>F1021</sup>(b) the duty, [<sup>F1022</sup>under any enactment of providing new premises for the school] .

- (5) In the case of a voluntary aided school, the local education authority’s duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, except any expenses that by virtue of paragraph 3 of Schedule 3 are payable by the governing body, and
  - <sup>F1023</sup>(b) the duty, [<sup>F1024</sup>under any enactment of providing new premises for the school] .

- (6) For the purposes of this Act the expenses of maintaining a foundation, voluntary or foundation special school include the payment of rates.

- (7) Schedule 3 (which makes provision as to the functions of governing bodies, local education authorities and the Secretary of State as to the funding of foundation, voluntary and foundation special schools) shall have effect.

- (8) In this Act—

- (a) in relation to a school maintained (or proposed to be maintained) by a local education authority, “the local education authority” means that authority; and
- (b) in relation to schools falling within subsections (3) to (6), “maintain” shall be read in accordance with those subsections.

- (9) In this Act “maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school.

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### Extent Information

**E12** This version of this provision extends to Wales only; a separate version has been created for England.

### Textual Amendments

**F104** S. 22(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 15**; S.I. 2007/935, art. 7(o)

**F1017** Words in s. 22(1)(b) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 96(2)(a)**, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F1018** Words in s. 22(1)(b) repealed (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1)(2), 216, **Sch. 21 para. 96(2)(a)**, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1

**F1019** Words in s. 22(1)(c) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 96(2)(b)**, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F1020** Words in s. 22(1)(c) repealed (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1)(2), 216, **Sch. 21 para. 96(2)(b)**, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1

**F1021** Words in s. 22(4)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 96(3)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F1022** Words in s. 22(4)(b) substituted (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, **Sch. 21 para. 96(3)** (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1

**F1023** Words in s. 22(5)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 96(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F1024** Words in s. 22(5)(b) substituted (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, **Sch. 21 para. 96(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1

## 23 Charitable status of maintained schools, etc.

(1) The following shall be charities <sup>F108</sup>...—

(a) the governing body of any foundation, voluntary or foundation special school; and

(b) any foundation body established under section 21;

but no governing body of a community or community special school shall be a charity.

[<sup>F109</sup>(1A) Any body to which subsection (1)(a) or (b) applies is an institution to which section 3A(4)(b) of the Charities Act 1993 applies (institutions to be excepted from registration under that Act).]

(2) So far as it is a charity, any institution which—

(a) is administered by or on behalf of any body to which subsection (1)(a) or (b) applies, and

(b) is established for the general purposes of, or for any special purpose of or in connection with, that body or any school or schools falling within subsection (1)(a),

shall [<sup>F110</sup>be treated for the purposes of section 3A(4)(b) of the Charities Act 1993 as if it were an institution to which that provision applies.]

(3) Any foundation established otherwise than under this Act which has no property other than the premises of any school or schools falling within subsection (1)(a) shall be a

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charity <sup>F111</sup>, and is an institution to which section 3A(4)(b) of the Charities Act 1993 applies.]

(4) In this section—

- (a) “charity” and “institution” have the same meaning as in the <sup>M6</sup>Charities Act 1993;
- (b) “premises” includes a teacher’s dwelling-house.

#### Textual Amendments

- F108** Words in s. 23(1) repealed (31.1.2009) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 194(2), Sch. 9; S.I. 2008/3267, art. 2, Sch. (with arts. 3-27) (as amended: (29.9.2009) by S.I. 2009/2648, art. 3; (26.7.2010) by S.I. 2010/1942, art. 2; and (1.8.2011) by S.I. 2011/1725, arts. 1(2), 3, Sch. para. 6)
- F109** S. 23(1A) inserted (31.1.2009) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 194(3); S.I. 2008/3267, art. 2, Sch. (with arts. 3-27) (as amended: (29.9.2009) by S.I. 2009/2648, art. 3; (26.7.2010) by S.I. 2010/1942, art. 2; and (1.8.2011) by S.I. 2011/1725, arts. 1(2), 3, Sch. para. 6)
- F110** Words in s. 23(2) substituted (31.1.2009) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 194(4); S.I. 2008/3267, art. 2, Sch. (with arts. 3-27) (as amended: (29.9.2009) by S.I. 2009/2648, art. 3; (26.7.2010) by S.I. 2010/1942, art. 2; and (1.8.2011) by S.I. 2011/1725, arts. 1(2), 3, Sch. para. 6)
- F111** Words in s. 23(3) substituted (31.1.2009) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 194(5); S.I. 2008/3267, art. 2, Sch. (with arts. 3-27) (as amended: (29.9.2009) by S.I. 2009/2648, art. 3; (26.7.2010) by S.I. 2010/1942, art. 2; and (1.8.2011) by S.I. 2011/1725, arts. 1(2), 3, Sch. para. 6)

#### Marginal Citations

- M6** 1993 c. 10.

### <sup>F112</sup>23A Foundation and foundation special schools: requirements as to foundations

- (1) This section applies to any foundation or foundation special school having a foundation if any one or more of the following conditions is met.
- (2) Condition A is that the school was established as a foundation or foundation special school in pursuance of proposals falling to be implemented under Schedule 2 to the Education and Inspections Act 2006.
- (3) Condition B is that the school—
  - (a) acquired its foundation, or
  - (b) became a school whose instrument of government provides for the majority of governors to be foundation governors,in pursuance of proposals falling to be implemented under regulations under section 24 of that Act.
- (4) Condition C is that the school changed category from voluntary aided school to foundation school in pursuance of proposals falling to be implemented under regulations under section 24 of that Act and has an instrument of government providing for the majority of governors to be foundation governors.
- (5) No institution may act as the foundation of a school to which this section applies unless—
  - (a) it is a body corporate of a prescribed description,
  - (b) it is a charity (whether by virtue of section 23(3) or otherwise), and

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- (c) it has as its purpose, or one of its purposes, the advancement of the education of pupils at the school or schools in respect of which it acts as the foundation.
- (6) The foundation of a school to which this section applies shall, in carrying out its functions in relation to the school, promote community cohesion.
- (7) Where any members of the foundation are to be local authorities or persons appointed by local authorities, the proportion of voting rights exercisable by such members must not exceed 20 per cent. of the total voting rights exercisable by members.
- (8) Where any of the charity trustees in relation to the foundation are to be appointed by local authorities—
- (a) the proportion of the charity trustees who are appointed by local authorities must not exceed 20 per cent. of the total number of charity trustees, and
  - (b) the voting rights exercisable by the charity trustees who are appointed by local authorities must not exceed 20 per cent. of the total voting rights exercisable by charity trustees.
- (9) Regulations may disqualify persons from acting as charity trustee in relation to a school to which this section applies.
- (10) In this section and section 23B—
- “charity” has the same meaning as in the Charities Act 1993;
  - “charity trustee”, in relation to a school to which this section applies, means any individual who is for the purposes of the Charities Act 1993 a charity trustee in relation to the school's foundation;
  - “foundation” means a foundation established otherwise than under this Act;
  - “institution” has the same meaning as in the Charities Act 1993;
  - “purpose” includes object.

#### Textual Amendments

**F112** Ss. 23A, 23B inserted (1.4.2007 for the insertion of ss. 23A(9)(10), 23B, 25.5.2007 in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 33, 188\(3\)](#) (with [s. 33\(2\)](#)); [S.I. 2007/935](#), arts. 5(h), 7(h)

### 23B Powers of Secretary of State in relation to charity trustees of foundations

- (1) Regulations may make provision enabling the Secretary of State in prescribed cases by direction—
- (a) to remove any charity trustee of a school to which section 23A applies, even though the person is not disqualified by virtue of subsection (9) of that section;
  - (b) to appoint a person to be a charity trustee of such a school (whether in place of a trustee removed by him under paragraph (a) or otherwise).
- (2) Regulations under subsection (1) may make provision as to the effect of a direction given by the Secretary of State under the regulations, and may in particular provide for any such direction to have the same effect as an order of the Charity Commission for England and Wales under section 18 of the Charities Act 1993 for the removal or appointment of a charity trustee.

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- (3) Nothing in this section affects the powers of the Charity Commission for England and Wales under any enactment.]

**Textual Amendments**

**F112** Ss. 23A, 23B inserted (1.4.2007 for the insertion of ss. 23A(9)(10), 23B, 25.5.2007 in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 33, 188\(3\)](#) (with [s. 33\(2\)](#)); [S.I. 2007/935](#), [arts. 5\(h\), 7\(h\)](#)

*New arrangements for organisation of schools*

**<sup>F113</sup>24 School organisation committees.**

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**Textual Amendments**

**F113** S. 24 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 29, 188\(3\)](#), [Sch. 18 Pt. 3](#); [S.I. 2007/935](#), [art. 7\(g\)\(q\)](#)

**25 Adjudicators.**

- (1) The Secretary of State shall appoint for England such number of persons to act as adjudicators for the purposes of this Act as he considers appropriate.
  - (2) Any matter which by virtue of this Act [<sup>F114</sup>or Part 2 of the Education and Inspections Act 2006] is required to be referred to “the adjudicator” shall be referred to such person appointed under this section as may be determined in accordance with regulations under Schedule 5.
  - (3) Accordingly in this Act “the adjudicator”, in relation to any such matter, means the person mentioned in subsection (2).
- [<sup>F115</sup>(3A) When asked to do so by the Secretary of State, an adjudicator must give advice to the Secretary of State on such matters relating to the admission of pupils to relevant schools as the Secretary of State may specify.
- (3B) The adjudicator may, for the purposes of providing such advice to the Secretary of State, request any of the following persons to provide him with such information held by them as the adjudicator may specify—
    - (a) the admission authority (within the meaning of Chapter 1 of Part 3) of a community, foundation or voluntary school;
    - (b) the proprietor of any other relevant school.
  - (3C) A person so requested by the adjudicator to provide information must comply with the request.
  - (3D) In subsections (3A) and (3B), “relevant school” means a school in England falling within any of paragraphs (a) to (f) of section 5(2) of the Education Act 2005.]
  - (4) Schedule 5 has effect in relation to adjudicators.

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**Textual Amendments**

**F114** Words in s. 25(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 16; S.I. 2007/935, art. 7(o)

**F115** S. 25(3A)-(3D) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 163, 188(3); S.I. 2006/3400, art. 3(f)

**F116 26 School organisation plans.**

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**Textual Amendments**

**F116** Ss. 26-26B repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), Sch. 5 Pt. 1; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 2(3)(b)

**F116 26A Plans of local learning and skills councils.**

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**Textual Amendments**

**F116** Ss. 26-26B repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), Sch. 5 Pt. 1; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 2(3)(b)

**F116 26B Plans of National Council.**

.....

**Textual Amendments**

**F116** Ss. 26-26B repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), Sch. 5 Pt. 1; S.I. 2005/394, art. 2(1)(l); S.I. 2006/885, art. 2(3)(b)

**F117 27 Power to require committees or adjudicators for Wales.**

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**Textual Amendments**

**F117** S. 27 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 17, Sch. 18 Pt. 3; S.I. 2007/935, art. 7(o)(q)

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## CHAPTER II

### ESTABLISHMENT, ALTERATION OR DISCONTINUANCE OF SCHOOLS

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

C38 Pt. II Chapter II modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, Sch.

#### *Mainstream schools maintained by LEAs*

### 28 Proposals for establishment or alteration of community, foundation or voluntary school [<sup>F118</sup>in Wales].

- (1) Where a local education authority [<sup>F119</sup>in Wales] propose—
- (a) to establish a new community or foundation school, or
  - [<sup>F120</sup>(aa) to establish a new maintained nursery school, or]
  - (b) to make any prescribed alteration to a community school, or
  - (c) to make any prescribed alteration to a foundation school consisting of an enlargement of the premises of the school, [<sup>F121</sup>or
  - (d) <sup>F122</sup>... to make any prescribed alteration to a maintained nursery school]
- the authority shall publish their proposals under this section.

<sup>F123</sup>(1A) .....

- (2) Where—
- (a) any persons (referred to in this Part as “promoters”) propose to establish a new foundation or voluntary school [<sup>F124</sup>in Wales]<sup>F125</sup> ..., or
  - (b) the governing body of a foundation or voluntary school [<sup>F126</sup>in Wales]<sup>F127</sup> ... propose to make any prescribed alteration to the school,
- those persons or (as the case may be) the governing body shall publish their proposals under this section.

<sup>F128</sup>(2A) .....

<sup>F128</sup>(2B) .....

- (3) Proposals under this section shall—
- (a) contain such information, and
  - (b) be published in such manner,
- as may be prescribed.

<sup>F129</sup>(4) .....

- (5) Before publishing any proposals under this section, the relevant body or promoters shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the relevant body or promoters shall have regard to any guidance given from time to time by the [<sup>F130</sup>Assembly].

<sup>F131</sup>(6) .....

- (7) <sup>F132</sup>... The relevant body or promoters shall send—
- (a) a copy of [<sup>F133</sup>any proposals published under this section], and

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- (b) such information in connection with those proposals as may be prescribed, to the [<sup>F134</sup>Assembly].
- (8) Schedule 6 has effect <sup>F135</sup>... in relation to—
- (a) the procedure for dealing with proposals under this section and their implementation; and
  - (b) the provision of premises or other assistance in connection with their implementation.
- (9) Where any proposals published under this section—
- (a) are for the transfer of a school to a site in a different area, or
  - (b) relate to a school which is, or (in the case of a new school) is proposed to be, situated in an area other than that of the local education authority who maintain, or (as the case may be) who it is proposed should maintain, the school,
- the provisions of <sup>F136</sup>... Schedule 6 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (10) In this section “the relevant body or promoters” means the local education authority, governing body or promoters mentioned in subsection (1) or (2) (as the case may be).
- (11) In this Part—
- (a) “alteration”, in the context of a prescribed alteration to a maintained school, means an alteration of whatever nature, including the transfer of the school to a new site but excluding any change—
    - (i) in the religious character of the school, or
    - (ii) whereby the school would acquire or lose a religious character; and
  - (b) “area” (without more) means a local education authority area.
- (12) Any regulations made for the purposes of subsection (1)(b) or (2)(b) may be framed by reference to the opinion of the local education authority.

#### Textual Amendments

- F118** Words in s. 28 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 18\(10\)](#); S.I. 2007/935, art. 7(o)
- F119** Words in s. 28(1) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 18\(2\)\(a\)](#); S.I. 2007/935, art. 7(o)
- F120** S. 28(1)(aa) inserted (1.6.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 154\(2\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); S.I. 2003/1115, art. 3 (with art. 4); S.I. 2004/912, art. 4, Sch. Pt. 1 (with art. 6)
- F121** S. 28(1)(d) and word inserted (31.3.2004 for W., 6.11.2006 for E.) by [Education Act 2002 \(c. 32\)](#), [ss. 154\(3\)](#), [216\(4\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); S.I. 2004/912, art. 4, Sch. Pt. 1 (with art. 6); S.I. 2006/2895, art. 2
- F122** Words in s. 28(1)(d) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 18\(2\)\(b\)](#), [Sch. 18 Pt. 3](#); S.I. 2007/935, art. 7(o)(q)
- F123** S. 28(1A) repealed (1.9.2006) by [Education Act 2005 \(c. 18\)](#), [ss. 64\(2\)](#), [125\(4\)](#), [Sch. 19 Pt. 2](#); S.I. 2006/2129, art. 4 (with art. 6)
- F124** Words in s. 28(2)(a) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 18\(3\)\(a\)](#); S.I. 2007/935, art. 7(o)
- F125** Words in s. 28(2) repealed (1.9.2006) by [Education Act 2005 \(c. 18\)](#), [ss. 64\(2\)](#), [125\(4\)](#), [Sch. 19 Pt. 2](#); S.I. 2006/2129, art. 4 (with art. 6)



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- F126** Words in s. 28(2)(b) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 18(3)(b)(i)**; S.I. 2007/935, art. 7(o)
- F127** Words in s. 28(2)(b) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 18(3)(b)(ii), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F128** S. 28(2A)(2B) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 18(4), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F129** S. 28(4) repealed (1.9.2006) by Education Act 2005 (c. 18), ss. 64(4), 125(4), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4 (with art. 6)
- F130** Word in s. 28(5) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 18(5)**; S.I. 2007/935, art. 7(o)
- F131** S. 28(6) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 18(6), **Sch. 18 Pt. 3** (with savings in The School Organisation (Transitional Provisions) (England) Regulations 2007 (S.I. 2007/1355), regs. 1(1), **3(5)**, 24(5)); S.I. 2007/935, **art. 7(o)(q)**
- F132** Words in s. 28(7) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 18(7)(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F133** Words in s. 28(7)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 18(7)(b)**; S.I. 2007/935, art. 7(o)
- F134** Word in s. 28(7) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 18(7)(c)**; S.I. 2007/935, art. 7(o)
- F135** Words in s. 28(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 18(8), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F136** Words in s. 28(9) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 18(9), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

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

- C39** S. 28 amended (1.4.1999) by S.I. 1999/125, **art. 2(3)**.
- C40** S. 28 extended (10.3.1999) by S.I. 1999/362, **reg. 6(2)(3)**.
- C41** S. 28 applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(1), 10, **Sch. 1**.  
S. 28 applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(2), 10, **Sch. 2**.  
S. 28 applied (with modifications) (1.9.1999) (*temp.*) by S.I. 1999/2633, regs. 4, 5(1), **Sch. 1**.  
S. 28 modified (1.9.1999) by S.I. 1999/2633, reg. 5(2), **Sch. 2**.
- C42** S. 28 modified (1.9.1999) by S.I. 1999/2633, reg. 5(2), **Sch. 2**.
- C43** S. 28; Power to modify conferred (prosp.) by Education Act 2002 (c. 32), **ss. 74(2)(a)** 216 (with ss. 210(8), 214(4))
- C44** S. 28: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(2)(a)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- C45** S. 28 modified (1.6.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(1)(a)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3
- C46** S. 28(3)(5)(6)(8)(10)(11) applied (with modifications) (E.) (1.9.2000) by S.I. 2000/2195, art. 4(1), Sch. 1
- C47** S. 28(1)(b) excluded (*temp.* until 18.11.2007) (18.11.2005) by The Southwark London Borough Council (Prescribed Alteration) Order 2005 (S.I. 2005/2836), arts. 1(1), **2(a)**, 3
- C48** S. 28(3)(7)(8)(10)(11) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, **Sch. 1 Pt. I** Table 3 (as amended (W.) (1.2.2006) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2006 (S.I. 2006/173), regs. 1(1), **12**)
- C49** S. 28(3) applied (with modifications) (1.9.1999) by S.I. 1999/2213, reg. 15, **Sch. 4**.  
s. 28(3): s. 28(3)(except para. (b)) applied with modifications (1.9.1999) by S.I. 1999/1671, reg. 10, **Sch. 5**
- C50** S. 28(3) applied (with modifications) by S.I. 2000/2195, reg. 4(3), Schs. 2A, 2B (as inserted (1.8.2005) by The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2005 (S.I. 2005/1731), regs. 1(1), **5**, 7)
- C51** S. 28(5) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, **Sch. 1 Pt. I** Table 1
- C52** S. 28(5) applied (with modifications) by S.I. 1999/2213, reg. 15, **Sch. 4**

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- s. 28(5) applied with modifications (1.9.1999) by S.I. 1999/1671, reg. 10, **Sch. 5**
- C53** S. 28(5)(6) applied (with modifications) by S.I. 2000/2195, reg. 4(3), Schs. 2A, 2B (as inserted (1.8.2005) by [The Education \(Change of Category of Maintained Schools\) \(Amendment\) \(England\) Regulations 2005 \(S.I. 2005/1731\)](#), regs. 1(1), 5, 7)
- C54** S. 28(7) applied with modifications (1.9.1999) by S.I. 1999/1671, reg. 10, **Sch. 5**
- C55** S. 28(8) applied (with modifications) by S.I. 2000/2195, reg. 4(3), Schs. 2A, 2B (as inserted (1.8.2005) by [The Education \(Change of Category of Maintained Schools\) \(Amendment\) \(England\) Regulations 2005 \(S.I. 2005/1731\)](#), regs. 1(1), 5, 7)
- C56** S. 28(10) applied (with modifications) (1.9.1999) by S.I. 1999/2213, reg. 15, **Sch.4**.  
s. 28(10) applied with modifications (1.9.1999) by S.I. 1999/1671, reg. 10, **Sch. 5**

#### Commencement Information

- I2** S. 28 wholly in force at 1.9.1999; s. 28 not in force at Royal Assent see s. 145(3); s. 28(9) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch.**; s. 28(5)(10) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, **Sch. 4**); S. 28 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

### <sup>F137</sup>28A Proposals for establishment of community, foundation or voluntary school maintained by English LEA

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#### Textual Amendments

- F137** S. 28A repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 3 para. 19, **Sch. 18 Pt. 3** (with savings in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), **3(5)**); S.I. 2007/935, art. 7(o)(q)

### 29 Proposals for discontinuance of community, foundation, voluntary or maintained nursery school [<sup>F138</sup>in Wales].

- (1) Where a local education authority [<sup>F139</sup>in Wales] propose to discontinue—
- (a) a community, foundation or voluntary school, or
  - (b) a maintained nursery school,
- the authority shall publish their proposals under this section.
- (2) Where the governing body of a foundation or voluntary school [<sup>F140</sup>in Wales] propose to discontinue the school, the governing body shall publish their proposals under this section.
- (3) Proposals under this section shall—
- (a) contain such information, and
  - (b) be published in such manner,
- as may be prescribed.
- [<sup>F141</sup>(4A) The matters to which the relevant body shall have regard in formulating any proposals under this section in relation to a rural primary school include—
- (a) the likely effect of the discontinuance of the school on the local community,
  - (b) the availability, and likely cost to the local education authority, of transport to other schools,

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- (c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase, and
  - (d) any alternatives to the discontinuance of the school;
- and in considering these matters the relevant body shall have regard to any guidance given from time to time by the [<sup>F142</sup>Assembly].
- (4B) Before publishing any proposals under this section which relate to a rural primary school, the relevant body shall consult—
- (a) the registered parents of registered pupils at the school,
  - (b) where the relevant body are the governing body of the school, the local education authority,
  - <sup>F143</sup>(c) .....
  - (d) any <sup>F144</sup>... community council for the area in which the school is situated, and
  - (e) such other persons as appear to the relevant body to be appropriate.
- (4C) Before publishing any other proposals under this section the relevant body shall consult such persons as appear to them to be appropriate.
- (4D) In discharging their duty under subsection (4B) or (4C) the relevant body shall have regard to any guidance given from time to time by the [<sup>F145</sup>Assembly].]
- <sup>F146</sup>(5) .....
- (6) <sup>F147</sup>... The relevant body shall send—
- (a) a copy of [<sup>F148</sup>any proposals published under this section], and
  - (b) such information in connection with those proposals as may be prescribed, to the [<sup>F149</sup>Assembly].
- (7) Schedule 6 has effect <sup>F150</sup>... in relation to the procedure for dealing with proposals under this section and their implementation.
- (8) Where any proposals published under this section relate to a school which is situated in an area other than that of the local education authority who maintain it, the provisions of <sup>F151</sup>... Schedule 6 shall have effect in relation to the proposals with such modifications as may be prescribed.
- (9) In this section “the relevant body” means the local education authority or governing body mentioned in subsection (1) or (2) (as the case may be).
- [<sup>F152</sup>(9A) In this section “rural primary school” means a primary school designated as such for the purposes of this section by an order made by the [<sup>F153</sup>Assembly].]
- (10) In this Part any reference to a local education authority—
- (a) discontinuing a school, or
  - (b) implementing proposals to discontinue a school (whether published by the authority or the governing body),
- is to the authority ceasing to maintain the school.

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**Textual Amendments**

**F138** Words in s. 29 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 20\(12\); S.I. 2007/935, art. 7\(o\)](#)

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- F139** Words in s. 29(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(2)**; S.I. 2007/935, art. 7(o)
- F140** Words in s. 29(2) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(3)**; S.I. 2007/935, art. 7(o)
- F141** S. 29(4A)-(4D) substituted for s. 29(4) (1.9.2006 for E.) by Education Act 2005 (c. 18), **ss. 70(2)**, 125(4) (with s. 119); S.I. 2006/2129, art. 5
- F142** Word in s. 29(4A) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(4)**; S.I. 2007/935, art. 7(o)
- F143** S. 29(4B)(c) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 20(5)(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F144** Words in s. 29(4B)(d) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 20(5)(b), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F145** Word in s. 29(4D) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(6)**; S.I. 2007/935, art. 7(o)
- F146** S. 29(5) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 20(7), **Sch. 18 Pt. 3** (with savings in The School Organisation (Transitional Provisions) (England) Regulations 2007 (S.I. 2007/1355), regs. 1(1), 3(5)); S.I. 2007/935, art. 7(o)(q)
- F147** Words in s. 29(6) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 20(8)(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F148** Words in s. 29(6)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(8)(b)**; S.I. 2007/935, art. 7(o)
- F149** Word in s. 29(6) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(8)(c)**; S.I. 2007/935, art. 7(o)
- F150** Words in s. 29(7) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 20(9), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F151** Words in s. 29(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 20(10), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F152** S. 29(9A) inserted (1.9.2006 for E.) by Education Act 2005 (c. 18), **ss. 70(3)**, 125(4) (with s. 119); S.I. 2006/2129, art. 5
- F153** Word in s. 29(9A) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 20(11)**; S.I. 2007/935, art. 7(o)

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

- C57** S. 29(5) modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, **Sch.**

#### Commencement Information

- I3** S. 29 wholly in force at 1.9.1999; s. 29 not in force at Royal Assent see s. 145(3); s. 29(8) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch.**; s. 29(4)(9) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4); s. 29 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

### 30 Notice by governing body to discontinue foundation or voluntary school.

- (1) Subject to the following provisions of this section, the governing body of a foundation or voluntary school may discontinue the school by serving on the Secretary of State and the local education authority at least two years' notice of their intention to do so.
- (2) If expenditure has been incurred on the school premises (otherwise than in connection with repairs)—
  - (a) by the Secretary of State,
  - (b) by the Funding Agency for Schools,
  - (c) by any local education authority, or

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- (d) by an authority which was a local education authority within the meaning of any enactment repealed by the <sup>M7</sup>Education Act 1944 or an earlier Act, no such notice may be served without the consent of the Secretary of State.
- (3) If discontinuing the school would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the governing body shall, before serving a notice under this section, consult [<sup>F154</sup>the Learning and Skills Council for England (if the school is in England) or the [<sup>F155</sup>National Assembly for Wales] (if the school is in Wales)].
- (4) If, while a notice under subsection (1) is in force in respect of a foundation or voluntary school, the governing body inform the local education authority that they are unable or unwilling to carry on the school until the notice expires, the authority—
- (a) may conduct the school for all or part of the unexpired period of the notice as if it were a community school, and
- (b) shall be entitled to use the school premises free of charge for that purpose.
- (5) While the school is being so conducted—
- (a) the authority shall keep the school premises in good repair, and
- (b) any interest in the premises which is held for the purposes of the school shall be deemed, for all purposes relating to the condition, occupation or use of the premises, or the making of alterations to them, to be vested in the authority.
- (6) Despite the provisions of subsection (5) the governing body may use the premises, or any part of them, when not required for the purposes of the school to the same extent as if they had continued to carry on the school during the unexpired period of the notice.
- (7) A notice served under subsection (1) may not be withdrawn without the consent of the local education authority.
- (8) If a foundation or voluntary school is discontinued under this section, the duty of the local education authority to maintain the school as a foundation or voluntary school shall cease.
- [<sup>F156</sup>(9) Nothing in any of the following provisions applies in relation to the discontinuance under this section of a foundation or voluntary school—
- (a) sections 29 and 33 of this Act (which relate to Wales), and
- (b) sections 15 and 28 of the Education and Inspections Act 2006 (which relate to England).]
- (10) Where—
- (a) land occupied by a foundation or voluntary school is held by any trustees for the purposes of the school, and
- (b) the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site,
- then if the trustees (being entitled to do so) give any notice to the governing body which purports to terminate the school's occupation of the land, any such notice shall not be effective to terminate its occupation of the land unless the requirements of subsection (11) are complied with in relation to the notice (without prejudice to any other statutory or other requirements falling to be so complied with).
- (11) The requirements of this subsection are—
- (a) that the period of notice must—

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- (i) be reasonable having regard to the length of time that would be required to discontinue the school (if the governing body chose to do so), and
  - (ii) in any event must not be less than two years; and
- (b) that a copy of the notice must be given to the Secretary of State and the local education authority at the time when the notice is given to the governing body.
- (12) Where trustees give, at the same (or substantially the same) time, notices purporting to terminate a foundation or voluntary school's occupation of two or more pieces of land held by the trustees for the purposes of the school, then for the purpose of determining whether subsection (10)(b) applies in relation to any of those pieces of land, regard may be had to the combined effect of terminating the school's occupation of both or all of them.
- (13) If a question arises as to whether the termination of a school's occupation of any land would have the result mentioned in subsection (10)(b) (including a question as to whether subsection (12) applies in any particular circumstances), it shall be determined by the Secretary of State.

#### Textual Amendments

- F154** Words in s. 30(3) substituted (28.7.2000 for specified purposes and otherwise 1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 83**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F155** Words in s. 30(3) substituted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 39** (with art. 7)
- F156** S. 30(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 21**; S.I. 2007/935, art. 7(o)

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

- C58** S. 30 excluded (1.4.2007) by Education and Inspections Act 2006 (c. 40), **ss. 68(4)**, 188(3); S.I. 2007/935, art. 5(j)

#### Marginal Citations

- M7** 1944 c. 31.

*Special schools maintained by [<sup>F157</sup>LEAs in Wales]*

#### Textual Amendments

- F157** Words in s. 31 **cross-heading** substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 22**; S.I. 2007/935, art. 7(o)

### 31 **Proposals for establishment, alteration or discontinuance of community or foundation special school [<sup>F158</sup>in Wales].**

- (1) Where a local education authority [<sup>F159</sup>in Wales] intend—
- (a) to establish a new community or foundation special school, or
  - (b) to make any prescribed alteration to such a school, or
  - (c) to discontinue such a school,

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the authority shall publish their proposals under this section.

- (2) Where the governing body of a foundation special school [<sup>F160</sup>in Wales] propose—
- (a) to make any prescribed alteration to the school, or
  - (b) to discontinue the school,
- the governing body shall publish their proposals under this section.

- (3) Proposals under this section shall—
- (a) contain such information, and
  - (b) be published in such manner,
- as may be prescribed.

- [<sup>F161</sup>(4A) Before publishing any proposals under this section to make any prescribed alteration to a school, or to discontinue a school, the relevant body shall consult—
- (a) the registered parents of registered pupils at the school,
  - (b) any local education authority which maintain a statement under section 324 of the Education Act 1996 (statement of special educational needs) in respect of a registered pupil at the school, and
  - (c) such other persons as appear to the relevant body to be appropriate.

(4B) Before publishing any proposals under this section to establish a new school, the relevant body shall consult such persons as appear to them to be appropriate.

(4C) In discharging their duty under subsection (4A) or (4B) the relevant body shall have regard to any guidance given from time to time by the [<sup>F162</sup>Assembly].]

<sup>F163</sup>(5) .....

- (6) <sup>F164</sup>... The relevant body shall send—
- (a) a copy of [<sup>F165</sup>any proposals published under this section], and
  - (b) such information in connection with those proposals as may be prescribed, to the [<sup>F166</sup>Assembly].

(7) The relevant body shall also send a copy of any proposals to which subsection <sup>F167</sup>... (6) applies to such other bodies or persons as may be prescribed.

(8) Schedule 6 has effect <sup>F168</sup>... in relation to the procedure for dealing with proposals under this section and their implementation.

(9) In this section “the relevant body” means the local education authority or governing body mentioned in subsection (1) or (2) (as the case may be).

#### Textual Amendments

**F158** Words in s. 31 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 23\(9\)](#); S.I. 2007/935, art. 7(o)

**F159** Words in s. 31(1) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 23\(2\)](#); S.I. 2007/935, art. 7(o)

**F160** Words in s. 31(2) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 23\(3\)](#); S.I. 2007/935, art. 7(o)

**F161** S. 31(4A)-(4C) substituted for s. 31(4) (1.9.2006) by [Education Act 2005 \(c. 18\)](#), [ss. 71](#), 125(4) (with s. 119); S.I. 2006/1338, art. 3, [Sch. 1](#); S.I. 2006/2129, [art. 5](#)

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- F162** Word in s. 31(4C) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 23(4)**; S.I. 2007/935, art. 7(o)
- F163** S. 31(5) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 23(5), **Sch. 18 Pt. 3** (with savings in The School Organisation (Transitional Provisions) (England) Regulations 2007 (S.I. 2007/1355), regs. 1(1), **3(5)**, 24(5)); S.I. 2007/935, **art. 7(o)(q)**
- F164** Words in s. 31(6) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 23(6)(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F165** Words in s. 31(6)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 23(6)(b)**; S.I. 2007/935, art. 7(o)
- F166** Word in s. 31(6) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 23(6)(c)**; S.I. 2007/935, art. 7(o)
- F167** Words in s. 31(7) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 23(7), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F168** Words in s. 31(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 23(8), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

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

- C59** S. 31 extended (10.3.1999) by S.I. 1999/362, **reg. 6(4)**.
- C60** S. 31 modified (prosp.) by Education Act 2002 (c. 32), **ss. 74(1)(a)**, 216 (with ss. 210(8), 214(4))
- C61** S. 31: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(2)(a)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- C62** S. 31 modified (1.6.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(1)(a)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3
- C63** S. 31(3) except paragraph (b) applied (with modifications) (1.9.1999) by S.I. 1999/1780, reg. 11, **Sch.4**.  
 S. 31(3) applied (with modifications) (1.9.1999) by S.I. 1999/2212, reg. 16, **Sch.4**.
- C64** S. 31(6) applied (with modifications) (1.9.1999) by S.I. 1999/1780, reg. 11, **Sch.4**.
- C65** S. 31(7) applied (with modifications) (1.9.1999) by S.I. 1999/1780, reg. 11, **Sch.4**.  
 S. 31(7) applied (with modifications) (1.9.1999) by S.I. 1999/2212, reg. 16, **Sch.4**.
- C66** S. 31(9) applied (with modifications) (1.9.1999) by S.I. 1999/1780, reg. 11, **Sch.4**.  
 S. 31(9) applied (with modifications) (1.9.1999) by S.I. 1999/2212, reg. 16, **Sch.4**.

#### Commencement Information

- I4** S. 31 wholly in force at 1.9.1999; s. 31 not in force at Royal Assent see s. 145(3); s. 31(4)(9) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4); s. 31 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

### 32 **Direction requiring discontinuance of community or foundation special school** <sup>F169</sup>**in Wales**].

- (1) The <sup>F170</sup>Assembly] may, if <sup>F171</sup>it] considers it expedient to do so in the interests of the health, safety or welfare of pupils at a community or foundation special school <sup>F172</sup>in Wales], give a direction to the local education authority by whom the school is maintained requiring the school to be discontinued on a date specified in the direction.
- (2) A direction under subsection (1) may require the local education authority to notify any persons or class of persons specified in the direction.
- (3) Before giving a direction under subsection (1), the <sup>F173</sup>Assembly] shall consult—
  - (a) the local education authority;
  - (b) any other local education authority who would in <sup>F174</sup>its] opinion be affected by the discontinuance of the school;



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- (c) in the case of a foundation special school which has a foundation, the person who appoints the foundation governors; and
  - (d) such other persons as the [F173 Assembly] considers appropriate.
- (4) On giving a direction under subsection (1) the [F175 Assembly] shall give notice in writing of the direction to the governing body of the school and its head teacher.
- (5) Where a local education authority are given a direction under subsection (1), they shall discontinue the school in question on the date specified in the direction; and nothing in section 31 or 33 applies to any such discontinuance of the school under this section.

#### Textual Amendments

- F169** Words in s. 32 heading inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(5); S.I. 2007/935, art. 7(o)
- F170** Word in s. 32(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(2)(a); S.I. 2007/935, art. 7(o)
- F171** Word in s. 32(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(2)(b); S.I. 2007/935, art. 7(o)
- F172** Words in s. 32(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(2)(c); S.I. 2007/935, art. 7(o)
- F173** Word in s. 32(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(3)(a); S.I. 2007/935, art. 7(o)
- F174** Word in s. 32(3)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(3)(b); S.I. 2007/935, art. 7(o)
- F175** Word in s. 32(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 24(4); S.I. 2007/935, art. 7(o)

#### Further provisions relating to establishment, alteration or discontinuance of schools

### 33 Further provisions relating to establishment, alteration or discontinuance of schools [F176; in Wales].

- (1) Except in pursuance of proposals falling to be implemented under [F177 any enactment]—
- (a) no maintained school [F178; in Wales] shall be established or discontinued;
  - (b) no prescribed alteration shall be made to any such school; [F179 and]
  - (c) no maintained nursery school [F180; in Wales] shall be [F181 established or] discontinued. [F182; and
  - (d) no prescribed alteration shall be made to any maintained nursery school which is maintained by a local education authority in Wales.]
- (2) No alteration falling within section 28(11)(a)(i) or (ii) shall be made to any maintained school [F183; in Wales].
- (3) Subsection (1) has effect subject to sections 19(4), 30(9) and 32(5).
- (4) Regulations may, in relation to proposals published under section 28, F184 ... 29 or 31, require any of the following, namely—
- (a) the body or promoters who published the proposals,
  - (b) the school organisation committee, and

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(c) the adjudicator,

to provide such information relating to the proposals to such persons, and at such times, as may be prescribed.

[<sup>F185</sup>(5) For the purposes of this Part proposals for the establishment of a maintained school [<sup>F186</sup>in Wales] shall be taken to be implemented on the school opening date.

(6) In this Part “school opening date”, in relation to a new maintained school [<sup>F187</sup>in Wales], means the date when the school first admits pupils.]

### Textual Amendments

- F176** Words in s. 33 heading inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 25(6)**; S.I. 2007/935, art. 7(o)
- F177** Words in s. 33(1) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 98(2)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F178** Words in s. 33(1)(a) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 25(2)**; S.I. 2007/935, art. 7(o)
- F179** Word in s. 33(1)(b) repealed (31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2004/912, art. 4, Sch. Pt. 1
- F180** Words in s. 33(1)(c) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 25(2)**; S.I. 2007/935, art. 7(o)
- F181** Words in s. 33(1)(c) inserted (1.6.2003 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 98(2)(b)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1
- F182** S. 33(1)(d) and word inserted (31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 98(2)(c)** (with ss. 210(8), 214(4)); S.I. 2004/912, art. 4, Sch. Pt. 1
- F183** Words in s. 33(2) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 25(3)**; S.I. 2007/935, art. 7(o)
- F184** Word in s. 33(4) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 25(4), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F185** S. 33(5)(6) inserted (1.4.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 98(3)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/2910, art. 4, **Sch. 21 para. 98(3)**
- F186** Words in s. 33(5) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 25(5)**; S.I. 2007/935, art. 7(o)
- F187** Words in s. 33(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 25(5)**; S.I. 2007/935, art. 7(o)

### Modifications etc. (not altering text)

- C67** S. 33(1)(b) excluded (temp. until 18.11.2007) (18.11.2005) by The Southwark London Borough Council (Prescribed Alteration) Order 2005 (S.I. 2005/2836), arts. 1(1), **2(b)**, 3

### Commencement Information

- I5** S. 33 wholly in force at 1.9.1999; s. 33 not in force at Royal Assent see s. 145(3); s. 33(4) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch. 1**; s. 33 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

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### *Rationalisation of school places*

#### **34 Rationalisation of school places.**

Schedule 7 (which provides for the [<sup>F188</sup>National Assembly for Wales] to give directions to local education authorities [<sup>F189</sup>in Wales and governing bodies of maintained schools in Wales] to bring forward proposals for the rationalisation of school places, and for such proposals to be made by [<sup>F190</sup>the Assembly]) shall have effect.

#### **Textual Amendments**

- F188** Words in s. 34 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 8(a)**; S.I. 2006/2129, art. 4
- F189** Words in s. 34 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 8(b)**; S.I. 2006/2129, art. 4
- F190** Words in s. 34 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 8(c)**; S.I. 2006/2129, art. 4

### *Change of category of school*

#### **35 School [<sup>F191</sup>in Wales] changing from one category to another.**

- (1) Schedule 8 makes provision for and in connection with—
- enabling a maintained school [<sup>F192</sup>in Wales] within one of the categories set out in section 20(1) to become a school within another of those categories, and
  - in certain circumstances, requiring proposals to be published for a voluntary aided school [<sup>F193</sup>in Wales] to become a school within another of those categories;
- and a maintained school [<sup>F192</sup>in Wales] may not so change its category otherwise than in accordance with that Schedule.
- (2) Except in relation to a change of category from voluntary aided to voluntary controlled school for which proposals are required to be published by virtue of paragraph 3 of Schedule 8, that Schedule does not apply at any time before the end of such period as may be prescribed.

#### **Textual Amendments**

- F191** Words in s. 35 heading inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 26(3)**; S.I. 2007/935, art. 7(o)
- F192** Words in s. 35(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 26(2)(a)**; S.I. 2007/935, art. 7(o)
- F193** Words in s. 35(1)(b) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 26(2)(b)**; S.I. 2007/935, art. 7(o)

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## CHAPTER III

### GOVERNMENT OF MAINTAINED SCHOOLS

#### *Governing bodies*

#### <sup>F194</sup>**36 Governing bodies.**

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##### **Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/124, [art. 4](#); S.I. 2003/1667, [art. 4](#) (with art. 6, Sch. para. 4); S.I. 2004/912, art. 4, [Sch. Pt. 1](#); S.I. 2004/1728, art. 5, [Sch. Pt. 2](#); S.I. 2005/2910, art. 4, [Sch.](#); S.I. 2007/3611, art. 4(2), [Sch. Pt. 2](#)

#### *Instruments of government*

#### <sup>F194</sup>**37 Instruments of government.**

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##### **Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/124, [art. 4](#); S.I. 2003/1667, [art. 4](#) (with art. 6, Sch. para. 4); S.I. 2004/912, art. 4, [Sch. Pt. 1](#); S.I. 2004/1728, art. 5, [Sch. Pt. 2](#); S.I. 2005/2910, art. 4, [Sch.](#); S.I. 2007/3611, art. 4(2), [Sch. Pt. 2](#)

#### *Functions of governing body*

#### <sup>F194</sup>**38 General responsibility of governing body for conduct of school.**

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##### **Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/124, [art. 4](#); S.I. 2003/1667, [art. 4](#) (with art. 6, Sch. para.

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4); S.I. 2004/912, art. 4, **Sch. Pt. 1**; S.I. 2004/1728, art. 5, **Sch. Pt. 2**; S.I. 2005/2910, art. 4, **Sch.**; S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

**F194** **39 Additional functions of governing body.**

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**Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2003/124, **art. 4**; S.I. 2003/1667, **art. 4** (with art. 6, Sch. para. 4); S.I. 2004/912, art. 4, **Sch. Pt. 1**; S.I. 2004/1728, art. 5, **Sch. Pt. 2**; S.I. 2005/2910, art. 4, **Sch.**; S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

*Control of school premises*

**F194** **40 Control of use of school premises by governing body.**

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**Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2003/124, **art. 4**; S.I. 2003/1667, **art. 4** (with art. 6, Sch. para. 4); S.I. 2004/912, art. 4, **Sch. Pt. 1**; S.I. 2004/1728, art. 5, **Sch. Pt. 2**; S.I. 2005/2910, art. 4, **Sch.**; S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

*Fixing of school holidays and times of sessions*

**F194** **41 Responsibility for fixing dates of terms and holidays and times of sessions.**

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**Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2003/124, **art. 4**; S.I. 2003/1667, **art. 4** (with art. 6, Sch. para. 4); S.I. 2004/912, art. 4, **Sch. Pt. 1**; S.I. 2004/1728, art. 5, **Sch. Pt. 2**; S.I. 2005/2910, art. 4, **Sch.**; S.I. 2007/3611, art. 4(2), **Sch. Pt. 2**

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### *Reports and parents' meetings*

#### <sup>F194</sup>**42** **Governors' reports and other information.**

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##### **Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2003/124](#), [art. 4](#); [S.I. 2003/1667](#), [art. 4](#) (with art. 6, Sch. para. 4); [S.I. 2004/912](#), art. 4, [Sch. Pt. 1](#); [S.I. 2004/1728](#), art. 5, [Sch. Pt. 2](#); [S.I. 2005/2910](#), art. 4, [Sch.](#); [S.I. 2007/3611](#), art. 4(2), [Sch. Pt. 2](#)

#### <sup>F194</sup>**43** **Annual parents' meetings.**

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##### **Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2003/124](#), [art. 4](#); [S.I. 2003/1667](#), [art. 4](#) (with art. 6, Sch. para. 4); [S.I. 2004/912](#), art. 4, [Sch. Pt. 1](#); [S.I. 2004/1728](#), art. 5, [Sch. Pt. 2](#); [S.I. 2005/2910](#), art. 4, [Sch.](#); [S.I. 2007/3611](#), art. 4(2), [Sch. Pt. 2](#)

### *Government of new schools*

#### <sup>F194</sup>**44** **Arrangements for government of new schools.**

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##### **Textual Amendments**

**F194** Ss. 36-44 repealed (1.10.2002 for E. for specified purposes, 1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 31.3.2004 for W. for specified purposes, 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2003/124](#), [art. 4](#); [S.I. 2003/1667](#), [art. 4](#) (with art. 6, Sch. para. 4); [S.I. 2004/912](#), art. 4, [Sch. Pt. 1](#); [S.I. 2004/1728](#), art. 5, [Sch. Pt. 2](#); [S.I. 2005/2910](#), art. 4, [Sch.](#); [S.I. 2007/3611](#), art. 4(2), [Sch. Pt. 2](#)

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## CHAPTER IV

### FINANCING OF MAINTAINED SCHOOLS

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

C68 Pt. 2 Ch. 4 (ss. 45-53) modified (20.11.1998) by S.I. 1998/2670, reg. 3(1)(3)

#### *Budgetary framework*

#### 45 Maintained schools to have budget shares.

(1) For the purposes of the financing of maintained schools by local education authorities, every such school shall have, for each [<sup>F195</sup>financial year][<sup>F195</sup>funding period], a budget share which is allocated to it by the authority which maintains it.

[<sup>F196</sup>(1A) In this Chapter “maintained school” means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.]

[<sup>F197</sup>(1B) In this Chapter “funding period” means a financial year or such other period as may be prescribed.]

(2) Sections [<sup>F198</sup>[<sup>F199</sup>45A] and][<sup>F198</sup> 45A to] 47 have effect for determining the amount of a school’s budget share for a [<sup>F200</sup>financial year][<sup>F200</sup>funding period].

(3) In this Chapter—

- (a) references to schools maintained by a local education authority do not include [<sup>F201</sup>pupil referral units];
- (b) references, in a context referring to a local education authority, to a maintained school or to a school maintained by such an authority shall be read as including a new school—
  - (i) which on implementation of proposals under [<sup>F202</sup>any enactment] will be a community, foundation or voluntary school or a community or foundation special school maintained by the authority, and
  - (ii) which has a temporary governing body; and
- (c) references to the governing body of a maintained school or of a school maintained by a local education authority shall accordingly be read as including the temporary governing body of a new school falling within paragraph (b).

(4) In this Chapter “new school” (without more) has the meaning given by section 72(3).

#### Textual Amendments

**F195** Words in s. 45(1) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 2(2) (with s. 119); S.I. 2005/2034, art. 8

**F196** S. 45(1A) inserted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 99(2) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4 (with art. 6, Sch. para. 5);

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- S.I. 2005/2910, art. 4, **Sch.** (with transitional provisions in The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005 (S.I. 2005/2913), **reg. 8**)
- F197** S. 45(1B) inserted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 16 para. 2(3)** (with s. 119); S.I. 2005/2034, art. 8
- F198** Words in s. 45(2) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 16 para. 2(4)(a)** (with s. 119); S.I. 2005/2034, art. 8
- F199** Word in s. 45(2) substituted (4.12.2003 for W.) by Education Act 2002 (c. 32), **ss. 41(2)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/2961, art. 5, Sch. Pt. II (with transitional provisions in The Education Act 2002 (Transitional Provisions and Consequential Amendments) (No.2) (Wales) Regulations 2003 (S.I. 2003/2959), regs. 1(1), 4)
- F200** Words in s. 45(2) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 16 para. 2(4)(b)** (with s. 119); S.I. 2005/2034, art. 8
- F201** Words in s. 45(3)(a) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 99(3)(a)** (with ss. 210(8), 214(4)); S.I. 2003/1667, **art. 4** (with art. 6, Sch. para. 5); S.I. 2005/2910, art. 4, **Sch.**
- F202** Words in s. 45(3)(b)(i) substituted (19.12.2002 for W. and 1.4.2003 for E.) by Education Act 2002 (c. 32), ss. 215(1), 216, **Sch. 21 para. 99(3)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1; S.I. 2003/124, **art. 4**

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

- C69** S. 45(1A) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(c)**
- C70** S. 45(3)(4) modified (20.11.1998) by S.I. 1998/2670, **reg. 3(4)**

**[<sup>F203</sup>45A Determination of specified budgets of LEA**

- (1) For the purposes of this Part, a local education authority’s “LEA budget” for a [<sup>F204</sup>financial year][<sup>F204</sup>relevant period] is the amount appropriated by the authority for meeting all expenditure by the authority in [<sup>F205</sup>that year][<sup>F205</sup>that period] of a class or description prescribed for the purposes of this subsection.

[ In subsection (1) “relevant period” means a financial year or such other period as may <sup>F206</sup>(1A) be prescribed.]

- (2) For the purposes of this Part, a local education authority’s “schools budget” for a [<sup>F207</sup>financial year][<sup>F207</sup>funding period] is the amount appropriated by the authority for meeting all expenditure by the authority in [<sup>F208</sup>that year][<sup>F208</sup>that period] of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools).

[ The amount referred to in subsection (2) includes the amount of any grant which is <sup>F209</sup>(2A) appropriated, for meeting the expenditure mentioned in that subsection, in accordance with a condition which—

- (a) is imposed under section 16 of the Education Act 2002 (terms on which assistance under section 14 of that Act is given) or any other enactment, and
- (b) requires that the grant be applied as part of the authority’s schools budget for the funding period.]

- (3) For the purposes of this Part, a local education authority’s “individual schools budget” for a [<sup>F210</sup>financial year][<sup>F210</sup>funding period] is the amount remaining after deducting from the authority’s schools budget for [<sup>F211</sup>that year][<sup>F211</sup>that period] such planned expenditure by the authority in respect of [<sup>F211</sup>that year][<sup>F211</sup>that period] as they may determine should be so deducted in accordance with regulations.



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- (4) Regulations under subsection (3) may—
- (a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority's schools budget;
  - (b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be deducted subject to either or both of the following, namely—
    - (i) such limit or limits (however framed) as may be specified by or determined in accordance with the regulations, and
    - (ii) such other conditions as may be so specified or determined.
- [ Regulations under subsection (3) may also make provision—
- <sup>F212</sup>(4A) (a) enabling any expenditure falling outside any classes or descriptions of expenditure prescribed by virtue of subsection (4)(a) to be deducted from the authority's schools budget if the deduction of such expenditure is authorised, on the application of the authority, by the authority's schools forum or the Secretary of State, and
- (b) enabling any limit or condition that would otherwise apply by virtue of subsection (4)(b)(i) or (ii) to be varied or excluded, on the application of the authority, by the authority's schools forum or the Secretary of State.]
- (5) [<sup>F213</sup>Before the [<sup>F214</sup>schools budget deadline] in any financial year, a local education authority shall—
- (a) determine the proposed amount of their schools budget for the following financial year, and
  - (b) give notice of their determination to the Secretary of State and to the governing body of every school maintained by the authority.]]
- [<sup>F215</sup>(6) [<sup>F213</sup>For the purposes of this section and section 45B “the schools budget deadline” is—
- (a) the end of December in the case of an authority in England, and
  - (b) the end of January in the case of an authority in Wales.]]

#### Textual Amendments

- F203** S. 45A inserted (1.10.2002 for E., 4.12.2003 for W.) by Education Act 2002 (c. 32), ss. 41(1), 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 1); S.I. 2003/2961, art. 5, Sch. Pt. II
- F204** Words in s. 45A(1) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(2)(a) (with s. 119); S.I. 2005/2034, art. 8
- F205** Words in s. 45A(1) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(2)(b) (with s. 119); S.I. 2005/2034, art. 8
- F206** S. 45A(1A) inserted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(3) (with s. 119); S.I. 2005/2034, art. 8
- F207** Words in s. 45A(2) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(4)(a) (with s. 119); S.I. 2005/2034, art. 8
- F208** Words in s. 45A(2) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(4)(b) (with s. 119); S.I. 2005/2034, art. 8
- F209** S. 45A(2A) inserted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(5) (with s. 119); S.I. 2005/2034, art. 8
- F210** Words in s. 45A(3) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 16 para. 3(6)(a) (with s. 119); S.I. 2005/2034, art. 8

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- F211** Words in s. 45A(3) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 16 para. 3\(6\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F212** S. 45A(4A) inserted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 16 para. 3\(7\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F213** S. 45A(5)(6) repealed (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 16 para. 3\(8\)](#), [Sch. 19 Pt. 4](#) (with s. 119); S.I. 2005/2034, art. 8
- F214** Words in s. 45A(5) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 7 para. 66\(3\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F215** S. 45A(6) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 7 para. 66\(4\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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

- C71** S. 45A savings for effects of 2002 c. 32, s. 41(1) (W.) (19.11.2003) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\)](#), regs. 1(1), 3

**[<sup>F216</sup>45A] Power to require LEAs in England to determine schools budget**

- (1) Regulations may require a local education authority in England, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
  - (a) authorise or require local education authorities in England to take account of matters arising after the initial determination of their schools budgets for any funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
  - (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the local education authority.

**Textual Amendments**

- F216** Ss. 45AA-45AC inserted (1.11.2005 for E. in relation to the insertion of s. 45AA) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 16 para. 4](#) (with s. 119); S.I. 2005/2034, art. 8

**45AB Duty of LEAs in Wales to determine schools budget**

- (1) Before the schools budget deadline in any funding period, a local education authority in Wales must—
  - (a) determine the proposed amount of their schools budget for the following funding period, and
  - (b) give notice of their determination to the National Assembly for Wales and to the governing body of every school maintained by the authority.

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- (2) For the purposes of this section “the schools budget deadline”, in relation to an authority in Wales, means the end of January or such other time as may be prescribed.

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**Textual Amendments**

**F216** Ss. 45AA-45AC inserted (1.11.2005 for E. in relation to the insertion of s. 45AA) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 16 para. 4](#) (with s. 119); [S.I. 2005/2034, art. 8](#)

**45AC Power to require LEAs in Wales to determine schools budget**

- (1) Regulations may require a local education authority in Wales, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
- authorise or require local education authorities in Wales to take account of matters arising after the initial determination of their schools budgets for the funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
  - require notice of any initial determination or revised determination to be given in accordance with the regulations to the Assembly and to the governing bodies of schools maintained by the local education authority.
- (4) Regulations under subsection (1) are not to have effect in relation to an authority's schools budget for any funding period if section 45AB is in force in relation to that funding period.]

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**Textual Amendments**

**F216** Ss. 45AA-45AC inserted (1.11.2005 for E. in relation to the insertion of s. 45AA) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 16 para. 4](#) (with s. 119); [S.I. 2005/2034, art. 8](#)

<sup>F218</sup>**45B** [<sup>F217</sup>**Power of Secretary of State to set minimum schools budget for LEA**][<sup>F217</sup>**Power of Assembly to set minimum schools budget for LEA in Wales**]

- [<sup>F217</sup>(1) If it appears to the National Assembly for Wales that, in all the circumstances, the proposed amount of a local education authority's schools budget for a funding period is inadequate, the Assembly may, within the period of fourteen days beginning with the schools budget deadline in the funding period preceding that funding period, give the authority a notice under subsection (6) or (7).
- (2) In subsection (1), the reference to the proposed amount of a local education authority's schools budget for a funding period is—
- if section 45AB is in force in relation to that funding period, a reference to the amount specified in a notice under section 45AB(1)(b), or
  - if regulations under section 45AC(1) are in force in relation to that funding period, a reference to such amount, determined by the authority in accordance

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with those regulations and specified in a notice required by those regulations to be given to the Assembly, as may be prescribed.

- (3) If at the schools budget deadline in any funding period, a local education authority in Wales have failed to give the Assembly a notice under section 45AB(1)(b) or a notice required as mentioned in subsection (2)(b), the Assembly may, at any time after that deadline, give the authority a notice under subsection (6) or (7).
- (4) In this section “the schools budget deadline”—
- (a) in a case falling within subsection (2)(a), has the same meaning as in section 45AB, and
  - (b) in a case falling within subsection (2)(b), means the time in the funding period preceding the funding period to which the schools budget relates by which regulations under section 45AC(1) require notice of a revised determination of the schools budget to be given to the Assembly.
- (5) In this section and section 45C “the period under consideration” means the funding period to which the notice mentioned in subsection (2)(a) or (b) relates or, in a case falling within subsection (3), the funding period in relation to which such a notice ought to have been given.
- (6) A notice under this subsection is a notice determining the minimum amount of the authority's schools budget for the period under consideration.
- (7) A notice under this subsection is a notice which—
- (a) specifies the amount which the Assembly would have determined as the minimum amount of the authority's schools budget for the period under consideration if the Assembly had acted under subsection (4), and
  - (b) states the Assembly's intention to determine the minimum amount of the authority's schools budget for the following funding period.
- (8) A notice under subsection (6) or (7) must include a statement of the Assembly's reasons for giving the notice.
- (9) The Assembly may act under different subsections in relation to different authorities.]

#### Textual Amendments

**F217** Ss. 45B-45D substituted for ss. 45B, 45C (1.11.2005 for E., 1.4.2010 for W.) by [Education Act 2005](#)

(c. 18), s. 125(4), [Sch. 16 para. 5](#) (with s. 119); S.I. 2005/2034, [art. 8](#); S.I. 2010/735, [art. 2\(d\)](#)

**F218** Ss. 45B, 45C inserted (1.10.2002 for E., 4.12.2003 for W.) by [Education Act 2002](#) (c. 32), [ss. 42](#),

216(4) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/2961, [art. 5](#), [Sch. Pt. II](#)

**F219** Words in s. 45B(1) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003](#)

(c. 26), s. 128(6), [Sch. 7 para. 66\(5\)](#); S.I. 2003/2938, [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#)); S.I. 2003/3034, [art. 2](#), [Sch. 1 Pt. I](#)

**F220** Words in s. 45B(2) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003](#)

(c. 26), s. 128(6), [Sch. 7 para. 66\(6\)\(a\)](#); S.I. 2003/2938, [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#)); S.I. 2003/3034, [art. 2](#), [Sch. 1 Pt. I](#)

**F221** Words in s. 45B(2) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003](#)

(c. 26), s. 128(6), [Sch. 7 para. 66\(6\)\(b\)](#); S.I. 2003/2938, [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#)); S.I. 2003/3034, [art. 2](#), [Sch. 1 Pt. I](#)

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<sup>F218</sup>**45C** [<sup>F217</sup>**Effect of notice under section 45B(4)**][<sup>F217</sup>**Effect of notice under section 45B(6)**]

- [<sup>F217</sup>(1) The local education authority may, within the period of fourteen days beginning with the date of a notice under section 45B(6), give the National Assembly for Wales notice of their objection to the Assembly's determination, giving reasons for their objection.
- (2) Where the local education authority have given notice of their objection under subsection (1), the notice under section 45B(6) shall cease to have effect, but the Assembly may by order prescribe the minimum amount of the authority's schools budget for the period under consideration.
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(6).
- (4) An order under subsection (2) may relate to two or more authorities.
- (5) Where—
- (a) a notice under section 45B(6) has been given to a local education authority and no notice of objection has been given during the period specified in subsection (1), or
- (b) an order has been made under subsection (2),
- the local education authority shall determine a schools budget for the period under consideration which is not less than the amount specified in relation to the authority in the notice or order.]

**Textual Amendments**

**F217** Ss. 45B-45D substituted for ss. 45B, 45C (1.11.2005 for E., 1.4.2010 for W.) by [Education Act 2005](#) (c. 18), s. 125(4), [Sch. 16 para. 5](#) (with s. 119); S.I. 2005/2034, [art. 8](#); S.I. 2010/735, [art. 2\(d\)](#)

**F218** Ss. 45B, 45C inserted (1.10.2002 for E., 4.12.2003 for W.) by [Education Act 2002](#) (c. 32), [ss. 42, 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); S.I. 2002/2439, [art. 3](#); S.I. 2003/2961, [art. 5](#), [Sch. Pt. II](#)

[<sup>F217</sup>**45D Power of Assembly to repeal Wales-only school funding provisions**

The Assembly may by order—

- (a) repeal any of the following provisions—  
section 45AB,  
section 45AC(4), and  
sections 45B and 45C, and
- (b) make any amendments of the other provisions of this Chapter which appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).]

**Textual Amendments**

**F217** Ss. 45B-45D substituted for ss. 45B, 45C (1.11.2005 for E., 1.4.2010 for W.) by [Education Act 2005](#) (c. 18), s. 125(4), [Sch. 16 para. 5](#) (with s. 119); S.I. 2005/2034, [art. 8](#); S.I. 2010/735, [art. 2\(d\)](#)

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**F222 46 Determination of LEA’s local schools budget and individual schools budget.**

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**Textual Amendments**

**F222** S. 46 repealed (1.10.2002 for E., 4.12.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 41(3), 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with art. 4, Sch. para. 2 and with transitional provisions in [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\)](#), [regs. 1\(1\), 5](#); S.I. 2003/2961, art. 5, [Sch. Pt. II](#)

**47 Determination of school’s budget share.**

- (1) For the purposes of this Part a maintained school’s budget share for a [<sup>F223</sup>financial year][<sup>F223</sup>funding period] is such amount as the local education authority may determine, in accordance with regulations, to allocate to the school out of the authority’s individual schools budget for [<sup>F224</sup>that year][<sup>F224</sup>that period].
- (2) Regulations under this section may, in particular, make provision—
  - (a) as to the time when schools’ budget shares are to be initially determined by local education authorities;
  - (b) specifying—
    - (i) factors or criteria which such authorities are to take into account, or
    - (ii) requirements as to other matters with which such authorities are to comply,
 in determining such shares, whether generally or in such cases as are specified in the regulations;
  - (c) requiring adjustments to be made to such shares by such authorities in respect of—
    - (i) pupils permanently excluded from schools maintained by them, or
    - (ii) pupils admitted to schools maintained by them who have been permanently excluded from other maintained schools;
  - (d) as to the treatment of new schools, including provision authorising the determination of nil amounts as the budget shares of such schools;
  - [<sup>F225</sup>(dd) authorising or requiring such authorities to take account of matters arising after the initial determination of budget shares for a funding period but before the beginning of the funding period, by redetermining budget shares for that period in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;]
  - (e) authorising or requiring such authorities to take account of matters arising during the course of a [<sup>F226</sup>financial year][<sup>F226</sup>funding period]—
    - (i) by redetermining budget shares for that [<sup>F227</sup>year][<sup>F227</sup>funding period],  
or
    - (ii) by making adjustments to such shares for the following [<sup>F227</sup>year][<sup>F227</sup>funding period],
 in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;

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- (f) requiring consultation to be carried out by such authorities in relation to the factors or criteria which are to be taken into account in determining such shares and as to the time and manner of such consultation;
  - [<sup>F228</sup>(ff) requiring notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the authority in question;]
  - (g) [<sup>F229</sup>authorising local education authorities in prescribed cases to determine (or redetermine) budget shares, to such extent as may be prescribed, in accordance with arrangements approved by the authority's schools forum or the Secretary of State in accordance with the regulations (in place of the arrangements provided for by the regulations);]
- [<sup>F230</sup>(2A) The time by which regulations made in pursuance of subsection (2)(a) require an initial determination of schools' budget shares for a funding period to be made may be up to 48 months before the beginning of the funding period.]
- (3) Regulations made in pursuance of subsection (2)(c) may provide for the adjustments to be made on such basis as may be prescribed, which may involve the deduction from one school's budget share of an amount which is greater or less than that allocated to another school's budget share in respect of the excluded pupil.

#### Textual Amendments

- F223** Words in s. 47(1) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(2)(a)** (with s. 119); S.I. 2005/2034, art. 8
- F224** Words in s. 47(1) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(2)(b)** (with s. 119); S.I. 2005/2034, art. 8
- F225** S. 47(2)(dd) inserted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(3)(a)** (with s. 119); S.I. 2005/2034, art. 8
- F226** Words in s. 47(2)(e) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(3)(b)** (with s. 119); S.I. 2005/2034, art. 8
- F227** Words in s. 47(2)(e)(i)(ii) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(3)(b)** (with s. 119); S.I. 2005/2034, art. 8
- F228** S. 47(2)(ff) inserted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(3)(c)** (with s. 119); S.I. 2005/2034, art. 8
- F229** S. 47(2)(g) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(3)(d)** (with s. 119); S.I. 2005/2034, art. 8 (with Sch. paras. 34)
- F230** S. 47(2A) inserted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 16 para. 6(4)** (with s. 119); S.I. 2005/2034, art. 8

#### [<sup>F231</sup>Schools forums]

#### Textual Amendments

- F231** S. 47A and cross-heading inserted (2.9.2002 for E., 1.11.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 43, 216(4)** (with **ss. 210(8), 214(4)**); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 6, Sch. Pt. III

#### [<sup>F231</sup>47A Schools forums]

- (1) [<sup>F232</sup>Every local authority must, in accordance with regulations, establish for their area a body to be known as a schools forum.]

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- (2) Subsection (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.
- (3) <sup>F233</sup>The purpose of a schools forum is—
- (a) to advise the relevant authority on such matters relating to the authority's schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection, and
  - (b) to exercise any <sup>F234</sup>function that may be imposed on the schools forum by virtue of section 45A(4A) or 47(2)(g)]<sup>F234</sup>other function that may be imposed on the schools forum by or under this Chapter].]

(4) Regulations under section 45A(3) or under subsection (3) may include provision requiring a relevant authority to have regard to advice given by their schools forum, or requiring a relevant authority to consult their schools forum in relation to prescribed matters or before taking prescribed decisions.

[ Regulations must provide for a schools forum to include—

<sup>F235</sup>(4A) (a) members representing governing bodies of schools maintained by the relevant authority, and

    - (b) members representing head teachers of such schools.

(4B) Regulations may provide for a schools forum to include—

    - (a) members representing such other persons—
      - (i) as may be prescribed, or
      - (ii) as the relevant authority may from time to time, in accordance with regulations, determine, and
    - (b) other members,

and may make further provision as to the constitution of a schools forum.]

(5) Regulations may make provision as to <sup>F236</sup>the constitution], meetings and proceedings of a schools forum.

(6) <sup>F237</sup>Regulations made by virtue of subsection (5) may include provision enabling the Secretary of State in prescribed circumstances to remove from membership of a schools forum any non-schools member.]

(7) Regulations may make provision with respect to expenses of a schools forum.

(8) Except as provided by regulations, the expenses of a schools forum shall be defrayed by the relevant authority.

(9) <sup>F238</sup>In this section “relevant authority”, in relation to a schools forum, means the local education authority by whom the forum is established.]]

#### Textual Amendments

**F232** S. 47A(1) substituted (26.1.2009 for E.) by [Education and Skills Act 2008 \(c. 25\), ss. 165\(2\), 173\(3\)\(4\); S.I. 2008/3077, art. 5\(b\)](#)

**F233** S. 47A(3) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 16 para. 7](#) (with s. 119); [S.I. 2005/2034, art. 8](#)

**F234** Words in s. 47A(3)(b) substituted (8.2.2007 for E., 2.4.2010 for W.) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 5 para. 2\(2\); S.I. 2006/3400, art. 4\(c\); S.I. 2010/736, art. 3\(c\)](#)



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- F235** S. 47A(4A)(4B) inserted (26.1.2009 for E.) by Education and Skills Act 2008 (c. 25), ss. 165(3), 173(3)(4); S.I. 2008/3077, art. 5(b)
- F236** Words in s. 47A(5) repealed (26.1.2009 for E.) by Education and Skills Act 2008 (c. 25), ss. 165(4), 173(3)(4), Sch. 2; S.I. 2008/3077, art. 5(b)
- F237** S. 47A(6) repealed (8.2.2007 for E., 2.4.2010 for W.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 2(3), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d); S.I. 2010/736, art. 3(c)(d)
- F238** S. 47A(9) substituted (8.2.2007 for E., 2.4.2010 for W.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 2(4); S.I. 2006/3400, art. 4(c); S.I. 2010/736, art. 3(c)

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

- C72** S. 47A modified (28.11.2008) by The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (S.I. 2008/2867), regs. 1(1), 25(4)(5) (with reg. 1(2))

*Local education authority schemes*

**48 LEAs' financial schemes.**

- (1) Each local education authority shall <sup>F239</sup>prepare<sup>F239</sup> maintain a scheme dealing with such matters connected with the financing of the schools maintained by the authority <sup>F240</sup>or the exercise by the governing bodies of those schools of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.)] as are required to be dealt with in the scheme by or by virtue of—
- (a) regulations made by the Secretary of State; or
  - (b) any provision of this Part.
- (2) Regulations under subsection (1) may, in particular, require a scheme to deal with—
- (a) the carrying forward from one <sup>F241</sup>financial year<sup>F241</sup> funding period] to another of surpluses and deficits arising in relation to schools' budget shares;
  - (b) amounts which may be charged against schools' budget shares;
  - (c) amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used;
  - (d) the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets, including conditions prescribing financial controls and procedures;
  - <sup>F242</sup>(dd) the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the exercise of the power mentioned in subsection (1), including conditions prescribing financial controls and procedures;
  - (e) terms on which services and facilities are provided by the authority for schools maintained by them.
- (3) Where there is any inconsistency between a scheme <sup>F243</sup>prepared<sup>F243</sup> maintained] by a local education authority under subsection (1) and any other rules or regulations made by the authority which relate to the funding or financial management of schools which they maintain, the terms of the scheme shall prevail.
- (4) Schedule 14 (which provides for <sup>F244</sup>the approval or imposition of schemes by the Secretary of State and for] the revision of schemes) shall have effect.
- (5) In this Part any reference to “the scheme”, in relation to a maintained school, is a reference to <sup>F245</sup>the scheme prepared (or by virtue of paragraph 1(6) of Schedule 14 treated as prepared) by the local education authority under this section, as from time

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to time revised under paragraph 2 of that Schedule]]<sup>F245</sup>the scheme for the time being maintained under this section].

#### Textual Amendments

- F239** Word in s. 48(1) substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 5 para. 3(2)**; S.I. 2006/3400, **art. 4(c)**; S.I. 2010/736, arts. 2(b), **3(c)** (with art. 4)
- F240** Words in s. 48(1) inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 3 para. 2(2)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F241** Words in s. 48(2)(a) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 18 para. 7** (with s. 119); S.I. 2005/2034, art. 8
- F242** S. 48(2)(dd) inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 3 para. 2(3)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F243** Word in s. 48(3) substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 5 para. 3(3)**; S.I. 2006/3400, **art. 4(c)**; S.I. 2010/736, **art. 2(b)** (with art. 4)
- F244** Words in s. 48(4) repealed (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 5 para. 3(4)**, **Sch. 18 Pt. 6**; S.I. 2006/3400, **art. 4(c)(d)**; S.I. 2010/736, arts. 2(b), **3(c)(d)** (with art. 4)
- F245** Words in s. 48(5) substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 5 para. 3(5)**; S.I. 2006/3400, **art. 4(c)**; S.I. 2010/736, arts. 2(b), **3(c)** (with art. 4)

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

- C73** S. 48 excluded (10.3.1999) by S.I. 1999/362, **reg. 6(5)**.

### Financial delegation

#### 49 Maintained schools to have delegated budgets.

- (1) Every maintained school shall have a delegated budget.
- (2) <sup>F246</sup>A new school shall have a delegated budget from a date determined in accordance with regulations.
- (2A) Regulations under subsection (2) may—
  - (a) enable the date that would otherwise apply by virtue of the regulations to be varied in accordance with the regulations, on the application of the local education authority, by the authority's schools forum or by the Secretary of State, and
  - (b) make provision about the respective powers of the schools forum and the Secretary of State in relation to any application to vary that date.]
- (3) <sup>F246</sup>Such a school shall have a delegated budget—
  - (a) as from a date earlier than the school opening date if the local education authority so determine; or
  - (b) as from a later date if the authority so determine with the written approval of the Secretary of State; or

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- (c) as from such date as the Secretary of State may determine, if the authority have determined that the school should have a delegated budget as from a later date but that date is not approved by him.]
- (4) Subject to—
- (a) section 50 (right of governing body to spend budget share where school has a delegated budget),
  - (b) paragraph 4 of Schedule 15 (power of governing body to spend amounts out of budget share where delegation of budget suspended),
  - (c) section 489(2) of the <sup>M8</sup>Education Act 1996 (education standards grants), and
  - (d) any provisions of the scheme,
- a local education authority may not delegate to the governing body of any maintained school the power to spend any part of the authority's [<sup>F247</sup>LEA budget or schools budget].
- (5) Any amount made available by a local education authority to the governing body of a maintained school (whether under section 50 or otherwise)—
- (a) shall remain the property of the authority until spent by the governing body or the head teacher; and
  - (b) when spent by the governing body or the head teacher, shall be taken to be spent by them or him as the authority's agent.
- (6) Subsection (5)(b) does not apply to any such amount where it is spent—
- (a) by way of repayment of the principal of, or interest on, a loan, or
  - (b) (in the case of a voluntary aided school) to meet [<sup>F248</sup>expenses payable by the governing body under paragraph 3(1) or (2) of Schedule 3][<sup>F248</sup>expenditure payable by the governing body under paragraph 3(1) of Schedule 3][<sup>F249</sup>, paragraph 14(2) of Schedule 6, paragraph 3(3) of Schedule 7A to the Learning and Skills Act 2000 or paragraph 8 of Schedule 8 to the Education Act 2002].
- (7) In this Part—
- (a) references to a school having a delegated budget are references to the governing body of the school being entitled to manage the school's budget share; and
  - (b) where a school has a delegated budget the governing body are accordingly said to have a right to a delegated budget.

#### Textual Amendments

- F246** S. 49(2)(2A) substituted for s. 49(2) (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 4](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, arts. 2(b), [3\(c\)](#) (with art. 4)
- F247** Words in s. 49(4) substituted (1.10.2002 for E., 4.12.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 100\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with art. 4, [Sch. para. 2](#)); S.I. 2003/2961, [art. 5](#), [Sch. Pt. II](#)
- F248** Words in s. 49(6)(b) substituted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), [art. 4](#)
- F249** Words in s. 49(6)(b) substituted (1.4.2003 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 100\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2003/124, [art. 4](#); S.I. 2004/1728, [art. 4](#), [Sch. Pt. 1](#)

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

- C74** Ss. 49-51: power to modify conferred (1.4.2003 for E.) by [Education Act 2002 \(c. 32\), ss. 25\(1\)\(b\), 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2003/124, art. 4](#)
- C75** S. 49(4) savings for effects of 2002 c. 32, ss. 41(3), 215, Sch. 21 paras. 100(2) (W.) (19.11.2003) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(No.2\) \(Wales\) Regulations 2003 \(S.I. 2003/2959\), regs. 1\(1\), 5](#)
- C76** S. 49(6)(b) modified (20.11.1998) by [S.I. 1998/2670, reg. 3\(5\)](#)

#### Marginal Citations

- M8** 1996 c. 56.

## 50 Effect of financial delegation.

- (1) Where a maintained school has a delegated budget in respect of the whole or part of a [<sup>F250</sup>financial year][<sup>F250</sup>funding period] the local education authority shall secure that in respect of [<sup>F251</sup>that year][<sup>F251</sup>that period] there is available to be spent by the governing body—
  - (a) where the school has a delegated budget in respect of the whole of that [<sup>F252</sup>year][<sup>F252</sup>period], a sum equal to the school's budget share for the [<sup>F252</sup>year][<sup>F252</sup>period], or
  - (b) where the school has a delegated budget in respect of only part of that [<sup>F253</sup>year][<sup>F253</sup>period], a sum equal to that portion of the school's budget share for the [<sup>F253</sup>year][<sup>F253</sup>period] which has not been spent.
- (2) The times at which, and the manner in which, any amounts are made available by the authority to the governing body in respect of any such sum shall be such as may be provided by or under the scheme.
- (3) Subject to any provision made by or under the scheme, the governing body may spend any such amounts as they think fit—
  - (a) for any purposes of the school; or
  - (b) (subject also to any prescribed conditions) for such purposes as may be prescribed.
- (4) In subsection (3) “purposes of the school” does not include purposes wholly referable to the provision of—
  - [<sup>F254</sup>(za) facilities and services under section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.),]
  - (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19;
 but any such purposes may be prescribed by regulations under paragraph (b) of that subsection.
- (5) Nothing in subsection (3) shall be read as authorising the payment of allowances to governors otherwise than in accordance with regulations [<sup>F255</sup>under section 19 of the Education Act 2002 (or, in the case of temporary governors of a new school, regulations under section 34(5) of that Act).]

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- (6) The governing body may delegate to the head teacher, to such extent as may be permitted by or under the scheme, their powers under subsection (3) in relation to any amount such as is mentioned in that subsection.
- (7) The governors of a school shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of their powers under subsection (3) or (6).

#### Textual Amendments

- F250** Words in s. 50(1) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 8(a)** (with s. 119); S.I. 2005/2034, art. 8
- F251** Words in s. 50(1) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 8(b)** (with s. 119); S.I. 2005/2034, art. 8
- F252** Word in s. 50(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 8(c)** (with s. 119); S.I. 2005/2034, art. 8
- F253** Word in s. 50(1)(b) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 8(c)** (with s. 119); S.I. 2005/2034, art. 8
- F254** S. 50(4)(za) inserted (2.9.2002 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 3 para. 3** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F255** Words in s. 50(5) substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 101** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

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

- C74** Ss. 49-51: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 25(1)(b)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4

#### Commencement Information

- I6** S. 50 wholly in force; s. 50 not in force at Royal Assent see s. 145(3); s. 50(3) and (4) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I, **Sch. 2 Pt. I para. 1** and s. 50 in force at 1.4.1999 (so far as it is not already in force) by Sch. 1 Pt. IV of the same S.I.

### *Suspension of financial delegation*

#### **51 Suspension of financial delegation for mismanagement etc.**

Schedule 15 (which provides for the suspension by a local education authority of a governing body's right to a delegated budget in the case of failure to comply with requirements as to delegation or of financial mismanagement, etc.) shall have effect.

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

- C74** Ss. 49-51: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 25(1)(b)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4

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*[<sup>F256</sup>Expenditure incurred for community purposes]*

**Textual Amendments**

**F256** Cross-heading and s. 51A inserted (2.9.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 40, 216, [Sch. 3 para. 4](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#)

**[<sup>F257</sup>51A Expenditure incurred for community purposes**

- (1) Expenditure incurred by the governing body of a maintained school in the exercise of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.) shall, as against third parties, be treated as part of the expenses of maintaining the school under section 22, but if met by the local education authority may be recovered by them from the governing body.
- (2) Except as provided by regulations under section 50(3)(b), no expenditure incurred by the governing body of a maintained school in the exercise of the power referred to in subsection (1) shall be met from the school's budget share for any [<sup>F258</sup>financial year][<sup>F258</sup>funding period].
- (3) Subsection (2) applies at a time when the school does not have a delegated budget by virtue of any suspension under section 17 or Schedule 15, as well as a time when it does have a delegated budget.]

**Textual Amendments**

**F257** S. 51A and cross-heading inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 3 para. 4](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, [art. 4](#); S.I. 2003/1718, [art. 5](#), [Sch. Pt. II](#)

**F258** Words in s. 51A(2) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 18 para. 9](#) (with s. 119); S.I. 2005/2034, [art. 8](#)

*Information*

**52 Financial statements.**

- (1) Before the beginning of each [<sup>F259</sup>financial year][<sup>F259</sup>prescribed period] a local education authority shall prepare a statement containing such information relating to their planned expenditure in [<sup>F260</sup>that year][<sup>F260</sup>that period] as may be prescribed.
- [<sup>F261</sup>(1A) The periods prescribed for the purposes of subsection (1)—
- (a) must consist of one or more funding periods, and
  - (b) may include funding periods in respect of which (by virtue of their inclusion in one or more earlier periods prescribed for the purposes of that subsection) information relating to planned expenditure has previously been required under that subsection.]
- (2) After the end of each [<sup>F262</sup>financial year][<sup>F262</sup>prescribed period] a local education authority shall prepare a statement containing such information with respect to the following matters as may be prescribed—

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- (a) the planned expenditure in that [<sup>F263</sup>year][<sup>F263</sup>period] specified in the statement prepared by the authority under subsection (1),
- (b) expenditure actually incurred, or treated by the authority as having been incurred, by them in the [<sup>F263</sup>year][<sup>F263</sup>period], [<sup>F264</sup>and]
- (c) any other resources allocated by the authority in the [<sup>F263</sup>year][<sup>F263</sup>period] to schools maintained by them during any part of the [<sup>F263</sup>year][<sup>F263</sup>period]. [<sup>F265</sup>and]
- (d) accountable resources held, received or expended in the [<sup>F263</sup>year][<sup>F263</sup>period] by any person in relation to a school maintained by the authority.]

[<sup>F266</sup>(2A) In subsection (2)(d), “accountable resources”, in relation to a maintained school, means any resources which are not provided by the local education authority but in respect of which an obligation is imposed on the governing body of the school by virtue of regulations under section 44 of the Education Act 2002 (accounts of maintained schools).]

[<sup>F267</sup>(2B) The periods prescribed for the purposes of subsection (2) must consist of one or more funding periods.]

- (3) A statement under this section shall—
  - (a) be prepared in such form, and
  - (b) be published in such manner and at such times, as may be prescribed.
- (4) The authority shall furnish the governing body and head teacher of each school maintained by them with a copy of each statement prepared by the authority under this section or, if regulations so provide, with a copy of such part or parts of it as may be prescribed.
- (5) A governing body provided with such a copy under subsection (4) shall secure that a copy of it is available for inspection (at all reasonable times and free of charge) at the school.
- (6) Subsection (5) does not apply to a temporary governing body of a new school at any time before the school opening date.

#### Textual Amendments

- F259** Words in s. 52(1) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 18 para. 10\(2\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F260** Words in s. 52(1) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 18 para. 10\(2\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F261** S. 52(1A) inserted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 18 para. 10\(3\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F262** Words in s. 52(2) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 18 para. 10\(4\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F263** Word in s. 52(2)(a)-(d) substituted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 18 para. 10\(4\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 8
- F264** Word in s. 52(2)(b) repealed (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), ss. 45(2), 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F265** S. 52(2)(d) and word inserted (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), ss. 45(2), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4

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- F266** S. 52(2A) inserted (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), **ss. 45(3)**, 216(4) (with ss. 210(8), 214(4)); [S.I. 2003/124](#), art. 4
- F267** S. 52(2B) inserted (1.11.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 18 para. 10(5)** (with s. 119); [S.I. 2005/2034](#), art. 8

### 53 Certification of statements by Audit Commission.

- (1) A local education authority [<sup>F268</sup>in England] shall, if directed to do so by the Secretary of State, require the Audit Commission for Local Authorities and the National Health Service in England <sup>F269</sup>... to make arrangements in accordance with section 28(1)(d) of the <sup>M9</sup>Audit Commission Act 1998 for certifying—
- (a) such statement or statements prepared by the authority under section 52 above, or
  - (b) such part or parts of any such statement or statements,
- as may be specified in the directions; and for the purposes of section 28(1)(d) of that Act any statement under section 52 above shall be treated as a return by the authority.
- (2) The arrangements made by the Audit Commission in pursuance of subsection (1) shall include arrangements for sending to the Secretary of State—
- (a) a copy of the statement or statements so certified, or
  - (b) a copy of the part or parts so certified,
- as the case may be.
- (3) Directions given under subsection (1) may relate to any local education authority or to local education authorities generally or to any class or description of such authorities.

#### Textual Amendments

- F268** Words in s. 53(1) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, **Sch. 2 para. 40**; [S.I. 2005/558](#), art. 2, **Sch. 1**
- F269** Words in s. 53(1) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 9 para. 1(2)(l)**, **Sch. 18 Pt. 9**; [S.I. 2008/172](#), art. 4(a)(n)(i)

#### Marginal Citations

- M9** 1998 c. 18.

### [<sup>F270</sup>53A Certification of statements by Auditor General for Wales

- (1) A local education authority in Wales shall, if directed to do so by the National Assembly for Wales, require the Auditor General for Wales to make arrangements in accordance with section 96B(1)(d) of the Government of Wales Act 1998 for certifying—
- (a) such statement or statements prepared by the authority under section 52 above, or
  - (b) such part or parts of any such statement or statements,
- as may be specified in the directions; and for the purposes of section 96B(1)(d) of that Act any statement under section 52 above shall be regarded as a return by the authority.



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- (2) The arrangements made by the Auditor General for Wales in pursuance of subsection (1) shall include arrangements for sending to the National Assembly for Wales—
- (a) a copy of the statement or statements so certified, or
  - (b) a copy of the part or parts so certified,
- as the case may be.
- (3) Directions given under subsection (1) may relate to any local education authority or to local education authorities generally or to any class or description of such authority.]

**Textual Amendments**

**F270** S. 53A inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 41](#); S.I. 2005/558, art. 2, [Sch. 1](#)

**CHAPTER V**

STAFFING AND CONDUCT OF SCHOOLS

*Staffing of schools*

<sup>F271</sup>**54 Staffing of community, voluntary controlled and community special schools.**

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**Textual Amendments**

**F271** Ss. 54-57 repealed (1.10.2002 for E. for repeal of s. 57, 1.9.2003 for E for repeal of ss. 54-56, 1.4.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/1667, [art. 4](#); S.I. 2006/879, art. 4, [Sch.](#)

<sup>F271</sup>**55 Staffing of foundation, voluntary aided and foundation special schools.**

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**Textual Amendments**

**F271** Ss. 54-57 repealed (1.10.2002 for E. for repeal of s. 57, 1.9.2003 for E for repeal of ss. 54-56, 1.4.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/1667, [art. 4](#); S.I. 2006/879, art. 4, [Sch.](#)

<sup>F271</sup>**56 Staffing for non-school activities.**

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**Textual Amendments**  
**F271** Ss. 54-57 repealed (1.10.2002 for E. for repeal of s. 57, 1.9.2003 for E for repeal of ss. 54-56, 1.4.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/1667, [art. 4](#); S.I. 2006/879, art. 4, [Sch.](#)

**F271 57** **Payments in respect of dismissal, etc.**

.....

**Textual Amendments**  
**F271** Ss. 54-57 repealed (1.10.2002 for E. for repeal of s. 57, 1.9.2003 for E for repeal of ss. 54-56, 1.4.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/1667, [art. 4](#); S.I. 2006/879, art. 4, [Sch.](#)

*Appointment and dismissal of teachers of religious education*

**58** **Appointment and dismissal of certain teachers at schools with a religious character.**

- (1) In this section—
  - (a) subsections (2) to (6) apply to a foundation or voluntary controlled school which has a religious character; and
  - (b) subsection (7) applies (subject to subsection (8)) to a voluntary aided school which has a religious character;

and references in this Chapter to a school which has (or does not have) a religious character shall be construed in accordance with section 69(3).

- (2) Where the number of [<sup>F272</sup>teachers at] a school to which this subsection applies is more than two, [<sup>F273</sup>the teachers shall] include persons who—
  - (a) are selected for their fitness and competence to give such religious education as is required in accordance with arrangements under paragraph 3(3) of Schedule 19 (arrangements for religious education in accordance with the school’s trust deed or with the tenets of the school’s specified religion or religious denomination), and
  - (b) are specifically appointed to do so.

- (3) The number of reserved teachers in such a school shall not exceed one-fifth of [<sup>F274</sup>the total number of teachers], including the head teacher (and for this purpose, where [<sup>F274</sup>the total number of teachers] is not a multiple of five, it shall be treated as if it were the next higher multiple of five).

<sup>F275</sup>(4) .....

- (5) Where the appropriate body propose to appoint a person to be a reserved teacher in such a school, that body—
  - (a) shall consult the foundation governors, and



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S. 58(7) applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(4)**.

### *Religious opinions etc. of staff*

## **59 Staff at community, secular foundation or voluntary, or special school.**

- (1) This section applies to—
  - (a) a community school or a community or foundation special school, or
  - (b) a foundation or voluntary school which does not have a religious character.
- (2) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship—
  - (a) from being a teacher at the school, or
  - (b) from being employed [<sup>F278</sup>or engaged] for the purposes of the school otherwise than as a teacher.
- (3) No teacher at the school shall be required to give religious education.
- (4) No teacher at the school shall receive any less remuneration or be deprived of, or disqualified for, any promotion or other advantage—
  - (a) by reason of the fact that he does or does not give religious education, or
  - (b) by reason of his religious opinions or of his attending or omitting to attend religious worship.

#### **Textual Amendments**

**F278** Words in s. 59(2)(b) inserted (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 3 para. 7** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

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

- C79** S. 59 applied (1.9.1999) by S.I. 1999/2243, **reg. 49(2)**.  
 S. 59 applied (1.9.1999) by S.I. 1999/2243, **reg. 50(4)**.  
 S. 59 applied (1.9.1999) by S.I. 1999/2243, **reg. 51(2)**.  
 S. 59 applied with modifications (1.9.1999) by S.I. 1999/2243, **reg. 52(5)**.  
 S. 59 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 49(2)**.  
 S. 59 applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 50(4)**.  
 S. 59 applied with modifications (1.9.1999) by S.I. 1999/2262, **regs. 48, 51(2)**.  
 S. 59 applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(4)**.
- C80** S. 59(2)-(4) modified (1.9.1999) by S.I. 1999/2243, **reg. 50(5)**.  
 S. 59(2)-(4) applied (with modifications) by S.I. 1999/2243, **reg. 52(6)**.  
 S. 59(2)-(4) applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 50(5)**.  
 S. 59(2)-(4) applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(6)**.

## **60 Staff at foundation or voluntary school with religious character.**

- (1) This section applies to a foundation or voluntary school which has a religious character.
- (2) If the school is a foundation or voluntary controlled school, then (subject to subsections (3) and (4) below) section 59(2) to (4) shall apply to the school as they

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- apply to a foundation or voluntary controlled school which does not have a religious character.
- (3) Section 59(2) to (4) shall not so apply in relation to a reserved teacher at the school; and instead subsection (5) below shall apply in relation to such a teacher as it applies in relation to a teacher at a voluntary aided school.
- (4) In connection with the appointment of a person to be head teacher of the school (whether foundation or voluntary controlled) [<sup>F279</sup>in a case where the head teacher is not to be a reserved teacher] regard may be had to that person's ability and fitness to preserve and develop the religious character of the school.
- (5) If the school is a voluntary aided school—
- (a) preference may be given, in connection with the appointment, remuneration or promotion of teachers at the school, to persons—
- (i) whose religious opinions are in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4), or
- (ii) who attend religious worship in accordance with those tenets, or
- (iii) who give, or are willing to give, religious education at the school in accordance with those tenets; and
- (b) regard may be had, in connection with the termination of the employment [<sup>F280</sup>or engagement] of any teacher at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified.
- (6) If the school is a voluntary aided school [<sup>F281</sup>in Wales], no person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, from being employed [<sup>F282</sup>or engaged] for the purposes of the school otherwise than as a teacher.
- (7) Where immediately before the appointed day a teacher at a school which on that day becomes a school to which this section applies enjoyed, by virtue of section 304 or 305 of the <sup>M10</sup>Education Act 1996 (religious opinions of staff etc.), any rights not conferred on him by this section as a teacher at a school to which it applies, he shall continue to enjoy those rights (in addition to those conferred by this section) until he ceases to be employed as a teacher at the school.
- (8) In this section “reserved teacher”, in relation to a foundation or voluntary controlled school, means a person employed at the school in pursuance of section 58(2).

#### Textual Amendments

- F279** Words in s. 60(4) inserted (30.6.2008 for W., 1.9.2008 for E.) by [Education and Inspections Act 2006 \(c. 40\), ss. 37\(2\)\(a\)](#), 188(3); S.I. 2008/1429, art. 3(1), Sch. Pt. 1; S.I. 2008/1971, art. 2(a) (with art. 3)
- F280** Words in s. 60(5)(b) inserted (1.9.2003 for E., 1.4.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 3 para. 8\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.
- F281** Words in s. 60(6) inserted (1.9.2008 for E.) by [Education and Inspections Act 2006 \(c. 40\), ss. 37\(2\)\(b\)](#), 188(3); S.I. 2008/1971, art. 2(a) (with art. 3)
- F282** Words in s. 60(6) inserted (1.9.2003 for E., 1.4.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 3 para. 8\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

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

- C81** S. 60 applied (1.9.1999) by [S.I. 1999/2243, reg. 49\(3\)](#).

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- S. 60 applied (1.9.1999) by S.I. 1999/2243, **reg. 50(5)**.
- S. 60 applied (1.9.1999) by S.I. 1999/2243, **reg. 51(3)**.
- S. 60 applied (1.9.1999) by S.I. 1999/2243, **reg. 52(6)**.
- S. 60 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 49(3)**.
- S. 60 applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 50(5)**.
- S. 60 applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 51(3)**.
- S. 60 applied (1.9.1999) by S.I. 1999/2262, **regs. 48, 52(6)**.

#### **Marginal Citations**

**M10** 1996 c. 56.

*Discipline: general*

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

- [<sup>F283</sup>(1) The governing body of a 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 and, in particular, preventing all forms of bullying among 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).

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- (6) The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the head teacher, so far as it is not determined by the governing body.
- (7) The measures determined by the head teacher under subsection (4) shall be publicised by him in the form of a written document as follows—
- (a) he shall make the measures generally known within the school and to parents of registered pupils at the school; and
  - (b) he shall in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons employed, or otherwise engaged to provide their services, at the school.

[<sup>F284</sup>(8) In this section “maintained school” includes a maintained nursery school.]]

#### Textual Amendments

- F283** S. 61 repealed (1.4.2007 for E., 1.1.2009 for W. for specified purposes) by Education and Inspections Act 2006 (c. 40), ss. 96(b), 188(3), **Sch. 18 Sch. 6**; S.I. 2007/935, art. 4(a)(d); S.I. 2009/2545, art. 3(2)(b)(d)
- F284** S. 61(8) inserted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 102** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

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

- C82** S. 61 applied with modifications (1.9.1999) by S.I. 1999/2262, **reg. 59**.
- C83** S. 61 applied (with modifications) (10.7.2003) by New Schools (General) (England) Regulations 2003 (S.I. 2003/1558), **regs. 1, 31**
- C84** S. 61 modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(d)**
- C85** S. 61 applied (with modifications) (E.) (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), **reg. 1(1), Sch. 1 para. 5**
- C86** S. 61 applied (with modifications) (W.) (31.10.2005) by The New Maintained Schools (Wales) Regulations 2005 (S.I. 2005/2912), **regs. 1(1), 30(1)** (with **reg. 30(2)**)
- C87** S. 61 applied (with modifications) (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), **reg. 1(1), Sch. 1 para. 5**
- C88** S. 61 extended (with modifications) (1.9.1999) by S.I. 1999/2243, **reg. 59**.

## 62 LEA’s reserve power to prevent a breakdown of discipline.

- (1) The local education authority may, in the circumstances mentioned in subsection (2) or where [<sup>F285</sup>subsection (2A) or (3)] applies, take such steps in relation to a maintained school as they consider are required to prevent the breakdown, or continuing breakdown, of discipline at the school.
- (2) The circumstances are that—
- (a) in the opinion of the authority—
    - (i) the behaviour of registered pupils at the school, or
    - (ii) any action taken by such pupils or their parents,is such that the education of any registered pupils at the school is (or is likely in the immediate future to become) severely prejudiced; and
  - (b) the governing body have been informed in writing of the authority’s opinion.

[<sup>F286</sup>(2A) This subsection applies where, in the case of a school in England—

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- (a) a warning notice has been given in accordance with section 60(2) of the Education and Inspections Act 2006 (“the 2006 Act”) referring to the safety of pupils or staff at the school being threatened by a breakdown of discipline at the school,
- (b) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction within the compliance period, and
- (c) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under subsection (1) of this section (whether or not in conjunction with exercising their powers under any one or more of sections 63 to 66 of the 2006 Act);
- and a notice under paragraph (c) of this subsection may be combined with a notice under section 60(2) of the 2006 Act.]
- (3) This subsection applies where [<sup>F287</sup>in the case of school in Wales]—
- (a) a warning notice has been given in accordance with section 15(2) referring to the safety of pupils or staff at the school being threatened by a breakdown of discipline at the school,
- (b) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction within the compliance period, and
- (c) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under subsection (1) of this section (whether or not in conjunction with exercising their powers under [<sup>F288</sup>any one or more of sections 16, 16A and 17]);
- and a notice under paragraph (c) of this subsection may be combined with a notice under section 15(1)(c).
- (4) Steps taken by a local education authority under subsection (1) may include the giving of any direction to the governing body or head teacher.
- [<sup>F289</sup>(5) In this section “maintained school” includes a maintained nursery school.]

#### Textual Amendments

- F285** Words in s. 62(1) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 14(2)**; S.I. 2007/935, art. 5(cc)
- F286** S. 62(2A) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 14(3)**; S.I. 2007/935, art. 5(cc)
- F287** Words in s. 62(3) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 14(4)**; S.I. 2007/935, art. 5(cc)
- F288** Words in s. 62(3)(c) substituted (30.6.2008) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 17 para. 2**; S.I. 2008/1429, art. 3(2), Sch. Pt. 2
- F289** S. 62(5) inserted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 103** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

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

- C89** S. 62 modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(d)**
- C90** S. 62(1)(2) applied (with modifications) (E.) (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 1 para. 6**
- C91** S. 62(1)(2) applied (with modifications) (W.) (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 1 para. 6**



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- C92** S. 62(1)(2) applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 9**
- C93** S. 62(4) applied (with modifications) (E.) (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 1 para. 6**
- C94** S. 62(4) applied (with modifications) (W.) (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 1 para. 6**
- C95** S. 62(4) applied (with modifications) (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 1 para. 9**

### *School attendance targets*

## **63 School attendance targets.**

- (1) Regulations may make provision for and in connection with—
  - (a) requiring, or
  - (b) enabling the Secretary of State to require, governing bodies of maintained schools to secure that annual targets are set for reducing the level of <sup>F290</sup>... absences on the part of relevant day pupils at their schools.
- (2) Regulations under this section may, in particular, make provision—
  - (a) for the Secretary of State to impose such a requirement on the governing body of a maintained school where—
    - (i) the specified condition is for the time being satisfied in relation to the school, and
    - (ii) he considers it appropriate to impose the requirement;
  - (b) for such a requirement to be imposed by the Secretary of State in such manner, and for such period, as may be specified in or determined in accordance with the regulations;
  - (c) for the Secretary of State, where he considers it appropriate to do so, to exempt the governing body of a maintained school, in relation to any school year, from a requirement imposed by virtue of subsection (1)(a) or (b).
- (3) For the purposes of subsection (2)(a)(i) the specified condition is for the time being satisfied in relation to a maintained school if in the previous school year the level of <sup>F291</sup>... absences on the part of relevant day pupils at the school (as determined in accordance with the regulations) exceeded such level as may for that year be specified in or determined in accordance with the regulations.

- [<sup>F292</sup>(3A) Provision made by regulations under this section may relate to—
- (a) absences which are authorised pursuant to regulations under section 434 of the Education Act 1996, or
  - (b) absences which are not so authorised, or
  - (c) both.]

- (4) In this section—

“relevant day pupil” means a pupil registered at a maintained school who is of compulsory school age and is not a boarder;

<sup>F293</sup>  
...

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**Textual Amendments**

- F290** Word in s. 63(1) repealed (1.6.2004 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 53(2), 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2004/1318, art. 2; S.I. 2005/2910, art. 4, Sch.
- F291** Word in s. 63(3) repealed (1.6.2004 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 53(2), 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2004/1318, art. 2; S.I. 2005/2910, art. 4, Sch.
- F292** S. 63(3A) inserted (1.6.2004 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 53(3), 216(4) (with ss. 210(8), 214(4)); S.I. 2004/1318, art. 2; S.I. 2005/2910, art. 4, Sch.
- F293** Words in s. 63(4) repealed (1.6.2004 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 53(4), 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2004/1318, art. 2; S.I. 2005/2910, art. 4, Sch.

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

- C96** S. 63 extended (*temp.*) (16.2.1999) by [S.I. 1999/129](#), [reg.2](#).

*Exclusion of pupils*

<sup>F294</sup>**64 Power of head teacher to exclude pupils.**

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**Textual Amendments**

- F294** Ss. 64-68 repealed (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2003/2961, art. 7, Sch. Pt. IV

<sup>F294</sup>**65 Exclusion of pupils: duty to inform parents, etc.**

.....

**Textual Amendments**

- F294** Ss. 64-68 repealed (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2003/2961, art. 7, Sch. Pt. IV

<sup>F294</sup>**66 Functions of governing body in relation to excluded pupils.**

.....

**Textual Amendments**

- F294** Ss. 64-68 repealed (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2003/2961, art. 7, Sch. Pt. IV

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<sup>F294</sup>**67 Appeals against exclusion of pupils.**

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**Textual Amendments**

**F294** Ss. 64-68 repealed (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, [Sch. para. 4](#)); S.I. 2003/2961, art. 7, [Sch. Pt. IV](#)

<sup>F294</sup>**68 Exclusion of pupils: guidance.**

.....

**Textual Amendments**

**F294** Ss. 64-68 repealed (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, [Sch. para. 4](#)); S.I. 2003/2961, art. 7, [Sch. Pt. IV](#)

## CHAPTER VI

### RELIGIOUS EDUCATION AND WORSHIP

#### *Religious education*

**69 Duty to secure due provision of religious education.**

- (1) Subject to section 71, in relation to any community, foundation or voluntary school—
  - (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,that religious education is given in accordance with the provision for such education included in the school's basic curriculum by virtue of [<sup>F295</sup>section 80(1)(a) or 101(1)(a) of the Education Act 2002].
- (2) Schedule 19 has effect for determining the provision for religious education which is required by [<sup>F296</sup>section 80(1)(a) or 101(1)(a)] of that Act to be included in the basic curriculum of schools within each of the following categories, namely—
  - (a) community schools and foundation and voluntary schools which do not have a religious character,
  - (b) foundation and voluntary controlled schools which have a religious character, and
  - (c) voluntary aided schools which have a religious character.
- (3) For the purposes of this Part a foundation or voluntary school has a religious character if it is designated as a school having such a character by an order made by the Secretary of State.

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- (4) An order under subsection (3) shall state, in relation to each school designated by the order, the religion or religious denomination in accordance with whose tenets religious education is, or may be, required to be provided at the school in accordance with Schedule 19 (or, as the case may be, each such religion or religious denomination).
- (5) The procedure to be followed in connection with—
- (a) the designation of a school in an order under subsection (3), and
  - (b) the inclusion in such an order, in relation to a school, of the statement required by subsection (4),
- shall be specified in regulations.

#### Textual Amendments

**F295** Words in s. 69(1) substituted (1.10.2002 for E. for specified purposes, 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 104\(2\)](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439, art. 3](#), (with Sch.); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#); [S.I. 2003/124, art. 2](#)

**F296** Words in s. 69(2) substituted (1.10.2002 for E. for specified purposes, 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 104\(3\)](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439, art. 3](#), (with Sch.); [S.I. 2002/3185, art. 4, Sch. Pt. 1](#); [S.I. 2003/124, art. 2](#)

#### Commencement Information

**I7** S. 69 wholly in force at 1.9.1999; s. 69 not in force at Royal Assent see s. 145(3); s. 69(2)-(5) in force at 1.10.1998 by 1998/2212, art. 2, Sch. 1, Pt. I; s. 69 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

### Religious worship

#### 70 Requirements relating to collective worship.

- (1) Subject to section 71, each pupil in attendance at a community, foundation or voluntary school shall on each school day take part in an act of collective worship.
- (2) Subject to section 71, in relation to any community, foundation or voluntary school—
- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,
- that subsection (1) is complied with.
- (3) Schedule 20 makes further provision with respect to the collective worship required by this section, including provision relating to—
- (a) the arrangements which are to be made in connection with such worship, and
  - (b) the nature of such worship.

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*Exceptions and special arrangements etc.*

**71 Exceptions and special arrangements; provision for special schools.**

- [<sup>F297</sup>(1) If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused from receiving religious education given at the school in accordance with the school's basic curriculum, the pupil shall be so excused until the request is withdrawn.
- (1A) If the parent of any pupil at a community, foundation or voluntary school other than a sixth-form pupil requests that he may be wholly or partly excused from attendance at religious worship at the school, the pupil shall be so excused until the request is withdrawn.
- (1B) If a sixth-form pupil requests that he may be wholly or partly excused from attendance at religious worship at a community, foundation or voluntary school, the pupil shall be so excused.]
- (2) In [<sup>F298</sup>subsections (1) to (1B)]—
- the reference to religious education given in accordance with the school's basic curriculum is to such education given in accordance with the provision included in the school's basic curriculum by virtue of [<sup>F299</sup>section 80(1)(a) or 101(1)(a) of the Education Act 2002], and
  - the reference to religious worship in the school includes religious worship which by virtue of paragraph 2(6) of Schedule 20 takes place otherwise than on the school premises.
- (3) Where in accordance with subsection (1) [<sup>F300</sup>or (1A)] a pupil has been wholly or partly excused from receiving religious education or from attendance at religious worship and the local education authority are satisfied—
- that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused,
  - that the pupil cannot with reasonable convenience be sent to another community, foundation or voluntary school where religious education of the kind desired by the parent is provided, and
  - that arrangements have been made for him to receive religious education of that kind during school hours elsewhere,
- the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.
- (4) A pupil may not be withdrawn from school under subsection (3) unless the local education authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of a school session (or, if there is only one, the school session) on that day.
- (5) Where the parent of a pupil who is a boarder at a community, foundation or voluntary school [<sup>F301</sup>and is not a sixth-form pupil] requests that the pupil be permitted—
- to receive religious education in accordance with the tenets of a particular religion or religious denomination outside school hours, or

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- (b) to attend worship in accordance with such tenets on Sundays or other days exclusively set apart for religious observance by the religious body to which his parent belongs,  
the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so.
- [<sup>F302</sup>(5A) Where a sixth-form pupil who is a boarder at a community, foundation or voluntary school requests that he be permitted—
- (a) to receive religious education in accordance with the tenets of a particular religion or religious denomination outside school hours, or
- (b) to attend worship in accordance with such tenets on Sundays or other days exclusively set apart for religious observance by the religious body to which the pupil belongs,  
the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so.]
- (6) Arrangements under subsection (5) [<sup>F303</sup>or (5A)] may provide for making facilities for such education or worship available on the school premises, but any expenditure entailed by the arrangements shall not be met from the school’s budget share or otherwise by the local education authority.
- [<sup>F304</sup>(7) Regulations shall make provision for ensuring that, so far as practicable, every pupil attending a community or foundation special school—
- (a) receives religious education unless withdrawn from receiving such education in accordance with the wishes of his parent, and
- (b) attends religious worship unless withdrawn from attendance at such worship—
- (i) in the case of a sixth-form pupil, in accordance with his own wishes, and
- (ii) in any other case, in accordance with the wishes of his parent.]
- [<sup>F305</sup>(8) In this section “sixth-form pupil” means any pupil who—
- (a) has ceased to be of compulsory school age, and
- (b) is receiving education suitable to the requirements of pupils over compulsory school age.]

### Textual Amendments

- F297** S. 71(1)-(1B) substituted for s. 71(1) (1.9.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(2\)](#), 188(3); S.I. 2007/1801, art. 3(b); S.I. 2009/49, art. 2
- F298** Words in s. 71(2) substituted (1.9.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(3\)](#), 188(3); S.I. 2007/1801, art. 3(b); S.I. 2009/49, art. 2
- F299** Words in s. 71(2)(a) substituted (1.10.2002 for E. for specified purposes, 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), [ss. 215\(1\)](#), 216, [Sch. 21 para. 105](#) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2439, [art. 3](#), (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1; S.I. 2003/124, art. 2
- F300** Words in s. 71(3) inserted (1.9.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(4\)](#), 188(3); S.I. 2007/1801, art. 3(b); S.I. 2009/49, art. 2
- F301** Words in s. 71(5) inserted (1.9.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(5\)](#), 188(3); S.I. 2007/1801, art. 3(b); S.I. 2009/49, art. 2
- F302** S. 71(5A) inserted (1.9.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(6\)](#), 188(3); S.I. 2007/1801, art. 3(b); S.I. 2009/49, art. 2

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- F303** Words in s. 71(6) inserted (1.9.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(7\)](#), 188(3); [S.I. 2007/1801](#), art. 3(b); [S.I. 2009/49](#), art. 2
- F304** S. 71(7) substituted (25.6.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(8\)](#), 188(3); [S.I. 2007/1801](#), art. 2; [S.I. 2009/49](#), art. 2
- F305** S. 71(8) inserted (25.6.2007 for E., 9.2.2009 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 55\(9\)](#), 188(3); [S.I. 2007/1801](#), art. 2; [S.I. 2009/49](#), art. 2

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#### Commencement Information

- 18** S. 71 wholly in force at 1.9.1999; s. 71 not in force at Royal Assent see s. 145(3); s. 71(7) in force at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1](#), Pt. I; s. 71 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

## CHAPTER VII

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Further provisions relating to new schools*

#### **72 Further provisions relating to new schools.**

- (1) Regulations may make provision for—
- the staffing and conduct of a new school in advance of the school opening date;
  - the determination of matters in connection with a new school in advance of that date;
  - the taking of decisions by a temporary governing body, or (where power to do so is delegated to him) by the head teacher, as to expenditure in connection with a new school at a time when it does not have a delegated budget;
  - such other matters relating to new schools as the Secretary of State considers appropriate.
- (2) Regulations under subsection (1) may, in connection with any matters falling within that subsection, apply any provision of the Education Acts with or without modification.
- (3) In this section “new school” means a school or proposed school—
- for which there is a temporary governing body constituted under <sup>[F306]</sup>section 34 of the Education Act 2002], or
  - for which there is no such body but for which such a body—
    - are required to be so constituted by virtue of subsection (1) of that section, or
    - may be so constituted in accordance with such anticipatory arrangements as are mentioned in subsection (5)(a) of that section.

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#### Textual Amendments

- F306** Words in s. 72(3)(a) substituted (1.4.2003 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 106](#) (with [ss. 210\(8\)](#), 214(4)); [S.I. 2003/124](#), art. 4; [S.I. 2005/2910](#), art. 4, [Sch.](#)

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### *Transfers of staff and land*

#### **73 Transfer of staff on appointed day.**

- (1) Subsections (5) to (7) below (“the staff transfer provisions”) apply where on the appointed day—
  - (a) a special agreement school becomes a voluntary aided school, or
  - (b) a grant-maintained school becomes a community or voluntary controlled school, or
  - (c) a grant-maintained special school becomes a community special school, in accordance with Schedule 2.
- (2) Subject to subsection (3), the staff transfer provisions apply in the circumstances mentioned in subsection (1) to any person who immediately before the appointed day—
  - (a) is employed by the local education authority to work solely at an existing school within subsection (1)(a), or
  - (b) is employed by the local education authority to work at such an existing school and is designated for the purposes of this subsection by an order made by the Secretary of State, or
  - (c) is employed by the governing body of an existing school within subsection (1)(b) or (c).
- (3) The staff transfer provisions do not apply—
  - (a) to any person employed as mentioned in subsection (2) whose contract of employment terminates on the day immediately preceding the appointed day; or
  - (b) to any person employed as mentioned in subsection (2)(a) or (b) who before that day—
    - (i) has been appointed or assigned by the local education authority to work solely at another school as from that day, or
    - (ii) has been withdrawn from work at the school with effect from that day.
- (4) A person who before the appointed day has been appointed or assigned by—
  - (a) the local education authority, or
  - (b) the governing body of an existing school within subsection (1)(b) or (c),
 to work at a school, or (as the case may be) at the existing school, as from that day shall be treated for the purposes of this section as if he had been employed by the authority or governing body immediately before that day to do such work at the school as he would have been required to do on or after that day under his contract of employment with the authority or that body.
- (5) The contract of employment between a person to whom the staff transfer provisions apply and his former employer shall have effect from the appointed day as if originally made between him and his new employer.
- (6) Without prejudice to subsection (5)—
  - (a) all the former employer’s rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this section be transferred to the new employer on the appointed day, and



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- (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the new employer.
- (7) Subsections (5) and (6) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.
- (8) In this section—
- “existing school” means a school which becomes a school of a different category on the appointed day as mentioned in subsection (1), and “new school” means the school of a different category which an existing school then becomes;
- “the former employer” and “the new employer”—
- (a) where the staff transfer provisions apply by virtue of subsection (2)(a) or (b), means the local education authority and the governing body of the new school respectively, and
- (b) where the staff transfer provisions apply by virtue of subsection (2)(c), means the governing body of the existing school and the local education authority respectively;
- and references to a special agreement, grant-maintained or grant-maintained special school are references to such a school within the meaning of the <sup>M11</sup>Education Act 1996.
- (9) A person employed by a local education authority in connection with the provision of meals shall not be regarded for the purposes of subsection (2)(a) as employed to work solely at a school unless the meals are provided solely for consumption by persons at the school.
- (10) An order under this section may designate a person either individually or as a member of a class or description of employees.

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

C97 S. 73 excluded (10.3.1999) by S.I. 1999/362, reg.56.

**Marginal Citations**

M11 1996 c. 56.

**74 Transfer of land on appointed day.**

Schedule 21 (which makes provision for transfers of land and certain rights and liabilities on the appointed day in respect of schools which become community, foundation, voluntary or community special schools on that day) shall have effect.

**75 Transfer of land by governing body to trustees.**

- (1) Where a building is to be provided for a foundation or voluntary school and the building—
- (a) is to form part of the school premises, and

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(b) is to be constructed partly on land held by the governing body and partly on land held on trust for the purposes of the school by persons other than the governing body,

the governing body shall transfer to those persons the land held by the governing body on which the building is to be constructed.

(2) Paragraph [F307 A1 or] 1 of Schedule 22 does not apply to any transfer required by subsection (1).

#### Textual Amendments

**F307** Words in s. 75(2) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 19](#); [S.I. 2007/935, art. 7\(p\)](#)

### *Disposals of land and on discontinuance*

#### **76 Disposals of land in case of certain schools and disposals on discontinuance.**

Schedule 22 (which makes provision as to the disposal of land held for the purposes of foundation, voluntary or foundation special schools and as to the property of maintained schools on their discontinuance) shall have effect.

#### **77 Control of disposals or changes in use of school playing fields.**

(1) [F308 Subject to subsections (2A) and (2B), except] with the consent of the Secretary of State, a body [F309 or trustees] to whom this subsection applies shall not dispose of any playing fields—

- (a) which are, immediately before the date of the disposal, used by a maintained school for the purposes of the school, or
- (b) which are not then so used but have been so used at any time within the period of 10 years ending with that date.

[F310(2) Subsection (1) applies to—

- (a) a local authority;
- (b) the governing body of a maintained school;
- (c) a foundation body;
- (d) the trustees of a foundation, voluntary or foundation special school.]

[F311(2A) Subsection (1) applies in the case of a disposal by the trustees of a foundation, voluntary or foundation special school, only if the disposal is of land falling within paragraph A13(1), (2) or (3) of Schedule 22.

(2B) Subsection (1) does not apply—

- (a) to a disposal in pursuance of a transfer order under paragraph A23 of that Schedule, or
- (b) to a disposal to which paragraph 5 or 6 of Schedule 22 (disposals on discontinuance) applies.]

(3) [F312 Subject to subsections (4) and (4A), except] with the consent of the Secretary of State, [F313 a body or trustees to whom subsection (1) applies] shall not take any action (other than the making of a disposal [F314 which falls within subsection (1) or

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is excluded from that subsection by subsection (2B)(a) or (b)] which is intended or likely to result in a change of use of any playing fields—

- (a) which are, immediately before the date when the action is taken, used by a maintained school for the purposes of the school, or
- (b) which are not then so used but have been so used at any time within the period of 10 years ending with that date,

whereby the playing fields will be used for purposes which do not consist of or include their use as playing fields by such a school for the purposes of the school.

- (4) Subsection (3) does not, however, apply where the land in question will, on a change of use falling within that subsection, become used in connection with the provision<sup>F315</sup> ... of educational facilities for a maintained school or any recreational facilities.

[<sup>F316</sup>(4A) Subsection (3) applies in relation to the trustees of a foundation, voluntary or foundation special school only if the playing fields in question are land falling within paragraph A13(1), (2) or (3) of Schedule 22.]

- (5) For the purposes of this section the Secretary of State's consent may be given in relation to a particular disposal or change of use or generally in relation to disposals or changes of use of a particular description, and in either case may be given subject to conditions.

- (6) This section has effect despite anything in section 123 or 127 of the<sup>M12</sup>Local Government Act 1972 (general power to dispose of land) or in any other enactment; and any consent which a local authority are required to obtain by virtue of this section shall be in addition to any consent required by virtue of either of those sections.

- (7) In this section—

“local authority” includes a parish council;

[<sup>F317</sup>“maintained school” includes a maintained nursery school;]

“playing fields” means land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed description of such land.

- (8) For the purposes of this section any reference to a maintained school includes, in relation to any time falling before the appointed day, a reference to the school as—

- (a) a county, voluntary or maintained special school, or
- (b) a grant-maintained or grant-maintained special school,

within the meaning of the<sup>M13</sup>Education Act 1996.

- (9) Nothing in this section applies in relation to Wales.

#### Textual Amendments

**F308** Words in s. 77(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 18(2)(a); S.I. 2007/935, art. 7(p)

**F309** Words in s. 77(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 18(2)(b); S.I. 2007/935, art. 7(p)

**F310** S. 77(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 18(3); S.I. 2007/935, art. 7(p)

**F311** S. 77(2A)(2B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 18(4); S.I. 2007/935, art. 7(p)

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- F312** Words in s. 77(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 18(5)(a)**; S.I. 2007/935, art. 7(p)
- F313** Words in s. 77(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 18(5)(b)**; S.I. 2007/935, art. 7(p)
- F314** Words in s. 77(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 18(5)(c)**; S.I. 2007/935, art. 7(p)
- F315** Words in s. 77(4) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 18(6), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q)
- F316** S. 77(4A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 18(7)**; S.I. 2007/935, art. 7(p)
- F317** Words in s. 77(7) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 18(8)**; S.I. 2007/935, art. 7(p)

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

- C98** S. 77(1) restricted (28.7.2000) by 2000 c. 21, s. 131, **Sch. 8 para. 9(3)** (with s. 150)
- C99** S. 77(1) excluded (26.7.2002) by Education Act 1996 (c. 56), Sch. 35A para. 10(4) (as inserted by Education Act 2002 (c. 32), ss. 65, 216, **Sch. 7 Pt. 1 para. 1** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 2)
- C100** S. 77 modified (*temp.*) (1.2.1999) by S.I. 1999/1, **reg.2**

#### **Commencement Information**

- I9** S. 77 wholly in force; s. 77 not in force at Royal Assent see s. 145(3); s. 77 except subsection (2)(b) in force at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; s. 77(2)(b) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch.**

#### **Marginal Citations**

- M12** 1972 c. 70.  
**M13** 1996 c. 56.

### *Rating*

#### **78 Rating of maintained schools.**

For the purposes of Part III of the <sup>M14</sup>Local Government Finance Act 1988 (non-domestic rating) the occupier of any hereditament so far as consisting of the premises of a maintained school shall be taken to be—

- (a) the local education authority, where it is a community, voluntary controlled or community special school; or
- (b) the governing body, where it is a foundation, voluntary aided or foundation special school.

#### **Marginal Citations**

- M14** 1988 c. 41.

### *Stamp duty*

#### **F318 79 Stamp duty.**

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**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.  
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**Textual Amendments**

**F318** S. 79 repealed (with effect in accordance with s. 79(2)(3) of the amending Act) by [Finance Act 2007](#) (c. 11), s. 79, [Sch. 27 Pt. 4\(3\)](#)

**F319** **79A. Stamp duty land tax**

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**Textual Amendments**

**F319** S. 79A repealed (with effect in accordance with s. 79(2)(3) of the amending Act) by [Finance Act 2007](#) (c. 11), s. 79, [Sch. 27 Pt. 4\(3\)](#)

*Further education*

**80 Provision of further education.**

- (1) The governing body of any maintained school shall be responsible for determining whether or not to provide—
  - (a) part-time education suitable to the requirements of persons of any age over compulsory school age; or
  - (b) full-time education suitable to the requirements of persons who have attained the age of 19;but the governing body of a community or foundation special school shall not determine to provide, or to cease to provide, such education without the consent of the local education authority.
- (2) It shall be the duty of the governing body of any such school which provides such education to secure that, except in such circumstances as may be prescribed, such education is not provided at any time in a room where pupils are at that time being taught.
- (3) This section shall not apply to part-time education provided under a partnership arrangement to which section 60A of the <sup>M15</sup>Further and Higher Education Act 1992 (as inserted by section 125(4) of this Act) applies.

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

**C101** S. 80 excluded (1.9.2005) by [Education Act 2005](#) (c. 18), [ss. 95\(5\), 125\(3\)\(a\)](#) (with s. 95(6))

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**Marginal Citations**

**M15** 1992 c. 13.

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### *Modification of employment law*

#### **81 Application of employment law during financial delegation.**

- (1) The Secretary of State may by order make such modifications in any enactment relating to employment, and in particular in any enactment—
- (a) conferring powers or imposing duties on employers,
  - (b) conferring rights on employees, or
  - (c) otherwise regulating the relations between employers and employees,
- as he considers necessary or expedient in consequence of the operation of [F320 sections 35 to 37 of the Education Act 2002 or of regulations under those sections].
- (2) Before making any order under this section the Secretary of State shall consult—
- (a) such associations of local authorities,
  - (b) such bodies representing the interests of governors of foundation or voluntary schools, and
  - (c) such organisations representing staff in maintained schools,
- as appear to him to be concerned.

#### **Textual Amendments**

**F320** Words in s. 81(1) substituted (1.8.2003 for E., 1.4.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 107](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2003/1667](#), art. 3; [S.I. 2006/879](#), art. 4, [Sch.](#)

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

**C102** S. 81(2) modified (*temp.*) (1.4.1999) by [S.I. 1999/638](#), [reg. 9](#).

### *Supplementary provisions*

#### **82 Modification of trust deeds.**

- (1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to—
- (a) a school which is or is to become a foundation, voluntary or foundation special school, or
  - (b) property held on trust for the purposes of such a school,
- as appear to him to be necessary or expedient in connection with the operation of any provision of this Act [F321, the Learning and Skills Act 2000 [F322, the Education Act 2002 or the Education and Inspections Act 2006]] or anything done under or for the purposes of any such provision.
- (2) Before making an order under this section the Secretary of State shall consult—
- (a) the governing body of the school in question;
  - (b) any trustees holding property on trust for the purposes of the school;
  - (c) in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority; and
  - (d) such other persons as he considers appropriate.

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- (3) Any modification made by an order under this section may be made so as to have permanent effect or to have effect for such period as is specified in the order.

#### Textual Amendments

- F321** Words in s. 82(1) inserted (1.10.2002 for E. and 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 108](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F322** Words in s. 82(1) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 28](#); S.I. 2007/935, [art. 7\(o\)](#)

### 83 Modification of provisions making governors of foundation or voluntary school ex officio trustees.

- (1) Where any provision of a trust deed or other instrument made before 1st July 1981 would, apart from this subsection, have the effect that the persons who are for the time being governors of a foundation or voluntary school were by virtue of their office trustees of any property held for the purposes of, or in connection with, the school, that provision shall instead have effect as if the only governors of the school were—
- the foundation governors,
  - those appointed by the local education authority, and
  - any co-opted governor nominated by a minor authority.
- (2) Subsection (1) is without prejudice to any power to amend any such provision as is mentioned in that subsection.

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

- C103** [S. 83](#) modified (temp.) (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 6 para. 3\(4\)](#); S.I. 2007/935, [art. 5\(bb\)](#)

## PART III

### SCHOOL ADMISSIONS

#### CHAPTER I

##### ADMISSION ARRANGEMENTS

*Code [F<sup>323</sup> for school admissions]*

#### Textual Amendments

- F323** Words in [s. 84 cross-heading](#) substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 40\(7\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with [arts. 3, 4](#)) (as amended (17.1.2008) by S.I. 2008/54, [arts. 1\(1\), 2](#)); S.I. 2008/1429, [art. 3\(3\)](#), Sch. Pt. 3 (with [art. 4](#))

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#### 84 Code <sup>F324</sup>for school admissions].

- (1) The Secretary of State shall issue, and may from time to time revise, <sup>F325</sup>a code for school admissions containing such provision] as he thinks appropriate in respect of the discharge by—
  - (a) local education authorities,
  - (b) the governing bodies of maintained schools,
  - <sup>F326</sup>(ba) admission forums,]
  - (c) appeal panels, and
  - (d) adjudicators,
 of their respective functions under this Chapter.
- (2) The code may <sup>F327</sup>impose requirements, and may include guidelines setting out aims, objectives and other matters,] in relation to the discharge of their functions under this Chapter by local education authorities and such governing bodies.
- (3) It shall be the duty of—
  - (a) each of the bodies and persons mentioned in subsection (1) when exercising functions under this Chapter, and
  - (b) any other person when exercising any function for the purposes of the discharge by a local education authority, or the governing body of a maintained school, of functions under this Chapter,<sup>F328</sup>to act in accordance with] any relevant provisions of the code.
- (4) The Secretary of State shall publish the code as for the time being in force.
- (5) The Secretary of State may under subsection (1)—
  - (a) make separate provision (by means of separate codes <sup>F329</sup>...) in relation to different functions under this Chapter of the bodies and persons mentioned in that subsection;
  - (b) make different provision for England and for Wales (whether or not by means of separate codes <sup>F329</sup>...);

and references in this section to “the code” or to functions under this Chapter shall have effect, in relation to any such separate code <sup>F329</sup>..., as references to that code or to functions under this Chapter to which it relates (as the case may be).

- (6) In this Chapter—
 

“admission arrangements” and “the admission authority” have the meaning given by section 88;

<sup>F330</sup>“admission forum” means a forum established under section 85A, including a joint admission forum established in pursuance of regulations under subsection (3)(c) of that section;]

“appeal panel” means a panel constituted <sup>F331</sup>in accordance with regulations under section 94(5) or 95(3)] for the purpose of hearing an appeal under this Chapter;

“child” (except in sections 96 and 97) includes a person who has not attained the age of 19;

“maintained school” means a community, foundation or voluntary school;

<sup>F332</sup>...

- <sup>F333</sup>(7) In this Chapter, references to a child who is looked after by a local authority are to be read in accordance with section 22(1) of the Children Act 1989.]



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### Textual Amendments

- F324** Words in s. 84 heading substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(7\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F325** Words in s. 84(1) substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(2\)\(a\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F326** S. 84(1)(ba) inserted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(2\)\(b\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F327** Words in s. 84(2) substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(3\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F328** Words in s. 84(3) substituted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(4\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F329** Words in s. 84(5) repealed (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(5\)](#), 188(3), [Sch. 18 Pt. 6](#); S.I. 2006/2990, [art. 2\(a\)\(k\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F330** Words in s. 84(6) inserted (12.12.2006 for E., 1.9.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\), ss. 40\(6\)](#), 188(3); S.I. 2006/2990, [art. 2\(a\)](#) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, [art. 3\(3\)](#), [Sch. Pt. 3](#) (with art. 4)
- F331** Words in s. 84(6) substituted (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 2](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with art. 3, [Sch. para. 3](#)); S.I. 2005/1395, [art. 4](#), [Sch.](#) (with art. 5(3)(4))
- F332** Words in s. 84(6) repealed (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)) and S.I. 2006/173, [reg. 5](#); S.I. 2002/2439, [art. 3](#) (with art. 4, [Sch. paras. 3, 5](#)); S.I. 2006/172, [art. 4](#), [Sch.](#)
- F333** S. 84(7) inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 50\(2\)](#), 188(3); S.I. 2006/3400, [art. 3\(c\)](#)

### Modifications etc. (not altering text)

- C104** S. 84 modified (temp.)(22.4.1999) by S.I. 1999/1064, [reg.2](#).  
S. 84 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(c\)](#), [2-8](#).  
S. 84 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), [Sch. paras. 1](#), [2-8](#).
- C105** S. 84 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), [regs. 1\(1\), 9](#), [Sch. para. 1\(b\)](#)
- C106** S. 84 applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), [regs. 1\(1\), 9](#), [Sch.](#) (with [reg. 2\(2\)](#))
- C107** S. 84(6) modified (6.1.1999) by S.I. 1998/3130, [reg.2](#)

## 85 [F334 Making and approval of code for school admissions].

- (1) Where the Secretary of State proposes to issue or revise a code <sup>F335</sup> ... under section 84, he shall prepare a draft of the code (or revised code).
- (2) The Secretary of State shall consult such persons about the draft as he thinks fit and shall consider any representations made by them.

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- (3) If he determines to proceed with the draft (either in its original form or with such modifications as he thinks fit) he shall lay a copy of the draft before each House of Parliament.
- (4) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State shall take no further steps in relation to the proposed code.
- (5) If no such resolution is made within the 40-day period, the Secretary of State shall issue the code (or revised code) in the form of the draft, and it shall come into force on such date as the Secretary of State may by order appoint.
- (6) Subsection (4) does not prevent a new draft of a proposed code from being laid before Parliament.
- (7) In this section “40-day period”, in relation to the draft of a proposed code, means—
- (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and
  - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,
- no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- [<sup>F336</sup>(7A) In the case of a code issued or revised by the Welsh Ministers, subsection (7) (as modified by paragraph 33 of Schedule 11 to the Government of Wales Act 2006) has effect as if the reference to any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days were to any period during which the National Assembly for Wales is dissolved or is in recess for more than four days.]
- (8) In this section references to a proposed code include a proposed revised code.

#### Subordinate Legislation Made

- P2** S. 85(5): 28.2.2007 appointed by S.I. 2007/566, art. 3
- P3** S. 85(5): 17.1.2008 appointed (E.) by S.I. 2008/53, art. 2
- P4** S. 85(5): 10.2.2009 appointed (E.) by S.I. 2009/211, art. 2
- P5** S. 85(5): 10.2.2009 appointed (E.) by S.I. 2009/210, art. 2

#### Textual Amendments

- F334** S. 85 heading substituted (12.12.2006 for E., 1.9.2008 for W.) by Education and Inspections Act 2006 (c. 40), ss. 40(8)(b), 188(3); S.I. 2006/2990, art. 2(a) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, art. 3(3), Sch. Pt. 3 (with art. 4)
- F335** Words in s. 85(1) repealed (12.12.2006 for E., 1.9.2008 for W.) by Education and Inspections Act 2006 (c. 40), ss. 40(8)(a), 188(3), Sch. 18 Pt. 6; S.I. 2006/2990, art. 2(a)(k) (with arts. 3, 4) (as amended (17.1.2008) by S.I. 2008/54, arts. 1(1), 2); S.I. 2008/1429, art. 3(3), Sch. Pt. 3 (with art. 4)
- F336** S. 85(7A) inserted (25.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 1(2), Sch. 1 para. 64

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## <sup>F337</sup> Admission forums

### Textual Amendments

**F337** S. 85A cross-heading inserted (20.1.2003 for E., 1.12.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 46, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/2961, art. 4, Sch. Pt. I

**F338**  
**85A**

### Admission forums

- (1) A local education authority shall in accordance with regulations establish for their area a body, to be known as an admission forum, for the purpose of—
- (a) advising the authority on such matters connected with the exercise of the authority's functions under this Chapter as may be prescribed, <sup>F339</sup>...
  - (b) advising the admission authorities for maintained schools in the area for which the forum is established on—
    - (i) such matters connected with the determination of admission arrangements, and
    - (ii) such other matters connected with the admission of pupils, as may be prescribed <sup>F340</sup>, and
  - (c) in the case of an admission forum for the area of a local education authority in England, exercising any other functions that may be imposed on the forum by or under this Chapter.]

<sup>F341</sup> [ An admission forum for the area of a local education authority in England may (1A) prepare and publish reports on such matters connected with the admission of pupils to maintained schools in that area as may be prescribed.

- (1B) For the purposes of the preparation of a report under subsection (1A), an admission forum may request any of the following bodies to provide the forum with any information held by them which falls within a prescribed description and is specified by the forum in its request—
- (a) the local education authority which established the forum;
  - (b) any local education authority in England for an area which adjoins the area of the authority mentioned in paragraph (a);
  - (c) the governing body of any maintained school in the area for which the forum is established.
- (1C) A body mentioned in any of paragraphs (a) to (c) of subsection (1B) must comply with a request made by an admission forum in pursuance of that subsection.]
- (2) The authority may establish sub-committees of the forum.
- (3) Regulations may make provision—
- (a) as to the constitution, meetings and proceedings of an admission forum and of any such sub-committee,
  - (b) as to the manner in which advice is to be given by a forum, <sup>F342</sup>...
- <sup>F343</sup> [ as to the preparation and publication of reports under subsection (1A), and]
- (ba) (c) as to the establishment by local education authorities of joint admission forums.

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[ Regulations under subsection (3)(c) may, in relation to England, modify any provision <sup>F344</sup>(3A) of this Chapter in its application to a joint admission forum.]

(4) The bodies mentioned in paragraphs (a) and (b) of subsection (1) shall have regard, in carrying out their functions, to any relevant advice given to them by an admission forum under that subsection.

(5) The local education authority shall make arrangements for the forum (and any sub-committee established under subsection (2)) to be provided with accommodation and with such services as the authority consider appropriate.]

[ Regulations may make provision with respect to the expenses of an admission forum <sup>F345</sup>(5A) for the area of a local education authority in England.

(5B) Except as provided by regulations under subsection (5A), the expenses of an admission forum for the area of a local education authority in England are to be defrayed by the local education authority by whom the forum was established.]

#### Textual Amendments

**F338** S. 85A inserted (20.1.2003 for E., 1.12.2003 for W.) by Education Act 2002 (c. 32), ss. 46, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/2961, art. 4, Sch. Pt. I

**F339** Word in s. 85A(1)(a) repealed (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(2)(a), 188(3), Sch. 18 Pt. 6; S.I. 2006/3400, art. 7(a)(e)

**F340** S. 85A(1)(c) and word inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(2)(b), 188(3); S.I. 2006/3400, art. 7(a)

**F341** S. 85A(1A)-(1C) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(3), 188(3); S.I. 2006/3400, art. 7(a)

**F342** Word in s. 85A(3)(b) repealed (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(4)(a), 188(3), Sch. 18 Pt. 6; S.I. 2006/3400, art. 7(a)(e)

**F343** S. 85A(3)(ba) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(4)(b), 188(3); S.I. 2006/3400, art. 7(a)

**F344** S. 85A(3A) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(5), 188(3); S.I. 2006/3400, art. 7(a)

**F345** S. 85A(5A)(5B) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), ss. 41(6), 188(3); S.I. 2006/3400, art. 7(a)

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

**C108** S. 85A applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, Sch. para. 1(b)

**C109** S. 85A applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, Sch. (with reg. 2(2))

#### <sup>F346</sup> **Functions of admission forums in relation to Academies**

<sup>F347</sup> **85B**

(1) Regulations may authorise or require an admission forum established by a local education authority under section 85A to give advice to the governing body of any Academy in the authority's area on any matter corresponding to a matter prescribed under subsection (1)(b) of that section.

(2) The governing body of an Academy shall have regard, in conducting the Academy, to any relevant advice given to them by an admission forum by virtue of subsection (1).]]

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**Textual Amendments**

**F346** S. 85A cross-heading inserted (20.1.2003 for E., 1.12.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 46, 216(4)** (with **ss. 210(8), 214(4)**); [S.I. 2002/2952](#), **art. 2**; [S.I. 2003/2961](#), **art. 4**, **Sch. Pt. I**

**F347** S. 85B inserted (20.1.2003 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), **ss. 66, 216** (with **ss. 210(8), 214(4)**); [S.I. 2002/2952](#), **art. 2** (with **Sch.**)

*Parental preferences*

**86 Parental preferences.**

- (1) A local education authority shall make arrangements for enabling the parent of a child in the area of the authority—
  - (a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority’s functions, and
  - (b) to give reasons for his preference.

[<sup>F348</sup>(1ZA) Subsection (1) does not apply in relation to—

- (a) sixth form education, or
- (b) any other education to be provided for a child who—
  - (i) has ceased to be of compulsory school age, or
  - (ii) will have ceased to be of compulsory school age before the education is provided for him.]

[<sup>F349</sup>(1A) A local authority in England shall provide advice and assistance to parents of children in the area of the authority in connection with the preferences expressed or to be expressed by them in accordance with the arrangements made under subsection (1).]

- (2) Subject to [<sup>F350</sup>subsection (3)] and section 87 (children excluded from two or more schools), [<sup>F351</sup>the admission authority for a maintained school] shall comply with any preference expressed in accordance with arrangements made under subsection (1).

[<sup>F352</sup>(2A) Arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school; but nothing in this section requires the admission authority for a maintained school for which a child’s parent has expressed a preference to offer the child admission to the school if, in accordance with a scheme adopted or made by virtue of section 89B, the child is offered admission to a different school for which the parent has also expressed a preference.]

- (3) The duty imposed by subsection (2) does not apply—
  - (a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources; [<sup>F353</sup>or]
  - (b) <sup>F354</sup> .....
  - (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.

<sup>F355</sup>(3A) .....

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<sup>F356</sup>(3B) .....

(4) For the purposes of subsection (3)(a) prejudice of the kind referred to in that provision may arise by reason of measures required to be taken in order to ensure compliance with the duty imposed by section 1(6) (duty of local education authority and governing body to comply with limit on infant class sizes).

[<sup>F357</sup>(5) No prejudice shall be taken to arise for the purposes of subsection (3)(a) from the admission to a maintained school in a school year of a number of pupils in a relevant age group which does not exceed the number determined under section [<sup>F358</sup>88C or] 89 as the number of pupils in that age group that it is intended to admit to the school in that year; but this subsection does not apply if the conditions set out in subsection (5A) are met in relation to the school and the school year.

(5A) Those conditions are—

- (a) that the school is one at which boarding accommodation is provided for pupils; and
- (b) that the determination under section [<sup>F359</sup>88C or] 89 by the admission authority of the admission arrangements which are to apply for that year includes the determinations mentioned in [<sup>F360</sup>section 88D(2)(a) and (b) or 89A(2)(a) and (b)].

(5B) Where the conditions set out in subsection (5A) are met in relation to a maintained school and a school year, no prejudice shall be taken to arise for the purposes of subsection (3)(a) from either of the following—

- (a) the admission to the school in that year as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section [<sup>F361</sup>88C or] 89 as the number of pupils in that age group that it is intended to admit to the school in that year as boarders;
- (b) the admission to the school in that year otherwise than as boarders of a number of pupils in a relevant age group which does not exceed the number determined under section [<sup>F362</sup>88C or] 89 as the number of pupils in that age group that it is intended to admit to the school in that year otherwise than as boarders.]

<sup>F363</sup>(6) .....

(7) Where the arrangements for the admission of pupils to a maintained school provide for applications for admission to be made to (or to a person acting on behalf of) the governing body of the school, a parent who makes such an application shall be regarded for the purposes of this section as having expressed a preference for that school in accordance with arrangements made under subsection (1).

(8) The duty imposed by subsection (2) in relation to a preference expressed in accordance with arrangements made under subsection (1) shall apply also in relation to—

- (a) any application for the admission to a maintained school of a child who is not in the area of the authority maintaining the school, and
- (b) any application made by a parent as mentioned in section 438(4) or 440(2) of the <sup>M16</sup>Education Act 1996 (application for a particular school to be named in a school attendance order);

and references in [<sup>F364</sup>subsection (3)] to a preference and a preferred school shall be construed accordingly.

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- (9) Where admission arrangements for a school [<sup>F365</sup>, <sup>F366</sup> ..., provide for all pupils selected under the arrangements] to be selected by reference to ability or aptitude, those arrangements shall be taken for the purposes of this section to be wholly based on selection by reference to ability or aptitude, whether or not they also provide for the use of additional criteria in circumstances where the number of children in a relevant age group who are assessed to be of the requisite ability or aptitude is greater than the number of pupils which it is intended to admit to the school in that age group.

### Textual Amendments

- F348** S. 86(1ZA) inserted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 54\(2\)](#); S.I. 2008/3077, art. 5(e) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F349** S. 86(1A) inserted (27.2.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 42](#), 188(3); S.I. 2006/3400, art. 7(b)
- F350** Words in s. 86(2) substituted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 54\(3\)](#); S.I. 2008/3077, art. 5(e) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F351** Words in s. 86(2) substituted (8.1.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 43\(2\)](#), 188(3); S.I. 2006/3400, art. 2(a); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F352** S. 86(2A) inserted (1.10.2002 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 3\(3\)](#) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F353** Word in s. 86(3)(a) inserted (1.10.2002 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 3\(4\)\(a\)](#) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F354** S. 86(3)(b) repealed (1.10.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), [ss. 51](#), 215(2), 216, Sch. 4 para. 3(4)(b), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.)
- F355** S. 86(3A) repealed (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), Sch. 1 para. 54(4), [Sch. 2](#); S.I. 2008/3077, art. 5(e)(f) (with art. 6); S.I. 2009/784, art. 3(e) (with art. 4)
- F356** S. 86(3B) repealed (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), Sch. 1 para. 54(4), [Sch. 2](#); S.I. 2008/3077, art. 5(e)(f) (with art. 6); S.I. 2009/784, art. 3(e) (with art. 4)
- F357** S. 86(5)-(5B) substituted for s. 86(5) (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 47\(1\)](#), 216(4) (with [ss. 210\(8\)](#), 214(4) and S.I. 2006/173, reg. 4); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2006/172, art. 4, Sch.
- F358** Words in s. 86(5) inserted (2.12.2008 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 54\(5\)](#); S.I. 2008/3077, art. 3(b) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F359** Words in s. 86(5A) inserted (2.12.2008 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 54\(6\)\(a\)](#); S.I. 2008/3077, art. 3(b) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F360** Words in s. 86(5A) substituted (2.12.2008 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 54\(6\)\(b\)](#); S.I. 2008/3077, art. 3(b) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F361** Words in s. 86(5B)(a) inserted (2.12.2008 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 54\(7\)](#); S.I. 2008/3077, art. 3(b) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)

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- F362** Words in s. 86(5B)(b) inserted (2.12.2008 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 1 para. 54(7)**; S.I. 2008/3077, art. 3(b) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F363** S. 86(6) repealed (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 3(6), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2006/172, art. 4, Sch.
- F364** Words in s. 86(8) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 1 para. 54(8)**; S.I. 2008/3077, art. 5(e) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)
- F365** Words in s. 86(9) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 3(8)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 4) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(1))
- F366** Words in s. 86(9) repealed (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), Sch. 1 para. 54(9), **Sch. 2**; S.I. 2008/3077, art. 5(e)(f) (with art. 6); S.I. 2009/784, art. 3(e) (with art. 4)

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

- C110** S. 86 modified (temp. from 22.4.1999) by S.I. 1999/1064, **reg. 3**  
 Ss. 86-87 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, **2(1)**  
 S. 86 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.  
 S. 86 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.
- C111** S. 86 applied (with modifications) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C112** S. 86 amendment to earlier commencing S.I. 2002/2439, Sch. para. 4 (4.12.2003) by The Education Act 2002 (Commencement No. 2 and Savings and Transitional Provisions) (Amendment No. 2) Order 2003 (S.I. 2003/2992), arts. 1, **3**
- C113** S. 86 excluded (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 2 para. 1**
- C114** S. 86 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C115** S. 86 excluded (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 2 para. 1**
- C116** S. 86 excluded (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 2 para. 1**
- C117** S. 86(1) applied (with modifications) (1.9.1999) by S.I. 1999/1812, reg. 8, **Sch. 2 para. 5(b)**
- C118** S. 86(1)(2) excluded (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 36(5)(a)(10)**, 162(2) (with s. 159)
- C119** S. 86(5)-(5B) modified (E.) (25.5.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(3), **4(5)**

#### Marginal Citations

- M16** 1996 c. 56.

### [<sup>F367</sup>86A Preferences relating to sixth-form education: local authority arrangements

- (1) A local authority shall make arrangements for enabling—
- (a) a child in the authority's area to express a preference as to the school at which he wishes sixth form education to be provided for him in the exercise of the authority's functions,



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- (b) a parent of such a child to express a preference as to the school at which he wishes sixth form education to be so provided for his child,
  - (c) a relevant child to express a preference as to the school at which he wishes education other than sixth form education to be provided for him in the exercise of the authority's functions, and
  - (d) a parent of such a child to express a preference as to the school at which he wishes such education to be so provided for his child,
- and, in each case, for enabling the person expressing the preference to give reasons for his preference.
- (2) In subsection (1), “relevant child”, in relation to a local authority and any education, means a child in the authority's area who—
- (a) has ceased to be of compulsory school age, or
  - (b) will have ceased to be of compulsory school age before the education in question is provided for him.
- (3) Arrangements made under subsection (1) shall allow—
- (a) a person who is to be able to express a preference under any of paragraphs (a) to (d) of that subsection to express preferences for more than one school;
  - (b) preferences to be expressed, in relation to a child, by both the child and a parent of his.
- (4) Where—
- (a) the arrangements for the admission of pupils to a maintained school provide for applications for admission to be made to (or to a person acting on behalf of) the governing body of the school, and
  - (b) a child (whether or not in the area of the authority maintaining the school) or his parent makes such an application,
- that person shall be regarded for the purposes of this Chapter as having expressed a preference for that school in accordance with arrangements made under subsection (1).

#### Textual Amendments

**F367** Ss. 86A, 86B inserted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 150, 173\(3\)\(4\)](#); [S.I. 2008/3077](#), [art. 5\(a\)](#) (with [art. 6](#)); [S.I. 2009/784](#), [art. 3\(a\)](#) (with [art. 4](#))

### **86B Duty in relation to preferences expressed under section 86A: admission authorities of maintained schools**

- (1) Subject to subsections (2) and (4) and section 87, the admission authority for a maintained school shall comply with any preference expressed in accordance with arrangements made under section 86A(1).
- (2) The duty imposed by subsection (1) does not apply if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources.
- (3) Subsections (5) to (5B) of section 86 apply for the purpose of determining whether any prejudice should be taken to arise for the purposes of subsection (2), but with the substitution of references to that subsection for references to subsection (3)(a) of section 86.

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- (4) The duty imposed by subsection (1) does not apply in a case where a preference is expressed in relation to sixth form education if—
- (a) the relevant selection arrangements for the preferred school are wholly based on selection by reference to ability or aptitude, and
  - (b) compliance with the preference would be incompatible with selection under those arrangements.
- (5) Where the relevant selection arrangements for a school provide for all pupils selected under the arrangements to be selected by reference to ability or aptitude, those arrangements shall be taken for the purposes of subsection (4)(a) to be wholly based on selection by reference to ability or aptitude whether or not they also provide for the use of additional criteria in circumstances where the number of children in a relevant age group who are assessed to be of the requisite ability or aptitude is greater than the number of pupils which it is intended to admit to the school in that age group.
- (6) In this section “the relevant selection arrangements”, in relation to a school, means—
- (a) the arrangements for admission to the school for sixth form education, or
  - (b) those arrangements and the arrangements for entry to the sixth form of children who have been admitted to the school.]

#### Textual Amendments

**F367** Ss. 86A, 86B inserted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 150, 173\(3\)\(4\)](#); [S.I. 2008/3077](#), [art. 5\(a\)](#) (with [art. 6](#)); [S.I. 2009/784](#), [art. 3\(a\)](#) (with [art. 4](#))

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

- (1) The [<sup>F368</sup>duties imposed by section 86(2) and section 86B(1) do] not apply in the case of a child to whom subsection (2) below 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.
- [<sup>F369</sup>(4) However, a child who has been permanently excluded from a school shall not be treated for the purposes of this section as having been so excluded if—

  - (a) he was reinstated as a pupil at the school following the giving of a direction to that effect by the relevant authority in accordance with regulations under subsection (3)(b) or (c) of section 52 of the Education Act 2002,
  - (b) on a review of his exclusion carried out in accordance with regulations under subsection (3)(b) of that section or an appeal made pursuant to regulations under subsection (3)(c) of that section, the relevant authority decided—
    - (i) that it would not be practical to give a direction requiring his reinstatement as a pupil at the school, but
    - (ii) that it would otherwise have been appropriate to give such a direction, or

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- (c) he was so excluded at a time when he had not attained compulsory school age.
- (4A) In subsection (4) “the relevant authority” means—
- (a) the responsible body as defined by subsection (5) of section 52 of the Education Act 2002, or
  - (b) a panel constituted in accordance with regulations under subsection (3)(c) of that section.]
- (5) In this section “school” means—
- (a) in relation to any time before or after the appointed day, a school maintained by a local education authority; or
  - (b) in relation to any time before the appointed day, a grant-maintained or grant-maintained special school within the meaning of the <sup>M17</sup>Education Act 1996.
- (6) 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.
- (7) Nothing in this section applies to a child unless at least one of the two or more exclusions mentioned in subsection (2) took effect on or after 1st September 1997.

#### Textual Amendments

**F368** Words in s. 87(1) substituted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008](#) (c. 25), s. 173(3)(4), [Sch. 1 para. 55](#); S.I. 2008/3077, [art. 5\(e\)](#) (with [art. 6](#)); S.I. 2009/784, [art. 3\(d\)](#)

**F369** S. 87(4)(4A) substituted for s. 87(4) (20.1.2003 for E., 9.1.2004 for W.) by [Education Act 2002](#) (c. 32), s. 216(4), [Sch. 4 para. 4](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, [art. 2](#) (with [Sch. para. 3](#)); S.I. 2003/2961, [art. 7](#), [Sch. Pt. IV](#)

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

**C120** Ss. 86-87 restricted (29.3.1999) by [S.I. 1999/1016](#), [art. 6](#), [Sch. 4 paras. 1, 2\(1\)](#)

S. 87 applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), [reg. 8](#), [Sch. paras. 1\(c\), 2-8](#)

S. 87 applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), [reg. 7](#), [Sch. paras. 1, 2-8](#).

**C121** S. 87 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003](#) (S.I. 2003/1041), [regs. 1\(1\), 9](#), [Sch. para. 1\(b\)](#)

**C122** S. 87 applied (with modifications) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006](#) (S.I. 2006/175), [regs. 1\(1\), 9](#), [Sch.](#) (with [reg. 2\(2\)](#))

#### Marginal Citations

**M17** 1996 c. 56.

### Admission arrangements

## 88 Admission authorities and admission arrangements.

- (1) In this Chapter “the admission authority”—
- (a) in relation to a community or voluntary controlled school, means—
    - (i) the local education authority, or
    - (ii) where with the governing body’s agreement the authority have delegated to them responsibility for determining the admission arrangements for the school, the governing body; and

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- (b) in relation to a foundation or voluntary aided school, means the governing body.

[<sup>F370</sup>(1A) Where the admission authority for a community or voluntary controlled school is the local authority, it is the duty of the governing body to implement any decision relating to the admission of pupils to the school which is taken by or on behalf of the admission authority.

(1B) Subsection (1A) does not affect—

- (a) any right of appeal which the governing body may have by virtue of arrangements made in pursuance of section 95(2) (appeals in relation to children to whom section 87(2) applies, other than looked after children in England),
- (b) any right to refer the matter to the adjudicator which the governing body may have by virtue of section 95A(3) (references to the adjudicator in relation to looked after children in England to whom section 87(2) applies), or
- (c) the application of section 101(2A) or section 109(2).]

- (2) In this Chapter “admission arrangements”, in relation to a maintained school, means the arrangements for the admission of pupils to the school, including the school’s admission policy.

#### Textual Amendments

**F370** S. 88(1A)(1B) inserted (8.1.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006](#) (c. 40), [ss. 43\(1\)](#), 188(3); S.I. 2006/3400, [art. 2\(a\)](#); S.I. 2008/1429, [art. 3\(1\)](#), Sch. Pt. 1

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

**C123** S. 88 modified (6.1.1999) by [S.I. 1998/3130](#), [reg. 3](#)

[<sup>F371</sup> Admission arrangements: England]

#### Textual Amendments

**F371** S. 88A cross-heading inserted (26.1.2009) by [Education and Skills Act 2008](#) (c. 25), [ss. 151\(2\)](#), 173(4); S.I. 2008/3077, [art. 4\(d\)](#)

### [<sup>F372</sup> 88A Prohibition on interviews

- (1) No admission arrangements for a maintained school [<sup>F373</sup>in England] may require or authorise any interview with an applicant for admission to the school or his parents, where the interview is to be taken into account (to any extent) in determining whether the applicant is to be admitted to the school.
- (2) If the maintained school is one at which boarding accommodation is provided for pupils, subsection (1) does not apply in relation to any interview intended to assess the suitability of an applicant for a boarding place.
- (3) Where the admission arrangements for a maintained school [<sup>F374</sup>in England] make provision for a permitted form of selection by aptitude, subsection (1) does not prevent the arrangements from requiring or authorising any audition or other oral or practical

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test to be carried out in relation to an applicant solely for the purpose of ascertaining the applicant's aptitude in accordance with the arrangements.

- (4) In this section, “permitted form of selection by aptitude” is to be read in accordance with section 99(4).]

#### Textual Amendments

**F372** S. 88A inserted (27.2.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), ss. 44, 188(3); S.I. 2006/3400, art. 6(c); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

**F373** Words in s. 88A(1) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), ss. 151(3), 173(4); S.I. 2008/3077, art. 4(d)

**F374** Words in s. 88A(3) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), ss. 151(3), 173(4); S.I. 2008/3077, art. 4(d)

### [<sup>F375</sup> 88B Admission arrangements relating to children looked after by local authority

- (1) Regulations may require the admission authorities for maintained schools in England to include in their admission arrangements such provision relating to the admission of children who are looked after by a local authority in England as may be prescribed.
- (2) Regulations under subsection (1) may in particular include provision for securing that, subject to sections 86(3), 86B(2) and (4) and 87, such children are to be offered admission in preference to other children.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88C Procedure for determining admission arrangements

- (1) The admission authority for a maintained school in England must, before the beginning of each school year, determine in accordance with this section the admission arrangements which are to apply for that year.
- (2) The admission authority must, before determining the admission arrangements that are to apply for a year, carry out such consultation about the proposed arrangements as may be prescribed.
- (3) Regulations under subsection (2) may in particular make provision—
- specifying persons who must be consulted, or who must be consulted about prescribed provisions of proposed arrangements;
  - specifying provisions of proposed arrangements about which any such consultation is to be carried out;
  - specifying matters to which any such consultation is, or is not, to relate;
  - as to the manner in which, and the time by which, any such consultation is to be carried out.
- (4) When the admission authority have determined the admission arrangements that are to apply for a year, they must notify the appropriate bodies of those admission arrangements.

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- (5) Regulations may make provision—
- (a) as to the manner in which, and the time by which, any such notification is to be given;
  - (b) specifying cases in which subsection (4) does not apply.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88D Determination of admission numbers

- (1) A determination under section 88C by the admission authority for a maintained school in England of the admission arrangements which are to apply for a school year must include a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year.
- (2) Such a determination under section 88C may also, if the school is one at which boarding accommodation is provided for pupils, include—
  - (a) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year as boarders, and
  - (b) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year otherwise than as boarders.
- (3) Regulations may make provision about the making of any determination required by subsection (1), and may in particular require the admission authority for a maintained school to have regard, in making any such determination, to—
  - (a) any prescribed method of calculation, and
  - (b) any other prescribed matter.
- (4) References in this section to the determination of any number include references to the determination of zero as that number.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88E Variation of admission arrangements

- (1) Subsection (2) applies where an admission authority—
  - (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but
  - (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined.
- (2) The authority must—
  - (a) refer their proposed variations to the adjudicator, and
  - (b) notify the appropriate bodies of the proposed variations.

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- (3) Subsection (2)(a) does not apply in a case where the authority's proposed variations fall within any description of variations prescribed for the purposes of this subsection.
- (4) Where the local authority are the admission authority for a community or voluntary controlled school, they must consult the governing body before making any reference under subsection (2)(a).
- (5) On a reference under subsection (2)(a), the adjudicator must consider whether the admission arrangements should have effect with the proposed variations until the end of the school year in question.
- (6) If the adjudicator determines—
- (a) that the arrangements should so have effect, or
  - (b) that they should so have effect subject to such modification of those variations as the adjudicator may determine,
- the arrangements are to have effect accordingly as from the date of the adjudicator's determination.
- (7) Where the adjudicator makes a determination under subsection (6), the admission authority must notify the appropriate bodies of the variations subject to which the arrangements are to have effect.
- (8) Regulations may make provision—
- (a) as to the manner in which, and the time by which, any such notification is to be given;
  - (b) specifying cases in which subsection (7) does not apply.
- (9) Regulations may make provision—
- (a) specifying matters which are, or are not, to constitute major changes in circumstances for the purposes of subsection (1)(b);
  - (b) authorising an admission authority, where they have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, to vary those arrangements to such extent or in such circumstances as may be prescribed;
  - (c) for the application of any of the requirements of, or imposed under, subsections (2) to (8) to variations proposed to be made by virtue of paragraph (b), or to any prescribed description of such variations, as if they were variations proposed to be made under subsection (1).

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88F Sections 88C to 88E: supplementary

- (1) Regulations may make provision—
- (a) requiring an admission authority who have made a determination of a prescribed description under section 88C to publish such information relating to the determination (including information as to the authority's reasons for making the determination) as may be prescribed;

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- (b) as to such other matters connected with the procedure for determining or varying admission arrangements under sections 88C to 88E as the Secretary of State considers appropriate.
- (2) The power under paragraph (a) of subsection (1) to require an admission authority to publish information includes power to require them to publish it—
- (a) by giving a notice containing the information to prescribed persons, or
  - (b) in any other prescribed manner.
- (3) In sections 88C and 88E, the “appropriate bodies”, in relation to an admission authority, means—
- (a) whichever of the governing body and the local authority are not the admission authority,
  - (b) the admission authorities for all other maintained schools in the relevant area or for such class of schools as may be prescribed;
  - (c) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)),
  - (d) the admission authorities for maintained schools in England of any prescribed description,
  - (e) in the case of a foundation or voluntary school which has a religious character for the purposes of Part 2, such body or person representing the religion or religious denomination in question as may be prescribed,
  - (f) the admission forum for the area of the local authority in which the school is situated, and
  - (g) such other persons as may be prescribed.
- (4) In subsection (3), “the relevant area” means—
- (a) the area of the local authority in which the school in question is situated, or
  - (b) if regulations so provide, such other area in England (whether more or less extensive than the area of the local authority) as may be determined by or in accordance with the regulations.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### **88G Power to restrict alteration of admission arrangements following establishment or expansion**

- (1) Subsection (2) applies in relation to a maintained school in England where—
- (a) proposals for the establishment of, or the making of a prescribed alteration to, the school have been published under Part 2 of the Education and Inspections Act 2006 or under section 113A of, or Schedule 7 to, the Learning and Skills Act 2000,
  - (b) in the case of proposals for the making of a prescribed alteration to the school, the proposals are for an increase in the number of pupils that may be admitted to the school or for an enlargement of the premises,
  - (c) the proposals fall to be implemented (with or without modifications), and
  - (d) prescribed conditions are satisfied.



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- (2) Regulations may provide that, where this subsection applies in relation to a maintained school—
- (a) the admission arrangements for the initial period and each of a prescribed number of school years following that period are to be the arrangements which fall to be implemented in accordance with the proposals (or in accordance with the proposals as modified), and
  - (b) those arrangements may not be varied by the admission authority for the school except—
    - (i) to comply with any duty imposed on them by regulations under section 88B, or
    - (ii) in accordance with regulations under subsection (5).
- (3) Regulations under subsection (2) may exclude or modify any provision of section 88C, 88E or 88F in its application to cases to which the regulations apply.
- (4) Regulations under subsection (2) may provide that in cases to which the regulations apply the admission arrangements which fall to be implemented in accordance with the proposals (or in accordance with the proposals as modified) are to be treated for the purposes of section 86(5) to (5B) as having been determined by the admission authority under section 88C.
- (5) Regulations may prescribe circumstances in which an admission authority may refer to the adjudicator proposals to vary admission arrangements in cases to which regulations under subsection (2) apply.
- (6) Regulations may make provision as to the determination by the adjudicator of any reference made by virtue of subsection (5).
- (7) In this section—
- “initial period” means—
- (a) in relation to a maintained school which is being established, the period beginning with the day on which the school opens and ending with the beginning of the first school term to begin after the following July;
  - (b) in relation to a maintained school which is increasing the number of pupils that may be admitted to the school or enlarging its premises, the period beginning with the first day on which additional pupils may be admitted or (as the case may be) the enlarged premises are in use and ending with the beginning of the first school term to begin after the following July;
- “prescribed alteration” means an alteration prescribed for the purposes of section 18 of the Education and Inspections Act 2006.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

## 88H Reference of objections to adjudicator

- (1) This section applies where admission arrangements have been determined by an admission authority for a maintained school in England under section 88C.

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- (2) Where—
- (a) an appropriate person wishes to make an objection about the admission arrangements, and
  - (b) the objection does not fall within any description of objections prescribed for the purposes of this paragraph,
- that person may refer the objection to the adjudicator.
- (3) Where—
- (a) a parent of a prescribed description wishes to make an objection about the admission arrangements, and
  - (b) the objection falls within any description of objections prescribed for the purposes of this paragraph,
- that person may refer the objection to the adjudicator.
- (4) On a reference under subsection (2) or (3) the adjudicator must decide whether, and (if so) to what extent, the objection should be upheld.
- (5) Regulations may make provision—
- (a) as to any conditions which must be satisfied before—
    - (i) an objection can be referred to the adjudicator under subsection (2) or (3), or
    - (ii) the adjudicator is required to determine an objection referred to him under subsection (3);
  - (b) as to circumstances in which the adjudicator is not required to determine an objection under subsection (4);
  - (c) prescribing the steps which may be taken by an admission authority where an objection has been referred to the adjudicator under subsection (2) or (3) but has not yet been determined.
  - (d) prohibiting or restricting the reference under subsection (2) or (3), within such period following a decision by the adjudicator under this section as may be prescribed, of any objection raising the same (or substantially the same) issues in relation to the admission arrangements of the school in question.
- (6) In subsection (2), “appropriate person” means—
- (a) a body or person within any of paragraphs (a) to (f) of section 88F(3); or
  - (b) any person prescribed for the purposes of this subsection.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. **151(4)**, 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), **4(d)**

### 88I Other functions of adjudicator relating to admission arrangements

- (1) This section applies where admission arrangements have been determined by an admission authority for a maintained school in England under section 88C.
- (2) Where it appears to the Secretary of State that the admission arrangements do not, or may not, conform with the requirements relating to admission arrangements, the Secretary of State may refer the admission arrangements to the adjudicator.

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- (3) Subsection (4) applies where—
- (a) the Secretary of State refers the admission arrangements to the adjudicator under subsection (2), or
  - (b) the adjudicator receives a report under section 88P which, pursuant to regulations under subsection (5) of that section, states that the admission arrangements do not, or may not, conform with the requirements relating to admission arrangements.
- (4) The adjudicator must—
- (a) consider the admission arrangements, and
  - (b) decide whether they conform with those requirements and, if not, in what respect they do not.
- (5) Where it appears to the adjudicator that the admission arrangements do not, or may not, conform with the requirements relating to admission arrangements (and subsection (4) does not apply)—
- (a) the adjudicator may consider the admission arrangements, and
  - (b) if the adjudicator considers the arrangements under paragraph (a), the adjudicator must decide whether they conform with those requirements and, if not, in what respect they do not.
- (6) Regulations may make provision prescribing the steps which may be taken by an admission authority where the adjudicator—
- (a) is considering the authority's admission arrangements under subsection (4)(a) or (5)(a), but
  - (b) has not yet made a decision in the case under subsection (4)(b) or (5)(b) (as the case may be).

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88J Changes to admission arrangements

- (1) This section applies where the adjudicator is required to make a decision (“the primary decision”)—
- (a) under section 88H(4) on whether to uphold an objection to admission arrangements, or
  - (b) under section 88I(4)(b) or (5)(b) on whether admission arrangements conform with the requirements relating to admission arrangements.
- (2) The adjudicator—
- (a) must consider whether it would be appropriate for changes to be made to any aspect of the admission arrangements in consequence of the primary decision, and
  - (b) may consider whether it would be appropriate for any other changes to be made to any aspect of the admission arrangements.
- (3) Where the adjudicator decides under subsection (2) that it would be appropriate for changes to be made to the admission arrangements—

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- (a) that decision may specify the modifications that are to be made to the arrangements, and
  - (b) the admission authority must forthwith revise those arrangements in such a way as to give effect to that decision.
- (4) The adjudicator may—
- (a) decide, in the case of any change required by subsection (3)(b), that it is to be a protected change for the purpose of section 88L, and
  - (b) where the adjudicator does so but considers that the change ought not to be protected for the number of years prescribed under subsection (2) of that section, decide that the change is to be protected only for such lesser number of school years as the adjudicator may specify.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. **151(4)**, 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), **4(d)**

#### **88K Sections 88H to 88J: supplementary**

- (1) Subsection (2) applies to any decision of the adjudicator—
- (a) under section 88H(4) on whether to uphold an objection to admission arrangements,
  - (b) under section 88I(4)(b) or (5)(b) on whether admission arrangements conform with the requirements relating to admission arrangements, or
  - (c) under section 88J(2) as to whether or not it would be appropriate for changes to be made to admission arrangements.
- (2) Any decision of the adjudicator to which this subsection applies is binding on—
- (a) the admission authority in question, and
  - (b) all persons by whom an objection may be referred to the adjudicator under section 88H(2) or (3) in relation to the admission arrangements.
- (3) In the case of a decision mentioned in subsection (1)(a) or (b), the adjudicator must publish a report containing the following—
- (a) the adjudicator's decision on the objection or (as the case may be) on whether the admission arrangements conform with the requirements relating to admission arrangements,
  - (b) the decision of the adjudicator under section 88J(2)(a), and any decision of the adjudicator under section 88J(2)(b), on whether it would be appropriate for changes to be made to the admission arrangements,
  - (c) any decision of the adjudicator—
    - (i) under section 88J(4)(a) that a change is to be a protected change for the purposes of section 88L, or
    - (ii) under section 88J(4)(b) that a change is to be protected only for such lesser number of school years as the adjudicator may specify, and
  - (d) the adjudicator's reasons for the decisions mentioned in paragraphs (a) to (c).
- (4) Regulations may make provision—

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- (a) requiring an admission authority for a maintained school in England to provide information which—
    - (i) falls within a prescribed description, and
    - (ii) is requested by the adjudicator for the purposes of the exercise by the adjudicator of functions under sections 88H to 88J or this section or of enabling the adjudicator to decide whether to exercise the power conferred by section 88I(5);
  - (b) as to the manner in which a report required to be published under subsection (3) is to be published;
  - (c) requiring such matters to be notified to such persons, and in such manner, as may be prescribed;
  - (d) prescribing circumstances in which an admission authority may revise the admission arrangements for their school in the light of any decision by the adjudicator relating to the admission arrangements for another school, and the procedure to be followed in such a case.
- (5) In sections 88I and 88J and this section “the requirements relating to admission arrangements” means the requirements imposed by or under this Part as to the content of admission arrangements for maintained schools in England.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by [Education and Skills Act 2008 \(c. 25\)](#), ss. [151\(4\)](#), [173\(2\)\(b\)\(4\)](#); S.I. 2008/3077, arts. [2\(a\)](#), [4\(d\)](#)

### **88L Restriction on alteration of admission arrangements following adjudicator's decision**

- (1) This section applies where—
  - (a) in accordance with section 88J(3)(b) the admissions authority for a maintained school in England have revised any provisions of admission arrangements for a school year, and
  - (b) the revisions include any protected change.
- (2) In this section—
  - “protected change” means a change which the adjudicator has decided under section 88J(4)(a) is to be a protected change for the purposes of this section;
  - “the protected provisions”, in relation to any admission arrangements, means provisions corresponding to—
    - (a) provisions so far as implementing a protected change, or
    - (b) provisions so far as revised in accordance with regulations under subsection (6);
  - “the required number” means such number as may be prescribed or such lesser number as is specified by the adjudicator under section 88J(4)(b) in relation to a particular protected change.
- (3) The admission authority for the school—

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- (a) must incorporate the protected provisions in determining the admission arrangements for each of the required number of school years following the school year mentioned in subsection (1)(a), and
  - (b) may not vary those arrangements in such a way as to alter the protected provisions.
- (4) Subsection (3) does not apply to the extent that—
- (a) the admission authority are required to determine or vary their admission arrangements in a way which alters the protected provisions in order to comply with any duty imposed on them by regulations under section 88B, or
  - (b) the arrangements may be determined or varied in a way which alters those provisions in accordance with regulations under subsection (6).
- (5) Regulations may exclude or modify any provision of section 88C, 88E or 88F in its application to cases to which this section applies.
- (6) Regulations may prescribe circumstances in which, in a case where this section applies, an admission authority may refer to the adjudicator proposals to determine or vary their admission arrangements in a way which alters the protected provisions.
- (7) Regulations may make provision as to the determination by the adjudicator of any reference made by virtue of subsection (6).

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by [Education and Skills Act 2008 \(c. 25\)](#), ss. [151\(4\)](#), [173\(2\)\(b\)\(4\)](#); S.I. 2008/3077, arts. [2\(a\)](#), [4\(d\)](#)

### 88M Co-ordination of admission arrangements

- (1) Regulations may require a local authority in England—
- (a) to formulate, for any academic year in relation to which prescribed conditions are satisfied, a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area, and
  - (b) to take prescribed action with a view to securing the adoption of the scheme by themselves and each governing body who are the admission authority for a maintained school in their area.
- (2) Subject to subsection (3), the Secretary of State may make, in relation to the area of a local authority in England and an academic year, a scheme for co-ordinating the arrangements, or assisting in the co-ordination of the arrangements, for the admission of pupils to maintained schools in that area.
- (3) A scheme may not be made under subsection (2) in relation to a local authority and an academic year if, before the prescribed date in the year preceding the year in which that academic year commences—
- (a) a scheme formulated by the local authority in accordance with subsection (1) is adopted in the prescribed manner by the persons mentioned in paragraph (b) of that subsection, and
  - (b) the authority provide the Secretary of State with a copy of the scheme and inform the Secretary of State that the scheme has been so adopted.
- (4) Regulations may provide—

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- (a) that each local authority in England must secure that, subject to such exceptions as may be prescribed, no decision made by any admission authority for a maintained school in their area to offer or refuse a child admission to the school is to be communicated to the parent of the child except on a single day, designated by the local authority, in each year, or
  - (b) that, subject to such exceptions as may be prescribed, a decision made by the admission authority for a maintained school in England to offer or refuse a child admission to the school is not to be communicated to the parent of the child except on a prescribed day.
- (5) In this section
- “academic year” means a period commencing with 1st August and ending with the next 31st July;
  - “qualifying scheme” means a scheme that meets prescribed requirements.
- (6) Nothing in this section applies in relation to arrangements for the admission to maintained schools of pupils—
- (a) who—
    - (i) have ceased to be of compulsory school age, or
    - (ii) will have ceased to be of compulsory school age before education is provided for them at the school, or
  - (b) for the purpose of receiving sixth form education.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by [Education and Skills Act 2008 \(c. 25\)](#), [ss. 151\(4\)](#), [173\(2\)\(b\)\(4\)](#); [S.I. 2008/3077](#), [arts. 2\(a\)](#), [4\(d\)](#)

### 88N Further provision about schemes adopted or made by virtue of section 88M

- (1) Regulations may make provision about the contents of schemes under section 88M(2), including provision about the duties that may be imposed by such schemes on—
  - (a) local authorities in England, and
  - (b) the admission authorities for maintained schools in England.
- (2) Regulations may provide that where a local authority in England or the governing body of a maintained school in England have, in such manner as may be prescribed, adopted a scheme formulated by a local authority for the purpose mentioned in section 88M(1)(a), sections 496 and 497 of the Education Act 1996 are to apply as if any obligations imposed on the local authority or governing body under the scheme were duties imposed on them by that Act.
- (3) Regulations may provide that where any decision as to whether a child is to be granted or refused admission to a maintained school in England falls to be made in prescribed circumstances, the decision must, if a scheme adopted or made by virtue of section 88M so provides, be made by the local authority regardless of whether they are the admission authority for the school.
- (4) Where any decision as to whether a child is to be granted or refused admission to a maintained school is (by virtue of regulations under subsection (3)) made by the local authority although they are not the admission authority, the governing body of the school must implement the decision.

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- (5) Before proposing a scheme for adoption under section 88M(1) a local authority must comply with such requirements as to consultation as may be prescribed.
- (6) Regulations under subsection (5) may in particular require consultations to be undertaken with a view to securing that the arrangements for the admission of pupils to maintained schools in the areas of different local authorities are, so far as is reasonably practicable, compatible with each other.
- (7) Before making a scheme under section 88M(2) in relation to the area of any local authority, the Secretary of State must consult—
  - (a) the local authority, and
  - (b) any governing body who are the admission authority for a school which appears to the Secretary of State to be a school to which the scheme will apply.
- (8) A scheme made under section 88M(2) may be varied or revoked by the Secretary of State.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88O Sharing of information by local authorities

The Secretary of State may by regulations require local authorities in England to provide other local authorities with such information as may be required by them in connection with the exercise of any of their functions under this Chapter.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

### 88P Reports by local authorities to adjudicator

- (1) A local authority in England must make such reports to the adjudicator about such matters connected with relevant school admissions as may be prescribed.
- (2) In subsection (1) “relevant school admissions”, in relation to a local authority, means—
  - (a) the admission of pupils to relevant schools in the authority's area;
  - (b) the admission of pupils in the authority's area to other relevant schools;
  - (c) the entry to the sixth form of pupils who have been admitted to relevant schools in the authority's area; and
  - (d) the entry to the sixth form of pupils in the authority's area who have been admitted to other relevant schools.
- (3) In this section, “relevant school” means—
  - (a) a maintained school,
  - (b) an Academy,



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- (c) a city technology college, or
  - (d) a city college for the technology of the arts.
- (4) The matters which may be prescribed under subsection (1) in relation to a report by a local authority include, in particular, matters relating to—
- (a) the determination and operation of admission arrangements for maintained schools in the area of the local authority;
  - (b) the determination and operation of arrangements for the admission of pupils to Academies, city technology colleges and city colleges for the technology of the arts in the area of the local authority;
  - (c) the adoption and operation of any scheme, whether or not formulated by the local authority and whether under section 88M or otherwise, for co-ordinating—
    - (i) the admission of pupils to relevant schools in their area,
    - (ii) the admission of pupils in their area to other relevant schools.
- (5) Regulations under subsection (1) may make provision as to—
- (a) the time by which any report under that subsection must be made; and
  - (b) the form and content of any such report;
- and may, in particular, require a report to include a statement as to whether or not admission arrangements for maintained schools in the area of the local authority conform with the requirements imposed by or under this Part as to the content of admission arrangements for maintained schools in England.

#### Textual Amendments

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 151(4)**, 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), **4(d)**

### 88Q Reports under section 88P: provision of information

- (1) A relevant person must, on request, provide a local authority in England with such information as the authority may reasonably require for the purpose of enabling the authority to fulfil their duties under section 88P.
- (2) In subsection (1), “relevant person”, in relation to a local authority, means—
- (a) an admission authority (other than the local authority) for a maintained school in the area of the local authority;
  - (b) the admission forum for the area of the local authority;
  - (c) any member of an appeal panel constituted under section 94 by—
    - (i) the local authority, or
    - (ii) the governing body of a foundation or voluntary aided school in the area of the local authority;
  - (d) the proprietor of—
    - (i) an Academy,
    - (ii) a city technology college, or
    - (iii) a city college for the technology of the arts,
 in the area of the local authority;
  - (e) any other local authority in England;

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(f) such other person as may be prescribed.]

**Textual Amendments**

**F375** Ss. 88B-88Q inserted (2.12.2008 for specified purposes, 26.1.2009 in so far as not already in force) by Education and Skills Act 2008 (c. 25), ss. 151(4), 173(2)(b)(4); S.I. 2008/3077, arts. 2(a), 4(d)

*[<sup>F376</sup> Admission arrangements: Wales*

**Textual Amendments**

**F376** S. 88R and cross-heading inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 56; S.I. 2008/3077, art. 4(g)

**88R Prohibition on interviews**

- (1) No admission arrangements for a maintained school in Wales may require or authorise any interview with an applicant for admission to the school or his parents, where the interview is to be taken into account (to any extent) in determining whether the applicant is to be admitted to the school.
- (2) If the maintained school is one at which boarding accommodation is provided for pupils, subsection (1) does not apply in relation to any interview intended to assess the suitability of an applicant for a boarding place.
- (3) Where the admission arrangements for a maintained school in Wales make provision for a permitted form of selection by aptitude, subsection (1) does not prevent the arrangements from requiring or authorising any audition or other oral or practical test to be carried out in relation to an applicant solely for the purpose of ascertaining the applicant's aptitude in accordance with the arrangements.
- (4) In this section “permitted form of selection by aptitude” is to be read in accordance with section 99(4).]

**89 Procedure for determining admission arrangements.**

- (1) The admission authority for a maintained school [<sup>F377</sup>in Wales] shall, before the beginning of each school year, determine in accordance with this section the admission arrangements which are to apply for that year.

<sup>F378</sup>(1ZA) .....

<sup>F379</sup>(1A) .....

- <sup>F380</sup>(2) Before determining the admission arrangements which are to apply for a particular school year, the admission authority shall consult the following about the proposed arrangements, namely—

- (a) whichever of the governing body and the local education authority are not the admission authority,
- (b) the admission authorities for all other maintained schools in the relevant area or for such class of such schools as may be prescribed,

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- (c) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)),<sup>F381</sup> ...
- (d) the admission authorities for maintained schools of any prescribed description; [<sup>F382</sup>and
- (e) in the case of a foundation or voluntary school which has a religious character for the purposes of Part 2, such body or person representing the religion or religious denomination in question as may be prescribed.]

(2A) Subsection (2) does not apply in relation to the proposed admission arrangements for a particular school year if—

- (a) the admission authority are the school’s governing body, and
- (b) prescribed conditions are satisfied in relation to that year.]

(3) In subsection (2) “the relevant area” means—

- (a) the area of the local education authority; or
- (b) if regulations so provide, such other area (whether more or less extensive than the area of the local education authority) as may be determined by or in accordance with the regulations.

(4) Once the admission authority have carried out any such consultation, the authority shall—

- (a) determine that their proposed arrangements (either in their original form or with such modifications as the authority think fit) shall be the admission arrangements for the school year in question; and
- (b) (except in such cases as may be prescribed) notify the [<sup>F383</sup>appropriate bodies] of those admission arrangements.

(5) Where an admission authority—

- (a) have in accordance with subsection (4) determined the admission arrangements which are to apply for a particular school year, but
- (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined,

the authority shall (except in a case where their proposed variations fall within any description of variations prescribed for the purposes of this subsection) refer the proposed variations to [<sup>F384</sup>the Welsh Ministers], and shall (in every case) notify the [<sup>F383</sup>appropriate bodies] of the proposed variations.

(6) [<sup>F385</sup>The Welsh Ministers] shall consider whether the arrangements should have effect with those variations until the end of that year; and if [<sup>F386</sup>they determine] that the arrangements should so have effect or that they should so have effect subject to such modification of those variations as [<sup>F387</sup>they may determine]—

- (a) the arrangements shall have effect accordingly as from the date of [<sup>F388</sup>their] determination; and
- (b) the admission authority shall (except in such cases as may be prescribed) notify the [<sup>F389</sup>appropriate bodies] of the variations subject to which the arrangements are to have effect.

<sup>F390</sup>(7) .....

(8) Regulations may make provision—

- (a) specifying matters to which any consultation required by subsection (2) is, or is not, to relate;

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- (b) as to the manner in which, and the time by which, any such consultation is to be carried out;
- (c) as to the manner in which, and the time by which, any notification required by this section is to be given;
- (d) specifying matters which are, or are not, to constitute major changes in circumstances for the purposes of subsection (5)(b);
- (e) authorising an admission authority, where they have in accordance with subsection (4) determined the admission arrangements which are to apply for a particular school year, to vary those arrangements to such extent or in such circumstances as may be prescribed;
- (f) for the application of any of the requirements of subsections (5) and (6) to variations proposed to be made by virtue of paragraph (e), or to any prescribed description of such variations, as if they were variations proposed to be made under subsection (5);
- [<sup>F391</sup>(fa) requiring an admission authority who have made a determination of a prescribed description under this section to publish such information relating to the determination (including information as to the authority’s reasons for making the determination) as may be prescribed;]
- (g) as to such other matters connected with the procedure for determining or varying admission arrangements under this section as [<sup>F392</sup>the Welsh Ministers consider] appropriate.

[<sup>F393</sup>(8A) The power under paragraph (fa) of subsection (8) to require an admission authority to publish information includes power to require them to publish it—

- (a) by giving a notice containing the information to prescribed persons, or
- (b) in any other prescribed manner.]

[<sup>F394</sup>(9) Where the local education authority are the admission authority for a community or voluntary controlled school, they shall consult the governing body before making any reference under subsection (5).]

[<sup>F395</sup>(10) In this section, “the appropriate bodies”, in relation to an admission authority, means—

- (a) the bodies or persons whom they were required to consult under subsection (2), or would but for subsection (2A) have been required to consult,  
<sup>F396</sup>...

<sup>F397</sup>(b) .....]

**Textual Amendments**

- F377** Words in s. 89(1) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(2)**; S.I. 2008/3077, art. 2(d)
- F378** S. 89(1ZA) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 57(3), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)
- F379** S. 89(1A) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 57(3), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)
- F380** S. 89(2)(2A) substituted for s. 89(2) (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(2)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F381** Word in s. 89(2)(c) repealed (8.1.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), ss. 45(a), 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 2(b)(e); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

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- F382** S. 89(2)(e) and word inserted (8.1.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 45(b)**, 188(3); S.I. 2006/3400, art. 2(b); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F383** Words in s. 89(4)(5) substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(3)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F384** Words in s. 89(5) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(4)**; S.I. 2008/3077, art. 2(d)
- F385** Words in s. 89(6) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(5)(a)**; S.I. 2008/3077, art. 2(d)
- F386** Words in s. 89(6) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(5)(b)**; S.I. 2008/3077, art. 2(d)
- F387** Words in s. 89(6) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(5)(c)**; S.I. 2008/3077, art. 2(d)
- F388** Word in s. 89(6)(a) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(5)(d)**; S.I. 2008/3077, art. 2(d)
- F389** Words in s. 89(6) substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(3)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F390** S. 89(7) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 57(6), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)
- F391** S. 89(8)(fa) inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(4)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F392** Words in s. 89(8)(g) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 57(7)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F393** S. 89(8A) inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(5)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F394** S. 89(9) substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 5(6)** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.
- F395** S. 89(10) substituted (27.2.2007) by Education and Inspections Act 2006 (c. 40), **ss. 41(7)**, 188(3); S.I. 2006/3400, art. 7(a)
- F396** Word in s. 89(10) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2008/3077, **art. 2(e)**
- F397** S. 89(10)(b) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 57(8), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)

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

- C124** S. 89 excluded (6.1.1999 with application as mentioned) (*temp.*) by S.I. 1998/3198, **arts.3, 4**
- C125** S. 89(1) excluded (27.3.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(2), **14(2)**
- C126** S. 89(1) excluded (E.) (25.5.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(3), **4(4)**
- C127** S. 89(2)-(10) excluded (27.3.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(2), **14(2)**
- C128** S. 89(2)-(10) excluded (E.) (25.5.2007) by The School Admissions (Alteration and Variation of, and Objections to, Arrangements) (England) Regulations 2007 (S.I. 2007/496), regs. 1(3), **4(4)**
- C129** S. 89(5)-(7) excluded (W.) (1.2.2006) by The Education (Variation of Admission Arrangements) (Wales) Regulations 2006 (S.I. 2006/177), regs. 1(1), **3(3)**

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### Commencement Information

- I10** S. 89 wholly in force; s. 89 not in force at Royal Assent see s. 145(3); s. 89(2)-(8) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. 1; s. 89 in force at 6.1.1999 in so far as not already in force by S.I. 1998/3198, arts. 2, 3 and 4

### [<sup>F398</sup>89A Determination of admission numbers

- (1) A determination under section 89 by the admission authority for a maintained school [<sup>F399</sup>in Wales] of the admission arrangements which are to apply for a school year shall include a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year.
- (2) Such a determination under section 89 may also, if the school is one at which boarding accommodation is provided for pupils, include—
  - (a) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year as boarders, and
  - (b) a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year otherwise than as boarders.
- (3) Regulations may make provision about the making of any determination required by subsection (1), and may in particular require the admission authority for a maintained school [<sup>F400</sup>in Wales] to have regard, in making any such determination, to—
  - (a) any prescribed method of calculation, and
  - (b) any other prescribed matter.
- (4) References in this section to the determination of any number include references to the determination of zero as that number.]

### Textual Amendments

- F398** S. 89A inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), ss. 47(2), 216(4) (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 6); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5) (which transitional provisions in Sch. para. 4 are substituted (6.3.2003) by S.I. 2003/606, art. 2 and (4.12.2003) by S.I. 2003/2992, art. 3); S.I. 2006/172, art. 4, Sch.
- F399** Words in s. 89A(1) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 58(2); S.I. 2008/3077, art. 2(d)
- F400** Words in s. 89A(3) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 58(3); S.I. 2008/3077, art. 2(d)

### [<sup>F401</sup>89B Co-ordination of admission arrangements

- (1) Regulations may require a local education authority [<sup>F402</sup>in Wales]—
  - (a) to formulate, for any academic year in relation to which prescribed conditions are satisfied, a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area, and
  - (b) to take prescribed action with a view to securing the adoption of the scheme by themselves and each governing body who are the admission authority for a maintained school in their area.
- (2) Subject to subsection (3), [<sup>F403</sup>the Welsh Ministers] may make, in relation to the area of a local education authority [<sup>F404</sup>in Wales] and an academic year, a scheme for co-

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ordinating the arrangements, or assisting in the co-ordination of the arrangements, for the admission of pupils to maintained schools in that area.

(3) A scheme may not be made under subsection (2) in relation to a local education authority and an academic year if, before the prescribed date in the year preceding the year in which that academic year commences—

- (a) a scheme formulated by the local education authority in accordance with subsection (1) is adopted in the prescribed manner by the persons mentioned in paragraph (b) of that subsection, and
- (b) the authority provide <sup>F405</sup>the Welsh Ministers] with a copy of the scheme and inform <sup>F406</sup>them] that the scheme has been so adopted.

(4) <sup>F407</sup>The Welsh Ministers] may by regulations require local education authorities <sup>F408</sup>in Wales] to provide other local education authorities with such information as may be required by <sup>F409</sup>such other authorities] in connection with the exercise of any of their functions under this Chapter.

(5) Regulations may provide—

- (a) that each local education authority <sup>F410</sup>in Wales] shall secure that, subject to such exceptions as may be prescribed, no decision made by any admission authority for a maintained school in their area to offer or refuse a child admission to the school shall be communicated to the parent of the child except on a single day, designated by the local education authority, in each year, or
- (b) that, subject to such exceptions as may be prescribed, a decision made by the admission authority for a maintained school <sup>F411</sup>in Wales] to offer or refuse a child admission to the school shall not be communicated to the parent of the child except on a prescribed day.

(6) In this section—

“academic year” means a period commencing with 1st August and ending with the next 31st July;

“qualifying scheme” means a scheme that meets prescribed requirements.

[ Nothing in this section applies in relation to arrangements for the admission to <sup>F412</sup>(7) maintained schools in Wales of pupils—

- (a) who—
  - (i) have ceased to be of compulsory school age, or
  - (ii) will have ceased to be of compulsory school age before education is provided for them at the school, or
- (b) for the purpose of receiving sixth form education.]

#### Textual Amendments

**F401** Ss. 89B, 89C inserted (1.10.2002 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 48**, 216(4) (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), art. 3; [S.I. 2006/172](#), art. 4, Sch.

**F402** Words in s. 89B(1) inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 59(2)**; [S.I. 2008/3077](#), art. 4(g)

**F403** Words in s. 89B(2) substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 59(3)(a)** (with s. 167(2)); [S.I. 2008/3077](#), art. 4(g)

**F404** Words in s. 89B(2) inserted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 59(3)(b)**; [S.I. 2008/3077](#), art. 4(g)

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- F405** Words in s. 89B(3)(b) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(4)(a)** (with s. 167(2)); S.I. 2008/3077, art. 4(g)
- F406** Word in s. 89B(3)(b) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(4)(b)**; S.I. 2008/3077, art. 4(g)
- F407** Words in s. 89B(4) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(5)(a)** (with s. 167(2)); S.I. 2008/3077, art. 4(g)
- F408** Words in s. 89B(4) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(5)(b)**; S.I. 2008/3077, art. 4(g)
- F409** Words in s. 89B(4) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(5)(c)**; S.I. 2008/3077, art. 4(g)
- F410** Words in s. 89B(5)(a) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(6)(a)**; S.I. 2008/3077, art. 4(g)
- F411** Words in s. 89B(5)(b) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 59(6)(b)**; S.I. 2008/3077, art. 4(g)
- F412** S. 89B(7) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), **Sch. 1 para. 59(7)**; S.I. 2008/3077, **art. 5(e)**; S.I. 2009/784, **art. 3(d)**

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

- C130** S. 89B applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C131** S. 89B applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

**89C Further provision about schemes adopted or made by virtue of section 89B**

- (1) Regulations may make provision about the contents of schemes under section 89B(2), including provision about the duties that may be imposed by such schemes on—
  - (a) local education authorities [<sup>F413</sup>in Wales], and
  - (b) the admission authorities for maintained schools [<sup>F414</sup>in Wales].
- (2) Regulations may provide that where a local education authority [<sup>F415</sup>in Wales] or the governing body of a maintained school [<sup>F416</sup>in Wales] have, in such manner as may be prescribed, adopted a scheme formulated by a local education authority for the purpose mentioned in section 89B(1)(a), sections 496 and 497 of the Education Act 1996 shall apply as if any obligations imposed on the local education authority or governing body under the scheme were duties imposed on them by that Act.
- (3) Regulations may provide that where any decision as to whether a child is to be granted or refused admission to a maintained school [<sup>F417</sup>in Wales] falls to be made in prescribed circumstances, the decision shall, if a scheme adopted or made [<sup>F418</sup>by virtue of section 89B] so provides, be made by the local education authority regardless of whether they are the admission authority for the school.

[ Where any decision as to whether a child is to be granted or refused admission to a <sup>F419</sup>(3A) maintained school [<sup>F420</sup>in Wales] is (by virtue of regulations under subsection (3)) made by the local authority although they are not the admission authority, the governing body of the school must implement the decision.]

- (4) Before proposing a scheme for adoption under section 89B(1) a local education authority shall comply with such requirements as to consultation as may be prescribed.
- (5) Regulations under subsection (4) may in particular require consultations to be undertaken with a view to securing that the arrangements for the admission of pupils



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to maintained schools in the areas of different local education authorities are, so far as is reasonably practicable, compatible with each other.

- (6) Before making a scheme under section 89B(2) in relation to the area of any local education authority, [<sup>F421</sup>the Welsh Ministers] shall consult—
- (a) the local education authority, and
  - (b) any governing body who are the admission authority for a school which appears to the Secretary of State to be a school to which the scheme will apply.
- (7) A scheme made under section 89B(2) may be varied or revoked by [<sup>F422</sup>the Welsh Ministers].]

#### Textual Amendments

- F401** Ss. 89B, 89C inserted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), **ss. 48**, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2006/172, art. 4, Sch.
- F413** Words in s. 89C(1)(a) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(2)(a)**; S.I. 2008/3077, art. 4(g)
- F414** Words in s. 89C(1)(b) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(2)(b)**; S.I. 2008/3077, art. 4(g)
- F415** Words in s. 89C(2) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(3)(a)**; S.I. 2008/3077, art. 4(g)
- F416** Words in s. 89C(2) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(3)(b)**; S.I. 2008/3077, art. 4(g)
- F417** Words in s. 89C(3) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(4)**; S.I. 2008/3077, art. 4(g)
- F418** Words in s. 89C(3) substituted (8.1.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 43(3)(a)**, 188(3); S.I. 2006/3400, art. 2(a); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F419** S. 89C(3A) inserted (8.1.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 43(3)(b)**, 188(3); S.I. 2006/3400, art. 2(a); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F420** Words in s. 89C(3A) inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(4)**; S.I. 2008/3077, art. 4(g)
- F421** Words in s. 89C(6) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(5)** (with s. 167(2)); S.I. 2008/3077, art. 4(g)
- F422** Words in s. 89C(7) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 60(5)** (with s. 167(2)); S.I. 2008/3077, art. 4(g)

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

- C132** S. 89C applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C133** S. 89C applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

#### <sup>F423</sup>89D Power to restrict alteration of admission arrangements following establishment or expansion

.....

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**Textual Amendments**

**F423** S. 89D repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 61, Sch. 2; S.I. 2008/3077, art. 2(d)(e)

**90 Reference of objections to [F424 Welsh Ministers].**

(1) Where—

(a) admission arrangements have been determined by an admission authority under section 89(4), but

[F425(b) an appropriate body wishes to make an objection about those arrangements, and]

(c) the objection does not fall within any description of objections prescribed for the purposes of this paragraph,

that body may refer the objection to [F426 the Welsh Ministers].

(2) Where—

(a) admission arrangements have been determined by an admission authority under section 89(4), but

(b) any parent of a prescribed description wishes to make an objection about those arrangements, and

(c) the objection falls within any description of objections prescribed for the purposes of this paragraph,

that person may refer the objection to [F427 the Welsh Ministers].

[F428(2A) Where any objection is referred to the Welsh Ministers, they shall decide whether, and (if so) to what extent, the objection should be upheld.]

F429(3) .....

F429(4) .....

F429(5) .....

[F430(5A) Where [F431 the Welsh Ministers are] required by virtue of [F432(2A)] to decide whether to uphold an objection to admission arrangements, [F433 they] may consider whether it would be appropriate for changes to be made to any aspect of the admission arrangements, whether or not [F433 they] would be required to do so for the purpose of determining the objection.

(5B) In the case of any objection referred to [F434 them] under this section, [F435 the Welsh Ministers] must publish a report containing the following—

(a) [F436 their] decision on the objection,

(b) any decision [F437 they have] made on whether it would be appropriate for changes to be made to the admission arrangements, whether in the light of [F438 their] decision on the objection or otherwise,

F439(c) .....

(d) [F440 their] reasons for the decisions mentioned in paragraphs (a) [F441 and (b)].

(5C) Where [F442 the Welsh Ministers decide] that it would be appropriate for changes to be made to the admission arrangements, [F443 their] decision may specify the modifications that are to be made to the arrangements.]

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<sup>F444</sup>(6) .....

<sup>F444</sup>(7) .....

(8) [<sup>F445</sup>The decisions of [<sup>F446</sup>the Welsh Ministers] mentioned in subsection (5B)(a) and (b) shall, in relation to the admission arrangements in question, be binding on the admission authority and on all persons by whom an objection may be made under subsection (1) or (2); and, if [<sup>F446</sup>the Welsh Ministers][<sup>F447</sup>have] decided that it would be appropriate for changes to be made to the admission arrangements, those arrangements shall forthwith be revised by the admission authority in such a way as to give effect to the decision.]

(9) Regulations may make provision—

(a) as to any conditions which must be satisfied before—

(i) an objection can be referred to [<sup>F448</sup>the Welsh Ministers] under subsection (1) or (2), or

(ii) [<sup>F449</sup>the Welsh Ministers][<sup>F450</sup>are] required to determine an objection referred to [<sup>F450</sup>them] under subsection (2);

(b) prescribing the steps which may be taken by an admission authority where an objection has been referred to [<sup>F451</sup>the Welsh Ministers] under subsection (1) or (2) but has not yet been determined;

<sup>F452</sup>(ba) .....

(c) as to the manner in which [<sup>F453</sup>a report required to be published under subsection (5B) is] to be published;

(d) requiring such matters to be notified to such persons, and in such manner, as may be prescribed;

(e) prohibiting or restricting the reference under subsection (1) or (2), within such period following a decision by [<sup>F454</sup>the Welsh Ministers] under this section as may be prescribed, of any objection raising the same (or substantially the same) issues in relation to the admission arrangements of the school in question;

(f) prescribing circumstances in which an admission authority may revise the admission arrangements for their school in the light of any decision by [<sup>F455</sup>the Welsh Ministers] relating to the admission arrangements for another school, and the procedure to be followed in such a case.

<sup>F456</sup>(10) .....

[<sup>F457</sup>(11) In this section, “appropriate body” means, in relation to the admission arrangements determined by an admission authority—

(a) any body or person whom the admission authority were required to consult under subsection (2) of section 89, or would but for subsection (2A) of that section have been required to consult, <sup>F458</sup> ...

<sup>F459</sup>(b) .....]

**Textual Amendments**

**F424** Words in s. 90 title substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(2)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)

**F425** S. 90(1)(b) substituted (27.2.2007) by Education and Inspections Act 2006 (c. 40), **ss. 41(8)(a)**, 188(3); S.I. 2006/3400, art. 7(a)

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- F426** Words in s. 90(1) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(3)**; S.I. 2008/3077, art. 2(d)
- F427** Words in s. 90(2) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(3)**; S.I. 2008/3077, art. 2(d)
- F428** S. 90(2A) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(4)**; S.I. 2008/3077, art. 2(d)
- F429** S. 90(3)-(5) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 62(5), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)
- F430** S. 90(5A)-(5C) inserted (27.2.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 47(2)**, 188(3); S.I. 2006/3400, art. 6(d); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F431** Words in s. 90(5A) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(6)(a)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F432** Word in s. 90(5A) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(6)(b)**; S.I. 2008/3077, art. 2(d)
- F433** Word in s. 90(5A) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(6)(c)**; S.I. 2008/3077, art. 2(d)
- F434** Word in s. 90(5B) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(a)**; S.I. 2008/3077, art. 2(d)
- F435** Words in s. 90(5B) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(b)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F436** Word in s. 90(5B)(a) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(c)**; S.I. 2008/3077, art. 2(d)
- F437** Words in s. 90(5B)(b) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(d)**; S.I. 2008/3077, art. 2(d)
- F438** Word in s. 90(5B)(b) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(c)**; S.I. 2008/3077, art. 2(d)
- F439** S. 90(5B)(c) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 62(7)(e), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)
- F440** Word in s. 90(5B)(d) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(c)**; S.I. 2008/3077, art. 2(d)
- F441** Words in s. 90(5B)(d) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(7)(f)**; S.I. 2008/3077, art. 2(d)
- F442** Words in s. 90(5C) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(8)(a)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F443** Word in s. 90(5C) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(8)(b)**; S.I. 2008/3077, art. 2(d)
- F444** S. 90(6)(7) repealed (27.2.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 47(3)**, 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 6(d)(g); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F445** S. 90(8) substituted (27.2.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 47(4)**, 188(3); S.I. 2006/3400, art. 6(d); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F446** Words in s. 90(8) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(9)(a)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F447** Word in s. 90(8) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(9)(b)**; S.I. 2008/3077, art. 2(d)
- F448** Words in s. 90(9)(a)(i) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(10)(a)(i)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F449** Words in s. 90(9)(a)(ii) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(10)(a)(i)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F450** Word in s. 90(9)(a)(ii) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(10)(a)(ii)**; S.I. 2008/3077, art. 2(d)
- F451** Words in s. 90(9)(b) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(10)(b)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)

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- F452** S. 90(9)(ba) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 62(10)(c), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)
- F453** Words in s. 90(9)(c) substituted (27.2.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 47(5)(b)**, 188(3); S.I. 2006/3400, art. 6(d); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F454** Words in s. 90(9)(e) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(10)(d)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F455** Words in s. 90(9)(f) substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 62(10)(d)** (with s. 167(2)); S.I. 2008/3077, art. 2(d)
- F456** S. 90(10) repealed (27.2.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), ss. 47(6), 188(3), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 6(d)(g); S.I. 2008/1429, art. 3(1), Sch. Pt. 1
- F457** S. 90(11) inserted (27.2.2007) by Education and Inspections Act 2006 (c. 40), **ss. 41(8)(b)**, 188(3); S.I. 2006/3400, art. 7(a)
- F458** Word in s. 90(11) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 2**; S.I. 2008/3077, art. 2(e)
- F459** S. 90(11)(b) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 62(11), **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)

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

- C134** S. 90 transitional provisions for effects of 2002 c. 32, Sch. 4 para. 6 (W.) (1.2.2006) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2006 (S.I. 2006/173), regs. 1(1), 7

**Commencement Information**

- I11** S. 90 wholly in force at 1.4.1999; s. 90 not in force at Royal Assent see s. 145(3); s. 90(1)-(3), (5), (9) and (10) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. 1**; s. 90 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4).

**[<sup>F460</sup>90ZA Regulations by Welsh Ministers under sections 89 to 90**

In sections 89 to 90—

“prescribed” means prescribed by regulations made by the Welsh Ministers;  
 “regulations” means regulations made by the Welsh Ministers.]

**Textual Amendments**

- F460** S. 90ZA inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 63**; S.I. 2008/3077, art. 2(d)

**<sup>F461</sup>90A Restriction on alteration of admission arrangements following adjudicator's decision**

.....

**Textual Amendments**

- F461** S. 90A repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 64, **Sch. 2**; S.I. 2008/3077, art. 2(d)(e)

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## 91 Special arrangements to preserve religious character of foundation or voluntary aided school.

F462

### Textual Amendments

**F462** S. 91 repealed (1.10.2002 for E. and 19.12.2002 for W.) by Education Act 2002 (c. 32), ss. 49, 215(2), 216, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3** (with Sch.); S.I. 2002/3185, **art. 4**, Sch. Pt. 1 (with art. 7)

*[<sup>F463</sup>Publication of information about admissions: England and Wales]*

### Textual Amendments

**F463** S. 92 cross-heading inserted (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 65**; S.I. 2008/3077, art. 4(g)

## <sup>F464</sup>92 Publication of information about admissions.

Regulations may—

- (a) require the publication by a local education authority of such information relating to admissions as may be prescribed,
- (b) require the publication by the governing body of a foundation or voluntary aided school of such information relating to admissions as may be prescribed,
- (c) require or allow the publication by the governing body of any school maintained by a local education authority, or by the local education authority on behalf of the governing body, of such information relating to the school as may be prescribed, and
- (d) make provision as to the time by which, and the manner in which, information required to be published by virtue of this section is to be published.]

### Textual Amendments

**F464** S. 92 substituted (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 7** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2006/172, art. 4, Sch.

### Modifications etc. (not altering text)

- C135** S. 92 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C136** S. 92 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, 4  
S. 92 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), 2-8  
S. 92 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8.
- C137** S. 92 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

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### Commencement Information

- I12** S. 92 wholly in force at 1.4.1999; s. 92 not in force at Royal Assent see s. 145(3); s. 92 in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; s. 92 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4).

### Admission numbers

#### <sup>F465</sup>93 Fixing admission numbers.

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### Textual Amendments

- F465** S. 93 repealed (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 5); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.

### Admission appeals

#### 94 Appeal arrangements: general.

- (1) A local education authority shall make arrangements for enabling [<sup>F466</sup>the appropriate person] to appeal against—
- [<sup>F467</sup>(za) in a case where the local authority are the admissions authority, any decision made by or on behalf of the authority refusing a child admission to a school,]
- (a) [<sup>F468</sup>any other decision] made by or on behalf of the authority as to the school at which education is to be provided for [<sup>F469</sup>a child] in the exercise of the authority's functions, other than a decision leading to or embodied in a direction under section 96 [<sup>F470</sup>or 97A] (directions for admission), and
- (b) [<sup>F471</sup>in a case where the governing body of a community or voluntary controlled school maintained by the authority are the admission authority], any decision made by or on behalf of the governing body refusing [<sup>F472</sup>a child] admission to the school.
- [<sup>F473</sup>(1A) A local education authority shall make arrangements for enabling [<sup>F474</sup>the appropriate person in relation to] a child who has been admitted to a community or voluntary controlled school maintained by the authority to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form.]
- (2) The governing body of a foundation or voluntary aided school shall make arrangements for enabling [<sup>F475</sup>the appropriate person] to appeal against any decision made by or on behalf of the governing body refusing [<sup>F476</sup>a child] admission to the school.
- [<sup>F477</sup>(2A) The governing body of a foundation or voluntary aided school shall make arrangements for enabling [<sup>F478</sup>the appropriate person in relation to] a child who has been admitted to the school to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school's sixth form.]

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- [<sup>F479</sup>(2B) In this section, “the appropriate person”, in relation to a child, means—
- (a) in the case of a decision about sixth form education for the child any of the following—
    - (i) the child;
    - (ii) a parent of his;
    - (iii) the child and a parent of his, acting jointly;
 (but subject to regulations made under subsection (5A));
  - (b) in any other case, a parent of the child.]
- (3) Joint arrangements may be made under subsection (2) [<sup>F480</sup>or (2A)] by the governing bodies of two or more foundation or voluntary aided schools maintained by the same local education authority.
- (4) A local education authority and the governing body or bodies of one or more foundation or voluntary aided schools maintained by the authority may make joint arrangements consisting of—
- (a) such of the arrangements made by the authority in pursuance of subsection (1) [<sup>F481</sup>or (1A)] as the authority may determine; and
  - (b) arrangements made by the governing body or bodies in pursuance of subsection (2) [<sup>F481</sup>or (2A)].
- [<sup>F482</sup>(5) An appeal pursuant to any arrangements made under this section shall be to an appeal panel constituted in accordance with regulations.
- (5A) Regulations may make provision about the making of appeals pursuant to such arrangements, including provision—
- (a) as to the procedure on such appeals,
  - [<sup>F483</sup>(aa) in cases where separate appeals are made by a parent and a child against a decision about sixth form education for the child, for the appeals to be joined, or otherwise for securing that no more than one appeal against the decision is proceeded with;]
  - (b) for the payment by the local education authority of allowances to members of an appeal panel, and
  - (c) as to the grounds on which an appeal panel may, in the case of an appeal to which subsection (5B) applies, determine that a place is to be offered to the child concerned.
- (5B) This subsection applies to any appeal against a decision made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section.
- (5C) Regulations made by virtue of subsection (5A)(b) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.]
- (6) The decision of an appeal panel on an appeal [<sup>F484</sup>pursuant to arrangements under this section] shall be binding on—
- (a) the local education authority or the governing body by whom or on whose behalf the decision under appeal was made, and



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- (b) in the case of a decision made by or on behalf of a local education authority, the governing body of a community or voluntary controlled school at which the appeal panel determines that a place should be offered to the child in question.

[<sup>F485</sup>(6A) In this section, any reference to a decision about sixth form education for a child is a reference to a decision—

- (a) made in relation to a preference expressed in accordance with arrangements made under section 86A(1) as to where education should be provided for the child, or
- (b) refusing permission for the child to enter the sixth form of the school to which he has been admitted.]

<sup>F486</sup>(7) . . . . .

### Textual Amendments

- F466** Words in s. 94(1) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(a), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F467** S. 94(1)(za) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(b), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F468** Words in s. 94(1)(a) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(c)(i), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F469** Words in s. 94(1)(a) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(c)(ii), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F470** Words in s. 94(1)(a) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 51(1), 188(3)**; S.I. 2006/3400, **art. 3(d)**
- F471** Words in s. 94(1)(b) substituted (8.1.2007 for E., 30.6.2008 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 43(4), 188(3)**; S.I. 2006/3400, **art. 2(a)**; S.I. 2008/1429, **art. 3(1)**, Sch. Pt. 1
- F472** Words in s. 94(1)(b) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(2)(d), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F473** S. 94(1A) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(2)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with art. 3, Sch. para. 3); S.I. 2005/1395, **art. 4**, Sch. (with art. 5(3))
- F474** Words in s. 94(1A) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(3), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F475** Words in s. 94(2) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(4)(a), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F476** Words in s. 94(2) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(4)(b), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F477** S. 94(2A) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(3)** (with ss. 210(8), 214(4)); S.I. 2002/2952, **art. 2** (with art. 3, Sch. para. 3); S.I. 2005/1395, **art. 4**, Sch. (with art. 5(3))
- F478** Words in s. 94(2A) substituted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(5), 173(3)(4)**; S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)

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- F479** S. 94(2B) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(6)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F480** Words in s. 94(3) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(4)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F481** Words in s. 94(4)(a)(b) inserted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(5)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F482** S. 94(5)-(5C) substituted for s. 94(5) (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), **ss. 50**, 216(4) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F483** S. 94(5A)(aa) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(7)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F484** Words in s. 94(6) substituted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 8(6)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))
- F485** S. 94(6A) inserted (26.1.2009 for E., 31.3.2009 for W.) by Education and Skills Act 2008 (c. 25), **ss. 152(8)**, 173(3)(4); S.I. 2008/3077, **art. 5(a)** (with art. 6); S.I. 2009/784, **art. 3(a)** (with art. 4)
- F486** S. 94(7) repealed (26.1.2009) by Education and Skills Act 2008 (c. 25), s. 173(3)(4), Sch. 1 para. 66, **Sch. 2**; S.I. 2008/3077, art. 4(h)(i) (with art. 6)

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

- C138** S. 94 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, **8**
- C139** S. 94 modified (temp. from 22.4.1999) by S.I. 1999/1064, **reg. 5**
- C140** S. 94 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**  
S. 94 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**
- C141** S. 94 excluded (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 36(5)(b)(10)**, 162(2) (with s. 159)
- C142** S. 94 applied (with modifications) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C143** S. 94 excluded (1.9.2005) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2005 (S.I. 2005/2039), reg. 1(1), **Sch. 2 para. 1**
- C144** S. 94 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C145** S. 94 excluded (23.4.2007) by The Education (Pupil Referral Units) (Application of Enactments) (Wales) Regulations 2007 (S.I. 2007/1069), reg. 1(1), **Sch. 2 para. 1**
- C146** S. 94 excluded (E.) (1.2.2008) by The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979), reg. 1(1), **Sch. 2 para. 1**

## 95 Appeals relating to children to whom section 87 applies.

- (1) Nothing in section 94(1) or (2) requires any arrangements to be made for enabling [<sup>F487</sup>the appropriate person] to appeal against a decision—
- (a) made by or on behalf of the admission authority for a maintained school, and
  - (b) refusing [<sup>F488</sup>a child] admission to the school,
- in a case where, at the time when the decision is made, section 87(2) applies to the child.

[<sup>F489</sup>(1A) In subsection (1), “the appropriate person”, in relation to a child, has the same meaning as in section 94.]

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- (2) Where a local education authority are the admission authority for a community or voluntary 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 87(2) applies.
- [<sup>F490</sup>(2A) Subsection (2) does not apply in relation to a decision made by or on behalf of a local authority in England to admit to a school a child who is looked after by a local authority in England (provision for references to the adjudicator in relation to such a decision being made by section 95A).]
- [<sup>F491</sup>(3) An appeal by the governing body pursuant to arrangements made under subsection (2) shall be to an appeal panel constituted in accordance with regulations.
- (3A) Regulations may make provision about the making of appeals pursuant to arrangements under subsection (2), including provision—
- (a) requiring prescribed information to be given to governing bodies in prescribed circumstances,
  - (b) as to the procedure on such appeals,
  - (c) for the payment by the local education authority of allowances to members of an appeal panel, and
  - (d) as to the matters to which an appeal panel is to have regard in considering an appeal.
- (3B) Regulations made by virtue of subsection (3A)(c) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.]
- (4) The decision of an appeal panel on an appeal made pursuant to arrangements under subsection (2) shall be binding on the local education authority and the governing body.

#### Textual Amendments

- F487** Words in s. 95(1) substituted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 67\(2\)\(a\)](#); S.I. 2008/3077, [art. 5\(e\)](#); S.I. 2009/784, [art. 3\(d\)](#)
- F488** Words in s. 95(1)(b) substituted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 67\(2\)\(b\)](#); S.I. 2008/3077, [art. 5\(e\)](#); S.I. 2009/784, [art. 3\(d\)](#)
- F489** S. 95(1A) inserted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(3)(4), [Sch. 1 para. 67\(3\)](#); S.I. 2008/3077, [art. 5\(e\)](#); S.I. 2009/784, [art. 3\(d\)](#)
- F490** S. 95(2A) inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 48\(1\)](#), 188(3); S.I. 2006/3400, [art. 3\(a\)](#)
- F491** S. 95(3)-(3B) substituted for s. 95(3) (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 4 para. 9](#) (with [ss. 210\(8\)](#), 214(4)); S.I. 2002/2952, [art. 2](#) (with [art. 3](#), [Sch. para. 3](#)); S.I. 2005/1395, [art. 4](#), [Sch. \(with art. 5\(4\)\)](#)

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

- C147** S. 95 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, [reg. 6](#).
- C148** S. 95 applied (with modifications) (18.10.1999) by S.I. 1999/2666, [reg. 8](#), [Sch. paras. 1\(c\)](#), [2-8](#).  
S. 95 applied (with modifications) (1.9.1999) by S.I. 1999/2800, [reg. 7](#), [Sch. paras. 1](#), [2-8](#).
- C149** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), [regs. 1\(1\)](#), [9](#), [Sch. para. 1\(b\)](#)

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- C150** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with reg. 2(2))
- C151** S. 95(2) restricted (29.3.1999) by [S.I. 1999/1016](#), art. 6, [Sch.](#) 4 paras. 1, 8
- C152** S. 95(2) excluded (W.) (22.4.2009) by [The Education \(Admission of Looked After Children\) \(Wales\) Regulations 2009 \(S.I. 2009/821\)](#), regs. 1(3), [9\(1\)](#)

## <sup>F492</sup>95A References relating to looked after children to whom section 87(2) applies

- (1) This section applies where—
  - (a) a local authority in England are the admission authority for a community or voluntary controlled school, and
  - (b) a decision is made by or on behalf of the authority to admit to the school a child who, at the time when the decision is made, is looked after by a local authority in England and to whom (at that time) section 87(2) applies.
- (2) The local authority must give notice of the decision to the governing body of the school.
- (3) The governing body of the school may, within the period of seven days beginning with the day on which they are notified of the decision, refer the matter to the adjudicator.
- (4) A reference under subsection (3) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (5) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (4)—
  - (a) the decision to admit the child to the school shall cease to have effect, but
  - (b) the adjudicator may determine that another maintained school in England is to be required to admit the child.
- (6) A determination under subsection (5)(b) may only be made with the agreement of the local authority who look after the child.
- (7) A determination under subsection (5)(b) may not be made if—
  - (a) the child is permanently excluded from the other school, or
  - (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (8) If the adjudicator determines under subsection (5)(b) that another school is to be required to admit the child—
  - (a) the admission authority for the school shall admit the child to the school, and
  - (b) if the admission authority are not the governing body of the school, the admission authority shall give notice in writing to the governing body and head teacher of the school of the adjudicator's decision.
- (9) Regulations may make provision—
  - (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under this section;
  - (b) requiring an admission authority for a maintained school to provide information which—
    - (i) falls within a prescribed description, and

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(ii) is requested by the adjudicator for the purposes of any such determination.]

#### Textual Amendments

**F492** S. 95A inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 48(2), 188(3); S.I. 2006/3400, art. 3(a)

### *Power to direct admission of child to school*

## 96 Direction to admit child to specified school.

- (1) The local education authority may give a direction under this section [<sup>F493</sup>to the governing body of a school for which they are not the admission authority] if, in the case of any child in their area, either (or both) of the following conditions is satisfied in relation to each school which is a reasonable distance from his home and provides suitable education, that is—
  - (a) he has been refused admission to the school, or
  - (b) he is permanently excluded from the school.
- (2) A direction under this section shall specify a school—
  - (a) which is a reasonable distance from the child’s home, and
  - (b) from which the child is not permanently excluded.
- (3) A direction under this section shall, unless it is given on the determination of [<sup>F494</sup>the appropriate authority (within the meaning of section 97)] under section 97(4), specify a school in the area referred to in subsection (1).
- (4) A direction under this section to admit a child shall not specify a school if his admission would result in prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.
- (5) Where a school is specified in a direction under this section, the governing body shall admit the child to the school.
- (6) Subsection (5) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (7) In this section “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (8) In this section and [<sup>F495</sup>sections 97 to 97C] “school” means a maintained school.

#### Textual Amendments

**F493** Words in s. 96(1) inserted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 4 para. 10 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))

**F494** Words in s. 96(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 51(2)(a), 188(3); S.I. 2006/3400, art. 3(d)

**F495** Words in s. 96(8) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 51(2)(b), 188(3); S.I. 2006/3400, art. 3(d)

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

- C149** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**
- C150** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C153** S. 96 applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), reg. 8, **Sch. paras. 1(c), 2-8.**  
S. 96 applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), reg. 7, **Sch. paras. 1, 2-8.**

### 97 Procedure for giving direction under section 96.

- (1) Before deciding to give a direction under section 96, the local education authority shall consult—
- (a) the parent of the child, and
  - (b) the governing body of the school they propose to specify in the direction.
- (2) Where the local education authority decide to give such a direction specifying any school—
- (a) they shall, before doing so, serve a notice in writing of their decision on the governing body and head teacher of the school, and
  - (b) they shall not give the direction until the period for referring the matter to <sup>[F496]</sup>the appropriate authority] under subsection (3) has expired and, if it is so referred, <sup>[F496]</sup>the appropriate authority] has made <sup>[F497]</sup>its determination].
- (3) The governing body may, within the period of 15 days beginning with the day on which the notice was served, refer the matter to <sup>[F498]</sup>the appropriate authority] and, if they do so, shall inform the local education authority.
- <sup>[F499]</sup>(4) On a reference under subsection (3) <sup>[F500]</sup>the appropriate authority] may determine which school is to be required to admit the child, and <sup>[F501]</sup>if it does so]—
- (a) where the local education authority referred to in subsection (1) are the admission authority for that school, they shall—
    - (i) admit the child to the school, and
    - (ii) give notice in writing to the governing body and head teacher of the school of <sup>[F502]</sup>the appropriate authority's] determination, and
  - (b) in any other case, that school shall be specified in the direction.]
- (5) <sup>[F503]</sup>The appropriate authority] shall not make a determination under subsection (4) in relation to a school if the child's admission to the school would result in prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section.
- <sup>[F504]</sup>(6) A direction under section 96 shall be given by notice in writing; and a copy of the notice shall be given by the local education authority to the head teacher of the school.]
- <sup>[F505]</sup>(6A) In this section, “the appropriate authority” means—
- (a) in relation to a local authority in England, the adjudicator, and
  - (b) in relation to a local authority in Wales, the Assembly.]

#### Textual Amendments

- F496** Words in s. 97(2)(b) substituted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 49(a)(i), 188(3)**; [S.I. 2006/3400](#), art. 3(b)

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- F497** Words in s. 97(2)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(a)(ii)**, 188(3); S.I. 2006/3400, art. 3(b)
- F498** Words in s. 97(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(b)**, 188(3); S.I. 2006/3400, art. 3(b)
- F499** S. 97(4) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 11(2)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F500** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(c)(i)**, 188(3); S.I. 2006/3400, art. 3(b)
- F501** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(c)(ii)**, 188(3); S.I. 2006/3400, art. 3(b)
- F502** Words in s. 97(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(c)(iii)**, 188(3); S.I. 2006/3400, art. 3(b)
- F503** Words in s. 97(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(d)**, 188(3); S.I. 2006/3400, art. 3(b)
- F504** S. 97(6) substituted (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 4 para. 11(3)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 8); S.I. 2005/1395, art. 4, Sch. (with art. 5(2))
- F505** S. 97(6A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 49(e)**, 188(3); S.I. 2006/3400, art. 3(b)

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

- C149** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C150** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))
- C154** S. 97 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.  
S. 97 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.

#### [<sup>F506</sup>97A Direction to admit looked after child to specified school

- (1) A local authority in England may, in relation to a child looked after by them, give a direction under this section to the admission authority for any school in England other than a school for which the local authority are the admission authority.
- (2) A direction under this section shall not specify a school from which the child is permanently excluded.
- (3) Where a school is specified in a direction under this section, the admission authority shall admit the child to the school.
- (4) Subsection (3) does not affect any power to exclude from a school a pupil who is already a registered pupil there.

#### Textual Amendments

- F506** Ss. 97A, 97B inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 50(1)**, 188(3); S.I. 2006/3400, art. 3(c)

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## **97B Procedure for giving direction under section 97A**

- (1) Before deciding to give a direction under section 97A, the local authority shall consult the admission authority for the school they propose to specify in the direction.
- (2) The admission authority for the school shall, within the period of seven days beginning with the day on which they are consulted as mentioned in subsection (1), inform the local authority whether they are willing to admit the child to the school without being directed to do so by the authority.
- (3) Where the local authority decide to give a direction under section 97A specifying a school—
  - (a) they shall, before doing so, serve a notice in writing of their decision on—
    - (i) the admission authority for the school,
    - (ii) if the school is a community or voluntary controlled school and the governing body of the school are not the admission authority, the governing body of the school,
    - (iii) if the school is maintained by a local authority who are not the authority proposing to give the direction and are not the admission authority, the local authority who maintain the school, and
    - (iv) the head teacher of the school, and
  - (b) they shall not give the direction until the period for referring the matter to the adjudicator under subsection (4) has expired and, if it is so referred, until the adjudicator has made such determinations under this section as it appears to him to be appropriate to make in connection with the reference.
- (4) The following persons—
  - (a) the admission authority on whom a notice is served under subsection (3)(a)(i), and
  - (b) in the case of a notice relating to a child to whom (at the time of service of the notice) section 87(2) applies, the governing body of a community or voluntary controlled school on whom the notice is served under subsection (3)(a)(ii),
 may, within the period of seven days beginning with the day on which the notice was served, refer the matter to the adjudicator and, if they do so, shall inform the local authority.
- (5) A reference under subsection (4) may only be made on the ground that the admission of the child to the school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (6) If the adjudicator determines that the admission of the child to the school would have the effect mentioned in subsection (5)—
  - (a) the local authority may not give a direction under section 97A that the school admit the child, but
  - (b) the adjudicator may determine that another school in England is to be required to admit the child.
- (7) A determination under subsection (6)(b) may only be made with the agreement of the local authority who look after the child.
- (8) A determination under subsection (6)(b) may not be made if—
  - (a) the child is permanently excluded from the other school, or



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- (b) the admission of the child to the other school would seriously prejudice the provision of efficient education or the efficient use of resources.
- (9) If the adjudicator determines under subsection (6)(b) that another school is to be required to admit the child, then—
- (a) if the local authority referred to in subsection (1) are the admission authority for that school they shall—
    - (i) admit the child to the school, and
    - (ii) give notice in writing to the governing body and head teacher of the school of the adjudicator's decision, and
  - (b) in any other case, the local authority shall specify that school in their direction under section 97A.
- (10) A direction under section 97A shall be given by notice in writing and a copy of the notice shall be given by the local authority to the head teacher of the school.]

#### Textual Amendments

**F506** Ss. 97A, 97B inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 50(1)**, 188(3); S.I. 2006/3400, art. 3(c)

#### [<sup>F507</sup>97C Determinations under section 97 or 97B: supplemental

Regulations may make provision in relation to England—

- (a) requiring the adjudicator to consult prescribed persons or persons of a prescribed description before making any determination in connection with a reference under section 97 or 97B;
- (b) requiring an admission authority for a school to provide information which—
  - (i) falls within a prescribed description, and
  - (ii) is requested by the adjudicator for the purposes of any such determination.]

#### Textual Amendments

**F507** S. 97C inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 51(3)**, 188(3); S.I. 2006/3400, art. 3(d)

#### [<sup>F508</sup>Looked after children in Wales

#### Textual Amendments

**F508** S. 97D and cross-heading inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 52(1)**, 188(2)

#### 97D Power of Assembly to make regulations about admission of looked after children

- (1) The Assembly may by regulations make provision about the admission of children looked after by local authorities in Wales (“looked after children”) to maintained schools in Wales.

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- (2) Regulations under subsection (1) may include provision requiring the admission authorities for such schools—
- (a) to include in their admission arrangements such provision relating to the admission of looked after children as may be prescribed, which may in particular include provision for securing that, subject to prescribed exceptions, such children are to be offered admission in preference to other children;
  - (b) to admit looked after children in prescribed circumstances, subject to prescribed exceptions.
- (3) Regulations under subsection (1) may provide that any of the preceding provisions of this Chapter—
- (a) shall not apply in relation to looked after children;
  - (b) shall apply in relation to such children with prescribed modifications.]

*Nursery and special schools, etc: children with statements*

**98 Admission for nursery education or to nursery or special school: children with statements of special educational needs.**

- (1) Children admitted to a school for nursery education and subsequently transferred to a reception class at the school shall be regarded for the purposes of this Chapter as admitted to the school (otherwise than for nursery education) on being so transferred.
- [<sup>F509</sup>(2) The admission of children to a school for nursery education shall be disregarded—
- (a) for the purposes of any determination under section [<sup>F510</sup>88C or] 89 of the number of pupils in any relevant age group that it is intended to admit to a primary school in a school year, and
  - (b) in determining for the purposes of section [<sup>F511</sup>88D or] 89A what is a relevant age group in relation to a primary school.]
- (3) Subject to subsection (4), nothing in this Chapter [<sup>F512</sup>apart from subsections (4A) and (4B)] applies in relation to—
- (a) nursery schools, or
  - (b) children who will be under compulsory school age at the time of their proposed admission.
- (4) Where the arrangements for the admission of pupils to a maintained school provide for the admission to the school of children who will be under compulsory school age at the time of their proposed admission, this Chapter shall apply in relation to the admission of such pupils to the school otherwise than for nursery education.
- <sup>F513</sup>[(4A) The person responsible for admitting, or refusing to admit, children to a maintained school for nursery education shall be the person who (by virtue of section 88(1)) is the admission authority for the school.
- (4B) Regulations may make provision as to the person who is to be responsible for admitting, or refusing to admit, children to maintained nursery schools.]
- (5) Regulations may make provision in connection with the arrangements for the admission of pupils to community or foundation special schools, and for the allocation between the local education authority and the governing body of such a school of functions in connection with such arrangements.

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- (6) Apart from section [F51492(c) and (d)] and subsection (5) above, nothing in this Chapter applies in relation to special schools.
- (7) Subject to subsections (8) and (9), nothing in this Chapter applies in relation to children for whom statements of special educational needs are maintained under section 324 of the M18 Education Act 1996.
- (8) Any provision made by, or (as the case may be) by virtue of, section 84 or [F51592(c) and (d)] or this section [F516], apart from subsections (4A) and (4B),] applies, or (as the case may be) may be made so as to apply, in relation to such children.
- [F517(9) Such children shall, in addition, be taken into account for the purposes of—
- (a) the references in section 86(5), (5B) and (9) to a number of pupils, and
  - (b) any determination under section [F51888C or] 89 of the number of pupils in a relevant age group that it is intended to admit, or to admit either as boarders or otherwise than as boarders, to a school in a school year.]
- (10) In subsection (8) the reference to any provision made by this section includes a reference to subsection (4) only so far as it has effect for the purposes mentioned in subsection (9).

#### Textual Amendments

- F509** S. 98(2) substituted (20.1.2003 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(2\)](#) (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 7); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 2); S.I. 2006/172, art. 4, Sch.
- F510** Words in s. 98(2)(a) inserted (2.12.2008) by [Education and Skills Act 2008 \(c. 25\), s. 173\(4\), Sch. 1 para. 68\(2\)\(a\)](#); S.I. 2008/3077, art. 2(d)
- F511** Words in s. 98(2)(b) inserted (2.12.2008) by [Education and Skills Act 2008 \(c. 25\), s. 173\(4\), Sch. 1 para. 68\(2\)\(b\)](#); S.I. 2008/3077, art. 2(d)
- F512** Words in s. 98(3) inserted (20.1.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2004/912, art. 4, Sch. Pt. 1 (with art. 7)
- F513** S. 98(4A)(4B) inserted (20.1.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 4); S.I. 2004/912, art. 4, Sch. Pt. 1 (with art. 7)
- F514** Words in s. 98(6) substituted: (E.) (20.1.2003) by [The Education Act 2002 \(Modification of Provisions\) \(No. 2\) \(England\) Regulations 2002 \(S.I. 2002/2953\), reg. 4](#); and (W.) (1.2.2006) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2006 (S.I. 2006/173), regs. 1(1), 10
- F515** Words in s. 98(8) substituted: (E.) (20.1.2003) by [The Education Act 2002 \(Modification of Provisions\) \(No. 2\) \(England\) Regulations 2002 \(S.I. 2002/2953\), reg. 4](#); and (W.) (1.2.2006) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2006 (S.I. 2006/173), regs. 1(1), 10
- F516** Words in s. 98(8) inserted (20.1.2003 for E., 31.3.2004 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(5\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 5); S.I. 2004/912, art. 4, Sch. Pt. 1 (with art. 7)
- F517** S. 98(9) substituted (20.1.2003 for E., 1.2.2006 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 4 para. 12\(6\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 6); S.I. 2006/172, art. 4, Sch.
- F518** Words in s. 98(9)(b) inserted (2.12.2008) by [Education and Skills Act 2008 \(c. 25\), s. 173\(4\), Sch. 1 para. 68\(3\)](#); S.I. 2008/3077, art. 2(d)

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

**C149** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, **Sch. para. 1(b)**

**C155** S. 98 modified (*temp.*) (22.4.1999) by [S.I. 1999/1064](#), **reg.7**.

**C156** S. 98 applied (with modifications) (18.10.1999) by [S.I. 1999/2666](#), **reg. 8**, **Sch. paras. 1(c), 2-8**.

S. 98 applied (with modifications) (1.9.1999) by [S.I. 1999/2800](#), **reg. 7**, **Sch. paras. 1, 2-8**.

**C157** S. 98(2) transitional provisions for effects of 2002 c. 32, Sch. 4 para. 12(2) (W.) (1.2.2006) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2006 \(S.I. 2006/173\)](#), regs. 1(1), **8**

#### Commencement Information

**I13** S. 98 wholly in force at 1.4.1999; s. 98 not in force at Royal Assent see s. 145(3); s. 98(5) and (8)-(10) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), **art. 2**, **Sch. 1 Pt. I**; s. 98 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), **art. 2(1)**, **Sch. 1** (with arts. 3-6, Sch. 4).

#### Marginal Citations

**M18** 1996 c. 56.

### [<sup>F519</sup>98A Meaning of “sixth form education” etc

- (1) In this Chapter, “sixth form education” means secondary education suitable to the requirements of pupils who are over compulsory school age.
- (2) References in this Chapter, in relation to a child who has been admitted to a school, to his entering the school’s sixth form are to his being transferred to a class at the school in which sixth form education is provided from a class in which such education is not so provided.]

#### Textual Amendments

**F519** S. 98A inserted (26.1.2009 for E., 31.3.2009 for W.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 153, 173(3)(4)**; [S.I. 2008/3077](#), **art. 5(a)**; [S.I. 2009/784](#), **art. 3(a)**

## CHAPTER II

### SELECTION OF PUPILS

#### *Partial selection*

### 99 General restriction on selection by ability or aptitude.

<sup>F520</sup>(1) .....

- (2) The following are [<sup>F521</sup>for the purposes of section 39(1) of the Education and Inspections Act 2006] permitted forms of selection by ability—
  - (a) any selection by ability authorised by section 100 (pre-existing arrangements);
  - (b) any selection by ability authorised by section 101 (pupil banding); and

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- (c) any selection by ability conducted in connection with the admission of pupils to the school for secondary education suitable to the requirements of pupils who are over compulsory school age.
- (3) No admission arrangements for a maintained school may make provision for selection by aptitude unless they make provision for a permitted form of such selection.
- (4) The following are permitted forms of selection by aptitude—
- (a) any selection by aptitude authorised by section 100 (pre-existing arrangements); and
  - (b) any selection by aptitude authorised by section 102 (aptitude for particular subjects).
- (5) For the purposes of this Chapter—
- (a) a school’s admission arrangements make provision for selection by ability or by aptitude if they make provision for all or any of the pupils who are to be admitted to the school in any relevant age group to be so admitted by reference to ability or to aptitude (as the case may be);
  - (b) “ability” means either general ability or ability in any particular subject or subjects;
  - (c) “admission arrangements” has the meaning given by section 88(2); and
  - (d) “maintained school” means a community, foundation or voluntary school.

#### Textual Amendments

**F520** S. 99(1) repealed (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 39(4)(a), 188(3), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 6(b)(g); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

**F521** Words in s. 99(2) inserted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 39(4)(b), 188(3); S.I. 2006/3400, art. 6(b); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

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

**C149** Ss. 95-99 applied (with modifications) (E.) (8.5.2003) by [The New School \(Admissions\) \(England\) Regulations 2003 \(S.I. 2003/1041\)](#), regs. 1(1), 9, [Sch. para. 1\(b\)](#)

**C150** Ss. 95-99 applied (with modifications) (W.) (1.2.2006) by [The New School \(Admissions\) \(Wales\) Regulations 2006 \(S.I. 2006/175\)](#), regs. 1(1), 9, [Sch.](#) (with reg. 2(2))

**C158** S. 99 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, [Sch. paras. 1\(c\), 2-8](#).  
S. 99 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, [Sch. paras. 1, 2-8](#).

**C159** S. 99(5) modified (1.10.1998) (temp.) by S.I. 1998/2230, [reg. 2](#)

#### Commencement Information

**I14** S. 99 wholly in force at 1.4.1999; s. 99 not in force at Royal Assent see s. 145(3); s. 99(1)(2)(5) in force at 1.10.1998 by S.I. 1998/2212, art. 2, [Sch. 1 Pt. I](#), [Sch. 2 Pt. I para. 3](#); s. 99 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)).

### 100 Permitted selection: pre-existing arrangements.

- (1) Where at the beginning of the 1997-98 school year the admission arrangements for a maintained school made provision for selection by ability or by aptitude (and they have at all times since that date continued to do so), the admission arrangements for the school may continue to make such provision <sup>F522</sup>so long as—

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- (a) the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and
- (b) there is no significant change in the basis of selection.]

[<sup>F523</sup>(1A) In subsection (1)(a), “the permitted proportion”, in relation to any relevant age group, means the lowest proportion of selective admissions provided for by the school’s admission arrangements at any time since the beginning of the 1997-1998 school year.]

- (2) In relation to any time before the appointed day, the reference in subsection (1) to a maintained school is a reference to the school as a county, voluntary or grant-maintained school within the meaning of the <sup>M19</sup>Education Act 1996.
- (3) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to ability or to aptitude (as the case may be).
- (4) Nothing in this section applies to a school with selective admission arrangements (as defined by section 104(2)).

#### Textual Amendments

**F522** Words in s. 100(1) substituted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(2\)](#), 188(3); S.I. 2006/3400, art. 6(e); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

**F523** S. 100(1A) inserted (27.2.2007 for E., 30.6.2008 for W.) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 53\(3\)](#), 188(3); S.I. 2006/3400, art. 6(e); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

#### Commencement Information

**I15** S. 100 wholly in force at 1.4.1999; s. 100 not in force at Royal Assent see s. 145(3); s. 100 in force at 1.10.1998 to the extent that it relates to s. 99(2)(a) by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#); s. 100 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)).

#### Marginal Citations

**M19** 1996 c. 56.

### 101 Permitted selection: pupil banding.

- (1) Subject to [<sup>F524</sup>subsections (2) and (2A)], the admission arrangements for a maintained school [<sup>F525</sup>in England or Wales] may make provision for selection by ability to the extent that the arrangements are designed to secure—
  - (a) that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among applicants for admission to the school in that age group, and
  - (b) that no level of ability is substantially over-represented or substantially under-represented.

[<sup>F526</sup>(1A) Subject to subsections (2) and (2A), the admission authority for a maintained school in England may make provision for selection by ability to the extent that the arrangements are designed to secure—

- (a) that in any year the pupils admitted to the school in any relevant age group are representative of all levels of ability among such one of the following groups as the admission arrangements may specify (“the reference group”)—

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- (i) children who are applicants for admission in that age group to any of two or more schools (including the school in question) in the area of the local authority,
  - (ii) children in that age group who live in the area of the local authority, or
  - (iii) children in that age group who live in England, and
- (b) that no level of ability is substantially over-represented or substantially under-represented by comparison with its representation in the reference group.]
- (2) [<sup>F527</sup>Subsection (1) or (1A)] does not apply if the arrangements have the effect that, where an applicant for admission has been allocated to a particular range of ability by means of some process of selection by reference to ability, some further such process is required or authorised to be carried out in relation to him for the purpose of determining whether or not he is to be admitted to the school.
- [<sup>F528</sup>(2A) If the admission authority for a maintained school in England is the local authority, the authority may only introduce such provision for selection by ability as is mentioned in subsection (1) or (1A) with the consent of the governing body of the school.]
- (3) The introduction for a maintained school [<sup>F529</sup>in Wales] of admission arrangements to which subsection (1) applies shall be one of the alterations to such a school which are prescribed for the purposes of section 28.
- (4) [<sup>F530</sup>In the case of a school in Wales, admission arrangements to which subsection (1) applies are not authorised] by this section unless proposals for the school to have such arrangements have been published [<sup>F531</sup>, and fallen to be implemented, under any enactment].
- (5) Where the admission arrangements for a school make both such provision for selection by ability as is mentioned in [<sup>F532</sup>subsection (1) or (1A)] above and such provision for selection by aptitude as is mentioned in section 102(1), nothing in this section shall be taken to prevent those arrangements—
- (a) from authorising or requiring a process of selection to be carried out at any stage for the purpose of establishing that an applicant for admission has a relevant aptitude; or
  - (b) from having the effect of giving priority to such an applicant with a relevant aptitude irrespective of his level of ability.

#### Textual Amendments

- F524** Words in s. 101(1) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(a)(i), 188(3); S.I. 2006/3400, art. 3(e)
- F525** Words in s. 101(1) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(a)(ii), 188(3); S.I. 2006/3400, art. 3(e)
- F526** S. 101(1A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(b), 188(3); S.I. 2006/3400, art. 3(e)
- F527** Words in s. 101(2) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(c), 188(3); S.I. 2006/3400, art. 3(e)
- F528** S. 101(2A) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(d), 188(3); S.I. 2006/3400, art. 3(e)
- F529** Words in s. 101(3) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(e), 188(3); S.I. 2006/3400, art. 3(e)
- F530** Words in s. 101(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 54(1)(f), 188(3); S.I. 2006/3400, art. 3(e)

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**F531** Words in s. 101(4) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 109** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

**F532** Words in s. 101(5) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(1)(g)**, 188(3); S.I. 2006/3400, art. 3(e)

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

**C160** S. 101 modified (1.10.1998) (*temp.*) by S.I. 1998/2230, **reg.3**

**C161** S. 101 applied (with modifications) (18.10.1999) by S.I. 1999/2666, **reg. 8, Sch. paras. 1(c), 2-8.**

S. 101 applied (with modifications) (1.9.1999) by S.I. 1999/2800, **reg. 7, Sch. paras. 1, 2-8.**

**C162** S. 101 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), **regs. 1(1), 9, Sch. para. 1(b)**

**C163** S. 101 applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), **regs. 1(1), 9, Sch.** (with **reg. 2(2)**)

#### Commencement Information

**I16** S. 101 wholly in force at 1.4.1999; s. 101 not in force at Royal Assent see s. 145(3); s. 101(1)-(4) in force at 1.10.1998 by S.I. 1998/2212, **art. 2, Sch. 1 Pt. I, Sch. 2 Pt. I para. 3(b)**; s. 101 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, **art. 2(1)** (with arts. 3-6, Sch. 4).

## 102 Permitted selection: aptitude for particular subjects.

- (1) Subject to subsection (2), the admission arrangements for a maintained school may make provision for the selection of pupils for admission to the school by reference to their aptitude for one or more prescribed subjects where—
  - (a) the admission authority for the school are satisfied that the school has a specialism in the subject or subjects in question; and
  - (b) the proportion of selective admissions in any relevant age group does not exceed 10 per cent.
- (2) Subsection (1) does not apply if the admission arrangements make provision for any test to be carried out in relation to an applicant for admission which is either a test of ability or one designed to elicit any aptitude of his other than for the subject or subjects in question.
- (3) Where, however, the admission arrangements for a school make both such provision for selection by aptitude as is mentioned in subsection (1) and such provision for selection by ability as is mentioned in [F533 section 101(1) or (1A)], the reference in subsection (2) above to a test of ability does not include any such test for which provision may be made under that section.
- (4) In this section “the proportion of selective admissions”, in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the subject or subjects in question.
- (5) In this section “test” includes assessment and examination.

#### Textual Amendments

**F533** Words in s. 102(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(2)**, 188(3); S.I. 2006/3400, art. 3(e)



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

- C164** S. 102 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), **2-8**.  
S. 102 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, **2-8**.
- C165** S. 102 applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, **Sch. para. 1(b)**
- C166** S. 102 applied (with modifications) (W.) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, **Sch.** (with reg. 2(2))

#### Commencement Information

- I17** S. 102 wholly in force at 1.4.1999; s. 102 not in force at Royal Assent see s. 145(3); S. 102(1)(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; s. 102 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4).

### 103 Permitted selection: introduction, variation or abandonment of provision for such selection.

- (1) In connection with the determination of a maintained school's admission arrangements for a particular school year, sections [<sup>F534</sup>88C to 88K or, as the case may be,] 89 and 90 shall, except to the specified extent, apply in relation to the making or abandonment by those arrangements of provision for any permitted form of selection by ability or aptitude as they apply in relation to the making or abandonment by those arrangements of provision for other matters.
- (2) In subsection (1) “the specified extent” means the extent to which those admission arrangements would effect an alteration in the provision made by the school's admission arrangements as respects any such form of selection (whether by introducing, varying or abandoning any such form of selection) which [<sup>F535</sup>constitutes—
- (a) in relation to England, a prescribed alteration for the purposes of section 18 of the Education and Inspections Act 2006, and
  - (b) in relation to Wales, a prescribed alteration for the purposes of section 28].
- (3) Any admission arrangements to which [<sup>F536</sup>section 101(1) or (1A)] applies (whether authorised by section 100 or section 101) may be varied if (and only if) the arrangements as varied are designed to secure [<sup>F537</sup>the objectives mentioned in section 101(1)(a) and (b), section 101(1A)(a)(i) and (b), section 101(1A)(a)(ii) and (b) or section 101(1A)(a)(iii) and (b)].

#### Textual Amendments

- F534** Words in s. 103(1) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 69**; S.I. 2008/3077, art. 2(d)
- F535** Words in s. 103(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(3)(a)**, 188(3); S.I. 2007/935, art. 7(1)
- F536** Words in s. 103(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(3)(b)(i)**, 188(3); S.I. 2006/3400, art. 3(e)
- F537** Words in s. 103(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), **ss. 54(3)(b)(ii)**, 188(3); S.I. 2006/3400, art. 3(e)

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

- C167** S. 103 modified (*temp.*) (22.4.1999) by S.I. 1999/1064, **reg.8**.

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- C168** S. 103(3) applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), 2-8.  
S. 103(3) applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8.
- C169** S. 103(3) applied (with modifications) (E.) (8.5.2003) by The New School (Admissions) (England) Regulations 2003 (S.I. 2003/1041), regs. 1(1), 9, Sch. para. 1(b)
- C170** S. 103(3) applied (with modifications) (1.2.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, Sch. (with reg. 2(2))

#### Commencement Information

- I18** S. 103 wholly in force at 1.4.1999; s. 103 not in force at Royal Assent see s. 145(3); S. 103(3) in force at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; s. 103 in force at 1.4.1999 in so far as not already in force by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4).

### Grammar schools

#### 104 Designation of grammar schools.

- (1) Where the Secretary of State is satisfied that a maintained school had selective admission arrangements at the beginning of the 1997-98 school year, he may by order designate the school as a grammar school for the purposes of this Chapter.
- (2) A school has selective admission arrangements for the purposes of this Chapter if its admission arrangements make provision for all (or substantially all) of its pupils to be selected by reference to general ability, with a view to admitting only pupils with high ability.
- (3) For the purpose of deciding whether a school's admission arrangements fall within subsection (2), any such additional criteria as are mentioned in section 86(9) shall be disregarded.
- (4) Where a maintained school is a grammar school—
  - (a) sections 105 to 109 have effect for prescribing procedures for altering the school's admission arrangements so that it no longer has selective admission arrangements; and
  - (b) its admission arrangements shall not be so altered except in accordance with those sections.
- (5) Regulations may make provision—
  - (a) for enabling the Secretary of State to make an order designating as a grammar school for the purposes of this Chapter a maintained school established in substitution for one or more discontinued schools each of which either has been or could have been so designated under this section (whether by virtue of subsection (1) or by virtue of the regulations); and
  - (b) for any provisions of this Chapter, or any regulations made under it, to have effect in relation to any such school with such modifications as may be prescribed.
- (6) In this section “maintained school” includes, in relation to any time before the appointed day—
  - (a) a county or voluntary school, or
  - (b) a grant-maintained school,
 within the meaning of the <sup>M20</sup>Education Act 1996; and in the application of subsection (1) to a maintained school on or after the appointed day the reference to

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the school shall be read, in connection with determining the nature of its admission arrangements at the beginning of the 1997-98 school year, as a reference to it as a school within paragraph (a) or (b) above.

- (7) In this Chapter “grammar school” means a school for the time being designated under this section.

#### Commencement Information

**I19** S. 104 wholly in force at 1.9.1999; s. 104 not in force at Royal Assent see s. 145(3); s. 104(1)-(3) and (5)-(7) in force at 1.9.1998 by [S.I. 1998/2048, art. 3](#); s. 104(4)(a) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#); s. 104 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with arts. 3-5, Schs. 5-7).

#### Marginal Citations

**M20** 1996 c. 56.

### 105 Procedure for deciding whether grammar schools should retain selective admission arrangements.

- (1) The Secretary of State may by regulations make provision for ballots of parents to be held, at their request, for determining whether the grammar schools to which such ballots relate should retain selective admission arrangements.
- (2) Ballot regulations may provide for a ballot under this section to relate—
- to all grammar schools within the area of a prescribed local education authority or within such other area as may be prescribed,
  - to a prescribed group of grammar schools, or
  - to any grammar school not falling within paragraph (a) or (b).
- (3) Ballot regulations may make provision—
- requiring a request for a ballot under this section to be made by means of a petition signed by parents eligible to request the ballot;
  - prescribing the form of any such petition and other requirements (whether as to the procedure to be followed or otherwise) which are to be complied with in relation to any such petition;
  - prescribing the body (“the designated body”) to which any such petition is to be sent and which, under arrangements made by the Secretary of State, is to—
    - make the arrangements for the holding of ballots under this section, and
    - discharge such other functions with respect to such petitions and the holding of such ballots as may be prescribed (which may include the determination of any question arising as to the validity of any request for a ballot or as to a person’s eligibility to request or vote in a ballot);
  - requiring prescribed bodies or persons, or bodies or persons falling within any prescribed category—
    - to provide the designated body or any other person with any prescribed information requested by that body or person, or
    - to publish prescribed information in such manner as may be prescribed;

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- (e) authorising any such bodies or persons to charge a fee (not exceeding the cost of supply) for documents supplied by them in pursuance of regulations made by virtue of paragraph (d)(i);
  - (f) prescribing the terms of the question on which a ballot under this section is to be held and the manner in which such a ballot is to be conducted;
  - (g) enabling the Secretary of State, in any prescribed circumstances, to declare a previous ballot under this section void and require the holding of a fresh ballot;
  - (h) requiring anything falling to be done under the regulations to be done within such period as may be specified in or determined in accordance with the regulations.
- (4) Ballot regulations may provide—
- (a) for parents of any prescribed description to register with the designated body, in such manner and at such time as may be prescribed, in order to be eligible to request or vote in a ballot;
  - (b) that for all or any prescribed purposes of the regulations references to parents are to be read as excluding those who are not individuals.
- (5) Ballot regulations may provide for a request for a ballot under this section to be made, in any prescribed circumstances, by means of two or more petitions.
- (6) The information required to be provided in pursuance of subsection (3)(d) may include the names and addresses of parents of any prescribed description.
- (7) Ballot regulations may provide for sections 496 and 497 of the <sup>M21</sup>Education Act 1996 (default powers of Secretary of State) to apply to proprietors of independent schools in relation to a duty imposed by or under the regulations.
- (8) Where—
- (a) a ballot has been held under this section, and
  - (b) the result of the ballot was to the effect that the schools or school in question should retain selective admission arrangements,
- no further ballot relating to the schools or school shall be held under this section within such period as is specified in ballot regulations.
- (9) The Secretary of State may make (or arrange for the making of) payments in respect of any expenses incurred by—
- (a) the governing body of a school maintained by a local education authority,
  - (b) the proprietor of an independent school, or
  - (c) a local education authority,
- in complying with any obligations which may be imposed by regulations made under subsection (3)(d)(i) or (ii).
- Payments under this subsection may be made on such terms as the Secretary of State may determine.
- (10) For the purposes of this section and sections 106 and 107, in their application in relation to any time falling before the appointed day, a grant-maintained school or a grant-maintained special school within the meaning of the <sup>M22</sup>Education Act 1996 shall be taken—
- (a) to be a school maintained by a local education authority, and
  - (b) to be maintained by the authority in whose area it is situated.

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- (11) In this section and section 106 “ballot regulations” means regulations made under this section.

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

**C171** S. 105 applied (3.12.1998) by [S.I. 1998/2876](#), [art. 11\(1\)](#).

**Marginal Citations**

**M21** 1996 c. 56.

**M22** 1996 c. 56.

**106 Ballot regulations: eligibility of parents to request or vote in ballot.**

- (1) In relation to a ballot under section 105(2)(a), ballot regulations shall provide that, subject to such exceptions as may be prescribed, the parents eligible to request or vote in the ballot are—
- (a) registered parents of registered pupils at the following schools, namely—
    - (i) where the ballot relates to all grammar schools within the area of a prescribed local education authority, all schools maintained by that authority; or
    - (ii) where the ballot relates to all grammar schools within a prescribed area, all schools maintained by a local education authority which are situated in such area as may be prescribed, together with (if the regulations so provide) all schools maintained by such local education authority as may be prescribed;
  - (b) registered parents of registered pupils at independent schools where—
    - (i) such parents are resident, and
    - (ii) the schools are situated, within the area of the prescribed local education authority or (as the case may be) the prescribed area; and
  - (c) parents of children of a prescribed description where such parents—
    - (i) are resident within the area of the prescribed local education authority or (as the case may be) the prescribed area, and
    - (ii) have registered with the designated body in accordance with section 105(4)(a).
- (2) In relation to a ballot under section 105(2)(b) or (c), ballot regulations shall provide that, subject to such exceptions as may be prescribed, the parents eligible to request or vote in the ballot are registered parents of registered pupils at any school from which a prescribed number of pupils have transferred to the grammar school or schools in question—
- (a) at such age or ages, and
  - (b) during such period,
- as may be determined in accordance with the regulations; and such regulations may provide that where, within that period, any such grammar school has been established in substitution for another school, the schools are to be treated as a single school for the purposes of determining eligibility.
- (3) Ballot regulations shall provide—

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- (a) in relation to a ballot under section 105(2)(a), that a request for such a ballot must be made by a number of eligible parents equal to at least 20 per cent. of all parents falling within subsection (1)(a) or (b) above; and
  - (b) in relation to a ballot under section 105(2)(b) or (c), that a request for such a ballot must be made by at least 20 per cent. of all parents falling within subsection (2) above.
- (4) Ballot regulations may provide for a parent’s eligibility for the purposes of—
- (a) making a request for a ballot,
  - (b) voting in a ballot, or
  - (c) determining the number of parents required to make a request by virtue of subsection (3),
- to be determined by reference to such different times as may be determined in accordance with the regulations.
- (5) Ballot regulations may make provision for determining whether parents are resident in an area for the purposes of subsection (1)(b) or (c).

#### **107 Restriction on publication of material etc. relating to ballots.**

- (1) An authority or body to whom this section applies shall not incur any expenditure for the purpose of—
- (a) publishing any material which, in whole or in part, appears designed to influence—
    - (i) eligible parents in deciding whether or not to request a ballot under section 105, or
    - (ii) the outcome of such a ballot; or
  - (b) assisting any person to publish any such material; or
  - (c) influencing, or assisting any person to influence, by any other means—
    - (i) eligible parents in deciding whether or not to request such a ballot, or
    - (ii) the outcome of such a ballot.
- (2) This section applies to—
- (a) any local education authority, and
  - (b) the governing body of any school maintained by a local education authority.
- (3) Nothing in subsection (1) shall be taken to prevent an authority or body to whom this section applies from incurring expenditure on publishing or otherwise providing to any person (whether or not in pursuance of any duty to do so)—
- (a) any factual information so far as it is presented fairly; or
  - (b) a fair and reasonable assessment by the authority or body of the likely consequences of the result of a ballot under section 105 being in favour of the schools or school in question ceasing to have selective admission arrangements; or
  - (c) an accurate statement by the authority or body of their intentions or proposals in the event of such a result.
- (4) In determining for the purposes of subsection (3) whether—
- (a) any information is presented fairly, or
  - (b) an assessment is fair and reasonable,
- regard shall be had to any guidance given from time to time by the Secretary of State.

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- (5) In this section any reference to expenditure—
- (a) in relation to the governing body of a school which has a delegated budget within the meaning of Part II of this Act (or, in relation to any time before the appointed day, Part II of the <sup>M23</sup>Education Act 1996), is a reference to expenditure out of the school's budget share; or
  - (b) in relation to the governing body of a grant-maintained or grant-maintained special school within the meaning of that Act (where this section applies to such a school by virtue of section 105(10)), is a reference to expenditure out of maintenance grants paid under Chapter VI of Part III of that Act.

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

C172 S. 107(5) modified (20.11.1998) by S.I. 1998/2670, reg. 4

#### Marginal Citations

M23 1996 c. 56.

### 108 Implementation of decision that school should cease to have selective admission arrangements.

- (1) Subsection (2) applies where the result of a ballot held under section 105 shows a simple majority of votes cast (by persons eligible to vote in the ballot) in favour of the grammar school or schools to which the ballot related ceasing to have selective admission arrangements.
- (2) The admission authority for a grammar school to which the ballot related shall secure that their admission arrangements are revised (in accordance with sections [F538 88C to 88K or, as the case may be,] 89 and 90) so that, as from the beginning of such school year as may be prescribed, the school no longer has selective admission arrangements.
- (3) Where the Secretary of State is satisfied that, in pursuance of subsection (2), a grammar school no longer has selective admission arrangements, he shall revoke the order made by him with respect to the school under section 104.

#### Textual Amendments

F538 Words in s. 108(2) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 70; S.I. 2008/3077, art. 2(d)

### 109 Proposals by governing body of grammar school to end selective admission arrangements.

- (1) This section has effect for enabling the admission arrangements of a grammar school to be revised (otherwise than in circumstances where section 108(2) applies) so that the school no longer has selective admission arrangements and its admission arrangements instead either—
  - (a) make no provision for selection by ability, or
  - (b) make provision for one or more of the following, namely—
    - (i) any selection by ability authorised by section 101,
    - (ii) any selection by aptitude authorised by section 102, and

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- (iii) any selection by ability such as is mentioned in section 99(2)(c).
- (2) Any such revision of the admission arrangements of a grammar school shall be one of the alterations to a maintained school which are prescribed [<sup>F539</sup>under section 18 of the 2006 Act]; but any proposals for any such revision of the admission arrangements of a grammar school which is a community school shall be published under [<sup>F540</sup>section 19 of the 2006 Act] by the governing body and not by the local education authority.
- (3) Regulations may provide—
- (a) that, in their application to any proposals for any such revision of the admission arrangements of a grammar school, any provision of [<sup>F541</sup>sections 19 to 24 of the 2006 Act or regulations under those sections] shall have effect with such modifications as may be prescribed;
  - (b) that, in any prescribed circumstances following the making of a request for a ballot to be held under section 105, any such proposals under [<sup>F542</sup>section 19 of the 2006 Act] shall be of no effect.
- (4) Regulations made under section 105 may make provision, in relation to cases where any such proposals under [<sup>F543</sup>section 19 of the 2006 Act] have fallen to be implemented under [<sup>F544</sup>regulations under section 24 of that Act], for requiring the school to which the proposals relate to be disregarded for the purposes of any regulations made under section 105(2).
- (5) Where the Secretary of State is satisfied that, by reason of the implementation of any such proposals, a grammar school no longer has selective admission arrangements, he shall revoke the order made by him with respect to the school under section 104.
- [<sup>F545</sup>(6) In this section “the 2006 Act” means the Education and Inspections Act 2006.]

#### Textual Amendments

- F539** Words in s. 109(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(2)(a)**; S.I. 2007/935, art. 7(o)
- F540** Words in s. 109(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(2)(b)**; S.I. 2007/935, art. 7(o)
- F541** Words in s. 109(3)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(3)(a)**; S.I. 2007/935, art. 7(o)
- F542** Words in s. 109(3)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(3)(b)**; S.I. 2007/935, art. 7(o)
- F543** Words in s. 109(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(4)(a)**; S.I. 2007/935, art. 7(o)
- F544** Words in s. 109(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(4)(b)**; S.I. 2007/935, art. 7(o)
- F545** S. 109(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 29(5)**; S.I. 2007/935, art. 7(o)

#### Commencement Information

- I20** S. 109 wholly in force at 1.9.1999; s. 109 not in force at Royal Assent see s. 145(3); s. 109(3)(4) in force at 1.2.1999 by S.I. 1998/3198, art. 2(2), **Sch.**; s. 109 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).



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## PART IV

### OTHER PROVISIONS ABOUT SCHOOL EDUCATION

#### *Home-school agreements*

#### **110 Home-school agreements.**

- (1) The governing body of a school which is—
  - (a) a maintained school, or
  - (b) a city technology college [<sup>F546</sup>, a city college for the technology of the arts or [<sup>F547</sup>an Academy]],
 shall adopt a home-school agreement for the school, together with a parental declaration to be used in connection with the agreement.
- (2) For the purposes of this section and section 111 a “home-school agreement” is a statement specifying—
  - (a) the school’s aims and values;
  - (b) the school’s responsibilities, namely the responsibilities which the school intends to discharge in connection with the education of pupils at the school who are of compulsory school age;
  - (c) the parental responsibilities, namely the responsibilities which the parents of such pupils are expected to discharge in connection with the education of their children while they are registered pupils at the school; and
  - (d) the school’s expectations of its pupils, namely the expectations of the school as regards the conduct of such pupils while they are registered pupils there;
 and “parental declaration” means a document to be used by qualifying parents for recording that they take note of the school’s aims and values and its responsibilities and that they acknowledge and accept the parental responsibilities and the school’s expectations of its pupils.
- (3) The governing body shall take reasonable steps to secure that the parental declaration is signed by every qualifying parent.
- (4) Subsection (3) does not, however, require the governing body to seek the signature of a qualifying parent if, having regard to any special circumstances relating to the parent or the pupil in question, they consider that it would be inappropriate to do so.
- (5) Where the governing body consider that a registered pupil at the school has a sufficient understanding of the home-school agreement as it relates to him, they may invite the pupil to sign the parental declaration as an indication that he acknowledges and accepts the school’s expectations of its pupils.
- (6) The governing body shall discharge their duty under subsection (3), and (where they decide to exercise it) shall exercise their power under subsection (5), as follows—
  - (a) in the case of a pupil attending the school on the relevant date, as soon after that date as is reasonably practicable; and
  - (b) in the case of a pupil admitted to the school after the relevant date, as soon after the date of his admission as is reasonably practicable.
- (7) The governing body shall from time to time review the home-school agreement.

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- (8) Where the home-school agreement is revised by the governing body following such a review, subsections (3) to (6) shall, in the case of pupils admitted to the school after the revision takes effect, accordingly apply in relation to the revised agreement.
- (9) Before adopting the home-school agreement or parental declaration, or revising that agreement, the governing body shall consult—
- (a) all qualifying parents, and
  - (b) such other persons as may be prescribed.
- (10) In this section—
- “qualifying parent” means a registered parent of a pupil at the school who is of compulsory school age;
- “the relevant date” means such date as the Secretary of State may by order appoint or such later date as he may determine in the case of the school in question.

#### Subordinate Legislation Made

**P6** S. 110 power fully exercised (12.11.1998); 1.9.1999 appointed day by [S.I. 1998/2877](#)

#### Textual Amendments

**F546** Words in s. 110(1)(b) substituted (28.7.2000) by [2000 c. 21, s. 149, Sch. 9 para. 85](#)

**F547** Words in s. 110(1)(b) substituted (26.7.2002) by [Education Act 2002 \(c. 32\), ss. 65, 216, Sch. 7 para. 9](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2002, art. 2](#)

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

**C173** S. 110(1)(a) modified (*temp.*) by [S.I. 1998/2834, art. 2](#)

#### Commencement Information

**I21** S. 110 wholly in force; s. 110 not in force at Royal Assent see s. 145(3); s. 110 in force at 1.2.1999 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. III](#)

### 111 Supplementary provisions about home-school agreements.

- (1) In discharging any function under section 110 the governing body of a school shall have regard to any guidance given from time to time by the Secretary of State.
- (2) If the Secretary of State by order so provides, the governing body of a school to which subsection (1) of that section applies shall ensure that any form of words—
- (a) specified in the order, or
  - (b) having such effect as is so specified,
- is not used in a home-school agreement or (as the case may be) in a parental declaration.
- (3) An order under subsection (2) may apply—
- (a) to any school specified in the order, or
  - (b) to any description of school so specified.
- (4) Neither the governing body of a school to which section 110(1) applies nor the local education authority where it is the admission authority for such a school shall—

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- (a) invite any person to sign the parental declaration at a time when the child in question has not been admitted to the school;
  - (b) make it a condition of a child being admitted to the school that the parental declaration is signed in respect of the child; or
  - (c) make any decision as to whether or not to admit a child to the school by reference to whether any such declaration is or is not likely to be signed in respect of the child;
- and in this subsection “admission authority” has the meaning given by section 88(1).
- (5) No person shall be excluded from such a school or suffer any other adverse consequences on account of any failure to comply with any invitation to sign the parental declaration.
  - (6) A home-school agreement shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort.

*Extension of educational opportunities for Key Stage 4 pupils*

**112 Extended work experience for Key Stage 4 pupils.**

- (1) Section 560 of the <sup>M24</sup>Education Act 1996 (work experience during compulsory schooling) shall be amended as follows.
- (2) For subsections (1) and (2) there shall be substituted—
  - “(1) The enactments relating to the prohibition or regulation of the employment of children shall not apply to the employment of a child in his last two years of compulsory schooling if the employment is in pursuance of arrangements made—
    - (a) by a local education authority, or
    - (b) by the governing body of a school on behalf of such an authority,with a view to providing him with work experience as a part of his education.
  - (2) For the purposes of subsection (1) a child shall be taken to be in his last two years of compulsory schooling as from the beginning of the last two school years at his school during the whole or part of which he is of compulsory school age.”
- (3) In subsection (6) (disapplication of sections 495 and 496 of the Act), the words “or the governing body of a grant-maintained school” shall be omitted.

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**Commencement Information**

**112** S. 112 partly in force; s. 112 not in force at Royal Assent see s. 145(3); s. 112(1)(2) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. 1](#)

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**Marginal Citations**

**M24** 1996 c. 56.

*Status: Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.  
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**113 Provision of secondary education for Key Stage 4 pupils by FE institutions.**

- (1) In section 18(1) of the <sup>M25</sup>Further and Higher Education Act 1992 (principal powers of a further education corporation), after paragraph (a) there shall be inserted—
  - “(aa) in pursuance of arrangements made—
    - (i) by a local education authority, or
    - (ii) by the governing body of a school on behalf of such an authority,
 provide secondary education to pupils in the fourth key stage, and”.
- (2) After section 52 of that Act there shall be inserted—

**“52A Duty to safeguard pupils receiving secondary education.**

- (1) This section applies where secondary education is provided to pupils in the fourth key stage—
  - (a) by a further education corporation in pursuance of arrangements falling within section 18(1)(aa) of this Act, or
  - (b) by a designated institution in pursuance of arrangements made—
    - (i) by a local education authority, or
    - (ii) by the governing body of a school on behalf of such an authority.
- (2) The governing body of the corporation or institution shall secure that, except in such circumstances as may be prescribed by regulations, no education is provided to a person who has attained the age of nineteen years in a room in which any such pupils are for the time being receiving secondary education.”

**Marginal Citations**  
 M25 1992 c. 13.

*[<sup>F548</sup>Food and drink provided on school premises etc]*

**Textual Amendments**  
 F548 S. 114A and cross-heading substituted for s. 114 and cross-heading (8.11.2006) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 86\(1\)](#), [188\(1\)](#) (with [s. 86\(3\)](#))

<sup>F548</sup>**114 Nutritional standards for school lunches.**

.....

<sup>F548</sup>**114 Requirements for food and drink provided on school premises etc**

- (1) Regulations may prescribe requirements which, subject to such exceptions as may be provided for by or under the regulations, are to be complied with in connection with—
  - (a) food or drink provided on the premises of any school maintained by a local education authority, or

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- (b) food or drink provided at a place other than school premises by a local education authority or the governing body of a school maintained by such an authority to any registered pupil at the school.
- (2) Regulations under this section may in particular—
- (a) specify nutritional standards, or other nutritional requirements, which are to be complied with;
  - (b) require that drinking water is to be available, free of charge, on the premises of any school maintained by a local education authority;
  - (c) require that specified descriptions of food or drink are not to be provided.
- (3) Requirements prescribed by virtue of subsection (1)(a) do not apply to food or drink brought on to the premises of a school maintained by a local education authority where the food or drink is brought on to those premises by any person for his own consumption.
- (4) Where a local education authority or the governing body of a school maintained by such an authority provide food or drink—
- (a) to anyone on the premises of the school, or
  - (b) to any registered pupil at the school at a place other than school premises,
- that authority or, as the case may be, that governing body must secure that any applicable provisions of the regulations are complied with.
- (5) Subsection (4) applies whether the food or drink is provided in pursuance of any statutory requirement or otherwise.
- (6) Where—
- (a) food or drink is provided on the premises of a school maintained by a local education authority,
  - (b) the provision is by a person (“X”) other than the authority or the governing body of the school, and
  - (c) X uses or occupies the whole or a part of the premises in circumstances related to a use or occupation agreement made (whether by X or any other person) with the authority or the governing body,
- that authority or, as the case may be, that governing body must secure that any applicable provisions of the regulations are complied with.
- (7) A “use or occupation agreement”, in relation to the premises of a school, is an agreement or other arrangement relating to the use or occupation of the whole or any part of the premises.
- (8) Without prejudice to the generality of section 138(7), regulations under this section may prescribe—
- (a) different requirements in relation to different classes or descriptions of school as specified in the regulations;
  - (b) different requirements in connection with food or drink provided by or to different classes or descriptions of person as specified in the regulations;
  - (c) requirements which apply during different periods of the day as specified in the regulations.
- (9) A “place other than school premises” means a place other than the premises of any school maintained by a local education authority.

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- (10) References in this section to food or drink provided by a local education authority or the governing body of a school include references to food or drink provided in pursuance of an agreement or other arrangement made by such an authority or body for the provision of food or drink.]

<sup>F549</sup> **115 Extension of LEA functions concerning school lunches, etc.**

.....

**Textual Amendments**

**F549** S. 115 repealed (31.3.2003 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, Sch. Pt. II; S.I. 2003/124, art. 4

**116 Transfer of LEA functions concerning school lunches, etc. to governing bodies.**

After section 512 of the Education Act 1996 there shall be inserted—

**“512A Transfer of functions under section 512 to governing bodies.**

- (1) The Secretary of State may by order make provision for imposing on the governing body of any school to which the order applies a duty or duties corresponding to one or more of the duties of the local education authority which are mentioned in subsection (2).
- (2) Those duties are—
  - (a) the duty to provide school lunches in accordance with section 512(1A) and (1B);
  - (b) the duty to provide school lunches free of charge in accordance with section 512(3)(a); and
  - (c) the duty to provide milk free of charge in accordance with section 512(3)(b).
- (3) An order under this section may (subject to subsection (6)) apply to—
  - (a) all maintained schools; or
  - (b) any specified class of such schools; or
  - (c) all such schools, or any specified class of such schools, maintained by specified local education authorities.
- (4) Where any duty falls to be performed by the governing body of a school by virtue of an order under this section—
  - (a) the corresponding duty mentioned in subsection (2) shall no longer fall to be performed by the local education authority in relation to the school; and
  - (b) if the duty corresponds to the one mentioned in subsection (2)(b) or (c), section 533(3) shall not apply to any school lunches or milk provided by the governing body in pursuance of the order.
- (5) An order under this section may provide for section 513(2) not to apply—
  - (a) to local education authorities generally, or

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- (b) to any specified local education authority, either in relation to all pupils for whom provision is made by the authority under section 513 or in relation to all such pupils who are of such ages as may be specified.
- (6) An order under this section shall not operate to—
- (a) impose any duty on the governing body of a school, or
  - (b) relieve a local education authority of any duty in relation to a school, at any time when the school does not have a delegated budget; and such an order may provide for section 512(2)(b) above to have effect, in relation to any provision made at any such time by the local education authority for pupils at the school, with such modifications as may be specified.
- (7) In this section—
- “delegated budget” and “maintained school” have the same meaning as in the School Standards and Framework Act 1998;
- “school lunch” has the same meaning as in section 512 above;
- “specified” means specified in an order under this section.”

## PART V

### NURSERY EDUCATION

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

**C174** Pt. 5: Power to apply (with modifications) conferred (19.12.2002) by [Education Act 2002 \(c. 32\)](#), [ss. 193\(5\), 216](#), (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#)

#### *Nursery education*

#### **117 Definition of “nursery education”.**

In this Part “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

#### *General duty of local education authority*

#### **118 Duty of LEA as respects availability of nursery education.**

- (1) A local education authority [<sup>F550</sup>in Wales] shall secure that the provision (whether or not by them) of nursery education for children who—
  - (a) have not attained compulsory school age, but
  - (b) have attained such age as may be prescribed,
 is sufficient for their area.
- (2) In determining for the purposes of subsection (1) whether the provision of such education is sufficient for their area a local education authority—

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- (a) may have regard to any facilities which they expect to be available outside their area for providing such education; and
- (b) shall have regard to any guidance given from time to time by [<sup>F551</sup>the National Assembly for Wales].

#### Textual Amendments

**F550** Words in s. 118(1) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 30(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)

**F551** Words in s. 118(2)(b) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 30(b)**; S.I. 2008/2261, art. 2 (with Sch. 1)

#### [<sup>F552</sup>118A] Duties of LEA in respect of childcare

- [<sup>F553</sup>(1) A local education authority shall review annually the sufficiency of childcare provision for their area.
- (2) In carrying out a review for the purposes of subsection (1), a local education authority—
  - (a) may have regard to any facilities which they expect to be available outside their area for providing childcare; and
  - (b) shall have regard to any guidance given from time to time by the Secretary of State.
- (3) A local education authority shall also establish and maintain a service providing information to the public relating to the provision of childcare and related services in their area.
- (4) In relation to the function, form and content of a service established and maintained under subsection (3), a local education authority shall have regard to any guidance given from time to time by the Secretary of State.]]

#### Textual Amendments

**F552** S. 118A inserted (1.10.2002 for E. and 31.3.2003 for W. ) by Education Act 2002 (c. 32), **ss. 149(1), 216** (with **ss. 210(8), 214(4)**); S.I. 2002/2439, **art. 3** (with Sch.); S.I. 2002/3185, **art. 5**, Sch. Pt. II

**F553** S. 118A repealed (1.4.2007 for E.) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 31, **Sch. 3 Pt. 2**; S.I. 2007/1019, art. 3

#### Early years development [<sup>F554</sup>and childcare] partnerships

#### Textual Amendments

**F554** Words in cross-heading before s. 119 inserted (1.10.2002 for E. and 31.3.2003 for W.) by Education Act 2002 (c. 32), **ss. 150(5), 216** (with **ss. 210(8), 214(4)**); S.I. 2002/2439, **art. 3**, (with Sch.); S.I. 2002/3185, **art. 5**, Sch. Pt. II



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## 119 Early years development [<sup>F555</sup>and childcare] partnerships.

- (1) Every local education authority [<sup>F556</sup>in Wales] shall establish for their area a body to be known as an early years development [<sup>F557</sup>and childcare] partnership (“the partnership”).
- (2) In establishing the partnership and determining its constitution the authority shall have regard to any guidance given from time to time by [<sup>F558</sup>the Assembly].
- (3) The authority may establish a sub-committee of the partnership for any part of their area.
- (4) The authority shall make arrangements—
  - (a) for the meetings and proceedings of the partnership and any such sub-committee, and
  - (b) for the partnership (and any such sub-committee) to be provided with accommodation and with such services as the authority consider appropriate.
- (5) The functions of the partnership shall be to work with the authority—
  - (a) in reviewing the sufficiency of the provision of nursery education for the authority’s area for the purposes of section 118, <sup>F559</sup> . . .
  - <sup>F560</sup>(ab) [<sup>F561</sup> in reviewing the sufficiency of childcare provision for the authority’s area for the purposes of section 118A, <sup>F562</sup>...]]
  - <sup>F562</sup>(b) . . . . .
- (6) [<sup>F563</sup>The Assembly] may by order confer on early years development [<sup>F564</sup>and childcare] partnerships such additional functions as are specified in the order.

### Textual Amendments

- F555** Words in s. 119 sidenote inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\), ss. 150\(5\), 216 \(with ss. 210\(8\), 214\(4\)\); S.I. 2002/2439, art. 3, \(with Sch.\); S.I. 2002/3185, art. 5, Sch. Pt. II](#)
- F556** Words in s. 119(1) inserted (1.10.2007) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 32\(2\); S.I. 2007/2717, art. 2\(e\)](#)
- F557** Words in s. 119 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\), ss. 150\(5\), 216 \(with ss. 210\(8\), 214\(4\)\); S.I. 2002/2439, art. 3, \(with Sch.\); S.I. 2002/3185, art. 5, Sch. Pt. II](#)
- F558** Words in s. 119(2) substituted (1.10.2007) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 32\(3\); S.I. 2007/2717, art. 2\(e\)](#)
- F559** Word in s. 119(5)(a) repealed (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\), ss. 215\(2\), 216, Sch. 22 Pt. 3 \(with ss. 210\(8\), 214\(4\)\); S.I. 2002/2439, art. 3 \(with Sch.\); S.I. 2002/3185, art. 5, Sch. Pt. II](#)
- F560** S. 119(5)(ab) inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\), ss. {150\(1\)}, 216 \(with ss. 210\(8\), 214\(4\)\); S.I. 2002/2439, art. 3 \(with Sch.\); S.I. 2002/3185, art. 5, Sch. Pt. II](#)
- F561** S. 119(5)(ab) repealed (1.10.2007 for E.) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 32\(4\), Sch. 3 Pt. 2; S.I. 2007/2717, art. 2\(f\)](#)
- F562** S. 119(5)(b) and word repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\), Sch. 5 Pt. 1; S.I. 2005/394, art. 2\(1\)\(l\); S.I. 2006/885, art. 2\(3\)\(b\)](#)
- F563** Words in s. 119(6) substituted (1.10.2007) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 32\(5\); S.I. 2007/2717, art. 2\(e\)](#)

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**F564** Words in s. 119 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 150(5), 216** (with **ss. 210(8), 214(4)**); [S.I. 2002/2439](#), **art. 3**, (with Sch.); [S.I. 2002/3185](#), **art. 5**, Sch. Pt. II

*Early years development [<sup>F565</sup>and childcare] plans*

**Textual Amendments**

**F565** Words in cross-heading before s. 120 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 150(5), 216** (with **ss. 210(8), 214(4)**); [S.I. 2002/2439](#), **art. 3**, (with Sch.); [S.I. 2002/3185](#), **art. 5**, Sch. Pt. II

<sup>F567</sup>**120** Early years development [<sup>F566</sup>and childcare] plans.

.....

**Textual Amendments**

**F566** Words in s. 120 heading inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 150(5), 216** (with **ss. 210(8), 214(4)**); [S.I. 2002/2439](#), **art. 3**, (with Sch.); [S.I. 2002/3185](#), **art. 5**, Sch. Pt. II  
**F567** S. 120 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **Sch. 5 Pt. 1**; [S.I. 2005/394](#), **art. 2(1)(I)**; [S.I. 2006/885](#), **art. 2(3)(b)**

<sup>F568</sup>**121** Approval, modification and review of statement of proposals.

.....

**Textual Amendments**

**F568** S. 121 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), **Sch. 5 Pt. 1**; [S.I. 2005/394](#), **art. 2(1)(I)**; [S.I. 2006/885](#), **art. 2(3)(b)**

*Inspection of nursery education*

**122** Inspection of nursery education [<sup>F569</sup>in Wales].

(1) Schedule 26 (inspections, etc. of providers of nursery education [<sup>F570</sup>in Wales]) shall have effect.

<sup>F571</sup>(2) .....

(3) Any register of nursery education inspectors established by [<sup>F572</sup>the Chief Inspector for Wales] under Schedule 1 to that Act shall be treated as established by him under Schedule 26 to this Act; and accordingly anything done under Schedule 1 to that Act in connection with the registration of (or any refusal to register) any person in that register shall, if effective immediately before the commencement of this section, continue to have effect as if done under Schedule 26 to this Act.

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- (4) In subsection (3) [<sup>F573</sup>“the Chief Inspector for Wales” means“][<sup>F574</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru].

#### Textual Amendments

- F569** Words in s. 122 heading inserted (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 33\(2\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F570** Words in s. 122(1) inserted (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 33\(3\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F571** S. 122(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 7](#)
- F572** Words in s. 122(3) substituted (3.10.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 7 para. 7\(2\)](#) (with s. 119); S.I. 2005/2034, art. 6; S.I. 2006/1338, art. 3, Sch. 1
- F573** Words in s. 122(4) substituted (3.10.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 7 para. 7\(3\)](#) (with s. 119); S.I. 2005/2034, art. 6; S.I. 2006/1338, art. 3, Sch. 1
- F574** Words in s. 122(4) substituted (W.) (1.1.2001) by [2000 c. 21, s. 73\(3\)\(a\)](#); S.I. 2000/3230, art. 2, [Sch.](#)

#### Further provisions relating to nursery education

### 123 Children with special educational needs.

- (1) It shall be the duty of—
- any local education authority or other person providing [<sup>F575</sup>relevant nursery education][<sup>F575</sup>relevant early years education], and
  - any person employed by such an authority or other person, or otherwise engaged to provide his services, in the provision of such education,
- (except where a duty is already imposed by subsection (2) of section 313 of the <sup>M26</sup>Education Act 1996) to have regard to the provisions of the code of practice issued under that section (practical guidance in respect of the discharge of functions under Part IV of that Act).
- (2) That code of practice may include practical guidance in respect of the provision of [<sup>F576</sup>relevant nursery education][<sup>F576</sup>relevant early years education] for children with special educational needs in circumstances where functions under Part IV of the <sup>M27</sup>Education Act 1996 do not fall to be discharged.
- (3) But unless that code of practice includes provision made by virtue of subsection (2)—
- the Secretary of State shall publish a document explaining how the practical guidance contained in that code applies in circumstances where functions under Part IV of the <sup>M28</sup>Education Act 1996 do not fall to be discharged, and
  - the duty imposed by subsection (1) includes a duty to have regard to the provisions of that document.
- [<sup>F577</sup>(3A) Subsection (3B) applies if—
- a local education authority or other person providing [<sup>F578</sup>relevant nursery education][<sup>F578</sup>relevant early years education] for a child makes special educational provision for him because it is considered that he has special educational needs;
  - no statement under section 324 of the Education Act 1996 is maintained for the child; and

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- (c) his parent has not previously been informed under subsection (3B) of the special educational provision made for him.

(3B) The local education authority or other person concerned must inform the child’s parent that special educational provision is being made for him because it is considered that he has special educational needs.]

[<sup>F579</sup>(4) In this section “relevant early years education” means—

- (a) in relation to England, early years provision as defined by section 20 of the Childcare Act 2006 which is provided under arrangements made by a local authority in England in pursuance of the duty imposed by section 7 of that Act (whether or not the local authority provides the early years provision);
- (b) in relation to Wales, nursery education which is provided—
- (i) by a local education authority in Wales, or
  - (ii) by any other person who is in receipt of financial assistance given by such an authority under arrangements made by them in pursuance of the duty imposed by section 118.]

#### Textual Amendments

- F575** Words in s. 123(1)(a) substituted (1.9.2008 for E.) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 34\(a\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F576** Words in s. 123(2) substituted (1.9.2008 for E.) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 34\(a\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F577** S. 123(3A)(3B) inserted (1.1.2002 for E. and 1.4.2002 for W.) by [2001 c. 10, ss. 7\(2\), 43\(3\)](#) (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (which S.I. was amended by S.I. 2001/2614, art. 4); S.I. 2002/74, art. 5, Sch. Pt. II
- F578** Words in s. 123(3A) substituted (1.9.2008 for E.) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 34\(a\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F579** S. 123(4) substituted (1.9.2008 for E.) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 34\(b\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)

#### Marginal Citations

- M26** 1996 c. 56.
- M27** 1996 c. 56.
- M28** 1996 c. 56.

## 124 Travel arrangements for children receiving nursery education otherwise than at school.

After section 509 of the <sup>M29</sup>Education Act 1996 there shall be inserted—

### “509A Travel arrangements for children receiving nursery education otherwise than at school.

- (1) A local education authority may provide a child with assistance under this section if they are satisfied that, without such assistance, he would be prevented from attending at any premises—
- (a) which are not a school or part of a school, but
  - (b) at which relevant nursery education is provided,
- for the purpose of receiving such education there.

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- (2) The assistance which may be provided for a child under this section consists of either—
- (a) making arrangements (whether for the provision of transport or otherwise) for the purpose of facilitating the child’s attendance at the premises concerned, or
  - (b) paying the whole or any part of his reasonable travel expenses.
- (3) When considering whether to provide a child with assistance under this section in connection with his attendance at any premises, a local education authority may have regard (among other things) to whether it would be reasonable to expect alternative arrangements to be made for him to receive relevant nursery education at any other premises (whether nearer to his home or otherwise).
- (4) Where the assistance to be provided for a child under this section consists of making arrangements for the provision of transport, the authority may, if they consider it appropriate to do so, determine that the assistance shall not be so provided unless—
- (a) the child’s parent, or
  - (b) the person providing the relevant nursery education concerned,
- agrees to make to the authority such payments in respect of the provision of the transport (not exceeding the cost to the authority of its provision) as they may determine.
- (5) In this section “relevant nursery education” means nursery education which is provided—
- (a) by a local education authority, or
  - (b) by any other person—
    - (i) who is in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a) of the School Standards and Framework Act 1998, or
    - (ii) who is in receipt of grants under section 1 of the <sup>M30</sup>Nursery Education and Grant-Maintained Schools Act 1996.”

#### Marginal Citations

**M29** 1996 c. 56.

**M30** 1996 c. 50.

## <sup>F580</sup>PART 5A

### EMPLOYMENT OF TEACHERS AT INDEPENDENT SCHOOLS HAVING A RELIGIOUS CHARACTER

#### Textual Amendments

**F580** Pt. 5A inserted (E.W.) (1.9.2003) by [The Independent Schools \(Employment of Teachers in Schools with a Religious Character\) Regulations 2003 \(S.I. 2003/2037\)](#), regs. 1(1), 3

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#### **124A. Employment of teachers at independent schools having a religious character**

- (1) This section applies to an independent school which has a religious character.
- (2) Preference may be given, in connection with the appointment, promotion or remuneration of teachers at the school, to persons—
  - (a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the school under section 124B(2), or
  - (b) who attend religious worship in accordance with those tenets, or
  - (c) who give, or are willing to give, religious education at the school in accordance with those tenets.
- (3) Regard may be had, in connection with the termination of the employment or engagement of any teacher at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified.

#### **124B. Designation of independent schools as having a religious character**

- (1) Subsections (3) and (5) of section 69 (which relate to the designation of foundation or voluntary schools as having a religious character) apply in relation to an independent school as they apply in relation to a foundation or voluntary school, but as if—
  - (a) in subsection (3), the reference to Part 2 were a reference to this Part, and
  - (b) in subsection (5), the reference to subsection (4) of that section were a reference to subsection (2) of this section.
- (2) An order made under section 69(3) by virtue of subsection (1) shall specify, in relation to each school designated by the order, the religion or religious denomination (or as the case may be each religion or religious denomination) in accordance with whose tenets education is provided at the school or the school is conducted.]

### **[<sup>F581</sup>PART VI]**

#### **Textual Amendments**

**F581** Pt. VI (ss. 125-126) ceased to have effect (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8 and otherwise 1.1.2001 for W. and 1.9.2001 for E.) by virtue of 2000 c. 21, s. 154(3), **Sch. 9 para. 86**; S.I. 2000/3230, art. 2, **Sch.**; S.I. 2001/654, art. 2(3), **Sch. Pt. III**

#### **<sup>F582</sup>125 [ Partnership arrangements to secure provision of certain further education in Wales.]**

- (1) The <sup>M31</sup>Further and Higher Education Act 1992 shall be amended as follows.
- (2) In section 5 (administration of funds by further education funding councils), after subsection (5) there shall be inserted—
  - “(5A) The Further Education Funding Council for Wales may give financial support to a local education authority for an area in Wales for the purposes of any

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partnership arrangement made by the authority to which section 60A of this Act applies.”

(3) In section 18 (principal powers of a further education corporation)—

- (a) in subsection (1), the words “and those powers” to the end shall be omitted, and
- (b) after subsection (3) there shall be added—

“(4) In addition to the powers conferred by subsection (1) above, a further education corporation which conducts one or more educational institutions situated in Wales may—

- (a) secure the provision of full-time or part-time education suitable to the requirements of persons who are over compulsory school age but under the age of 19, but only if that provision is made under a partnership arrangement to which section 60A of this Act applies, and
- (b) supply goods or services in connection with the securing of the provision of education under paragraph (a) above.

(5) Subsections (2) and (3) above shall apply for the purposes of subsection (4) above as they apply for the purposes of subsection (1), except that references in those subsections to the provision of education shall be construed as references to the securing of the provision of education.

(6) The powers conferred by subsection (1) above and the powers conferred by subsection (4) above are referred to in section 19 of this Act as the corporation’s principal powers.”

(4) After section 60 there shall be inserted—

**“60A Partnership arrangements to secure provision of certain further education in Wales.**

(1) An arrangement is a partnership arrangement to which this section applies if—

- (a) it is made by—
  - (i) one or more local education authorities for areas in Wales, and
  - (ii) one or more governing bodies of Welsh further education institutions,

for the purpose of securing the provision of education within subsection (3),

- (b) it provides for the facilities connected with the provision of education under the arrangement to be provided—
  - (i) in part, at one or more schools maintained by the local education authority which is a party to the arrangement (or where more than one local education authority is a party, by each of them), and
  - (ii) in part, at one or more Welsh further education institutions conducted by the governing body which is a party to the arrangement (or, where more than one governing body is a party, by each of them),

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- (c) it is made with the consent of—
    - (i) the Further Education Funding Council for Wales, and
    - (ii) the governing body of each school at which, in accordance with the arrangement, facilities are to be provided, and
  - (d) it is approved by the Secretary of State.
- (2) For the purposes of subsection (1) above—
- (a) “Welsh further education institution” means an institution which is within the further education sector and is situated in Wales, and
  - (b) a designated institution shall be treated as conducted by the governing body of the institution.
- (3) Education is within this subsection if it is full-time or part-time education suitable to the requirements of persons who are over compulsory school age but under the age of 19.
- (4) The following bodies shall exercise their functions with a view to securing that any education provided under a partnership arrangement to which this section applies is provided and funded in accordance with the arrangement—
- (a) each local education authority which is a party to the arrangement;
  - (b) each governing body of an institution (or institutions) within the further education sector which is a party to the arrangement;
  - (c) the Further Education Funding Council for Wales;
  - (d) each governing body of a school which consented to the arrangement.
- (5) Schedule 5A to this Act shall have effect in relation to partnership arrangements to which this section applies.”
- (5) After Schedule 5 there shall be inserted the Schedule set out in Schedule 27 to this Act.

#### Textual Amendments

**F582** S. 125 repealed (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8 and 1.1.2001 (W.) otherwise) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**

#### Commencement Information

**I23** S. 125 wholly in force at 1.9.1999; s. 125 not in force at Royal Assent see s. 145(3); s. 125(5) in force at 1.4.1999 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. IV**; s. 125 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

#### Marginal Citations

**M31** 1992 c. 13.

### <sup>F583</sup>[126 Provisions relating to education provided under partnership arrangements.

- (1) The <sup>M32</sup>Education Act 1996 shall have effect in relation to education provided under relevant partnership arrangements subject to the following provisions of this section.
- (2) For the purposes of that Act—
  - (a) full-time education suitable to the requirements of persons who are over compulsory school age but under the age of 19 which is provided at a school



**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

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at which education within section 2(2)(a) of that Act is also provided shall not be regarded as secondary education, and

- (b) a person for whom full-time or part-time education suitable to the requirements of such persons is being provided at a school shall not be regarded as a pupil,

if that education is being provided under a relevant partnership arrangement.

- (3) Accordingly, education within subsection (2)(a) above which is provided under a relevant partnership arrangement shall, for the purposes of that Act, be regarded as further education.

- (4) In this section “relevant partnership arrangement” means a partnership arrangement to which section 60A of the <sup>M33</sup>Further and Higher Education Act 1992 (as inserted by section 125(4)) applies.]

#### Textual Amendments

**F583** S. 126 repealed (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8 and 1.1.2001 (W.) otherwise) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**

#### Marginal Citations

**M32** 1996 c. 56.

**M33** 1992 c. 13.

## PART VII

### MISCELLANEOUS AND GENERAL

*Code of practice for local education authorities and maintained schools* [<sup>F584</sup>in Wales]

#### Textual Amendments

**F584** Words in s. 127 cross-heading inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(7), 188(2)

#### 127 Code of practice for securing effective relationships between LEAs and maintained schools [<sup>F585</sup>in Wales].

- (1) The [<sup>F586</sup>Assembly] shall issue, and may from time to time revise, a code of practice containing such practical guidance as [<sup>F587</sup>it] thinks appropriate with a view to securing effective relationships between local education authorities [<sup>F588</sup>in Wales] and the schools maintained by them—

- (a) in relation to promoting high standards of education in such schools; and  
<sup>F589</sup>(b) in relation to the discharge of such functions as the Assembly may determine for the purposes of this paragraph which are functions exercisable by or on behalf of such authorities in relation to such schools.]

- (2) In discharging their functions in relation to any maintained school [<sup>F590</sup>or maintained nursery school][<sup>F591</sup>in Wales], it shall be the duty of—

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 23 May 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)

- (a) the local education authority,
- (b) the governing body, and
- (c) the head teacher,

to have regard to any relevant provisions of the code.

[<sup>F592</sup>(3) Subsections (1) and (2) of section 85 shall apply in relation to the code as they apply in relation to a code under section 84 relating to Wales.]

(4) The [<sup>F593</sup>Assembly] shall publish the code as for the time being in force.

<sup>F594</sup>(5) .....

<sup>F594</sup>(6) .....

#### Textual Amendments

**F585** Words in s. 127 heading inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(7), 188(2)

**F586** Word in s. 127(1) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(2)(a), 188(2)

**F587** Word in s. 127(1) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(2)(b), 188(2)

**F588** Words in s. 127(1) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(2)(c), 188(2)

**F589** S. 127(1)(b) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(2)(d), 188(2)

**F590** Words in s. 127(2) inserted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 110(2) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.

**F591** Words in s. 127(2) inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(3), 188(2)

**F592** S. 127(3) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(4), 188(2)

**F593** Word in s. 127(4) substituted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(5), 188(2)

**F594** S. 127(5)(6) repealed (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(6), 188(2), Sch. 18 Pt. 2

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

**C175** S. 127 applied (18.6.1999) by S.I. 1999/2022, art. 2.

### *Financial assistance to non-maintained schools*

VALID FROM 12/01/2010

#### **128 Financial assistance to non-maintained schools.**

(1) For section 18 of the <sup>M34</sup>Education Act 1996 there shall be substituted—

**“18 Financial assistance to non-maintained schools.**

(1) Subject to subsection (2), a local education authority may—

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 23 May 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)

- (a) assist any primary or secondary non-maintained school (whether inside or outside their area);
  - (b) make arrangements for pupils to be provided with primary or secondary education at such schools.
- (2) Except in accordance with regulations, a local education authority may not under subsection (1) make any grant or other payment (whether to the proprietor of a school or otherwise) in respect of—
- (a) fees or expenses (of whatever nature) which are payable in connection with the attendance of a pupil at a school, or
  - (b) such other matters as may be prescribed.
- (3) Regulations made for the purposes of subsection (2)(a) may provide that, in such circumstances as may be specified in or determined in accordance with the regulations, a local education authority—
- (a) shall exercise their power under subsection (1)(b) in relation to a pupil at a non-maintained school so as to pay the whole of—
    - (i) the fees payable in respect of the education provided for the pupil, and
    - (ii) if board and lodging are provided for him at the school, the fees payable in respect of the board and lodging, and
    - (iii) any expenses of a prescribed description which are payable in connection with his attendance at the school; or
  - (b) may exercise that power in relation to such a pupil so as to pay the whole or part of any fees or expenses falling within all or any of subparagraphs (i) to (iii) of paragraph (a) above.
- (4) In this section references to non-maintained schools are references to schools which are not maintained by any local education authority.”
- (2) In consequence of subsection (1), section 16(1)(c) of the <sup>M35</sup>Education Act 1996 (power of local education authority to assist primary or secondary school not maintained by the authority) shall cease to have effect.

#### Marginal Citations

**M34** 1996 c. 56.

**M35** 1996 c. 56.

## 129 Payment of school expenses; grant of scholarships, etc.

For section 518 of the <sup>M36</sup>Education Act 1996 there shall be substituted—

### “518 Payment of school expenses; grant of scholarships, etc.

- (1) A local education authority, for the purpose of enabling persons to take advantage of any educational facilities available to them, may in such circumstances as may be specified in or determined in accordance with regulations—

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- (a) pay such expenses of children attending community, foundation, voluntary or special schools as may be necessary to enable them to take part in any school activities,
  - (b) grant scholarships, exhibitions, bursaries and other allowances in respect of persons over compulsory school age.
- (2) Regulations may make provision—
- (a) for requiring a local education authority to make, in relation to each financial year, a determination relating to the extent to which they propose to exercise their power under subsection (1)(b) in that year; and
  - (b) for authorising an authority to determine not to exercise that power in a financial year—
    - (i) generally,
    - (ii) in such cases as may be prescribed, or
    - (iii) in such cases as may be determined by the authority.”

#### Marginal Citations

M36 1996 c. 56.

### 130 Transfer of assisted places.

- (1) In section 3(2) of the <sup>M37</sup>Education (Schools) Act 1997 (regulations for purposes of transitional arrangements), after paragraph (f) there shall be added—
- “(g) provide for the Secretary of State, in a case where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to a pupil who holds (or has at any time held) an assisted place provided by a school under section 2(1), to authorise another school which is either—
- (i) a former participating school, or
  - (ii) a new school authorised to provide assisted places by virtue of paragraph (f) above,
- to provide for the pupil under section 2(1) the assisted place which the first-mentioned school was authorised to provide.”
- (2) In section 75A(9A) of the <sup>M38</sup>Education (Scotland) Act 1980 (regulations in connection with assisted places)—
- (a) the word “and” immediately preceding paragraph (b) shall be omitted; and
  - (b) after that paragraph there shall be inserted “; and
  - (c) provide for the Secretary of State, in a case where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to a pupil who holds (or has, at any time since the beginning of the first term of the 1997-98 school year, held) an assisted place at a school under a scheme operated by virtue of subsection (1) above, to authorise another school which is, or is treated as, a participating school to provide for the pupil under such a scheme the assisted place which the first-mentioned school was authorised to provide.”

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#### Extent Information

**E3** S. 130(2) extends to Scotland only.

#### Marginal Citations

**M37** 1997 c. 59.

**M38** 1980 c. 44.

### *Abolition of corporal punishment*

## **131 Abolition of corporal punishment in schools etc.**

(1) For section 548 of the <sup>M39</sup>Education Act 1996 there shall be substituted—

### **“548 No right to give corporal punishment.**

- (1) Corporal punishment given by, or on the authority of, a member of staff to a child—
  - (a) for whom education is provided at any school, or
  - (b) for whom education is provided, otherwise than at school, under any arrangements made by a local education authority, or
  - (c) for whom specified nursery education is provided otherwise than at school,cannot be justified in any proceedings on the ground that it was given in pursuance of a right exercisable by the member of staff by virtue of his position as such.
- (2) Subsection (1) applies to corporal punishment so given to a child at any time, whether at the school or other place at which education is provided for the child, or elsewhere.
- (3) The following provisions have effect for the purposes of this section.
- (4) Any reference to giving corporal punishment to a child is to doing anything for the purpose of punishing that child (whether or not there are other reasons for doing it) which, apart from any justification, would constitute battery.
- (5) However, corporal punishment shall not be taken to be given to a child by virtue of anything done for reasons that include averting—
  - (a) an immediate danger of personal injury to, or
  - (b) an immediate danger to the property of,any person (including the child himself).
- (6) “Member of staff”, in relation to the child concerned, means—
  - (a) any person who works as a teacher at the school or other place at which education is provided for the child, or
  - (b) any other person who (whether in connection with the provision of education for the child or otherwise)—
    - (i) works at that school or place, or

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(ii) otherwise provides his services there (whether or not for payment),  
and has lawful control or charge of the child.

(7) “Child” (except in subsection (8)) means a person under the age of 18.

(8) “Specified nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age which is provided—

- (a) by a local education authority; or
- (b) by any other person—

(i) who is (or is to be) in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a) of the School Standards and Framework Act 1998, or

(ii) who is (or is to be) in receipt of grants under section 1 of the <sup>M40</sup>Nursery Education and Grant-Maintained Schools Act 1996; or

(c) (otherwise than as mentioned in paragraph (a) or (b)) in any educational institution which would fall within section 4(1) above (definition of “school”) but for the fact that it provides part-time, rather than full-time, primary education.”

F595(2) .....

**Textual Amendments**

F595 S. 131(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

**Marginal Citations**

M39 1996 c. 56.

M40 1996 c. 50.

*The funding authorities*

**132 Dissolution of Funding Agency for Schools.**

(1) The Funding Agency for Schools shall be dissolved on such date as the Secretary of State may by order specify (“the dissolution date”).

F596(2) .....

F596(3) .....

F596(4) .....

(5) Any property, rights and liabilities to which the Agency are entitled or subject immediately before the dissolution date (whether or not capable of being transferred or assigned by the Agency) shall by virtue of this section become property, rights and liabilities of the Secretary of State on that date.

F597(6) .....

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**Changes to legislation:** School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 23 May 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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- (7) Every agreement (whether written or not), and every instrument or other document, which relates to any property, right or liability of the Agency to which subsection (5) applies shall have effect, so far as may be required for continuing its effect on or after the dissolution date, as if—
- (a) where the Agency is a party to it, the Secretary of State were substituted as that party,
  - (b) for any reference to the Agency there were substituted a reference to the Secretary of State,
  - (c) for any reference (however worded and whether express or implied) to the chairman, the chief officer or any member of the Agency there were substituted a reference to such officer or officers as the Secretary of State may appoint for the purpose, and
  - (d) for any reference to the office or place of business of the Agency there were substituted a reference to the principal office of the Secretary of State.

**Textual Amendments**

**F596** S. 132(2)-(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

**F597** S. 132(6) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

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

**C176** S. 132 modified (*temp.*) (26.5.1999) by S.I. 1999/1287, reg. 3(2)(a).

**F598** **133 Removal of power to establish Schools Funding Council for Wales.**

.....

**Textual Amendments**

**F598** S. 133 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

*School and nursery inspections*

**134 Publication of inspection reports.**

**F599** (1) .....

**F600** (2) .....

- (3) In section 39 of the <sup>M41</sup>Education Act 1997 (reports of inspections of local education authorities), at the end of subsection (4) (publication of such reports) there shall be added “; and section 42A(2) to (4) of the School Inspections Act 1996 shall apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in section 42A(2).”

**Textual Amendments**

**F599** S. 134(1) repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

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**F600** S. 134(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 7](#)

#### Commencement Information

**I24** S. 134 partly in force; s. 134 not in force at Royal Assent see s. 145(3); s. 134(1)(3) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#)

#### Marginal Citations

**M41** 1997 c. 44.

### **F601** 135 Miscellaneous amendments relating to school and nursery inspections.

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#### Textual Amendments

**F601** S. 135 repealed (1.9.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\), s. 125\(4\), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 \(with Sch. 4 para. 6\)](#)

#### *Education Assets Board*

### **136 Change of name of Education Assets Board.**

- (1) The Education Assets Board shall be known instead as the Education Transfer Council.
- (2) For any reference to the Education Assets Board—
  - (a) in any statutory provision (other than this section), or
  - (b) in any instrument or document,
 there shall be substituted, as respects any time after the commencement of this section, a reference to the Education Transfer Council.
- (3) The Secretary of State may by order specify a different name by which the Council are to be known; and an order under this section may make such provision as appears to the Secretary of State to be necessary or expedient in consequence of the change of name effected by the order (including provision for amending statutory provisions).

### **137 Education Transfer Council: alteration of functions and provision for dissolution.**

- (1) Schedule 29 (which amends section 198 of, and Schedule 10 to, the <sup>M42</sup>Education Reform Act 1988, which relate to the functions of the Education Transfer Council) shall have effect.
- (2) The Secretary of State may by order make such further amendments of those provisions of that Act as he considers expedient.
- (3) Regulations may make provision—
  - (a) for the dissolution of the Education Transfer Council by order of the Secretary of State and for enabling him to determine how any property, rights and liabilities of the Council are to be dealt with in connection with their dissolution;



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- (b) for the subsequent establishment of a new body with such name as may be prescribed and constituted in the same manner as, or similarly to, the Council;
  - (c) for dealing with transfers of property, rights and liabilities under this Act [<sup>F602</sup>, under the Education Reform Act 1988 or under the Further and Higher Education Act 1992] at a time when the Council has been dissolved and either—
    - (i) a body has been subsequently established under paragraph (b), or
    - (ii) no such body has been so established.
- (4) Regulations under subsection (3) may, in connection with any matters falling within paragraph (b) or (c) of that subsection—
- (a) modify any of the provisions of section 197 or 198 of, or Schedule 8 or 10 to, the <sup>M43</sup>Education Reform Act 1988 [<sup>F603</sup> or section 34 or 36 of, or Schedule 5 or 7 to, the Further and Higher Education Act 1992];
  - (b) apply any of those provisions with or without modifications;
  - (c) make provision corresponding or similar to any of those provisions.

#### Textual Amendments

**F602** Words in s. 137(3)(c) substituted (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8 and otherwise 1.9.2000) by 2000 c. 21, s. 149, **Sch. 9 para. 87(1)(2)**; S.I. 2000/2114, art. 2(3), **Sch. Pt. III**

**F603** Words in s. 137(4)(a) inserted (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8 and otherwise 1.9.2000) by 2000 c. 21, s. 149, **Sch. 9 para. 87(1)(3)**; S.I. 2000/2144, art. 2(3), **Sch. Pt. III**

#### Marginal Citations

**M42** 1988 c. 40.

**M43** 1988 c. 40.

### Supplementary

#### 138 Orders and regulations.

- (1) Subject to subsection (2), any power of the Secretary of State [<sup>F604</sup> or the Assembly] to make an order or regulations under this Act shall be exercised by statutory instrument.
- (2) Subsection (1) does not apply to any order under—
  - (a) section 11(5), 20(5), 21(8), 73, 82, 111(3)(a) or 142(1); or
  - (b) paragraph 5 of Schedule 5, paragraph 2 or 3 of Schedule 7, <sup>F605</sup> ..., paragraph 1 of Schedule 14, paragraph 10 of Schedule 21, paragraph 4(2) [<sup>F606</sup>, 7(3)(c) or 8A] of Schedule 22 or paragraph 5(3) of Schedule 32.
- (3) Subject to subsections (4) and (5), a statutory instrument containing any order or regulations [<sup>F607</sup> made by the Secretary of State] under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to any order under—
  - (a) section 20(7), <sup>F608</sup> ... [<sup>F609</sup> 45C(2),] 69(3), 85(5), 104, 110(10) or 145; or
  - (b) <sup>F610</sup> ... paragraph 1 of Schedule 32.
- (5) Subsection (3) also does not apply to—
  - (a) any order under—

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 23 May 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)

- (i) section 1(5),  
<sup>F611</sup>(ii) .....  
<sup>F611</sup>(iii) .....
- ; or
- (b) the first regulations to be made under—  
 (i) section 38(3) or 39(1),  
 (ii) section <sup>F612</sup>... , 47 or 48(1), or  
 (iii) section 105 or 108(2);<sup>F613</sup> or
- (c) the first regulations to be made under section 45AA, or
- (d) the first regulations to be made under section 47 in relation to England after the coming into force of paragraph 6 of Schedule 16 to the Education Act 2005,] and no such order or regulations shall be made (whether alone or with other provisions) unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) If a draft of the statutory instrument containing any such regulations under section 105 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- (7) 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 [<sup>F614</sup>or the Assembly] thinks fit.
- (8) Any order or regulations under this Act may make different provision in relation to England and Wales respectively.
- (9) Nothing in this Act shall be read as affecting the generality of subsection (7).

#### Subordinate Legislation Made

- P7** S. 138(7) power partly exercised (9.9.1998): different days appointed for specified provisions by [S.I. 1998/2212](#).
- S. 138(7) power partly exercised (15.12.1998): different days appointed for specified provisions by [S.I. 1998/3198](#).
- S. 138(7) power partly exercised (20.1.1999): different days appointed for specified provisions by [S.I. 1999/120](#).
- S. 138(7) power partly exercised (13.8.1999): different days appointed for specified provisions by [S.I. 1999/2323](#).

#### Textual Amendments

- F604** Words in s. 138(1) inserted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 3\(2\)](#); [S.I. 2008/1429](#), art. 3(2), [Sch. Pt. 2](#)
- F605** Words in s. 138(2)(b) repealed (1.10.2002 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), art. 3; [S.I. 2005/2910](#), art. 4, [Sch.](#)
- F606** Words in s. 138(2)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 21](#); [S.I. 2007/935](#), art. 7(p)
- F607** Words in s. 138(3) inserted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 3\(3\)](#); [S.I. 2008/1429](#), art. 3(2), [Sch. Pt. 2](#)
- F608** Word in s. 138(4) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 3](#); [S.I. 2007/935](#), art. 7(q)

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- F609** Word in s. 138(4)(a) inserted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 111** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**
- F610** Words in s. 138(4)(b) repealed (1.10.2002 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F611** S. 138(5)(a)(ii)(iii) repealed (1.4.2003 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F612** Word in s. 138(5)(b)(ii) repealed (1.10.2002 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F613** S. 138(5)(c)(d) and preceding word inserted (1.11.2005) by Education Act 2005 (c. 18), s. 125(4), **Sch. 16 para. 8** (with s. 119); S.I. 2005/2034, art. 9
- F614** Words in s. 138(7) inserted (30.6.2008) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 17 para. 3(4)**; S.I. 2008/1429, art. 3(2), Sch. Pt. 2

### [<sup>F615</sup>138A] Regulations made by Welsh Ministers under sections 89 to 90

- (1) Any power of the Welsh Ministers to make regulations under sections 89 to 90 shall be exercisable by statutory instrument.
- (2) A statutory instrument containing any such regulations made by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Any such regulations may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Welsh Ministers think fit.]

#### Textual Amendments

- F615** S. 138A inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 71**; S.I. 2008/3077, art. 2(d)

### 139 Financial provisions.

- (1) There shall be paid out of money provided by Parliament—
  - (a) any sums required for the making by the Secretary of State of grants or loans under this Act;
  - (b) any other expenses of the Secretary of State under this Act; and
  - (c) any increase attributable to this Act in the sums so payable by virtue of any other Act.
- (2) There shall be paid into the Consolidated Fund—
  - (a) any sums received by the Secretary of State under or by virtue of this Act; and
  - (b) any fees received by <sup>F616</sup>... [<sup>F617</sup>Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru], under Schedule 26.

#### Textual Amendments

- F616** Words in s. 139(2)(b) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 34, **Sch. 18 Pt. 5**; S.I. 2007/935, art. 5(gg)(ii)

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**F617** Words in s. 139(2)(b) substituted (W.) (1.1.2001) by 2000 c. 21, s. 73(3)(a); S.I. 2000/3230, art. 2, Sch.

#### 140 Minor and consequential amendments and repeals.

- (1) The minor and consequential amendments set out in Schedule 30 shall have effect.
- (2) Unless the context otherwise requires, any reference in any enactment amended by this Act—
  - (a) to a maintained school, or
  - (b) to a community, foundation or voluntary school or a community or foundation special school,
 is a reference to such a school within the meaning of this Act.
- (3) The enactments specified in Schedule 31 (which include certain spent enactments) are repealed to the extent specified.
- (4) Any articles of government of a school which are in force under the <sup>M44</sup>Education Act 1996 immediately before the appointed day shall cease to have effect on that day.

#### Extent Information

**E4** S. 140 extends to Scotland or Northern Ireland in so far as it amends or repeals an enactment extending to Scotland or Northern Ireland.

#### Commencement Information

**I25** S. 140 wholly in force at 1.9.1999; s. 140 not in force at Royal Assent see s. 145(3); s. 140(1)(3) in force for certain purposes at 1.10.1998, 1.2.1999 and 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pts. I, III and IV; s. 140(1)(3) in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); s. 140(1) in force for a certain purpose at 1.6.1999 by S.I. 1999/1016, art. 2(2), Sch. 2 (with arts. 3-6, Sch. 4); s. 140 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

#### Marginal Citations

**M44** 1996 c. 56.

### Construction

#### 141 Minor authorities.

- (1) For the purposes of this Act a maintained school serves an area for which there are one or more minor authorities if the area served by the school is—
  - (a) a parish or community;
  - (b) an area in England which is not within a parish and is not situated in—
    - (i) a county for which there is no council, or
    - (ii) a county in which there are no district councils; or
  - (c) an area comprising two or more areas each of which falls within paragraph (a) or (b).
- (2) Where the area served by the school is a parish—

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- (a) the parish council (if there is one), or  
 (b) the parish meeting (if there is no parish council),  
 is the minor authority in relation to the school.
- (3) Where the area served by the school is a community, the community council is the minor authority in relation to the school.
- (4) Where the area served by the school is an area falling within subsection (1)(b), any district council for the whole or part of the area is a minor authority in relation to the school.
- (5) Where the area served by the school is an area falling within subsection (1)(c), each of the relevant authorities is a minor authority in relation to the school.
- (6) In subsection (5) “the relevant authorities” means the bodies which, if the two or more constituent areas referred to in subsection (1)(c) were taken separately, would be minor authorities in relation to the school.
- (7) References in this section to the area served by a school are references to the area appearing to the local education authority to be served by the school.

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

C177 S. 141 applied with modification (3.12.1998 until the appointed day) by S.I. 1998/2763, reg. 6(1)(2)

S. 141 extended (10.3.1999) by S.I. 1999/362, reg. 2(4).

S. 141 applied (with modifications) (10.3.1999) by S.I. 1999/362, reg. 8(1).

S. 141 applied (with modifications) (10.3.1999) by S.I. 1999/362, reg. 9(1).

S. 141 applied (with modifications) (10.3.1999) by S.I. 1999/362, reg. 27(1).

S. 141 applied (with modifications) (10.3.1999) by S.I. 1999/362, reg. 43(1).

S. 141 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 32(1)(2).

S. 141 applied (with modifications) (1.9.1999) by S.I. 1999/2262, reg. 32(1)(2).

S. 141 modified (1.9.1999) by S.I. 1999/2262, reg. 32(2).

## 142 General interpretation.

- (1) In this Act, unless the context otherwise requires—

<sup>F618</sup>

[<sup>F619</sup>“the Assembly” means the National Assembly for Wales;]

“Church in Wales school” means a [<sup>F620</sup>foundation or voluntary] school in the Province of Wales in relation to which the religion or religious denomination specified under section 69(4) is “Church in Wales” and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Finance for the diocese of the Church in Wales in which the school is situated or such other person as the Secretary of State may by order designate in respect of that diocese;

“Church of England school” means a [<sup>F620</sup>foundation or voluntary] school in the Province of Canterbury or York in relation to which the religion or religious denomination specified under section 69(4) is “Church of England” and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Education for the diocese of the Church of England in which the school is situated;

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“community or foundation special school” means a community special school or a foundation special school;

“contract of employment”, “employee” and “employer” have the same meaning as in the <sup>M45</sup>Employment Rights Act 1996;

“employment” (except in section 92(4)) means employment under a contract of employment, and “employed” shall be construed accordingly;

<sup>F621</sup>“exclude”, in relation to the exclusion of a child from a school, means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly);

“foundation governor”, in relation to a foundation school, a foundation special school or a voluntary school, means a person appointed as a foundation governor in accordance with regulations under section 19 of the Education Act 2002;]

“maintained school” (except in Part III) has the meaning given by section 20(7);

“prescribed” <sup>F622</sup>(except in sections 89 to 90)] means prescribed by regulations;

“reception class” means a class in which education is provided which is suitable to the requirements of pupils aged five and any pupils under or over that age whom it is expedient to educate with pupils of that age;

“regulations” <sup>F623</sup>(except in sections 89 to 90)] means regulations made by the Secretary of State under this Act;

“relevant age group”, in relation to a school, means an age group in which pupils are normally admitted (or, as the case may be, will normally be admitted) to the school;

“Roman Catholic Church school” means a <sup>F620</sup>foundation or voluntary] school in relation to which the religion or religious denomination specified under section 69(4) is “Roman Catholic” and “appropriate diocesan authority”, in relation to such a school, means the bishop of the Roman Catholic diocese in which the school is situated;

“school maintained by a local education authority”, in relation to any time on or after the appointed day, means a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school or a pupil referral unit;

“statutory provision” means a provision contained in an Act or in subordinate legislation within the meaning of the <sup>M46</sup>Interpretation Act 1978.

- (2) Before making an order in respect of any diocese in Wales in exercise of the power conferred by the definition of “appropriate diocesan authority” the Secretary of State shall consult the bishop for the diocese.
- (3) Any reference in this Act to the religion or religious denomination specified in relation to a school under section 69(4) <sup>F624</sup>or 124B(2)] shall be construed, in a case where more than one religion or religious denomination is so specified, as including a reference to any of those religions or religious denominations.
- (4) As a result of subsection (3), subsection (1) has the effect that a school may, for example, be both a Church of England school and a Roman Catholic Church school and so have a different appropriate diocesan authority in each of those capacities; and, in the case of a school with two appropriate diocesan authorities, any reference in this Act <sup>F625</sup>(or Part 4 of the Education and Inspections Act 2006)] to “the appropriate diocesan authority” is—

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- (a) in relation to anything required to be done by or in relation to that authority, a reference to both of the authorities concerned; or
  - (b) in relation to anything authorised to be done by or in relation to that authority, a reference to either or both of the authorities concerned (or, in the context of section 16(6) or (8) [<sup>F626</sup>or of section 64(4) or (6) of the Education and Inspections Act 2006], to both of them acting together).
- [<sup>F627</sup>(5) For the purposes of this Act children are to be regarded as admitted to a school for nursery education if—
- (a) in the case of a school in England, they are admitted for early years provision as defined by section 20 of the Childcare Act 2006 and are not, or are not to be, placed on admission in a reception class or any more senior class, and
  - (b) in the case of a school in Wales, if they are, or are to be, placed on admission in a nursery class.]
- (6) For the purposes of this Act references to disposing of land include references to—
- (a) granting or disposing of any interest in land;
  - (b) entering into a contract to dispose of land or to grant or dispose of any such interest; and
  - (c) granting an option to purchase any land or any such interest.
- (7) For the purposes of this Act—
- (a) a person employed by a local education authority is to be regarded as employed to work at a school if his employment with the authority for the time being involves work at that school; and
  - (b) a person employed by a local education authority is to be regarded as employed to work solely at a school if his only employment with the authority (disregarding any employment under a separate contract with the authority) is for the time being at that school.
- (8) This Act shall be construed as one with the <sup>M47</sup>Education Act 1996; and (without prejudice to their generality) paragraphs 1 and 2 of Schedule 39 to that Act (construction of references etc.) apply to references in this Act to provisions of that Act.
- (9) 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.
- (10) Subsection (1) of section 576 of that Act (meaning of “parent”) shall, in its application for the purposes of—
- (a) section 43 or 62(2) of this Act, or
  - (b) paragraph 4 of Schedule 2 or paragraph 4 or 14 of Schedule 9 to this Act,
- be taken as referring only to persons within paragraph (a) or (b) of that subsection who are individuals.

### Textual Amendments

**F618** S. 142(1): definition of “the appropriate further education funding council” repealed (28.7.2000 for specified purposes and otherwise 1.4.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 88, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)

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- F619** Words in s. 142(1) inserted (30.6.2008) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 17 para. 4**; S.I. 2008/1429, art. 3(2), Sch. Pt. 2
- F620** Words in s. 142(1) inserted (1.9.2003) by The Independent Schools (Employment of Teachers in Schools with a Religious Character) Regulations 2003 (S.I. 2003/2037), regs. 1(1), **4(2)**
- F621** Words in s. 142(1) inserted (1.4.2003 for E. for specified purposes, 1.9.2003 for E. In so far as not already in force, 9.1.2004 for W. for specified purposes, 31.10.2005 for W. so far as not already in force) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 112** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2003/1667, art. 4; S.I. 2003/2961, art. 7, Sch. Pt. IV; S.I. 2005/2910, art. 4, Sch.
- F622** Words in s. 142(1) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 72(a)**; S.I. 2008/3077, art. 2(d)
- F623** Words in s. 142(1) inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 72(b)**; S.I. 2008/3077, art. 2(d)
- F624** Words in s. 142(3) inserted (1.9.2003) by The Independent Schools (Employment of Teachers in Schools with a Religious Character) Regulations 2003 (S.I. 2003/2037), regs. 1(1), **4(3)**
- F625** Words in s. 142(4) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 15(a)**; S.I. 2007/935, art. 5(cc)
- F626** Words in s. 142(4)(b) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 15(b)**; S.I. 2007/935, art. 5(cc)
- F627** S. 142(5) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 35**; S.I. 2008/2261, art. 2 (with Sch. 1)

#### Marginal Citations

- M45** 1996 c. 18.  
**M46** 1978 c. 30.  
**M47** 1996 c. 56.

## 143 Index.

The expressions listed in the left-hand column below are defined by, or (as the case may be) are to be interpreted in accordance with, the provisions of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
ability (in Chapter II of Part III)	section 99(5)
adjudicator	section 25(3)
admission arrangements (in Part III in relation to a maintained school)	sections 88(2) and 99(5)
admission authority (in Chapter I of Part III in relation to a maintained school)	section 88(1)
admitted to a school for nursery education	section 142(5)
alteration (in Part II in the context of a prescribed alteration to a maintained school)	section 28(11)
appeal panel (in Chapter I of Part III)	section 84(6)
appointed day (except in Part I of Schedule 32)	section 20(7)



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appropriate diocesan authority (in relation to a Church in Wales, Church of England or Roman Catholic Church school)	section 142(1) and (4)
appropriate further education funding council	section 142(1)
area (in Part II)	section 28(11)
[ <sup>F628</sup> Assembly	section 142(1)]
budget share (in Part II)	section 47(1)
Chief Inspector (in Chapter IV of Part I)	section 14(4)
child (in Chapter I of Part III but not in sections 96 and 97)	section 84(6)
[ <sup>F629</sup> child looked after by a local authority (in Chapter 1 of Part 3)	section 84(7)]
Church in Wales school	section 142(1)
Church of England school	section 142(1)
class (in Chapter I of Part I)	section 4
community or foundation special school	section 142(1)
“contract of employment” and other expressions relating to employment	section 142(1) and (7)
discontinuing, and implementing proposals to discontinue, a school (in Part II in relation to a local education authority)	section 29(10)
disposing of land	section 142(6)
education action zone (in Chapter III of Part I)	section 10(1)
exclude, exclusion (in relation to the exclusion of a child from a school)	[ <sup>F630</sup> section 142(1)]
foundation (in relation to a foundation or voluntary school) (and having a foundation)	section 21(3)
foundation body	section 21(4)
foundation governor	[ <sup>F631</sup> section 142(1)]
governing body	
(in Chapter III of Part I)	section 10(6)
(of a maintained school or of a school maintained by a local education authority) (in Chapter IV of Part II)	section 45(3)
grammar school (in Chapter II of Part III)	section 104(7)

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group (in relation to a foundation body)	section 21(4)
individual schools budget (in Part II)	[ <sup>F632</sup> section 45A(3)]
infant class (in Chapter I of Part I)	section 4
land or other property held on trust, or by trustees, for the purposes of a school	section 21(3)(c)
[ <sup>F633</sup> LEA budget (in Part 2)	section 45A(1)]
local education authority (in relation to a school maintained, or proposed to be maintained, by such an authority)	section 22(8)
[ <sup>F634</sup> local schools budget (in Part II)	section 46(1)]
maintain (in relation to a maintained school or a maintained nursery school)	section 22(8)
maintained school	
(generally)	section 20(7)
[ <sup>F635</sup> (in Chapter 4 of Part 1)	section 14(3A)]
(in Chapter IV of Part II in a context referring to a local education authority)	section 45(3)
(in Chapter I of Part III)	section 84(6)
(in Chapter II of Part III)	section 99(5)
maintained nursery school	section 22(9)
member of the Inspectorate (in Chapter IV of Part I)	section 14(4)
minor authority	section 141
new school (in Chapter IV of Part II)	section 45(4)
nursery education (in Part V)	section 117
ordinary teaching session (in Chapter I of Part I)	section 4
participating school (in Chapter III of Part I in relation to an education action zone)	section 10(6)
[ <sup>F636</sup> prescribed	
(generally)	section 142(1)
(in sections 89 to 90)	section 90ZA]
promoters (in Part II) [ <sup>F637</sup> in relation to Wales]	section 28(2) <sup>F638</sup>
...	
[ <sup>F639</sup> school teacher](in Chapter I of Part I in relation to an infant class)	section 4
reception class	section 142(1)

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[ <sup>F640</sup> regulations	
(generally)	section 142(1)
(in sections 89 to 90)	section 90ZA]
relevant age group	section 142(1)
[ <sup>F641</sup> relevant standard number (in Chapter I of Part III)	section 84(6)]
right to a delegated budget (in Part II)	section 49(7)
Roman Catholic Church school	section 142(1)
scheme (in Part II in relation to a maintained school)	section 48(5)
school having a delegated budget (in Part II)	section 49(7)
school maintained by a local education authority	
(generally)	section 142(1)
(in Chapter IV of Part II)	section 45(3)
school opening date	[ <sup>F642</sup> section 33(6)]
<sup>F643</sup>	<sup>F643</sup>
...	...
school requiring special measures (in Chapter IV of Part I)	section 14(4)
[ <sup>F644</sup> school which has a religious character ]	
[ <sup>F644</sup> (in Part 2 in relation to a foundation or voluntary school)	section 69(3)]
[ <sup>F644</sup> (in Part 5A in relation to an independent school)	sections 69(3) and 124B(1).]
school which has selective admission arrangements (in Chapter II of Part III)	section 104(2)
[ <sup>F645</sup> schools budget (in Part 2)	section 45A(2)]
specified religion or religious denomination	section 142(3)
statutory provision	section 142(1)

### Textual Amendments

**F628** Words in s. 143 inserted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 17 para. 5**; S.I. 2008/1429, art. 3(2), Sch. Pt. 2

**F629** Words in s. 143 inserted (8.1.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), **ss. 50(4)**, 188(3); S.I. 2006/3400, art. 3(c)

**F630** Words in s. 143 substituted (1.9.2003 for E., 9.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 113(a)** (with **ss. 210(8)**, 214(4)); S.I. 2003/1667, art. 4; S.I. 2003/2961, art. 7, Sch. Pt. IV

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- F631** Words in s. 143 substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 113(b)** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.
- F632** Words in s. 143 substituted (1.10.2002 for E., 4.12.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 113(c)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 2); S.I. 2003/2961, art. 5, Sch. Pt. II
- F633** Words in s. 143 inserted (1.10.2002 for E., 4.12.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 113(d)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 2); S.I. 2003/2961, art. 5, Sch. Pt. II
- F634** Words in s. 143 repealed (1.10.2002 for E., 4.12.2003 for W. for specified purposes) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 5); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 35); S.I. 2003/2961, art. 5, Sch. Pt. II
- F635** Words in s. 143 inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 7 para. 16**; S.I. 2007/935, art. 5(cc)
- F636** S. 143 entry substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 73(2)**; S.I. 2008/3077, art. 2(d)
- F637** Words in s. 143 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 30(a)(i)**; S.I. 2007/935, art. 7(o)
- F638** Words in s. 143 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 30(a)(ii), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F639** Words in s. 143 substituted (19.12.2002 for W., 1.8.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 113(e)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/1667, art. 3
- F640** S. 143 entry substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 73(3)**; S.I. 2008/3077, art. 2(d)
- F641** Words in s. 143 repealed (1.10.2002 for E., 4.12.2003 for W. for specified purposes, 1.2.2006 for W. for specified purposes) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 5); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 35); S.I. 2003/2961, art. 5, Sch. Pt. II; S.I. 2006/172, art. 4, Sch.
- F642** Words in s. 143 substituted (1.9.2003 for E., 31.10.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 113(f)** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2005/2910, art. 4, Sch.
- F643** Words in s. 143 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 30(b), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F644** Words in s. 143 substituted (1.9.2003) by The Independent Schools (Employment of Teachers in Schools with a Religious Character) Regulations 2003 (S.I. 2003/2037), regs. 1(1), **5**
- F645** Words in s. 143 inserted (1.10.2002 for E., 4.12.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 113(g)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with art. 4, Sch. para. 2); S.I. 2003/2961, art. 5, Sch. Pt. II

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

- C178** S. 143 savings for effects of 2002 c. 32, ss. 41(3), 215, Sch. 21 paras. 100(1)(2), 113, 125, Sch. 22 Pt. 3 (W.) (19.11.2003) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (No.2) (Wales) Regulations 2003 (S.I. 2003/2959), regs. 1(1), **5**

#### Final provisions

#### 144 Transitional provisions etc.

- (1) Regulations may at any time make such incidental, consequential, transitional or supplementary provision as appears to the Secretary of State to be necessary or

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expedient for the general purposes, or any particular purposes, of this Act or in consequence of any of its provisions or for giving full effect to it.

- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) for enabling any authority or body by whom any functions will become exercisable on the appointed day by virtue of any provision made by or under this Act to take before that day any steps (such as the establishment of committees or the undertaking of consultation) which are necessary or expedient in preparation for the exercise of those functions;
  - (b) for requiring any body—
    - (i) by whom any functions will cease to be exercisable at any time, or
    - (ii) who are required to be reconstituted as from any time,
 by virtue of any provision made by or under this Act to take before that time any steps (such as the provision of information, the furnishing of other assistance or the taking of any decision) which are necessary or expedient in preparation for the exercise of functions conferred on any authority or other body, by virtue of any such provision, as from that time or (as the case may be) in preparation for their reconstitution;
  - (c) for the making before the appointed day of arrangements for securing the satisfactory operation from that day of any such provision and for defraying the cost of any such arrangements;
  - (d) for prohibiting or restricting the taking of steps before the appointed day which, by virtue of any such provision, will cease to be capable of being taken as from that day;
  - (e) for enabling the determination under the regulations of matters pending immediately before the appointed day;
  - (f) for any provision of this Act which comes into force before—
    - (i) another such provision has come into force, or
    - (ii) anything falling to be done under another such provision (such as the approval of a school organisation plan) has been done,
 to have effect, until that other provision has come into force or (as the case may be) that thing has been done, with such modifications as are specified in the regulations;
  - (g) for amending, repealing or revoking (with or without savings) any statutory provision passed or made before the appointed day, for applying any such provision (with or without modification) and for making savings or additional savings from the effect of any amendment or repeal made by this Act.
- (3) Without prejudice to the generality of subsection (1) or any provision of subsection (2), regulations under subsection (1) may provide—
- (a) for any relevant provision to apply (with or without modification) to, or to any description of—
    - (i) schools maintained by a local education authority within the meaning of the <sup>M48</sup>Education Act 1996, or
    - (ii) grant-maintained or grant-maintained special schools within the meaning of that Act;
  - (b) for any provision so applied, or any provision of the regulations, to have effect in relation to schools despite anything in their articles or instruments of government;

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- (c) for any reference in this Act to the appointed day to have effect instead as a reference to such day as is specified in the regulations;  
and accordingly references to the appointed day in subsection (2) include, in relation to any purposes for which any provision made by virtue of paragraph (c) above has effect, references to any such other day as is mentioned in that paragraph.
- (4) In paragraph (a) of subsection (3) “relevant provision” means—
- (a) (in relation to sub-paragraph (i) or (ii) of that paragraph) any provision of the Education Acts which is expressed to apply to, or to any description of, schools maintained by a local education authority within the meaning of this Act, or
- (b) (in relation only to sub-paragraph (ii) of that paragraph) any provision of the Education Acts which is expressed to apply to, or to any description of, schools maintained by a local education authority within the meaning of the <sup>M49</sup>Education Act 1996;  
and in that paragraph and this subsection “school” includes a proposed school.
- (5) The amendments that may be made under subsection (2)(g) shall be in addition (and without prejudice) to those made by any other provision of this Act.
- (6) Nothing in this Act shall be read as prejudicing the generality of subsection (1).
- (7) The transitional provisions and savings in Schedule 32 shall have effect.

#### Subordinate Legislation Made

**P8** S. 144: power exercised, 20.11.1998 appointed by [S.I. 1998/2670](#), **reg. 1**

**P9** S. 144: power exercised, 3.12.1998 appointed by [S.I. 1998/2763](#), **reg. 1**

s. 144(1): power exercised, 6.1.1999 appointed by [S.I. 1998/3165](#), **reg. 1**

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

**C179** S. 144: Transfer of functions (16.2.2000) by [S.I. 2000/253](#), **art. 2(1)**, **Sch. 1**

#### Marginal Citations

**M48** 1996 c. 56.

**M49** 1996 c. 56.

### 145 Short title, commencement and extent.

- (1) This Act may be cited as the School Standards and Framework Act 1998.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the <sup>M50</sup>Education Act 1996.
- (3) Subject to subsections (4) and (5), 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—  
sections 1 to 4;  
sections 20 and 21;  
section 36(3);

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section 82;  
 sections 84 and 85;  
 section 130;  
 sections 138, 139, 141 to 144 and this section;  
 Schedule 2;  
 Parts I and III of Schedule 11;  
 paragraph 224 of Schedule 30 (and section 140(1) so far as relating thereto); and  
 Schedule 32.

- (5) The following provisions come into force on the day on which this Act is passed, but for the purposes only of the preparation of instruments of government and the constitution of governing bodies and the exercise (in relation to those or any other matters) of any power to make regulations—  
 sections 36(1) and (2) and 37(1) and (2); and  
 Schedules 9, 10 and 12.
- (6) Subject to subsections (7) and (8), this Act extends to England and Wales only.
- (7) Section 130(2) extends to Scotland only; and this section extends also to Scotland.
- (8) The amendment or (subject to subsection (9)) 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, and section 140 extends accordingly.
- (9) The entry in Schedule 31 relating to the <sup>M51</sup>Education (Scotland) Act 1980 extends to Scotland only.

#### Subordinate Legislation Made

**P10** S. 145(3) power partly exercised (7.8.1998): different dates appointed for specified provisions by [S.I. 1998/2048](#)

**P11** S. 145(3) power partly exercised (9.9.1998): different dates appointed for specified provisions by [S.I. 1998/2212](#)

S. 145(3) power partly exercised (15.12.1998): different dates appointed for specified provisions by [S.I. 1998/3198](#)

S. 145(3) power partly exercised (20.1.1999): different dates appointed for specified provisions by [S.I. 1999/120](#)

S. 145(3) power partly exercised (13.8.1999): different dates appointed for specified provisions by [S.I. 1999/2323](#)

S. 145(3) power partly exercised: 1.4.2001 appointed for specified provision by [S.I. 2001/1195, art. 2\(1\)](#)

S. 145(3) power partly exercised: 20.7.2001 appointed for specified provision by [S.I. 2001/2663, art. 2](#)

#### Marginal Citations

**M50** 1996 c. 56.

**M51** 1980 c. 44.

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## SCHEDULES

### SCHEDULE 1

Section 11.

#### PROVISIONS RELATING TO AN EDUCATION ACTION FORUM

##### *Powers*

- 1 (1) An Education Action Forum may, subject to sub-paragraph (2), do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions.
- (2) A Forum shall not have power to borrow money.

##### *Chairman*

- 2 The members of an Education Action Forum shall elect one of their number to be chairman of the Forum, who shall hold office for such period as is specified in the order by which the Forum is established under section 10(1).

##### *Committees*

- 3 An Education Action Forum may—
- (a) establish a committee for any purpose; and
  - (b) authorise any such committee to exercise such of its functions as it may determine.

##### *Proceedings*

- 4 The Secretary of State may by regulations make provision as to the meetings and proceedings of an Education Action Forum.
- 5 The validity of the proceedings of an Education Action Forum shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 6 Subject to the preceding provisions of this Schedule, an Education Action Forum may regulate its own procedure and that of any of its committees.

##### *Accounts*

- 7 (1) It shall be the duty of an Education Action Forum—
- (a) to keep proper accounts and proper records in relation to the accounts,
  - (b) to prepare in respect of each financial year of the Forum a statement of accounts, and
  - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.



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- (2) The statement of accounts shall comply with any directions given by the Secretary of State as to—
  - (a) the information to be contained in it,
  - (b) the manner in which the information contained in it is to be presented, or
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the date on which the Forum is established and ending with the 31st March following that date, and each successive period of twelve months.

#### *Application of seal and proof of instruments*

- 8 The application of the seal of an Education Action Forum shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specially by the Forum to act for that purpose, and
  - (b) of one other member.
- 9 Every document purporting to be an instrument made or issued by or on behalf of an Education Action Forum and to be duly executed under the seal of the Forum, or to be signed or executed by a person authorised by the Forum to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

#### *Charitable status*

- 10 An Education Action Forum shall be a charity [<sup>F646</sup>within the meaning of the Charities Act 1993, and is an institution to which section 3A(4)(b) of that Act applies (institutions to be excepted from registration under that Act).]

#### **Textual Amendments**

**F646** Words in Sch. 1 para. 10 substituted (31.1.2009) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 195; S.I. 2008/3267, art. 2, Sch. (with arts. 3-27) (as amended: (29.9.2009) by S.I. 2009/2648, art. 3; (26.7.2010) by S.I. 2010/1942, art. 2; and (1.8.2011) by S.I. 2011/1725, arts. 1(2), 3, Sch. para. 6)

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## [<sup>F647</sup>SCHEDULE 1A

Section 19A

### GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

#### Textual Amendments

**F647** Sch. 1A inserted (2.9.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), ss. 59(2), 216(4), Sch. 6 (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

#### Interpretation of Schedule

1 (1) In this Schedule—

“the appropriate authority” means—

- (a) where this Schedule applies by virtue of a notice under section 16A(1), the local education authority who gave the notice, and
- (b) where this Schedule applies by virtue of a notice under section 18A(1), the [<sup>F648</sup>Assembly];

“existing governors”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;

“the interim period”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule;

“a normally constituted governing body” means a governing body constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002 (governing bodies).

(2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

#### Textual Amendments

**F648** Word in Sch. 1A substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 7 para. 17; S.I. 2007/935, art. 5(cc)

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

**C180** Sch. 1A para. 1 modified (temp.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), regs. 1, 5(a)

#### *Governing body to consist of members appointed by appropriate authority*

2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002.

(2) In the following provisions of this Schedule—

- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and

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- (b) the members of the governing body as so constituted are referred to as “interim executive members”.

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

**C181** Sch. 1A para. 2 modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [regs. 1, 5\(b\)](#)

*Effect of notice under section 16A(1) or 18A(1)*

- 3 (1) On the date specified in the notice under section 16A(1) or 18A(1), the existing governors shall vacate office.
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.
- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school shall have effect, in relation to the school, as a reference to an interim executive member.
- (4) During the interim period, section 83 (modification of provisions making governors of foundation or voluntary school ex officio trustees) shall have effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

*Interim executive members*

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members shall be made so as to take effect on the date specified in the notice under section 16A(1) or 18A(1).
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.
- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.
- (2) An interim executive member—
- (a) shall hold office in accordance with the terms of his appointment and subject to paragraph 18, and
- (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice.

*Duty of appropriate authority to inform other persons*

- 6 (1) The appropriate authority shall give a copy of the notice under section 16A(1) or 18A(1) and of every instrument of appointment of an interim executive member—
- (a) to every interim executive member,
- (b) to every existing governor of the school,

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- (c) where the local education authority are the appropriate authority, to the [<sup>F648</sup>Assembly],
- (d) where the [<sup>F648</sup>Assembly] is the appropriate authority, to the local education authority,
- (e) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, to the appropriate diocesan authority, and
- (f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed.

(2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

#### **Textual Amendments**

**F648** Word in *Sch. 1A* substituted (1.4.2007) by *Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 7 para. 17; S.I. 2007/935, art. 5(cc)*

#### *Power to specify duration of interim period*

7 The appropriate authority may in the notice under section 16A(1) or 18A(1) specify the duration of the interim period.

#### *Chairman*

8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

#### *Remuneration and allowances*

9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

#### *Duty of interim executive board*

- 10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

#### *Proceedings of interim executive board*

- 11 (1) The interim executive board may determine their own procedure.
- (2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person.

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### *Effect on suspension of delegated budget*

- 12 (1) If immediately before the date specified in a notice under section 16A(1) or 18A(1) the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 (suspension of delegated budget for mismanagement etc.) has been given to the governing body before the date specified in a notice under section 16A(1) or 18A(1) but has not yet taken effect, the notice shall cease to have effect on that date.
- (3) During the interim period, the local education authority may not exercise the power conferred by section 17 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7).

### *Exclusion of certain statutory provisions*

- 13 (1) Regulations made by virtue of subsection (2) or (3) of section 19 of the Education Act 2002 (governing bodies) shall not apply in relation to the interim executive board.
- (2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board.

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

**C182** Sch. 1A para. 13 modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [regs. 1, 5\(c\)](#)

- 14 During the interim period—
- (a) the local education authority may not exercise any power conferred by section 16 (power to appoint additional governors), and
- (b) the [<sup>F648</sup>Assembly] may not exercise any power conferred by section 18 (power to appoint additional governors).

#### **Textual Amendments**

**F648** Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 17](#); [S.I. 2007/935](#), art. 5(cc)

### *Closure of school*

- 15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the [<sup>F648</sup>Assembly] recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
- (a) publish under section 29(2) proposals to discontinue the school, or
- (b) serve notice under section 30(2).

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#### Textual Amendments

**F648** Word in *Sch. 1A* substituted (1.4.2007) by *Education and Inspections Act 2006 (c. 40)*, s. 188(3), *Sch. 7 para. 17*; S.I. 2007/935, art. 5(cc)

- 16 (1) Where during the interim period—
- (a) the [<sup>F648</sup>Assembly] gives a direction under section 19(1) or 32(1) in relation to the school, or
  - (b) the local education authority determine to discontinue the school,
- the interim period shall continue until the discontinuance date, even where it would otherwise end before that date.
- (2) In this paragraph “the discontinuance date” means—
- (a) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6,
  - (b) the date on which the school is discontinued under section 30, or
  - (c) the date specified in the direction under section 19(1) or 32(1),
- as the case may be.

#### Textual Amendments

**F648** Word in *Sch. 1A* substituted (1.4.2007) by *Education and Inspections Act 2006 (c. 40)*, s. 188(3), *Sch. 7 para. 17*; S.I. 2007/935, art. 5(cc)

#### *Notice of resumption of government by normally constituted governing body*

- 17 (1) Where—
- (a) the notice under section 16A(1) or 18A(1) did not specify the duration of the interim period, and
  - (b) paragraph 16 does not apply,
- the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body.
- (2) The persons referred to in sub-paragraph (1) are—
- (a) every interim executive member,
  - (b) where the local education authority are the appropriate authority, the [<sup>F648</sup>Assembly],
  - (c) where the [<sup>F648</sup>Assembly] is the appropriate authority, the local education authority,
  - (d) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

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### Textual Amendments

**F648** Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\)](#), [Sch. 7 para. 17](#); [S.I. 2007/935, art. 5\(cc\)](#)

### *Time when interim executive members cease to hold office*

- 18 (1) The interim executive members shall vacate office—
- in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
  - in a case where that paragraph does not apply and the notice under section 16A(1) or 18A(1) specified the duration of the interim period, at the end of the specified period, and
  - in any other case, on the date specified under paragraph 17 (1).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.

### *Establishment of normally constituted governing body*

- 19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18(1)(b) or (c), the local education authority shall make arrangements providing for the constitution of the governing body on and after that date.
- (2) Regulations may make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- modify any provision made under any of sections 19, 20 and 23 of the Education Act 2002 or by Schedule 1 to that Act,
  - apply any such provision with or without modifications, and
  - make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.]

## SCHEDULE 2

Section 20.

### ALLOCATION OF EXISTING SCHOOLS TO NEW CATEGORIES

### Modifications etc. (not altering text)

**C183** Sch. 2 excluded (7.9.1998) (*temp.*) by [S.I. 1998/1969, reg.18](#)

### *Allocation of LEA-maintained schools*

- 1 A school which immediately before the appointed day is (within the meaning of the <sup>M52</sup>Education Act 1996)—

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- (a) a county school,
- (b) a controlled, aided or special agreement school, or
- (c) a maintained special school,

shall become on that day a school of the category to which it is allocated by the following table.

<i>Existing school</i>	<i>Allocated new category</i>
A county school.	Community school.
A controlled school.	Voluntary controlled school.
(1) An aided school.	Voluntary aided school.
(2) A special agreement school.	
A maintained special school.	Community special school.

**Marginal Citations**

**M52** 1996 c. 56.

*Allocation of grant-maintained and grant-maintained special schools*

- 2 A school which immediately before the appointed day is (within the meaning of the <sup>M53</sup>Education Act 1996)—
- (a) a grant-maintained school, or
  - (b) a grant-maintained special school,
- shall become on that day a school of the category to which it is to be allocated in accordance with the following paragraphs of this Schedule.

**Marginal Citations**

**M53** 1996 c. 56.

*Indicative allocation of schools within paragraph 2*

- 3 For the purposes of this Schedule the indicative allocation of a school within paragraph 2 is shown in the following table.

Any reference in the first column to a school of a particular description is a reference to a school of that description within the meaning of the Education Act 1996.

<i>Existing school</i>	<i>Indicative new category</i>
(1) A grant-maintained school formerly a county or controlled school.	Foundation school.
(2) A grant-maintained school established by the Funding Agency for Schools.	
(1) A grant-maintained school formerly an aided or special agreement school.	Voluntary aided school.



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(2) A grant-maintained school established by promoters (within the meaning of Part III of the Education Act 1996).

A grant-maintained special school.

Foundation special school.

*Preliminary decision by governing body as to new category*

- 4 (1) The governing body of a school within paragraph 2 shall in the first instance take a decision (their “preliminary decision”) on the question whether—
- (a) to accept the school’s allocation to a particular category in accordance with its indicative allocation, or
  - (b) to opt for it to be allocated to a different category.
- (2) Regulations may make provision as to the procedure to be followed in connection with the taking by governing bodies of their preliminary decisions under sub-paragraph (1).
- (3) Regulations under sub-paragraph (2) may, in particular, make provision—
- (a) as to the consultation to be carried out by governing bodies before taking their preliminary decisions;
  - (b) as to the time by which governing bodies are to take such decisions;
  - (c) as to the notification of such decisions to prescribed persons;
  - (d) as to the provision of prescribed information to prescribed persons;
  - (e) authorising governing bodies to charge a fee (not exceeding the cost of supply) for prescribed documents supplied by them in pursuance of regulations made by virtue of paragraph (d);
  - (f) requiring the holding of ballots of registered parents in prescribed cases;
  - (g) enabling the Secretary of State, in any prescribed circumstances, to declare a previous ballot void and require the holding of a fresh ballot;
  - (h) as to the conduct of ballots held under the regulations;
  - (i) specifying criteria for determining, for the purposes of the regulations and this Schedule, the result of any such ballot.

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

C184 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Final decision by governing body as to new category*

- 5 (1) Where—
- (a) the governing body of a school within paragraph 2 have taken their preliminary decision under sub-paragraph (1) of paragraph 4, and
  - (b) the result of a ballot held by virtue of that paragraph does not accord with that decision,
- the governing body shall reconsider the question set out in that sub-paragraph, having regard to the result of the ballot, and shall then take a further decision on that question.
- (2) Where—

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- (a) the governing body of a school within paragraph 2 have taken their preliminary decision under sub-paragraph (1) of paragraph 4, and
- (b) either—
  - (i) a ballot was held by virtue of that paragraph whose result (if any) was not to disagree with that decision, or
  - (ii) no such ballot was required to be held,
 the governing body shall take a further decision confirming their preliminary decision.
- (3) Regulations may make provision as to the procedure to be followed in connection with the taking by governing bodies of their final decisions (including, in particular, provision as to the time by which governing bodies are to take such decisions).
- (4) In this Schedule any reference to a governing body’s “final decision” is a reference to any such further decision as is required by sub-paragraph (1) or (2).

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

C185 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Notification of final decision*

- 6 (1) Once the governing body of a school within paragraph 2 have taken their final decision, they shall give written notification of that decision to the Secretary of State.
- (2) Regulations may make provision—
  - (a) requiring governing bodies—
    - (i) when giving such notifications, to certify such matters as may be specified in the regulations, and
    - (ii) to provide such information to such persons as may be so specified;
  - (b) as to the time by which such notifications are to be given or such information is to be provided.

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

C186 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Final determination of new category*

- 7 (1) If—
  - (a) the final decision of the governing body of a school within paragraph 2 accorded with the school’s indicative allocation, and
  - (b) either—
    - (i) a ballot was held by virtue of paragraph 4 whose result (if any) was not to disagree with that allocation, or
    - (ii) no such ballot was required to be held,
 the school shall be allocated to the category provided for by its indicative allocation.
- (2) If in the case of a school within paragraph 2—
  - (a) the final decision of the governing body, or

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- (b) the result of a ballot held by virtue of paragraph 4, did not accord with the school's indicative allocation, the school shall be allocated to such category (whether or not that provided for by its indicative allocation) as the Secretary of State may determine in conformity with regulations under paragraph 8.
- (3) The Secretary of State shall notify the governing body of each school within paragraph 2 of the category to which it is allocated in accordance with this paragraph.

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

C187 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

*Restrictions on decisions as to categories*

- 8 Regulations may make provision for prohibiting a school of any description specified in the regulations—
- (a) from being allocated under paragraph 7 to a category so specified; or
- (b) from being so allocated unless such conditions are satisfied as are so specified.

**Subordinate Legislation Made**

P12 Power conferred by Sch. 2, para.8 exercised; 7.9.1998 appointed by S.I. 1998/1969, reg. 1

*Transitional arrangements: schools within paragraph 2*

- 9 (1) Where the category to which a school within paragraph 2 is to be allocated has not been finally determined, in accordance with the preceding paragraphs of this Schedule, by the appointed day, the school shall be taken to be allocated on that day to the category provided for by its indicative allocation.
- (2) Sub-paragraph (1) does not prevent such a school from being subsequently allocated to a different category in accordance with paragraph 7.
- (3) Where such a school is subsequently so allocated, section 20(2)(a) shall apply to it as if it had been allocated to the category in question on the appointed day.

*Transitional arrangements: general*

- 10 (1) Regulations may make such provision as the Secretary of State considers appropriate in connection with the allocation to the new categories of maintained schools of schools—
- (a) to which paragraph 9(1) applies; or
- (b) whose school opening date falls on or after the date of the passing of this Act; or
- (c) in relation to which a duty to implement proposals to discontinue the school has arisen, or a notice to discontinue the school has been given; or
- (d) in relation to which a notice has been given under section 272 of the <sup>M54</sup>Education Act 1996 (school unsuitable to continue as grant-maintained school) which contains such a statement as is mentioned in subsection (3) or (5)(b) of that section.

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- (2) Regulations under sub-paragraph (1) may provide that any provision of the Education Acts shall apply to any such school with such modifications as are specified in the regulations.

**Subordinate Legislation Made**

**P13** Power conferred by Sch. 2, para. 10 exercised; 7.9.1998 appointed by [S.I. 1998/1969, reg. 1](#)

**Marginal Citations**

**M54** [1996 c. 56.](#)

*Effect of allocation*

- 11 The allocation of a school to a particular category under this Schedule shall not be taken as authorising or requiring any change as from the appointed day in the character of the school conducted by its governing body (including, in particular, any religious character of the school).

SCHEDULE 3

Section 22.

FUNDING OF FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS

**PART I**

FOUNDATION, VOLUNTARY CONTROLLED AND FOUNDATION SPECIAL SCHOOLS

*Obligations of governing bodies*

- 1 (1) The governing body of a foundation, voluntary controlled or foundation special school are (in accordance with section 22(4)) not responsible for any of the expenses of maintaining the school.
- (2) Sub-paragraph (1) does not apply to the repayment of the principal of, or interest on, a loan made to the governing body.

*Obligations of LEAs as regards provision of sites and buildings  
 (otherwise than in connection with statutory proposals)*

- 2 (1) In the case of a foundation, voluntary controlled or foundation special school, the local education authority shall provide—
- (a) any new site which is to be provided in addition to, or instead of, the school's existing site (or part of its existing site), and
  - (b) any buildings which are to form part of the school premises.
- (2) Sub-paragraph (1) does not—
- [<sup>F649</sup>(a) apply in relation to the provision of any site or buildings which—
- (i) in the case of a school in England, the authority or the person by whom any proposals were made are required to provide by

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- virtue of Part 3 of Schedule 2 to the Education and Inspections Act 2006 (provision of premises in connection with proposals for establishment of school) or by virtue of regulations under section 24 of that Act (implementation of proposals for alteration of school), or
- (ii) in the case of a school in Wales, the authority or promoters are required to provide by virtue of Part 3 of Schedule 6 (provision of premises in connection with statutory proposals); or]
- (b) require the local education authority to finance the acquisition by the governing body of any site or buildings provided otherwise than by the authority.
- (3) Where a site is provided for a school under this paragraph, the local education authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
- (b) if the school has no trustees, to the school's foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (4) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (5) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (6) Where—
- (a) a transfer is made under this paragraph, and
- (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons shall notify the local education authority that paragraph (b) applies to them and they or their successors shall pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Secretary of State.
- (7) In sub-paragraph (6)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent; and
- (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (6) regard shall be had to any guidance given from time to time by the Secretary of State.
- (8) Any sum paid under sub-paragraph (6) shall be treated for the purposes of section 14 of the <sup>M55</sup>Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.

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- (9) A determination may be made under sub-paragraph (6) in respect of any property subject to a trust which has arisen under section 1 of the <sup>M56</sup>Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) if (and only if)—
- (a) the determination is made by the Secretary of State, and
  - (b) he is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (10) Sub-paragraph (6) shall apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (6)(b) (if any) as remains after the application of paragraphs [<sup>F650</sup>A1 to A16 or] 1 to 3 of Schedule 22 to that sum.
- (11) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, and
  - (b) in relation to a transfer to a school’s governing body, the purposes of the school;
- “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

#### Textual Amendments

**F649** Sch. 3 para. 2(2)(a) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 31\(2\)](#); S.I. 2007/935, art. 7(o)

**F650** Words in Sch. 3 para. 2(10) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 22](#); S.I. 2007/935, art. 7(p)

#### Marginal Citations

**M55** 1841 c. 38.

**M56** 1987 c. 15.

## PART II

### VOLUNTARY AIDED SCHOOLS

#### *[<sup>F651</sup>Interpretation of Part*

#### Textual Amendments

**F651** Sch. 3 para. 2A and cross-heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 31\(3\)](#); S.I. 2007/935, art. 7(o)

- 2A In this Part of this Schedule “promoters”, in relation to a school in England, means persons who are for the purposes of Schedule 2 to the Education and Inspections Act 2006 the proposers in relation to proposals for the establishment of the school.]

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*Obligations of governing bodies*

- [<sup>F652</sup>3 (1) In the case of a voluntary aided school, the governing body of the school are responsible for meeting all capital expenditure in relation to the school premises subject to sub-paragraph (2) below.
- (2) The duty in sub-paragraph (1) does not extend—
- (a) to capital expenditure in relation to playing fields or any building or other structure erected thereon in connection with the use of playing fields, but does extend to capital expenditure in relation to boundary walls and fences;
  - (b) to capital expenditure necessary in consequence of the use of the school premises, in pursuance of a direction or requirement of the local education authority, for purposes other than those of the school;
  - (c) to capital expenditure on the provision of any new site which the local education authority is to provide by virtue of paragraph 4 of this Schedule.
- <sup>F653</sup>(3) . . . . .]

*Obligations of LEAs as regards provision of sites  
(otherwise than in connection with statutory proposals)*

- 4 (1) In the case of a voluntary aided school, the local education authority shall provide any new site which is to be provided in addition to, or instead of, the school's existing site (or part of its existing site).
- (2) Sub-paragraph (1) does not—
- (a) apply in relation to the provision of any site which persons other than the authority are required to provide by virtue of [<sup>F654</sup>any enactment]; or
  - (b) require the local education authority to finance the acquisition by the governing body of any site or buildings provided otherwise than by the authority.
- (3) Where a site is provided for a school under this paragraph, the local education authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school's foundation body to be held by that body for the relevant purposes.
- (4) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (5) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (6) Where—
- (a) a site is provided for a school under this paragraph, and
  - (b) work is required to be done to the site for the purpose of clearing it or making it suitable for building purposes,
- the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments

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of their respective rights and liabilities, as will secure that the cost of the work is borne by the authority.

- (7) Where—
  - (a) a site is provided for a school under this paragraph, and
  - (b) there are buildings on the site which are of value for the purposes of the school,

the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as appear to be desirable having regard to the governing body’s duties under paragraph 3 with respect to the <sup>F655</sup>school premises] .

- (8) Where it appears to the Secretary of State that provision for any payment or other adjustment ought to have been made under sub-paragraph (6) or (7) but has not been made, he may give directions providing for the making of such payment or other adjustment as he thinks proper.

- (9) In this paragraph—
  - “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts;
  - “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

*Grants by Secretary of State in respect of expenditure on premises or equipment*

- 5 (1) The Secretary of State may make grants—
  - (a) to the governing body of a voluntary aided school in respect of <sup>F656</sup>capital expenditure incurred or to be incurred] by them; or
  - (b) to a relevant body in the case of such a school, in respect of <sup>F657</sup>capital expenditure incurred or to be incurred] by that body on behalf of the governing body.

(2) <sup>F658</sup> .....

- (3) The amount of any grant paid under this paragraph in respect of any such expenditure—
  - <sup>F659</sup>(a) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, and]
  - (b) in the case of any prescribed class or description of such expenditure, shall be such as may be determined in accordance with regulations.

- (4) The times at which, and the manner in which, payments are made in respect of a grant under this paragraph shall be such as may be determined from time to time by the Secretary of State.

- <sup>F660</sup>(5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this paragraph to make grants in respect of expenditure on school premises, give priority to paying grants in respect of expenditure which is necessary to make such alterations as may be required by the local education authority for the purpose of securing that the school premises conform to the standards prescribed under section 542 of the Education Act 1996 <sup>M57</sup>



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- or as may be required for the purpose of securing that the school premises conform to standards specified by or under any other enactment relating to health and safety; and the amount of any grant paid in the exercise of that power in respect of such expenditure on school premises shall be at least 90 per cent of the expenditure.]
- (6) Any body to whom any payment is made in respect of a grant under this paragraph shall comply with such requirements determined by the Secretary of State as he may from time to time impose.
- (7) Such requirements—
- (a) may be imposed on, or at any time after, the making of any payment by reference to which they are imposed, and
  - (b) may at any time be waived, removed or varied by the Secretary of State;
- but such requirements may be imposed after the making of any such payment only if the Secretary of State is satisfied that in all the circumstances it is reasonable for them to be so imposed.
- (8) Such requirements may, in particular, if any conditions specified in the requirements are satisfied—
- (a) require the application for purposes connected with the provision of education in appropriate schools of—
    - (i) any premises or equipment in respect of which the grant has been paid under this paragraph, or
    - (ii) an amount equal to so much of the value of any such premises or equipment as is determined in accordance with the requirements to be properly attributable to the payment of the grant; and
  - (b) in the event that that requirement is not complied with, require the payment to the Secretary of State of the whole or any part of the following amount.
- (9) That amount is—
- (a) the amount of the payments made in respect of the grant under this paragraph, or
  - (b) the amount mentioned in sub-paragraph (8)(a)(ii),
- whichever the Secretary of State determines to be just.
- (10) When deciding whether to make any grant to a body under this paragraph in circumstances where he considers that it would be appropriate to impose requirements falling within sub-paragraph (8), the Secretary of State may have regard to whether, if such requirements were imposed, that body would have an enforceable right against some other person to be given by that person such financial assistance as would be necessary to enable them to pay to the Secretary of State the amount mentioned in sub-paragraph (9).
- (11) No grant may be paid under this paragraph in respect of any expenses incurred in the provision of any premises which it is the duty of the local education authority to provide.
- (12) In this paragraph—
- “appropriate schools”—
- (a) in relation to a voluntary aided school having a religious character, means schools which are either foundation or voluntary schools and whose specified religion or religious denomination under section 69(4) is the same as that school’s, and

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(b) in relation to any other voluntary aided school, means maintained schools;

“relevant body”, in relation to a voluntary aided school, means the appropriate diocesan authority or the school’s trustees;

<sup>F661</sup> .....

*Grants by Secretary of State in respect of preliminary expenditure*

- 6 (1) The Secretary of State may pay grants—
- (a) to the governing body of a voluntary aided school in respect of preliminary expenditure incurred [<sup>F662</sup>or to be incurred] by them for the purposes of any scheme for the transfer of the school to a new site or the enlargement or alteration of the school premises, or
  - (b) to a relevant body in the case of such a school, in respect of any preliminary expenditure incurred [<sup>F662</sup>or to be incurred] by them, on behalf of the governing body, for the purposes of any such scheme.
- (2) Where any persons propose or are considering whether to propose the establishment of a voluntary aided school, the Secretary of State may pay grants to them in respect of any preliminary expenditure incurred [<sup>F663</sup>or to be incurred] by them for the purposes of a scheme for the provision of a site for the school or of any buildings which would be [<sup>F664</sup>used for the purposes of the school] .
- (3) Grants under sub-paragraph (1) or (2) may be paid in respect of a scheme such as is mentioned in that sub-paragraph whether or not—
- (a) the details of such a scheme had been formulated at the time when the expenditure was incurred,
  - (b) where such details were not formulated at that time, they are subsequently formulated,
  - (c) the governing body or persons in question had determined to proceed with such a scheme at that time, or
  - (d) where they had not determined to proceed with such a scheme at that time, they subsequently determine to proceed with such a scheme.
- (4) Expenditure in respect of which such grants are payable includes, in particular, costs incurred in connection with—
- (a) the preparation of plans and specifications for any proposed construction, enlargement or alteration of buildings which are or would be [<sup>F665</sup>used for the purposes of the school] , and
  - (b) estimating the sums which would be expended if any such works were carried out,
- but does not include any sums expended in carrying out any such works.
- [<sup>F666</sup>(5) A grant under sub-paragraph (1) or (2) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, in respect of which it is paid.]
- (6) Where—
- (a) a grant is paid under sub-paragraph (1) in the case of any voluntary aided school, or

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(b) a grant is paid under sub-paragraph (2) in the case of any school which is established as a voluntary aided school,

the grant shall for the purposes of section 30(2) be treated as expenditure incurred by the Secretary of State (otherwise than in connection with repairs) in respect of the school premises.

(7) In this paragraph “relevant body”, in relation to a voluntary aided school, means the appropriate diocesan authority or the school’s trustees.

*Loans by Secretary of State in respect of initial [F667 expenses][F667 expenditure]*

#### Textual Amendments

**F667** Cross-heading preceding Sch. 3 para. 7: “expenditure” substituted for “expenses” (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), [art. 9](#)

- 7 (1) Where, on the application of the governing body of a voluntary aided school and after consulting persons representing the governing body, the Secretary of State—
- (a) is satisfied that the governing body’s share of any [F668:initial expenditure] required in connection with the school premises will involve capital expenditure, and
  - (b) having regard to all the circumstances of the case, considers that that [F669:capital expenditure] ought properly to be met by borrowing,
- he may make a loan to the governing body for the purpose of helping them meet that expenditure.
- (2) The amount, rate of interest and other terms and conditions applicable to the loan shall be such as may be specified in an agreement made between the Secretary of State and the governing body with the consent of the Treasury.
- (3) For the purposes of this paragraph [F670:“initial expenditure” is expenditure] to be incurred in providing—
- (a) a site or <sup>F671</sup> . . . buildings for a voluntary aided school in connection with—
    - (i) the implementation of any proposals for a prescribed alteration to the school published under section 28, or
    - (ii) the transfer of the school to a new site, or
  - (b) a site or <sup>F672</sup> . . . buildings for a new voluntary aided school,
- being [F673:expenditure] in respect of which grants may be paid under paragraph 5.
- (4) For the purposes of this paragraph the governing body’s share of any [F674:initial expenditure] shall be taken to be so much of the [F675:expenditure] as remains to be borne by the governing body after taking into account the amount of any grant under paragraph 5 that may be paid or payable in respect of them.
- (5) The preceding provisions of this paragraph shall apply for the purpose of enabling loans to be made to a relevant body (within the meaning of paragraph 5) in respect of [F676:expenditure] incurred by that body on behalf of the governing body as it applies to [F676:expenditure] incurred by the governing body; and in those provisions, as they

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apply in relation to a new voluntary aided school, references to the governing body are to the promoters.

- (6) Paragraph 3(3) of Schedule 10 (consent to borrowing) does not apply to any borrowing by a governing body under this paragraph.

*Assistance by LEAs in respect of maintenance and other obligations of governing bodies*

- 8 A local education authority may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation under paragraph 3.

*Duty to transfer interest in premises provided under paragraph 8*

- 9 (1) Where assistance under paragraph 8 consists of the provision of any premises for use for the purposes of a school, the local education authority shall transfer their interest in the premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
  - (b) if the school has no trustees, to the school’s foundation body, to be held by that body for the relevant purposes.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (3) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

*[<sup>F677</sup>Meaning of “capital expenditure”*

**Textual Amendments**

**F677** Sch. 3 para. 9A 9B and cross-heading inserted (1.4.2007 for the insertion of Sch. 3 para. 9A(3), 25.5.2007 in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. **35(3)**, 188(3); S.I. 2007/935, arts. 5(i), 7(j)

- 9A (1) This paragraph applies for the purposes of this Schedule as it applies in relation to England.
- (2) Subject to sub-paragraphs (3) and (4), references in this Schedule to capital expenditure, in relation to an appropriate body or the promoters, in the case of a voluntary aided school, are references to—
- (a) expenditure of the body or, as the case may be, the promoters which falls to be capitalised in accordance with proper accounting practices, or
  - (b) expenditure which would fall to be so capitalised were it to be incurred by the body or, as the case may be, the promoters.

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- (3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this Schedule as being, or as not being, capital expenditure in relation to—
- (a) any appropriate body, or any prescribed class or description of appropriate body;
  - (b) any promoters, or any prescribed class or description of promoters.
- (4) The Secretary of State may by direction provide that, in the case of a particular voluntary aided school—
- (a) expenditure of a particular appropriate body which is expenditure of a particular class or description;
  - (b) expenditure of particular promoters which is expenditure of a particular class or description,
- is to be treated for the purposes of this Schedule as being, or as not being, capital expenditure in relation to that body, or as the case may be, those promoters.
- (5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.
- (6) In this paragraph an “appropriate body”, in the case of a voluntary aided school, means—
- (a) the governing body of the school, or
  - (b) a relevant body in relation to the school (within the meaning of paragraph 5).
- 9B (1) For the purposes of paragraph 9A, “proper accounting practices”, in relation to an appropriate body or the promoters, in the case of a voluntary aided school, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the appropriate body, or as the case may be, the promoters, or
  - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.
- (2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.
- (3) In this paragraph an “appropriate body”, in the case of a voluntary aided school, has the same meaning as in paragraph 9A.]

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### PART III

#### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: COMMON PROVISIONS

##### *Default powers of Secretary of State*

- 10 (1) Where it appears to the Secretary of State that a local education authority have defaulted in the discharge of their duties relating to the maintenance of a foundation, voluntary or foundation special school, he may—
- (a) direct that any act done by or on behalf of the school's governing body for the purpose of securing the proper maintenance of the school shall be taken to have been done by or on behalf of the authority, and
  - (b) reimburse to the governing body any sums which in his opinion they have properly expended for that purpose.
- (2) The amount of any sum reimbursed under sub-paragraph (1) shall be recoverable by the Secretary of State as a debt due to him from the authority; and without prejudice to any other method of recovery the whole or any part of any such sum may be deducted from any sums payable to the authority by the Secretary of State in pursuance of any regulations relating to the payment of grants.

##### *Endowments*

- 11 Where any sums accruing in respect of the income of an endowment are required by virtue of the provisions of a trust deed to be applied towards the maintenance of a foundation, voluntary or foundation special school, those sums shall not be payable to the local education authority but shall be applied by the governing body of the school—
- (a) (in the case of a voluntary aided school) towards the discharge of their obligations under paragraph 3, or
  - (b) (in the case of any school) in such manner, if any, as may be determined by a scheme for the administration of the endowment made after 1st April 1945.

##### *Disapplication of restriction on local authority disposals*

- 12 Subsection (2) of section 123 of the <sup>M58</sup>Local Government Act 1972 (local authority prohibited from making disposal of land under that section below market value without consent of the Secretary of State) shall not apply in the case of a disposal—
- (a) to the governing body of a foundation, voluntary or foundation special school, or
  - (b) to persons proposing to establish such a school.

#### Marginal Citations

M58 1972 c. 70.

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### Textual Amendments

**F678** Sch. 4 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 29, 188(3), Sch. 18 Pt. 3; S.I. 2007/935, art. 7(g)(q)

## SCHEDULE 5

Section 25.

### ADJUDICATORS

#### *Interpretation*

1 In this Schedule “adjudicator” means a person appointed under section 25.

#### *Tenure of office*

- 2 (1) Subject to sub-paragraphs (2) and (3), an adjudicator shall hold and vacate office in accordance with the terms of his appointment.
- (2) An adjudicator—
- (a) may at any time resign his office by notice in writing to the Secretary of State; and
  - (b) is eligible for re-appointment if he ceases to hold office.
- (3) An adjudicator may be removed from office by the Secretary of State on the ground of incapacity or misbehaviour.

#### *Remuneration and pensions*

- 3 (1) The Secretary of State may pay to an adjudicator such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines in the case of any adjudicator, the Secretary of State may pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.

#### *Staff and accommodation etc.*

- 4 The Secretary of State may—
- (a) provide an adjudicator with such administrative staff as the adjudicator may require; and
  - (b) provide, or defray the expenses of providing, an adjudicator with such accommodation and other facilities as the adjudicator may require.

#### *Procedure*

- 5 (1) Regulations may make provision as to the procedure to be followed in connection with the reference, under this Part or Part III of this Act [<sup>F679</sup>or under Part 2 of the Education and Inspections Act 2006], of matters to adjudicators and their determination of matters so referred.

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- (2) The regulations may, in particular, make provision—
- (a) as to the manner in which matters may be referred to adjudicators;
  - (b) for determining the adjudicators to which individual referrals are to be made;
  - (c) authorising adjudicators to hold local inquiries;
  - (d) as to the procedure to be followed where local inquiries are held by adjudicators (whether by virtue of paragraph (c) or otherwise);
  - (e) authorising adjudicators to appoint assessors to sit with them at such inquiries to advise them on matters arising;
  - (f) requiring anything falling to be done under the regulations to be done within such period as may be specified in or determined in accordance with the regulations.
- (3) Subject to any provision made by the regulations, an adjudicator may regulate his own procedure.
- (4) The Secretary of State may make orders—
- (a) as to the costs of the parties at any local inquiry held by an adjudicator (whether by virtue of sub-paragraph (2)(c) or otherwise), and
  - (b) as to the parties by whom the costs are to be paid;
- and any costs payable under any such order shall be subject to taxation in such manner as the Secretary of State may direct.

#### Textual Amendments

**F679** Words in Sch. 5 para. 5(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 32; S.I. 2007/935, art. 7(o)

- 6 When taking any decision an adjudicator shall have regard (so far as relevant) to the obligations which, by virtue of—
- (a) Part III of the <sup>M59</sup>Sex Discrimination Act 1975, <sup>F680</sup> . . .
  - (b) Part III [<sup>F681</sup>or section 71] of the <sup>M60</sup>Race Relations Act 1976, [<sup>F682</sup>or
  - (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,]
- are owed by any local education authority or governing body which will be affected by the decision.

#### Textual Amendments

**F680** Word in Sch. 5 para. 6(a) repealed (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(3)(a), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

**F681** Words in Sch. 5 para. 6(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 31 (with s. 10(5)); S.I. 2001/566, art. 2(1)

**F682** Sch. 5 para. 6(c) and the preceding word "or" inserted (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(3)(b), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

#### Marginal Citations

**M59** 1975 c. 65.

**M60** 1976 c. 74.



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### *Indemnity*

- 7 The Secretary of State shall indemnify an adjudicator against any reasonable legal costs and expenses reasonably incurred by him in connection with any decision or action taken by him in good faith in pursuance of his functions as an adjudicator.

### *Parliamentary disqualification*

- 8 In Part III of Schedule 1 to the <sup>M61</sup>House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place there shall be inserted—  
 “Adjudicator appointed under section 25 of the School Standards and Framework Act 1998.”

#### **Marginal Citations**

**M61** 1975 c. 24.

### *Parliamentary Commissioner*

- 9 For the purposes of section 5 of the <sup>M62</sup>Parliamentary Commissioner Act 1967 (matters subject to investigation) administrative functions exercisable by any person provided by the Secretary of State under paragraph 4 above shall be taken to be administrative functions of [<sup>F683</sup>the Department for Children, Schools and Families].

#### **Textual Amendments**

**F683** Words in Sch. 5 para. 9 substituted (12.12.2007) by [The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 \(S.I. 2007/3224\)](#), art. 1(2), [Sch. para. 7](#)

#### **Marginal Citations**

**M62** 1967 c. 13.

### *Supervision of Council on Tribunals*

- 10 (1) In section 7 of the <sup>M63</sup>Tribunals and Inquiries Act 1992 (which restricts Ministers’ powers to remove members of tribunals listed in Schedule 1 to that Act) in subsection (2) (tribunals to which that section does not apply) after “14,” there shall be inserted “15(f),”.
- (2) In Schedule 1 to that Act (tribunals under the supervision of the Council on Tribunals) at the end of paragraph 15 (tribunals concerned with education) there shall be inserted—

“(f) an adjudicator appointed under section 25 of the School Standards and Framework Act 1998.”

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### Marginal Citations

**M63** 1992 c. 53.

## SCHEDULE 6

Sections 28, 29 and 31.

### [<sup>F684</sup>STATUTORY PROPOSALS CONCERNING SCHOOLS IN WALES: PROCEDURE AND IMPLEMENTATION]

#### Textual Amendments

**F684** Sch. 6 heading substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(2)**; S.I. 2007/935, art. 7(o)

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

- C191** Sch. 6 modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, **Sch.**  
Sch. 6 continued (1.9.2001) by S.I. 2001/2678, **reg. 2(2)**
- C192** Schs. 6, 7: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(2)(a)**,  
216(4) (with **ss. 210(8)**, 214(4)); S.I. 2003/124, art. 4
- C193** Sch. 6 applied (1.9.2006) by 1996 c. 56, **s. 529(2)** (as amended by Education Act 2005 (c. 18), s. 125(4),  
**Sch. 12 para. 2**; S.I. 2006/2129, **art. 4**)

## PART I

### PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS: ENGLAND

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

- C194** Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(1), 10, **Sch. 1**.  
Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(2), 10, **Sch. 1**.  
Sch. 6 Pt. 1 (paras. 1-5) applied (with modifications) (E.) (1.9.2000) by S.I. 2000/2195, **reg. 4(1)**, **Sch. 1**  
(as amended (15.9.2003) by The Education (Change of Category of Maintained Schools) (Amendment)  
(England) Regulations 2003 (S.I. 2003/2136), regs. 1(1), **10**)
- C195** Sch. 6 Pt. I amendment to earlier affecting provision S.I. 2000/2195, Sch. 1 (E.) (15.9.2003) by The  
Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2003 (S.I.  
2003/2136), regs. 1(1), **10**
- C196** Sch. 6 Pt. 1 applied (with modifications) by S.I. 2000/2195, **reg. 4(3)**, Schs. 2A, **2B** (as inserted (1.8.2005)  
by The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations  
2005 (S.I. 2005/1731), regs. 1(1), **5**, 7)

### *Application of Part I*

<sup>F685</sup><sub>1</sub>

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**Textual Amendments**

**F685** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

*Objections*

**F685**<sub>2</sub> .....

**Textual Amendments**

**F685** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

*Approval of proposals*

**F685**<sub>3</sub> .....

**Textual Amendments**

**F685** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

*Determination by LEA whether to implement proposals*

**F685**<sub>4</sub> .....

**Textual Amendments**

**F685** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

*Requirement to implement proposals*

**F685**<sub>5</sub> .....

**Textual Amendments**

**F685** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation](#)

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(Transitional Provisions) (England) Regulations 2007 (S.I. 2007/1355), regs. 1(1), **4(1)**, 24(4), 25(2), 26(1)); S.I. 2007/935, **art. 7(o)(q)** (with art. 8)

## PART II

### [<sup>F686</sup>PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS]

#### Textual Amendments

**F686** Sch. 6 Pt. 2 heading substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(4)**; S.I. 2007/935, **art. 7(o)**

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

**C197** Sch. 6 Pt. II applied (with modifications) (1.9.1999) (*temp.*) by S.I. 1999/2633, regs. 4, 5(1), **Sch. 1**.  
 Sch. 6 Pt. II modified (1.9.1999) by S.I. 1999/2633, **reg. 5(2), Sch. 2**.

#### *Application of Part II*

- 6 This Part of this Schedule applies to proposals published under section 28, 29 or 31 <sup>F687</sup>....

#### Textual Amendments

**F687** Words in Sch. 6 para. 6 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(5), Sch. 18 Pt. 3**; S.I. 2007/935, **art. 7(o)(q)**

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

**C198** Sch. 6 para. 6 applied (with modifications) (1.9.1999) by S.I. 1999/1780, **reg. 11, Sch. 4**.  
 Sch. 6 para. 6 applied (with modifications) (1.9.1999) by S.I. 1999/1671, **reg. 10, Sch. 5**  
 Sch. 6 para. 6 applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, **reg. 7, Sch. 1 Pt. 1** Tables 1, 2

#### *Objections*

- 7 (1) Any person may make objections to any proposals published under section 28, 29 or 31.
- (2) Where the proposals were published by a local education authority—
- (a) any objections under this paragraph shall be sent to the authority within such period as may be prescribed (“the objection period”); and
  - (b) within such period as may be prescribed the authority shall send to the [<sup>F688</sup>Assembly] copies of all objections made (and not withdrawn in writing) within the objection period, together with the authority’s observations on them.
- (3) Where the proposals were published by a governing body or promoters, any objections under this paragraph shall be sent to the [<sup>F689</sup>Assembly] within such period as may be prescribed.

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### Textual Amendments

**F688** Word in Sch. 6 para. 7(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(6); S.I. 2007/935, art. 7(o)

**F689** Word in Sch. 6 para. 7(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(6); S.I. 2007/935, art. 7(o)

### Modifications etc. (not altering text)

**C199** Sch. 6 para. 7 applied (with modifications) (1.9.1999) by S.I. 1999/1780, reg. 11, Sch. 4.

Sch. 6 para. 7 applied with modifications (1.9.1999) by S.I. 1999/1671, reg. 10, Sch. 5

Sch. 6 para. 7 applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, Sch. 1 Pt. I Table 2

**C200** Sch. 6 para. 7(1) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, Sch. 1 Pt. I Table 1

**C201** Sch. 6 para. 7(3) applied (with modifications) (w.) (1.9.2001) by S.I. 2001/2678, reg. 7, Sch. 1 Pt. I Table 3

### Approval of proposals

- 8 (1) Proposals published under section 28, 29 or 31 require approval under this paragraph if—
- (a) the [<sup>F690</sup>Assembly], within two months after a copy of the published proposals is sent to [<sup>F691</sup>it] under that section, gives notice to the body or promoters by whom the proposals were published that they require such approval; or
  - (b) objections to the proposals have been made in accordance with paragraph 7 and any of them have not been withdrawn in writing within the objection period.
- (2) Where any proposals require approval under this paragraph, the [<sup>F690</sup>Assembly] may—
- (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) approve them with such modifications as [<sup>F692</sup>it] thinks desirable after consulting such persons or bodies as may be prescribed.
- (3) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified.
- <sup>F693</sup>(4) .....
- (5) Sub-paragraph (1) does not prevent the body or promoters by whom any proposals have been published under section 28, 29 or 31 from withdrawing those proposals by notice in writing given to the [<sup>F690</sup>Assembly] at any time before the proposals are approved under this paragraph.

### Textual Amendments

**F690** Word in Sch. 6 para. 8 substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(7)(a); S.I. 2007/935, art. 7(o)

**F691** Word in Sch. 6 para. 8(1)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(7)(b); S.I. 2007/935, art. 7(o)

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**F692** Word in Sch. 6 para. 8(2)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(7)(c)**; S.I. 2007/935, art. 7(o)

**F693** Sch. 6 para. 8(4) repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, **art. 2(1)(i)**; S.I. 2006/885, **art. 2(3)(b)**

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

**C202** Sch. 6 para. 8(1)(3)(5) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, **Sch. 1 Pt. 1** Table 3

**C203** Sch. 6 para. 8(2) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, **Sch. 1 Pt. 1** Table 1

*Determination whether to implement proposals*

- 9 (1) Where any proposals published under section 28, 29 or 31 do not require approval under paragraph 8, the body or promoters by whom the proposals were published shall determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within four months after a copy of the published proposals was sent to the [<sup>F694</sup>Assembly] under section 28, 29 or 31.
- (3) The body or promoters in question shall notify the [<sup>F695</sup>Assembly] of any determination made by them under sub-paragraph (1).

**Textual Amendments**

**F694** Word in Sch. 6 para. 9(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(8)**; S.I. 2007/935, art. 7(o)

**F695** Word in Sch. 6 para. 9(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(8)**; S.I. 2007/935, art. 7(o)

*Requirement to implement proposals*

- 10 (1) Where—
- (a) any proposals published under section 28, 29 or 31 have been approved under paragraph 8, or
  - (b) the body or promoters by whom such proposals were published have determined under paragraph 9 to implement the proposals,
- then (subject to the following provisions of this paragraph) the proposals shall be implemented, in the form in which they were so approved or determined, in accordance with Part III of this Schedule.
- (2) At the request of any prescribed body or persons, the [<sup>F696</sup>Assembly]—
- (a) may modify the proposals after consulting such persons or bodies as may be prescribed; and
  - (b) where any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the event in question must occur.
- (3) If the [<sup>F696</sup>Assembly] is satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or

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- (b) that circumstances have so altered since approval was given under paragraph 8 that implementation of the proposals would be inappropriate, [F697:it] may determine that sub-paragraph (1) shall cease to apply to the proposals.
- (4) The [F696 Assembly] may only make a determination under sub-paragraph (3) where proposals that [F698:it] should do so have been published, in accordance with regulations, by the body or promoters who published the proposals referred to in that sub-paragraph; and regulations so made may provide for any of the provisions of sections 28, 29 and 31 and this Part of this Schedule to have effect in relation to any such further proposals with or without modifications.
- (5) Where—
- (a) any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, and
- (b) the event specified under that sub-paragraph does not occur by the date in question (whether as specified under that sub-paragraph or as specified under sub-paragraph (2)(b) above),
- sub-paragraph (1) above shall cease to apply to the proposals.
- (6) Where, by virtue of sub-paragraph (3) [F699 ...], sub-paragraph (1) ceases to apply to any proposals, those proposals shall be treated for the purposes of this Schedule as if they had been rejected under paragraph 8.
- [F700(7) Where, by virtue of sub-paragraph (5), sub-paragraph (1) ceases to apply to any proposals, those proposals [F701:fall to be considered afresh by the [F696 Assembly]] under paragraph 8.]

#### Textual Amendments

- F696** Word in Sch. 6 para. 10 substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(9)(a); S.I. 2007/935, art. 7(o)
- F697** Word in Sch. 6 para. 10(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(9)(b); S.I. 2007/935, art. 7(o)
- F698** Word in Sch. 6 para. 10(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(9)(b); S.I. 2007/935, art. 7(o)
- F699** Words in Sch. 6 para. 10(6) repealed (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), ss. 75, 216, Sch. 10 para. 6(2), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1
- F700** Sch. 6 para. 10(7) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 10 para. 6(3) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F701** Words in Sch. 6 para. 10(7) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 13(7); S.I. 2006/2129, art. 4

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

- C204** Sch. 6 para. 10 applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, Sch. 1 Pt. 1 Table 2
- C205** Sch. 6 para. 10(1)(2) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, Sch. 1 Pt. 1 Table 3

#### Commencement Information

- I26** Sch. 6 para. 10 wholly in force at 1.9.1999; Sch. 6 para. 10 not in force at Royal Assent see s. 145(3); Sch. 6 para. 10(4) in force for specified purposes at 1.2.1999 by S.I. 1999/3198, art. 2(2), Sch.; Sch. 6

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para. 10 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

### PART III

#### MANNER OF IMPLEMENTATION OF STATUTORY PROPOSALS

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

**C206** Sch. 6 Pt. 3 excluded (19.12.2002) by Education Act 2002 (c. 32), **ss. 193(6)**, 216 (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 4**, Sch. Pt. 1

**C207** Sch. 6 Pt. 3 excluded (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 11 para. 6(4)**; S.I. 2006/2129, **art. 4**

##### *Introductory*

- 11 In this Part of this Schedule “proposals” means proposals falling to be implemented under paragraph <sup>F702</sup>... 10.

##### **Textual Amendments**

**F702** Words in Sch. 6 para. 11 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(10), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

##### *Proposals relating to community or maintained nursery schools*

- 12 (1) This paragraph applies to proposals relating to a community or [<sup>F703</sup>maintained nursery school or a proposed such school].
- (2) The proposals shall be implemented by the local education authority by whom they were published under section 28(1) <sup>F704</sup>... or 29(1) [<sup>F705</sup>or, in the case of proposals published by the governing body of a community school under section 28(2)(b), by the local education authority who maintain the school].

##### **Textual Amendments**

**F703** Words in Sch. 6 para. 12(1) substituted (1.6.2003 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(5)(a)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1

**F704** Word in Sch. 6 para. 12(2) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(11), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

**F705** Words in Sch. 6 para. 12(2) inserted (1.6.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(5)(b)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

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

**C208** Sch. 6 para. 12 applied (with modifications) (1.9.1999) by S.I. 1999/2103, **reg. 3**.



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*Proposals relating to foundation or voluntary controlled schools*

- 13 (1) This paragraph applies to proposals relating to a foundation or voluntary controlled school or a proposed such school.
- (2) Where the proposals were published by a local education authority under section 28(1) <sup>F706</sup>... or 29(1), they shall be implemented by the authority.
- [<sup>F707</sup>(3) Where the proposals were published—
- (a) under section 28(2) <sup>F708</sup>..., by promoters, or
  - (b) under section 28(2), by the governing body,
- they shall be implemented by the local education authority and by the promoters or (as the case may be) the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.]
- (4) Where the proposals were published by the governing body under section 29(2), they shall be implemented—
- (a) by the governing body; and
  - (b) by the local education authority as well.

**Textual Amendments**

**F706** Word in Sch. 6 para. 13(2) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(12)(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

**F707** Sch. 6 para. 13(3) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 13(9)(b)**; S.I. 2006/2129, art. 4

**F708** Words in Sch. 6 para. 13(3)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(12)(b), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

*Proposals relating to voluntary aided schools*

- 14 (1) This paragraph applies to proposals relating to a voluntary aided school or a proposed such school.
- (2) Where the proposals were published by the governing body under section 28(2) or 29(2), they shall be implemented—
- (a) in the case of proposals published under section 28(2) so far as relating to the provision of any [<sup>F709</sup>playing fields] for the school, by the local education authority;
  - (b) in the case of proposals published under section 29(2), by the governing body and the authority; and
  - (c) otherwise by the governing body.
- (3) Where the proposals were published under section 28(2) <sup>F710</sup>... by promoters, they shall be implemented—
- (a) so far as relating to the provision of any [<sup>F711</sup>playing fields] for the school (but subject to sub-paragraph (5)), by the local education authority; and
  - (b) otherwise by the promoters.
- (4) <sup>F712</sup> .....

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- (5) Nothing in sub-paragraph (3) requires a local education authority to provide any [<sup>F713</sup>such playing fields] where—
- (a) the new voluntary aided school is to be established in place of one or more existing independent, foundation or voluntary schools falling to be discontinued on or before the date of implementation of the proposals; and
  - (b) [<sup>F714</sup>those playing fields—]
    - (i) were part of the premises of any of the existing schools (whether it was an independent school or a foundation or voluntary school); and
    - (ii) (if it was a foundation or voluntary school) were not provided by the authority.
- (6) Where the proposals were published by a local education authority under section 29(1), they shall be implemented by the authority.

*Proposals relating to community or foundation special schools*

- 15 (1) This paragraph applies to proposals relating to—
- (a) a community or foundation special school; or
  - (b) a proposed such school.
- (2) Where the proposals were published by a local education authority under section 31(1), they shall be implemented by the authority.
- (3) Where the proposals were published by the governing body under section 31(2)(a), they shall be implemented by the local education authority and by the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (4) Where the proposals were published by the governing body under section 31(2)(b), they shall be implemented—
- (a) by the governing body; and
  - (b) by the local education authority as well.

## PART IV

### PROVISION OF PREMISES AND OTHER ASSISTANCE

*Provision of site and buildings for foundation,  
voluntary controlled or foundation special school*

- 16 (1) This paragraph applies where a local education authority are required—
- (a) by virtue of paragraph 13(2) or (3) to provide a site for a foundation or voluntary controlled school or a proposed such school; or
  - (b) by virtue of paragraph 15(2) or (3) to provide a site for a foundation special school.
- (2) The authority shall transfer their interest in the site and in any buildings on the site which are to form part of the school premises—
- (a) to the school's trustees, to be held by them on trust for the purposes of the school, or

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- (b) if the school has no trustees, to the school’s foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the [F715 Assembly] thinks proper.
- (4) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (5) Where—
- (a) a transfer is made under this paragraph, and
  - (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons shall notify the local education authority that paragraph (b) applies to them and they or their successors shall pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the [F715 Assembly].
- (6) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent; and
  - (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (5) regard shall be had to any guidance given from time to time by the [F715 Assembly].
- (7) Any sum paid under sub-paragraph (5) shall be treated for the purposes of section 14 of the M64 Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (8) A determination may be made under sub-paragraph (5) in respect of any property subject to a trust which has arisen under section 1 of the M65 Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) if (and only if)—
- (a) the determination is made by the [F715 Assembly], and
  - (b) [F716:it] is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (9) Sub-paragraph (5) shall apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs 1 to 3 of Schedule 22 to that sum.
- (10) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, or

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- (b) in relation to a transfer to a school’s governing body, the purposes of the school;  
“site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

#### Textual Amendments

- F715** Word in Sch. 6 para. 16 substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(14)(a)**; S.I. 2007/935, art. 7(o)  
**F716** Word in Sch. 6 para. 16(8)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(14)(b)**; S.I. 2007/935, art. 7(o)

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

- C209** Sch. 6 para. 16 applied (E.) (1.9.2000) by S.I. 1999/2213, **reg. 20(1)(2)** (as inserted by S.I. 2000/2198, **reg. 8**)  
**C210** Sch. 6 para. 16 applied by 2000 c. 21, **Sch. 7A para. 5** (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 9** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**); S.I. 2004/1728, art. 4, **Sch. Pt. 1**  
**C211** Sch. 6 para. 16 applied (1.6.2003) by Education Act 2002 (c. 32), s. 216(2), **Sch. 8 para. 7(4)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2  
**C212** Sch. 6 para. 16 applied (25.5.2007) by 2000 c. 21, **Sch. 7A para. 5(2)** (as substituted by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, **art. 7(o)**)

#### Marginal Citations

- M64** 1841 c. 38.  
**M65** 1987 c. 15.

#### *Grants in respect of certain expenditure relating to existing or proposed voluntary aided school*

- 17 (1) This paragraph applies where—
- (a) the governing body of a voluntary aided school are required by virtue of paragraph 14(2) to implement proposals relating to a prescribed alteration to the school; or
  - (b) any promoters are required by virtue of paragraph 14(3) to implement proposals involving the establishment of a new voluntary aided school.
- (2) Paragraph 5 of Schedule 3—
- (a) shall apply in relation to the voluntary aided school mentioned in subparagraph (1)(a) above; and
  - (b) shall apply in relation to the new voluntary aided school mentioned in subparagraph (1)(b) above as it applies in relation to an existing voluntary aided school.
- (3) In the application of that paragraph in relation to a new voluntary aided school—
- (a) the references to the governing body, in relation to any time before the governing body are constituted, are to the promoters; and
  - (b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the promoters, the requirements shall be complied with by the governing body, when they are constituted, as well as by the promoters.

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

- C213** Sch. 6 para. 17 applied by 2000 c. 21, **Sch. 7A para. 6** (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 9** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**); S.I. 2004/1728, **art. 4**, **Sch. Pt. 1**
- C214** Sch. 6 para. 17 applied (1.6.2003) by Education Act 2002 (c. 32), s. 216(2), **Sch. 8 para. 8(8)** (with ss. 210(8), 214(4)); S.I. 2003/1115, **art. 2**
- C215** Sch. 6 para. 17 applied (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 10 para. 14(8)**; S.I. 2006/2129, **art. 4**
- C216** Sch. 6 para. 17 applied (E.) (25.5.2007) by 2000 c. 21, **Sch. 7A para. 6(2)** (as substituted by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, **art. 7(o)**)

*Assistance in respect of maintenance and other obligations relating to voluntary aided school*

- 18 A local education authority may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation arising by virtue of paragraph 14(2) in relation to proposals published by them under section 28.

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

- C217** Sch. 6 para. 18 applied by 2000 c. 21, Sch. 7A para. 7 (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 9** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**); S.I. 2004/1728, **art. 4**, **Sch. Pt. 1**
- C218** Sch. 6 para. 18 applied (E.) (25.5.2007) by 2000 c. 21, **Sch. 7A para. 7(3)** (as substituted by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, **art. 7(o)**)

*Assistance for promoters of new voluntary aided school*

- 19 A local education authority may give to persons required by virtue of paragraph 14(3) to implement proposals involving the establishment of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by those persons of any obligation arising by virtue of that provision.

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

- C219** Sch. 6 para. 19 applied (1.6.2003) by Education Act 2002 (c. 32), s. 216(2), **Sch. 8 para. 8(9)** (with ss. 210(8), 214(4)); S.I. 2003/1115, **art. 2**
- C220** Sch. 6 para. 19 applied (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 10 para. 14(9)**; S.I. 2006/2129, **art. 4**

*Duty to transfer interest in premises provided under paragraph 18 or 19*

- 20 (1) Where assistance under paragraph 18 or 19 consists of the provision of any premises for use for the purposes of a school, the local education authority shall transfer their interest in the premises—
- (a) to the trustees of the school to be held on trust for the purposes of the school; or
  - (b) if the school has no trustees, to the school's foundation body, to be held by that body for the relevant purposes.

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- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer it shall be made to such persons as the [<sup>F717</sup>Assembly] thinks proper.
- (3) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

**Textual Amendments**

**F717** Word in Sch. 6 para. 20(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(15); S.I. 2007/935, art. 7(o)

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

- C221** Sch. 6 para. 20 applied by 2000 c. 21, Sch. 7A para. 7 (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 9 (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4); S.I. 2004/1728, art. 4, Sch. Pt. 1
- C222** Sch. 6 para. 20 applied (1.6.2003) by Education Act 2002 (c. 32), s. 216(2), Sch. 8 para. 8(9) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2
- C223** Sch. 6 para. 20 applied (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 10 para. 14(9); S.I. 2006/2129, art. 4

**PART V**

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

*F718* ...

**Textual Amendments**

**F718** Sch. 6 para. 21 heading repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(16), Sch. 18 Pt. 3; S.I. 2007/935, art. 7(o)(q)

<sup>F719</sup>21 .....

**Textual Amendments**

**F719** Sch. 6 para. 21 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(16), Sch. 18 Pt. 3; S.I. 2007/935, art. 7(o)(q)

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### [<sup>F720</sup>Single-sex schools]

#### Textual Amendments

**F720** Sch. 6 para. 22 heading substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(17); S.I. 2007/935, art. 7(o)

22 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.

(2) Sub-paragraph (3) applies where—

- (a) such proposals are made under section 28 and, in accordance with subsection (7) of that section, the relevant body send a copy of the published proposals to the [<sup>F721</sup>Assembly]; or
- (b) such proposals are made under section 31 and, in accordance with subsection (6) of that section, the relevant body send a copy of the published proposals to the [<sup>F721</sup>Assembly].

(3) The sending of the published proposals to the [<sup>F721</sup>Assembly] shall be treated as an application by the responsible body for the making by the [<sup>F721</sup>Assembly] of a transitional exemption order, and [<sup>F722</sup>the Assembly] may make such an order accordingly.

[<sup>F723</sup>(4) In this paragraph—

“the 1975 Act” means the Sex Discrimination Act 1975,

“make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke,

“the responsible body” has the same meaning as in section 22 of the 1975 Act, and

“transitional exemption order” has the same meaning as in section 27 of the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school's admission arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).]

#### Textual Amendments

**F721** Word in Sch. 6 para. 22 substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(18)(a); S.I. 2007/935, art. 7(o)

**F722** Words in Sch. 6 para. 22(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(18)(b); S.I. 2007/935, art. 7(o)

**F723** Sch. 6 para. 22(4) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(18)(c); S.I. 2007/935, art. 7(o)

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## SCHEDULE 7

Section 34.

### [<sup>F724</sup>RATIONALISATION OF SCHOOL PLACES IN WALES]

#### Textual Amendments

**F724** Sch. 7 heading substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(2)**; S.I. 2006/2129, art. 4

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

**C224** Sch. 7 modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, **Sch.**

## PART I

### INTRODUCTORY

- 1 In this Schedule—
- (a) “powers to make proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority to publish proposals under section 28, 29 or 31; and
  - (b) “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a).

[<sup>F725</sup>1A In this Schedule “the Assembly” means the National Assembly for Wales.]

#### Textual Amendments

**F725** Sch. 7 para. 1A inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(3)**; S.I. 2006/2129, art. 4

## PART II

### DIRECTIONS TO BRING FORWARD PROPOSALS

#### *Directions to bring forward proposals to remedy excessive provision*

- 2 (1) This paragraph applies where the [<sup>F726</sup>Assembly] is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority [<sup>F727</sup>in Wales], or
  - (b) in any part of such an area,
- is excessive.
- (2) For the purpose of remedying the excess, the [<sup>F726</sup>Assembly] may—
- (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and



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- (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (3) An order under sub-paragraph (2) shall—
  - (a) require the proposals to be published not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.

<sup>F728</sup>(5) . . . . .

**Textual Amendments**

**F726** Word in Sch. 7 para. 2 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(4)(a); S.I. 2006/2129, art. 4

**F727** Words in Sch. 7 para. 2(1)(a) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(4)(b); S.I. 2006/2129, art. 4

**F728** Sch. 7 para. 2(5) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(4)(c), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

*Directions to bring forward proposals to remedy insufficient provision*

- 3 (1) This paragraph applies where the [<sup>F729</sup>Assembly] is of the opinion that the provision for primary or secondary education in maintained schools—
  - (a) in the area of any local education authority [<sup>F730</sup>in Wales], or
  - (b) in any part of such an area,is, or is likely to become, insufficient.
- (2) The [<sup>F729</sup>Assembly] may—
  - (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school,with a view (in each case) to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the order.
- (3) An order under sub-paragraph (2) shall—
  - (a) require the proposals to be published not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.

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(4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.

<sup>F731</sup>(5) .....

**Textual Amendments**

**F729** Word in Sch. 7 para. 3 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(5)(a); S.I. 2006/2129, art. 4

**F730** Words in Sch. 7 para. 3(1)(a) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(5)(b); S.I. 2006/2129, art. 4

**F731** Sch. 7 para. 3(5) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(5)(c), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

*Supplementary provisions*

4 <sup>F732</sup>(1) .....

<sup>F732</sup>(2) .....

<sup>F732</sup>(3) .....

<sup>F732</sup>(4) .....

<sup>F732</sup>(5) .....

<sup>F732</sup>(6) .....

(7) Proposals made in pursuance of an order under paragraph 2(2) or 3(2) <sup>F733</sup>... may not be withdrawn without the consent of the [<sup>F734</sup>Assembly] and such consent may be given on such conditions (if any) as the [<sup>F734</sup>Assembly] considers appropriate.

(8) Where the governing body of a foundation, voluntary or foundation special school make any proposals in pursuance of any such order under paragraph 2(2) or 3(2), the local education authority shall reimburse any expenditure reasonably incurred by the governing body in making the proposals.

(9) Where—

(a) proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of any such order under paragraph 2(2) or 3(2) are approved or, as the case may be, determined to be implemented, or

[<sup>F735</sup>(b) proposals adopted under paragraph 14 have effect as mentioned in paragraph 15(b),]

then, despite anything in Part III of Schedule 6, the local education authority shall defray the cost of implementing the proposals.

**Textual Amendments**

**F732** Sch. 7 para. 4(1)-(6) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(6) (a), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

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- F733** Words in Sch. 7 para. 4(7) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(6)(b)(i), **Sch. 19 Pt. 2**; S.I. 2006/2129, art. 4
- F734** Word in Sch. 7 para. 4(7) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(6)(b)(ii)**; S.I. 2006/2129, art. 4
- F735** Sch. 7 para. 4(9)(b) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(6)(c)**; S.I. 2006/2129, art. 4

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

- C225** Sch. 7 para. 4 applied (1.6.2003) by Education Act 2002 (c. 32), **ss. 71(6)**, 216(2) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2

**PART III**

[<sup>F736</sup>PROPOSALS BY NATIONAL ASSEMBLY FOR WALES]

**Textual Amendments**

- F736** Sch. 7 Pt. 3 heading substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(7)**; S.I. 2006/2129, art. 4

*Publication of proposals*

- 5 (1) Where—
- (a) the [<sup>F737</sup>Assembly] has, in relation to the area of any local education authority or any part of such an area, made an order under paragraph 2(2) or 3(2) directing the local education authority or the governing body of a foundation, voluntary or foundation special school to make proposals for the establishment, alteration or discontinuance of schools or (as the case may be) for the alteration of their school, and
  - (b) either—
    - (i) any proposals have been published in pursuance of the order, or
    - (ii) the time allowed under the order for the publication of the proposals has expired,
- [<sup>F738</sup>the Assembly may] make any such proposals as might have been made in accordance with the order relating to that area or that part of that area by the body to whom the directions were given.
- (2) Proposals under this paragraph shall—
- (a) contain such information, and
  - (b) be published in such manner,
- as may be prescribed.
- <sup>F739</sup>(3) .....
- (4) [<sup>F740</sup>The Assembly shall] send a copy of the proposals—
- (a) to the local education authority for the area, and
  - (b) to the governing body of each school to which the proposals relate.

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<b>Textual Amendments</b>	
<b>F737</b>	Word in Sch. 7 para. 5(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), <b>Sch. 12 para. 14(8)(a)(i)</b> ; S.I. 2006/2129, art. 4
<b>F738</b>	Words in Sch. 7 para. 5(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), <b>Sch. 12 para. 14(8)(a)(ii)</b> ; S.I. 2006/2129, art. 4
<b>F739</b>	Sch. 7 para. 5(3) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(8)(b), <b>Sch. 19 Pt. 2</b> ; S.I. 2006/2129, art. 4
<b>F740</b>	Words in Sch. 7 para. 5(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), <b>Sch. 12 para. 14(8)(c)</b> ; S.I. 2006/2129, art. 4
<b>Modifications etc. (not altering text)</b>	
<b>C226</b>	Sch. 7 para. 5 modified (1.6.2003 for E.) by Education Act 2002 (c. 32), <b>ss. 74(1)(b)</b> , 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3

**<sup>F741</sup>PART IV**

PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: ENGLAND

<b>Textual Amendments</b>	
<b>F741</b>	Sch. 7 Pt. 4 repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(9), <b>Sch. 19 Pt. 2</b> ; S.I. 2006/2129, art. 4

	<i>Application of Part IV</i>
6	.....
	<i>Objections</i>
7	.....
	<i>Approval of proposals</i>
8	.....
	<i>Local inquiry into proposals</i>
9	.....
	<i>Implementation of proposals</i>
10	.....

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## PART V

### PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: WALES

#### *Application of Part V*

- 11 This Part of this Schedule applies to proposals published under paragraph 5 which relate to an area in Wales.

#### *Objections*

- 12 (1) Any person may make objections to any proposals published under paragraph 5.
- (2) Objections under this paragraph—
- (a) shall be sent to the [F742 Assembly]; and
  - (b) shall be so sent within such period as may be prescribed.

#### **Textual Amendments**

**F742** Word in Sch. 7 para. 12(2)(a) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(10); S.I. 2006/2129, art. 4

#### *Local inquiry into proposals*

- 13 (1) This paragraph applies where in relation to the area of any local education authority [F743 the Assembly] has made proposals under paragraph 5 (otherwise than in pursuance of paragraph 14(1)) which [F743 the Assembly] has not withdrawn.
- (2) If objections have been made under paragraph 12(1) within the period prescribed in accordance with paragraph 12(2)(b), then, unless all objections so made have been withdrawn in writing within that period, [F744 the Assembly] shall cause a local inquiry to be held to consider [F744 the Assembly's] proposals, any proposals [F744 the Assembly] refers to the inquiry and any such objections.
- (3) Any proposals referred to a local inquiry under this paragraph require the approval of the [F745 Assembly] (if they would not require such approval apart from this subparagraph).
- (4) Where the [F746 Assembly] has a duty to cause a local inquiry to be held under this paragraph, [F747 the Assembly shall refer] to the inquiry—
- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
  - (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn),<sup>F748</sup> ...
  - (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn), [F749 and
  - (d) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (and not withdrawn).]

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where those proposals are not determined before [<sup>F750</sup>the Assembly causes] the inquiry to be held and appear [<sup>F751</sup>to the Assembly] to be related to the proposals made under paragraph 5 in respect of which [<sup>F752</sup>it is required] under this paragraph to cause the inquiry to be held.

- (5) If, before the [<sup>F753</sup>Assembly] causes the inquiry to be held, [<sup>F754</sup>the Assembly forms] the opinion that any proposals ought to be implemented, sub-paragraph (4) does not require [<sup>F755</sup>the Assembly] to refer those proposals to the inquiry unless—
- (a) before the proceedings on the inquiry are concluded, or
  - (b) (if earlier) the proposals are determined,
- [<sup>F756</sup>the Assembly subsequently forms] a different opinion.
- (6) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).
- (7) References in this paragraph to the determination of any proposals are to—
- (a) any determination whether or not to approve or adopt the proposals under paragraph 8 of Schedule 6 or paragraph 14 below, <sup>F757</sup> . . .
  - (b) any determination whether or not to implement the proposals under paragraph 9 of Schedule 6 [<sup>F758</sup>and
  - (c) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.]

#### Textual Amendments

- F743** Words in Sch. 7 para. 13(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(a)**; S.I. 2006/2129, art. 4
- F744** Words in Sch. 7 para. 13(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(b)**; S.I. 2006/2129, art. 4
- F745** Word in Sch. 7 para. 13(3) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(c)**; S.I. 2006/2129, art. 4
- F746** Word in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(i)**; S.I. 2006/2129, art. 4
- F747** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(ii)**; S.I. 2006/2129, art. 4
- F748** Word after Sch. 7 Pt. V para. 13(4)(b) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F749** Sch. 7 Pt. V para. 13(4)(d) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 149, **Sch. 9 para. 90(5)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F750** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(iii)**; S.I. 2006/2129, art. 4
- F751** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(iv)**; S.I. 2006/2129, art. 4
- F752** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(v)**; S.I. 2006/2129, art. 4
- F753** Word in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(i)**; S.I. 2006/2129, art. 4
- F754** Words in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(ii)**; S.I. 2006/2129, art. 4

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- F755** Words in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(iii)**; S.I. 2006/2129, art. 4
- F756** Words in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(iv)**; S.I. 2006/2129, art. 4
- F757** Word after Sch. 7 Pt. V para. 13(7)(a) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F758** Sch. 7 Pt. V para. 13(7)(c) inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 149, **Sch. 9 para. 90(6)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**

### Adoption of proposals

- 14 (1) Where the [<sup>F759</sup>Assembly] has published proposals under paragraph 5 in respect of which [<sup>F760</sup>it] is required to cause a local inquiry to be held, [<sup>F760</sup>it] may when [<sup>F760</sup>it] has considered the report of the person appointed to hold the inquiry do one or more of the following—
- (a) adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by [<sup>F761</sup>the Assembly] under that paragraph which [<sup>F760</sup>it] referred to the inquiry;
  - (b) approve, with or without modifications, or reject any other proposals which [<sup>F760</sup>it] referred to the inquiry; and
  - (c) make any such further proposals under paragraph 5 as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the body to whom the directions were given.
- (2) Where the [<sup>F762</sup>Assembly] has published proposals under paragraph 5 in respect of which [<sup>F763</sup>it] is not required to cause a local inquiry to be held and which [<sup>F763</sup>it] is not required to refer to such an inquiry, [<sup>F763</sup>it] may, after considering any objections made under paragraph 12(1) (and not withdrawn) within the period prescribed in accordance with paragraph 12(2)(b)—
- (a) adopt the proposals with or without modifications; or
  - (b) determine not to adopt the proposals.
- (3) Any adoption of proposals under this paragraph may be expressed to take effect only if an event specified in the adoption occurs by a date so specified.

### Textual Amendments

- F759** Word in Sch. 7 para. 14(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(a)(i)**; S.I. 2006/2129, art. 4
- F760** Word in Sch. 7 para. 14(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(a)(ii)**; S.I. 2006/2129, art. 4
- F761** Words in Sch. 7 para. 14(1)(a) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(a)(iii)**; S.I. 2006/2129, art. 4
- F762** Word in Sch. 7 para. 14(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(b)(i)**; S.I. 2006/2129, art. 4
- F763** Word in Sch. 7 para. 14(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(b)(ii)**; S.I. 2006/2129, art. 4

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*Implementation of proposals*

- 15 Proposals adopted by the [<sup>F764</sup>Assembly] under paragraph 14 shall have effect as if they—
- (a) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or
  - (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school,
- and had been approved by the [<sup>F764</sup>Assembly] under paragraph 8 of Schedule 6.

**Textual Amendments**

**F764** Word in Sch. 7 para. 15 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(13); S.I. 2006/2129, art. 4

**PART VI**

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

*Single-sex schools: England*

- 16 [<sup>F765</sup>(1) . . . . .
- (2) . . . . .
  - (3) . . . . .
  - (4) . . . . .
  - (5) . . . . .
  - (6) In this paragraph and in paragraph 17—  
     “the 1975 Act” means the Sex Discrimination Act 1975,  
     and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).]

**Textual Amendments**

**F765** Sch. 7 para. 16 repealed (1.9.2006 except for para. 16(6)) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(14), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

*Single-sex schools: Wales*

- 17 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.
- (2) Where such proposals are made under paragraph 5 of this Schedule, the responsible body shall be treated as having made an application to the [<sup>F766</sup>Assembly] for the



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making of a transitional exemption order, and the [<sup>F766</sup>Assembly] may make such an order accordingly.

#### Textual Amendments

**F766** Word in Sch. 7 para. 17(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(15); S.I. 2006/2129, art. 4

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

**C227** Sch. 7 para. 17: Power to apply (with modifications) conferred (19.12.2002) by Education Act 2002 (c. 32), ss. 193(5), 216 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1

## SCHEDULE 8

Section 35.

### CHANGES OF CATEGORY OF SCHOOL

#### *Permitted changes of category*

- 1 (1) A community school may in accordance with this Schedule become a foundation school in pursuance of proposals published by the local education authority.
- (2) A school within one of the following categories, namely—
  - (a) a community school,
  - (b) a foundation school,
  - (c) a voluntary aided school, or
  - (d) a voluntary controlled school,may in accordance with this Schedule become a school within another of those categories in pursuance of proposals published by the governing body.
- (3) A community special school may in accordance with this Schedule become a foundation special school in pursuance of proposals published by the local education authority.
- (4) A community special school or a foundation special school may in accordance with this Schedule become a foundation special school or a community special school in pursuance of proposals published by the governing body.

#### *Procedure for changing category of school*

- 2 (1) Where, in the case of any maintained school, the local education authority or the governing body propose that the school should become a school of another category as permitted by paragraph 1, they shall publish their proposals under this paragraph.
- (2) Regulations may provide for any of the provisions of sections 28 and 31 and Part I or II of Schedule 6 to have effect in relation to any such proposals with or without modifications.

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#### *Mandatory publication of proposals for voluntary aided school to change category*

- 3 (1) If at any time the governing body of a voluntary aided school are unable or unwilling to carry out their obligations under Schedule 3, they shall publish proposals under this paragraph.
- (2) If the proposals are published during the period mentioned in section 35(2), they shall be proposals for the school to become a voluntary controlled school.
- (3) If the proposals are published after the end of that period, they shall be proposals for the school to become either a voluntary controlled school or a foundation school, as the governing body may determine.
- (4) Sub-paragraph (2) of paragraph 2 shall apply in relation to proposals published under this paragraph as it applies in relation to proposals published under that paragraph.

#### *Restrictions on changing category of school*

- 4 (1) Regulations may make provision for preventing a school of any description specified in the regulations from changing its category under this Schedule unless such conditions are satisfied as are so specified.
- (2) The conditions which may be so specified include conditions requiring (according to the circumstances of the case) any of the following to be demonstrated to the satisfaction of any person so specified, namely—
- (a) that the school will join a group of schools for which a foundation body acts or proposes to act;
  - (b) where a foundation is proposed to be established for the school otherwise than under this Act, that the foundation would meet such requirements as may be so specified;
  - (c) that the governing body will be able to carry out their obligations under Schedule 3;
  - (d) that the school's governing or foundation body or trustees have agreed to sell or otherwise transfer to the local education authority any land of a description so specified.

#### *Implementation of proposals*

- 5 (1) Regulations may make such provision as the [F767 Assembly] considers necessary or expedient in connection with the implementation of proposals published under paragraph 2 or 3, including provision with respect to—
- (a) the revision or replacement of the school's instrument of government and the reconstitution of its governing body;
  - (b) the transfer of property, rights and liabilities (including such a transfer to or from a foundation body), and staff; and
  - (c) any transitional matters (whether relating to the implementation of proposals published under other provisions of this Act or otherwise).
- (2) Regulations under sub-paragraph (1) may, in particular, make provision with respect to—
- (a) restricting the disposal of land by a local authority which is used or held for the purposes of a school in relation to which proposals to change category are, or may be, published under paragraph 2, as from—

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- (i) the date of publication of such proposals; or
  - (ii) such other time as may be prescribed;
  - (b) restricting the taking of action by virtue of which any such land would cease to be so used or held to any extent;
  - (c) the consequences of any contravention of any such restriction;
  - (d) conferring on any prescribed body such functions as may be prescribed with respect to any such contravention.
- (3) Regulations under sub-paragraph (1) may, in connection with any matters falling within that sub-paragraph—
- (a) modify any provision made by or under this Part of this Act;
  - (b) apply any such provision with or without modifications;
  - (c) make provision corresponding or similar to any such provision.

**Textual Amendments**

**F767** Word in [Sch. 8 para. 5\(1\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 34](#); S.I. 2007/935, art. 7(o)

- 6 A school’s change of category under this Schedule shall not be taken as authorising or requiring any change in the character of the school conducted by its governing body (including, in particular, any religious character of the school).

**F768**SCHEDULE 9

Section 36(1).

CONSTITUTION OF GOVERNING BODIES

**Textual Amendments**

**F768** Schs. 9-13 repealed (1.10.2002 for E. for specified purposes, 1.9.2003 for E., 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/1667, [art. 4](#); S.I. 2004/1728, art. 5, [Sch. Pt. 2](#); S.I. 2005/2910, art. 4, [Sch.](#); S.I. 2007/3611, art. 4(2), [Sch. Pt. 2](#)

**F768**SCHEDULE 10

Section 36(2).

INCORPORATION AND POWERS OF GOVERNING BODIES

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F768 **SCHEDULE 11** Section 36(3).

MEMBERSHIP AND PROCEEDINGS ETC. OF GOVERNING BODIES

.....

F768 **SCHEDULE 12** Section 37.

INSTRUMENTS OF GOVERNMENT

.....

F768 **SCHEDULE 13** Section 40.

CONTROL OF SCHOOL PREMISES BY GOVERNING BODIES

.....

SCHEDULE 14 Section 48.

[<sup>F769</sup>LOCAL EDUCATION AUTHORITY SCHEMES: APPROVAL, IMPOSITION AND REVISION][<sup>F769</sup>REVISION OF LOCAL EDUCATION AUTHORITY SCHEMES]

**Textual Amendments**

**F769** Sch. 14 heading substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 5 para. 5(2)**; S.I. 2006/3400, **art. 4(c)**; S.I. 2010/736, arts. 2(b), **3(c)** (with art. 4)

*[<sup>F770</sup>Approval or imposition of schemes by Secretary of State][<sup>F770</sup>Publication of schemes]*

**Textual Amendments**

**F770** Sch. 14 para. 1 heading substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 5 para. 5(3)**; S.I. 2006/3400, **art. 4(c)**; S.I. 2010/736, arts. 2(b), **3(c)** (with art. 4)

- 1 (1) [<sup>F771</sup>A scheme prepared by a local education authority under section 48(1) shall be submitted to the Secretary of State on or before such date as he may by order direct, whether—
- (a) generally; or
  - (b) in relation to that authority or to any class or description of local education authorities to which that authority belongs.]

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- (2) [<sup>F771</sup>In preparing such a scheme a local education authority shall take into account any guidance given by the Secretary of State, whether—
- (a) generally, or
  - (b) in relation to that authority or to any class or description of local education authorities to which that authority belongs,
- as to the provisions he regards as appropriate for inclusion in the scheme.]
- (3) [<sup>F771</sup>Before preparing such a scheme the local education authority shall consult—
- (a) where this sub-paragraph applies in relation to any time before the appointed day—
    - (i) the governing body and the head teacher of every school maintained by the authority as a county, voluntary or maintained special school (within the meaning of the <sup>M66</sup>Education Act 1996), and
    - (ii) the governing body and the head teacher of every grant-maintained or grant-maintained special school (within the meaning of that Act) in the area of the authority; and
  - (b) where this sub-paragraph applies in relation to any time on or after the appointed day, the governing body and the head teacher of every school maintained by the authority (within the meaning of this Chapter);
- and in paragraph (a)(i) “every school” includes any new school (within the meaning of Part II of the <sup>M67</sup>Education Act 1996).]
- (4) [<sup>F771</sup>Such a scheme shall not come into force until it has been approved by the Secretary of State or until such date as he may, in giving his approval, specify; and the Secretary of State may approve such a scheme—
- (a) either without modifications or with such modifications as he thinks fit after consulting the authority concerned; and
  - (b) subject to such conditions as he may specify in giving his approval.]

(5) [<sup>F771</sup>If in the case of any local education authority either—

    - (a) the authority fail to submit a scheme as required by sub-paragraph (1), or
    - (b) it appears to the Secretary of State that a scheme submitted by the authority as required by that sub-paragraph does not accord with any guidance given by him for the purposes of this paragraph and cannot be made to do so merely by modifying it,

he may, after consulting the authority and such other persons as he thinks fit, impose a scheme making such provision of a description required to be made by a scheme under section 48 as he considers appropriate.]

(6) [<sup>F771</sup>A scheme imposed by the Secretary of State by virtue of sub-paragraph (5)—

    - (a) shall be treated as if made under section 48 by the local education authority concerned; and
    - (b) shall come into force on such date as may be specified in the scheme.]

(7) [<sup>F772</sup>A scheme maintained by a local education authority under section 48(1) shall be published in such manner as may be prescribed—

      - (a) on its coming into force as revised under this Schedule, and
      - (b) on such other occasions as may be prescribed.]

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### Textual Amendments

- F771** Sch. 14 para. 1(1)-(6) repealed (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(4\)\(a\)](#), [Sch. 18 Pt. 6](#); S.I. 2006/3400, [art. 4\(c\)\(d\)](#); S.I. 2010/736, arts. 2(b), [3\(c\)\(d\)](#) (with art. 4)
- F772** Sch. 14 para. 1(7) substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(4\)\(b\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, arts. 2(b), [3\(c\)](#) (with art. 4)

### Marginal Citations

- M66** 1996 c. 56.  
**M67** 1996 c. 56.

### *Revision of schemes*

- [<sup>F773</sup>2 (1) A local education authority may, in accordance with this paragraph, revise the whole or any part of the scheme prepared by them under section 48(1).
- (2) Section 48(1) and paragraph 1(2) shall apply in relation to the preparation by the authority of any revision under this paragraph as they apply in relation to the preparation by the authority of a scheme.
- (3) As regards any proposed variation of the scheme, the authority—
- (a) shall first consult every governing body and head teacher whom they are obliged to consult under paragraph 1(3), and
  - (b) shall then submit a copy of their proposals to the Secretary of State for his approval.
- (4) Where the proposals are so submitted, paragraph 1(4) shall apply to the scheme as revised as it applies to a scheme prepared under section 48.
- (5) The Secretary of State may by a direction revise the whole or any part of any scheme as from such date as may be specified in the direction.
- (6) Before giving such a direction the Secretary of State shall consult the local education authority and such other persons as he thinks fit.]

### Textual Amendments

- F773** Sch. 14 paras. 2A, 2B substituted for Sch. 14 para. 2 (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(5\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, arts. 2(b), [3\(c\)](#) (with art. 4)

- [<sup>F773</sup>2A(1) A local education authority may, in accordance with this paragraph, revise the whole or part of the scheme maintained by them under section 48(1).
- (2) In revising the scheme, the local education authority shall take into account any guidance given by the Secretary of State, whether—
- (a) generally, or
  - (b) in relation to that authority or any class or description of local education authorities to which that authority belongs,

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as to the provisions the Secretary of State regards as appropriate for inclusion in the scheme.

- (3) As regards any proposed variation of the scheme, the authority—
- (a) shall first consult the governing body and head teacher of every school maintained by the authority (within the meaning of this Chapter), and
  - (b) shall then submit a copy of their proposals to the authority's schools forum for their approval.

#### Textual Amendments

**F773** Sch. 14 paras. 2A, 2B substituted for Sch. 14 para. 2 (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(5\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, [arts. 2\(b\), 3\(c\)](#) (with [art. 4](#))

2B (1) Regulations may make provision preventing schemes as revised from coming into force unless they are approved in accordance with the regulations by the local education authority's schools forum or by the Secretary of State.

- (2) The regulations may in particular—
- (a) prescribe circumstances in which proposals which have been submitted to a local education authority's schools forum may be submitted to the Secretary of State,
  - (b) enable the schools forum or the Secretary of State to approve proposals with modifications, and
  - (c) enable the schools forum or the Secretary of State, in giving their or his approval, to specify the date on which the scheme as revised is to come into force.]

#### Textual Amendments

**F773** Sch. 14 paras. 2A, 2B substituted for Sch. 14 para. 2 (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(5\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, [arts. 2\(b\), 3\(c\)](#) (with [art. 4](#))

## SCHEDULE 15

Section 51.

### SUSPENSION OF FINANCIAL DELEGATION

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

**C228** Sch. 15: power to modify conferred (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), [ss. 25\(1\)\(b\), 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); S.I. 2003/124, [art. 4](#)

*Suspension of financial delegation for mismanagement, etc.*

- 1 (1) This paragraph applies where it appears to the local education authority that the governing body of a school which has a delegated budget—

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- (a) have been guilty of a substantial or persistent failure to comply with any delegation requirement or restriction, <sup>F774</sup> ...
  - (b) are not managing in a satisfactory manner the expenditure or appropriation of the sum referred to in section 50(1) <sup>F775</sup> or
  - (c) are not managing in a satisfactory manner any expenditure, or sums received, in the exercise of the power conferred by section 27 of the Education Act 2002 (power to provide community facilities etc.).]
- (2) The authority may suspend the governing body’s right to a delegated budget by giving the governing body not less than one month’s notice of the suspension, unless by reason of any gross incompetence or mismanagement on the part of the governing body or other emergency it appears to the authority to be necessary—
- (a) to give the governing body a shorter period of notice, or
  - (b) to give the governing body a notice suspending their right to such a budget with immediate effect.
- (3) The notice must specify the grounds for the suspension, giving particulars—
- (a) of any alleged failure on the part of the governing body to comply with any delegation requirement or restriction;
  - (b) of any alleged mismanagement on their part; and
  - (c) if applicable, of the basis upon which a period of notice of less than one month was given under sub-paragraph (2).
- (4) <sup>F776</sup> The notice must also inform the governing body of their right to appeal against the suspension under paragraph 3 and of the time within which such an appeal may be brought.]
- (5) A copy of the notice must be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (6) <sup>F777</sup> The authority shall send a copy of the notice to the Secretary of State.]
- (7) In this paragraph “delegation requirement or restriction” means any requirement or restriction applicable, under or by virtue of the scheme or section 50(3), to the management by the governing body of the school’s budget share.
- (8) Any notice given under this paragraph must be in writing.

#### Textual Amendments

**F774** Word in Sch. 15 para. 1(1)(a) omitted (2.9.2002 for E., 1.9.2003 for W.) by virtue of [Education Act 2002](#) (c. 32), s. 216(4), [Sch. 3 para. 5](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

**F775** Sch. 15 para. 1(1)(c) and preceding word inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002](#) (c. 32), s. 216(4), [Sch. 3 para. 5](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

**F776** Sch. 15 para. 1(4) repealed (8.2.2007 for E.) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), Sch. 5 para. 6(a), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 4(c)(d)

**F777** Sch. 15 para. 1(6) repealed (8.2.2007 for E.) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), Sch. 5 para. 6(a), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 4(c)(d)



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

C229 Sch. 15 para. 1 modified (20.11.1998) by S.I. 1998/2670, reg. 6

#### *Review of suspension*

- 2 (1) The local education authority concerned—
- (a) shall review before the beginning of every [<sup>F778</sup>financial year][<sup>F778</sup>funding period] any suspension under paragraph 1 which is for the time being in force, unless the suspension took effect less than two months before the beginning of [<sup>F779</sup>that year][<sup>F779</sup>that period]; and
  - (b) may review at any time any suspension under paragraph 1 which is for the time being in force, if they consider it appropriate to do so.
- (2) For the purposes of any review under sub-paragraph (1), the authority shall give the governing body and the head teacher of the school an opportunity of making representations with respect to the suspension.
- (3) If on the review the authority consider it appropriate to do so, they shall revoke the suspension—
- (a) (in the case of a review under sub-paragraph (1)(a)) with effect from the beginning of the [<sup>F780</sup>financial year][<sup>F780</sup>funding period] next following the review; or
  - (b) (in the case of a review under sub-paragraph (1)(b)) with effect from such time before the beginning of the [<sup>F780</sup>financial year][<sup>F780</sup>funding period] next following the review as they may determine.
- (4) The authority shall give the governing body and the head teacher notice in writing of their decision on the review.
- (5) [<sup>F781</sup>If—
- (a) the review was conducted under sub-paragraph (1)(a), and
  - (b) the authority's decision is to refuse to revoke the suspension,
- the notice must inform the governing body of their right to appeal against the refusal under paragraph 3 and of the time within which such an appeal may be brought.]

#### Textual Amendments

**F778** Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(2)(a) (with s. 119); S.I. 2005/2034, art. 8

**F779** Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(2)(b) (with s. 119); S.I. 2005/2034, art. 8

**F780** Words in Sch. 15 para. 2(3) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(3) (with s. 119); S.I. 2005/2034, art. 8

**F781** Sch. 15 para. 2(5) repealed (8.2.2007 for E.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 6(b), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d)

#### *Appeal against suspension or refusal to revoke it*

- 3 [<sup>F782</sup>(1) A governing body may appeal to the Secretary of State against—

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- (a) the imposition of any suspension under paragraph 1 of their right to a delegated budget; or
  - (b) any refusal of a local education authority to revoke any such suspension on a review under paragraph 2(1)(a).
- (2) An appeal under this paragraph must be brought within the period of two months beginning with the date on which the governing body receive the authority's notice under paragraph 1(2) or 2(4), as the case may be.
- (3) But if the authority's notice failed to comply with paragraph 1(4) or 2(5), such an appeal may be brought at any time before the end of the period of two months beginning with the date on which the governing body are informed by the authority in writing of their right of appeal under this paragraph.
- (4) On an appeal under this paragraph, the Secretary of State—
- (a) may allow or reject the appeal; and
  - (b) shall have regard, in making his determination, to the gravity of the default on the part of the governing body and the likelihood of its continuing or recurring.
- (5) Where the Secretary of State allows an appeal under this paragraph, the suspension of the governing body's right to a delegated budget shall be revoked from a date determined by the Secretary of State.]

#### **Textual Amendments**

**F782** Sch. 15 para. 3 repealed (8.2.2007 for E.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 6(c), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 4(c)(d)

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

**C230** Sch. 15 para. 3(1)(a) excluded (20.11.1998) by S.I. 1998/2670, **reg.6**

#### *Effect of suspension of right to delegated budget*

- 4 (1) During any period when a governing body's right to a delegated budget is suspended under paragraph 1—
- (a) the local education authority's duty under section 50(1) shall not apply in relation to the school; but
  - (b) the authority may permit the governing body to take such decisions as to the spending of sums to be met from the school's budget share as the authority consider appropriate.
- (2) Where in accordance with sub-paragraph (1)(b) the governing body have decided that a particular sum should be spent, they shall, in spending that sum, comply with such reasonable conditions as the authority think fit to impose.
- (3) The governing body may, to such extent as they may specify, delegate their powers in relation to that sum to the head teacher.

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**F783** SCHEDULE 16

Section 54.

**Textual Amendments**

**F783** Sch. 16 repealed (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

*Staffing of community, voluntary controlled and community special schools*

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**F784** SCHEDULE 17

Section 55.

STAFFING OF FOUNDATION, VOLUNTARY AIDED AND FOUNDATION SPECIAL SCHOOLS

**Textual Amendments**

**F784** Sch. 17 repealed (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

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**F785** SCHEDULE 18

Section 67.

APPEALS AGAINST EXCLUSION OF PUPILS

**Textual Amendments**

**F785** Sch. 18 repealed (20.1.2003 for E., 9.1.2004 for W.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with Sch.); S.I. 2003/2961, art. 7, Sch. Pt. 4

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SCHEDULE 19

Section 69.

REQUIRED PROVISION FOR RELIGIOUS EDUCATION

*Introductory*

- 1 (1) In this Schedule “the required provision for religious education”, in relation to a school, means the provision for pupils at the school which is required by [F786section 80(1)(a) or 101(1)(a) of the Education Act 2002] to be included in the school’s basic curriculum.

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- (2) In this Schedule “agreed syllabus” has the meaning given by section 375(2) of [<sup>F787</sup>the Education Act 1996].

#### Textual Amendments

**F786** Words in Sch. 19 para. 1(1) substituted (1.10.2002 for E. for specified purposes and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(2\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#) Sch. Pt. I; S.I. 2003/124, [art. 2](#)

**F787** Words in Sch. 19 para. 1(2) substituted (1.10.2002 for E. and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(2\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. I; S.I. 2003/124, [art. 2](#)

#### *Community schools and foundation and voluntary schools without a religious character*

- 2 (1) This paragraph applies to—
- (a) any community school; and
  - (b) any foundation or voluntary school which does not have a religious character.
- (2) Subject to sub-paragraph (4), the required provision for religious education in the case of pupils at the school is provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.
- (3) If the school is a secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 71 to receive religious education elsewhere and the local education authority are satisfied—
- (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
  - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall to be met from the school’s budget share or otherwise by the authority,
- the authority shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.
- (4) If immediately before the appointed day the school was a grant-maintained school (within the meaning of the <sup>M68</sup>Education Act 1996), and in relation to the school or any pupils at the school the appropriate agreed syllabus as defined by section 382 of that Act was a syllabus falling within subsection (1)(c) of that section, then until—
- (a) the end of such period as the Secretary of State may by order prescribe, or
  - (b) such earlier date as the governing body may determine,
- the required provision for religious education in the case of the school or (as the case may be) those pupils is provision for religious education in accordance with that syllabus.
- (5) No agreed syllabus shall provide for religious education to be given to pupils at a school to which this paragraph applies by means of any catechism or formulary which is distinctive of a particular religious denomination (but this is not to be

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taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies).

#### Commencement Information

**I27** Sch. 19 para. 2 wholly in force at 1.9.1999; Sch. 19 para. 2 not in force at Royal Assent see s. 145(3); Sch. 19 para. 2(4) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 19 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

#### Marginal Citations

**M68** 1996 c. 56.

#### *Foundation and voluntary controlled schools with a religious character*

- 3 (1) This paragraph applies to any foundation or voluntary controlled school which has a religious character.
- (2) Subject to sub-paragraph (4), the required provision for religious education in the case of pupils at the school is provision for religious education—
- (a) in accordance with any arrangements made under sub-paragraph (3), or
  - (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.
- (3) Where the parents of any pupils at the school request that they may receive religious education—
- (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4),
- the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.
- (4) If immediately before the appointed day the school was a grant-maintained school (within the meaning of the <sup>M69</sup>Education Act 1996), and in relation to the school or any pupils at the school the appropriate agreed syllabus as defined by section 382 of that Act was a syllabus falling within subsection (1)(c) of that section, then until—
- (a) the end of such period as the Secretary of State may by order prescribe, or
  - (b) such earlier date as the governing body may determine,
- that syllabus shall be treated for the purposes of sub-paragraph (2)(b) as an agreed syllabus adopted for the school or (as the case may be) those pupils.

#### Commencement Information

**I28** Sch. 19 para. 3 wholly in force at 1.9.1999; Sch. 19 para. 3 not in force at Royal Assent see s. 145(3); Sch. 19 para. 3(4) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 19 para. 3 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

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### Marginal Citations

**M69** 1996 c. 56.

### *Voluntary aided schools with a religious character*

- 4 (1) This paragraph applies to any voluntary aided school which has a religious character.
- (2) The required provision for religious education in the case of pupils at the school is provision for religious education—
- (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4), or
  - (c) in accordance with any arrangements made under sub-paragraph (3).
- (3) Where the parents of any pupils at the school—
- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority, and
  - (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,
- the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for religious education in accordance with that syllabus to be given to those pupils in the school.
- (4) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum by virtue of [<sup>F788</sup>section 80(1)(a) or 101(1)(a) of the Education Act 2002].
- (5) Any arrangements under sub-paragraph (3) shall be made by the governing body, unless the local education authority are satisfied that the governing body are unwilling to make them, in which case they shall be made by the authority.
- (6) Subject to sub-paragraph (3), the religious education given to pupils at the school shall be under the control of the governing body.

### Textual Amendments

**F788** Words in Sch. 19 para. 4(4) substituted (1.10.2002 for E. for specified purposes and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. I; S.I. 2003/124, [art. 2](#)

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## SCHEDULE 20

Section 70.

## COLLECTIVE WORSHIP

*Introductory*

- 1 In this Schedule “the required collective worship”, in relation to a school, means the collective worship in that school which is required by section 70.

*General provisions as to collective worship*

- 2 (1) This paragraph applies to any community, foundation or voluntary school.
- (2) The arrangements for the required collective worship may, in respect of each school day, provide for a single act of worship for all pupils or for separate acts of worship for pupils in different age groups or in different school groups.
- (3) For the purposes of sub-paragraph (2) a “school group” is any group in which pupils are taught or take part in other school activities.
- (4) Subject to sub-paragraph (6), the arrangements for the required collective worship shall be made—
- (a) if the school is a community school or a foundation school which does not have a religious character, by the head teacher after consulting the governing body;
  - (b) if the school is a foundation school which has a religious character or a voluntary school, by the governing body after consulting the head teacher.
- (5) Subject to sub-paragraph (6), the required collective worship shall take place on the school premises.
- (6) If the governing body of a community, foundation or voluntary school are of the opinion that it is desirable that any act of collective worship in the school required by section 70 should, on a special occasion, take place elsewhere than on the school premises, they may, after consultation with the head teacher, make such arrangements for that purpose as they think appropriate.
- (7) The powers of a governing body under sub-paragraph (6) shall not be exercised so as to derogate from the rule that the required collective worship must normally take place on the school premises.

*Nature of collective worship in community schools and foundation schools without a religious character*

- 3 (1) This paragraph applies to—
- (a) any community school; and
  - (b) any foundation school which does not have a religious character.
- (2) Subject to paragraph 4, the required collective worship shall be wholly or mainly of a broadly Christian character.
- (3) For the purposes of sub-paragraph (2), collective worship is of a broadly Christian character if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.

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- (4) Not every act of collective worship in the school required by section 70 need comply with sub-paragraph (2) provided that, taking any school term as a whole, most such acts which take place in the school do comply with that sub-paragraph.
- (5) Subject to sub-paragraphs (2) and (4)—
- (a) the extent to which (if at all) any acts of collective worship required by section 70 which do not comply with sub-paragraph (2) take place in the school,
  - (b) the extent to which any act of collective worship in the school which complies with sub-paragraph (2) reflects the broad traditions of Christian belief, and
  - (c) the ways in which those traditions are reflected in any such act of collective worship,
- shall be such as may be appropriate having regard to any relevant considerations relating to the pupils concerned which fall to be taken into account in accordance with sub-paragraph (6).
- (6) Those considerations are—
- (a) any circumstances relating to the family backgrounds of the pupils which are relevant for determining the character of the collective worship which is appropriate in their case, and
  - (b) their ages and aptitudes.
- (7) In this paragraph references to acts of collective worship in the school include such acts which by virtue of paragraph 2(6) take place otherwise than on the school premises.

*Disapplication of requirement under paragraph 3(2)*

- 4 (1) This paragraph applies where a standing advisory council on religious education have determined (under section 394 of the <sup>M70</sup>Education Act 1996) that it is not appropriate for the requirement imposed by paragraph 3(2) to apply in the case of any school to which paragraph 3 applies or in the case of any class or description of pupils at any such school.
- (2) While the determination has effect—
- (a) paragraph 3 shall not apply in relation to the school or (as the case may be) the pupils in question, and
  - (b) the collective worship required by section 70 in the case of the school or pupils shall not be distinctive of any particular Christian or other religious denomination;
- but paragraph (b) shall not be taken as preventing that worship from being distinctive of any particular faith.

**Marginal Citations**

M70 1996 c. 56.



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*Nature of collective worship in foundation schools  
with a religious character and voluntary schools*

- 5 In the case of a foundation school which has a religious character or a voluntary school, the required collective worship shall be—
- (a) in accordance with any provisions of the trust deed relating to the school, or
  - (b) where—
    - (i) provision for that purpose is not made by such a deed, and
    - (ii) the school has a religious character,
- in accordance with the tenets and practices of the religion or religious denomination specified in relation to the school under section 69(4).

SCHEDULE 21

Section 74.

TRANSFERS OF LAND ON APPOINTED DAY

**PART I**

GENERAL PROVISIONS

*Introductory*

- 1 In this Schedule any reference to a grant-maintained or grant-maintained special school is a reference to such a school within the meaning of the <sup>M71</sup>Education Act 1996.

**Marginal Citations**

**M71** 1996 c. 56.

*Effect of transfers under this Schedule*

- 2 (1) Where any land is transferred to and vests in any body in accordance with this Schedule, any rights or liabilities—
- (a) enjoyed or incurred by the transferor in connection with the land, and
  - (b) subsisting immediately before the appointed day,
- shall also be transferred to, and by virtue of this Act vest in, that body.
- (2) Any reference in this Schedule, in relation to a school, to land being transferred to, and vesting in, a foundation body is a reference to its being transferred to, and vesting in, that body for the purposes of the schools comprising the group for which that body acts.
- (3) This Schedule is subject to section 198 of the <sup>M72</sup>Education Reform Act 1988 (which with Schedule 10 to that Act makes further provision in relation to transfers of property, rights and liabilities), and references in that Schedule as applied by virtue of this sub-paragraph to the transfer date are to the appointed day.

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### Marginal Citations

M72 1988 c. 40.

## PART II

### RULES RELATING TO TRANSFERS

#### *Application of Part II*

- 3 (1) This Part of this Schedule applies to schools which, in accordance with Schedule 2, become community, foundation, voluntary or community special schools on the appointed day.
- (2) This Part has effect subject to Part III of this Schedule.

#### *Transfers for purposes of community schools*

- 4 (1) This paragraph applies where a grant-maintained school (an “existing school”) becomes a community school.
- (2) In such a case—
- (a) any publicly funded land shall on the appointed day be transferred to, and by virtue of this Act vest in, the local education authority;
  - (b) any other land which, immediately before that day, is held by the governing body for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement; and
  - (c) any land which, immediately before that day, is held by any trustees for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement.
- (3) In this paragraph “publicly funded land” means land which—
- (a) immediately before the appointed day is held by the governing body for the purposes of the existing school, and
  - (b) was acquired from a local authority under a transfer under section 201(1) (a) of the <sup>M73</sup>Education Act 1996 or from the Funding Agency for Schools or was acquired wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of that Act).
- (4) In this paragraph “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the governing body or (as the case may be) trustees mentioned in that sub-paragraph, and
  - (b) providing for the land in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

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### Marginal Citations

M73 1996 c. 56.

#### *Transfers for purposes of foundation schools*

- 5 (1) This paragraph applies where—
- (a) a grant-maintained school (an “existing school”) becomes a foundation school; and
  - (b) as from the appointed day the school (as a foundation school) is a member of the group for which a foundation body acts.
- (2) In such a case, any land which, immediately before the appointed day, was held by the governing body for the purposes of the existing school shall on that day be transferred to, and by virtue of this Act vest in, the foundation body.

#### *Transfers for purposes of voluntary schools*

- 6 (1) This paragraph applies where—
- (a) a grant-maintained school (an “existing school”) becomes a voluntary school; and
  - (b) as from the appointed day the school (as a voluntary school) is a member of the group for which a foundation body acts.
- (2) In such a case, any land which, immediately before the appointed day, was held by the governing body for the purposes of the existing school shall on that day be transferred to, and by virtue of this Act vest in, the foundation body.

#### *Transfers for purposes of community special schools*

- 7 (1) This paragraph applies where a grant-maintained special school (an “existing school”) becomes a community special school.
- (2) In such a case—
- (a) any publicly funded land shall on the appointed day be transferred to, and by virtue of this Act vest in, the local education authority;
  - (b) any other land which, immediately before that day, is held by the governing body for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement; and
  - (c) any land which, immediately before that day, is held by any trustees for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement.
- (3) In this paragraph “publicly funded land” means land which—
- (a) immediately before the appointed day is held by the governing body for the purposes of the existing school, and
  - (b) was acquired from a local authority under a transfer under section 201(1) (a) of the <sup>M74</sup>Education Act 1996 or from the Funding Agency for Schools or was acquired wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of that Act).
- (4) In this paragraph “transfer agreement” means an agreement—

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- (a) made for the purposes of sub-paragraph (2) between the local education authority and the governing body or (as the case may be) the trustees mentioned in that sub-paragraph, and
- (b) providing for the land in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

#### Marginal Citations

M74 1996 c. 56.

#### *Outstanding transfers to existing school*

- 8 Where immediately before the appointed day—
- (a) any land vested in a local authority is by virtue of any statutory provision required to be transferred to the governing body or any trustees of an existing school within the meaning of any of paragraphs 4 to 7, but
  - (b) the land has not yet been so transferred,
- that paragraph shall apply to the school as if it had been so transferred by that time.

#### *Transfer of rights to use land*

- 9 (1) Where paragraph 4, 5, 6 or 7 applies to an existing school and any land held by a person or body other than the governing body of the school was, immediately before the appointed day, used for the purposes of the school, any rights or liabilities—
- (a) enjoyed or incurred by the governing body in connection with the use of the land, and
  - (b) subsisting immediately before the appointed day,
- shall on that day be transferred to, and by virtue of this Act vest in, the local education authority (in a case to which paragraph 4 or 7 applies) or the foundation body (in a case to which paragraph 5 or 6 applies).
- (2) Where paragraph 4 or 7 applies to an existing school and any land held by a person or body other than any trustees who hold any land for the purposes of the school was, immediately before the appointed day, used for the purposes of the school, any rights or liabilities—
- (a) enjoyed or incurred by any such trustees in connection with the use of the land, and
  - (b) subsisting immediately before the appointed day,
- shall on that day be transferred to, and vest in, the local education authority in accordance with a transfer agreement.
- (3) Nothing in this paragraph applies in relation to land to which paragraph 4, 5, 6 or 7 applies.
- (4) In this paragraph—
- “existing school” has the meaning given by paragraph 4, 5, 6 or 7, as the case may be;
  - “transfer agreement” means an agreement—

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- (a) made for the purposes of sub-paragraph (2) between the local education authority and the trustees mentioned in that sub-paragraph, and
- (b) providing for the rights or liabilities in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

### PART III

#### PROPERTY EXCLUDED FROM TRANSFERS

- 10 (1) Nothing in Part II of this Schedule has the effect of transferring to, or vesting in, any body—
- (a) any land, rights or liabilities excluded under sub-paragraph (2) or (3),
  - (b) any rights or liabilities under a contract of employment,
  - (c) any liability of a governing body in respect of the principal of, or any interest on, any loan,
  - (d) any liability in tort, or
  - (e) any rights or liabilities which are determined in accordance with regulations to be rights or liabilities falling within this paragraph.
- (2) If before the appointed day—
- (a) the prospective transferee and transferor have agreed in writing that any land should be excluded from the operation of Part II of this Schedule, and
  - (b) the Secretary of State has given his written approval of the agreement,
- the land (and any rights or liabilities relating to it) shall be so excluded.
- (3) If in default of agreement under sub-paragraph (2)—
- (a) the prospective transferee or transferor have applied to the Secretary of State to exclude any land from the operation of Part II of this Schedule, and
  - (b) the Secretary of State has by order directed its exclusion,
- the land (and any rights or liabilities relating to it) shall be so excluded.
- (4) An agreement under sub-paragraph (2) may provide for the land to be used or held for the purposes of the school (as a school of a new category) on such terms as may be specified in or determined in accordance with the agreement; and directions under sub-paragraph (3)—
- (a) may confer any rights or impose any liabilities that could have been conferred or imposed by such an agreement, and
  - (b) shall have effect as if contained in such an agreement.
- (5) In this paragraph—
- “new category” means one of the categories set out in section 20(1);
  - “the prospective transferee”, in relation to any land, means the body to whom, apart from sub-paragraph (2) or (3), the land would fall to be transferred under Part II of this Schedule; and
  - “the prospective transferor” shall be construed accordingly.

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## SCHEDULE 22

Section 76.

### DISPOSALS OF LAND IN CASE OF CERTAIN SCHOOLS AND DISPOSALS ON DISCONTINUANCE

#### [<sup>F789</sup> PART A1

#### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS IN ENGLAND: DISPOSALS OF LAND

##### Textual Amendments

**F789** Sch. 22 Pt. A1 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 2; S.I. 2007/935, art. 7(p)

#### *Disposal of land by governing body of foundation, voluntary or foundation special school*

- A1 (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
  - (b) any land acquired under any of the following—
    - paragraph 2 of Schedule 3;
    - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
    - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
    - any regulations made under paragraph 5 of Schedule 8;
    - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
  - (c) any land acquired under any regulations made under—
    - section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
    - section 27 of that Act by virtue of subsection (2)(b) of that section,
  - (d) any land acquired from a foundation body,
  - (e) any land acquired from the Funding Agency for Schools,
  - (f) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
  - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
  - (h) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or
  - (i) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (h).

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- (2) But this paragraph does not apply to any disposal which—
- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
  - (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation established otherwise than under this Act.
- (3) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
  - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (4) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
  - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A2 (1) This paragraph applies to a disposal of land to which paragraph A1 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A3 to A5 and paragraph A19—
- (a) references to the disposal are to the disposal by the governing body of the non-playing field land, and
  - (b) references to the land are to that non-playing field land.
- (4) The governing body must give the local education authority notice of their intention to dispose of the land.
- (5) That notification must specify—
- (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
  - (b) the estimated amount of the proceeds of disposal.
- (6) For the purposes of this paragraph and paragraphs A3 and A4, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A1.
- (7) The authority may, within the requisite period, give the governing body any or all of the following—
- (a) notice of their objection to the disposal, giving reasons for their objection;
  - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
  - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.

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- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the governing body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the governing body notice to that effect.
- (10) The governing body may not make the disposal within the requisite period unless within that period—
- (a) the authority give the governing body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
  - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the governing body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A3(1), or
  - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
  - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the governing body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A3(2), or
  - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A3(3), or
  - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).



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- A3 (1) Where the authority give the governing body notice of their objection to the disposal in accordance with paragraph A2(7)(a), the governing body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the governing body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the governing body and the authority, or
  - (b) by the adjudicator where—
    - (i) the governing body or the authority refer the matter to him for determination, and
    - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
- (3) Where the authority give the governing body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), the amount of those proceeds which it is appropriate for the governing body to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the governing body and the authority, or
  - (b) by the adjudicator where—
    - (i) the governing body or the authority refer the matter to him for determination, and
    - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the governing body or, as the case may be, the authority, must give the other notice of their intention to make the reference.
- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A4 (1) This paragraph applies where the disposal is made.
- (2) The governing body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
- (3) Where—
- (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), and
  - (b) the “appropriate amount” has been determined in accordance with paragraph A3(3) to be an amount greater than zero,
- the governing body must pay the “appropriate amount” to the authority.
- (4) The governing body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the governing body must ensure that the surplus amount is used on relevant capital expenditure.

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- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
    - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A2(7)(b), or
    - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A2(9),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A2(4), and
  - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A3(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A3(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A2(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A2(7) (b) or (c)).
- A5 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A2(7)(a), and
  - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The governing body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the governing body must give the local education authority notice of their intention to make the application.
- A6 (1) For the purposes of paragraphs A2 to A4, “relevant capital expenditure”, in relation to a disposal of land by the governing body of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- (a) the school,
  - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
  - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

*Disposal of land by foundation body*

- A7 (1) This paragraph applies to any disposal by a foundation body in England of—
- (a) any land acquired under any of the following—  
 paragraph 2, 4 or 9 of Schedule 3;

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- paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
- paragraph 5 or 6 of Schedule 21;
- paragraph 5(4B)(d) of this Schedule;
- any regulations made under paragraph 5 of Schedule 8,
- (b) any land acquired under any of the following—
- paragraph 8(5) of Schedule 8 to the Education Act 2002;
- paragraph 14(5) of Schedule 10 to the Education Act 2005;
- paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
- any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
- any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,
- (c) any land acquired from the governing body of a maintained school,
- (d) any land acquired from another foundation body,
- (e) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment),
- (f) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
- (g) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or
- (h) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (g).
- (2) A “foundation body in England” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in England.
- (3) But this paragraph does not apply to any disposal which—
- (a) is made by a foundation body after the commencement of this sub-paragraph, and
- (b) is a disposal to the trustees of a foundation or foundation special school made on the school leaving the group for which the foundation body acts and becoming a school with a foundation established otherwise than under this Act.
- (4) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and

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- (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (5) An “appropriate statement” in relation to expenditure is a statement in writing which—
  - (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
  - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A8 (1) This paragraph applies to a disposal of land to which paragraph A7 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A9 to A11 and paragraph A19—
  - (a) references to the disposal are to the disposal by the foundation body of the non-playing field land, and
  - (b) references to the land are to that non-playing field land.
- (4) The foundation body must give the local education authority notice of its intention to dispose of the land.
- (5) That notification must specify—
  - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
  - (b) the estimated amount of the proceeds of disposal.
- (6) For the purposes of this paragraph and paragraphs A9 and A10, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A7.
- (7) The authority may, within the requisite period, give the foundation body any or all of the following—
  - (a) notice of their objection to the disposal, giving reasons for their objection;
  - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
  - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the foundation body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the foundation body notice to that effect.
- (10) The foundation body may not make the disposal within the requisite period unless within that period—
  - (a) the authority give the foundation body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or

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- (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the foundation body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A9(1), or
  - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
  - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the foundation body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A9(2), or
  - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A9(3), or
  - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).
- A9 (1) Where the authority give the foundation body notice of their objection to the disposal in accordance with paragraph A8(7)(a), the foundation body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the foundation body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the foundation body and the authority, or
  - (b) by the adjudicator where—

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- (i) the foundation body refers or the authority refer the matter to him for determination, and
  - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (3) Where the authority give the foundation body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), the amount of those proceeds which it is appropriate for the foundation body to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the foundation body and the authority, or
  - (b) by the adjudicator where—
    - (i) the foundation body refers or the authority refer the matter to him for determination, and
    - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the foundation body or, as the case may be, the authority, must give the other notice of its or their intention to make the reference.
- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A10 (1) This paragraph applies where the disposal is made.
- (2) The foundation body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
- (3) Where—
- (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), and
  - (b) the “appropriate amount” has been determined in accordance with paragraph A9(3) to be an amount greater than zero,
- the foundation body must pay the “appropriate amount” to the authority.
- (4) The foundation body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the foundation body must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
    - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A8(7)(b), or
    - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A8(9),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A8(4), and

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- (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A9(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A9(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A8(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A8(7) (b) or (c)).
- A11 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A8(7)(a), and
  - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The foundation body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the foundation body must give the local education authority notice of its intention to make the application.
- A12 (1) For the purposes of paragraphs A8 to A10, “relevant capital expenditure”, in relation to a disposal of land by a foundation body, means capital expenditure in relation to the premises of—
- (a) any of the schools comprising the group for which the body acts,
  - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
  - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

*Disposal of land by trustees of foundation, voluntary or foundation special school*

- A13 (1) This sub-paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under section 60, 61 or 70 of the Education Act 1996,
  - (b) any land acquired under any of the following—
    - paragraph 2 of Schedule 3;
    - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
    - paragraph 5(4B)(d) of this Schedule;
    - any regulations made under paragraph 5 of Schedule 8,
  - (c) any land acquired under any of the following—
    - paragraph 4 or 9 of Schedule 3;

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- paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
- (d) any land acquired under any of the following—
- paragraph 8(5) of Schedule 8 to the Education Act 2002;
  - paragraph 14(5) of Schedule 10 to the Education Act 2005;
  - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
  - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
- (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
- (f) any land acquired from the Funding Agency for Schools,
- (g) any land acquired, or enhanced in value, wholly or partly by means of—
- (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
  - (ii) any grant paid under section 216(2) of that Act,
- (h) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (f) or (g),
- (i) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996),
- (j) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27, or
- (k) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (j).
- (2) This sub-paragraph applies to any disposal by the trustees of a foundation or foundation special school in England of—
- (a) any land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
- (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,
  - (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or
  - (iii) acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
- (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) This sub-paragraph applies to any disposal by the trustees of a voluntary school in England of—



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- (a) any land acquired by the trustees from the governing body of the school which was land acquired by the governing body—
    - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
    - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees, or
  - (b) in the case of a school to which sub-paragraph (4) applies, any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
- (5) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
  - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (6) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
  - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- (7) Where the trustees of a foundation, voluntary or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools the preceding provisions of this paragraph and paragraphs A14 to A16 apply (subject to the modifications specified in paragraphs A14(18), A15(5) and A16(9)) as if any such change of use of the land were a disposal of the land.
- A14 (1) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies.
- (2) But this paragraph only applies to a disposal if, or to the extent that, it comprises a disposal of non-playing field land which does not fall within sub-paragraph (5).
- (3) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (4) Accordingly, in this paragraph, paragraphs A15 to A17 and paragraph A19—
- (a) references to the disposal are to the disposal by the trustees of the non-playing field land, and
  - (b) references to the land are to that non-playing field land.
- (5) A disposal of non-playing field land falls within this sub-paragraph if it is a disposal of—
- (a) land acquired under section 60 or 61 of the Education Act 1996, or
  - (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,

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- by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).
- (6) The trustees must give the local education authority notice of their intention to dispose of the land.
- (7) That notification must specify—
- (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
  - (b) the estimated amount of the proceeds of disposal.
- (8) For the purposes of this paragraph and paragraphs A15 and A16, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1), (2) or (3) of paragraph A13.
- (9) The authority may, within the requisite period, give the trustees any or all of the following—
- (a) notice of their objection to the disposal, giving reasons for their objection;
  - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
  - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (10) The “requisite period” means the period of 6 weeks beginning with the date upon which the trustees gave notification of the disposal to the authority under sub-paragraph (6).
- (11) A notice given under sub-paragraph (9) may be withdrawn at any time by the authority giving the trustees notice to that effect.
- (12) The trustees may not make the disposal within the requisite period unless within that period—
- (a) the authority give the trustees notice that they relinquish any right to give notice under sub-paragraph (9)(a) in relation to the disposal, or
  - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the relevant requirements in relation to such a notice are met.
- (13) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the trustees may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (9) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A15(1), or
  - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (11).
- (15) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (9)—

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- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (9)(b);
  - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (9)(c),
- the trustees may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (16) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A15(2), or
  - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (11).
- (17) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A15(3), or
  - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (11).
- (18) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (7) for paragraphs (a) and (b) substitute “the purposes for which it is proposed the land is to be used”,
  - (b) in sub-paragraph (9)—
    - (i) omit paragraphs (a) and (c), and
    - (ii) in paragraph (b), for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
  - (c) in sub-paragraph (15)—
    - (i) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
    - (ii) for “use the publicly funded proceeds of disposal” substitute “use the land for purposes not connected with the provision of education in maintained schools”, and
  - (d) in sub-paragraph (16)—
    - (i) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has” substitute “purposes for which the land is to be used have”, and
    - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”.
- A15 (1) Where the authority give the trustees notice of their objection to the disposal in accordance with paragraph A14(9)(a), the trustees or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.

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- (2) Where the authority give the trustees notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
    - (a) by agreement between the trustees and the authority, or
    - (b) by the adjudicator where—
      - (i) the trustees or the authority refer the matter to him for determination, and
      - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
  - (3) Where the authority give the trustees notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), the amount of those proceeds which it is appropriate for the trustees or their successors to pay to the authority (the “appropriate amount”) is to be determined—
    - (a) by agreement between the trustees and the authority, or
    - (b) by the adjudicator where—
      - (i) the trustees or the authority refer the matter to him for determination, and
      - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
  - (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3) (b), the trustees or, as the case may be, the authority, must give the other notice of their intention to make the reference.
  - (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
  - (6) In the application of this paragraph in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, sub-paragraph (2) is modified as follows—
    - (a) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
    - (b) for “relevant capital expenditure upon which those proceeds are to be used is” substitute “purposes for which the land is to be used are”.
- A16 (1) This paragraph applies where the disposal is made.
- (2) The trustees must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
  - (3) Where—
    - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), and
    - (b) the “appropriate amount” has been determined in accordance with paragraph A15(3) to be an amount greater than zero,
 the trustees or their successors must pay the “appropriate amount” to the authority.
  - (4) The trustees and their successors must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.

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- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the trustees and their successors must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
    - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A14(9)(b), or
    - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A14(11),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A14(6), and
  - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A15(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A15(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A14(15) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A14(9) (b) or (c)).
- (9) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (2) omit the words from “and of the amount” to the end,
  - (b) in sub-paragraph (4) for “remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure” substitute “land is used for the agreed purposes”,
  - (c) omit sub-paragraph (5), and
  - (d) in sub-paragraph (6)—
    - (i) for “agreed relevant capital expenditure” substitute “agreed purposes”,
    - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
    - (iii) for “relevant capital expenditure” substitute “proposed purposes”, and
    - (iv) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used” substitute “purposes for which the land is to be used”.
- A17 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A14(9)(a), and
  - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The trustees may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may

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specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.

- (3) Before making an application under sub-paragraph (2), the trustees must give the local education authority notice of their intention to make the application.
- A18 (1) For the purposes of paragraphs A14 to A16, “relevant capital expenditure”, in relation to a disposal of land by the trustees of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- (a) the school,
  - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
  - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

*Duty to have regard to guidance etc*

- A19 (1) A local education authority, a governing body, a foundation body and trustees must have regard, in particular, to any guidance given from time to time by the Secretary of State—
- (a) in determining whether to give a notice, or make a reference or application to the adjudicator, under any of paragraphs A2 to A17, or
  - (b) in determining the publicly funded proceeds of disposal or the “appropriate amount” for the purposes of any of those paragraphs.
- (2) In determining any matter for the purposes of any of the provisions mentioned in sub-paragraph (1), the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (3) In addition to having regard to guidance as required under sub-paragraph (1)(b) or (2), a local education authority, a governing body, a foundation body, trustees and the adjudicator, must also have regard, in particular, to the factors mentioned in sub-paragraph (4) in determining any of the following for the purposes of any of paragraphs A2 to A17—
- (a) the publicly funded proceeds of disposal;
  - (b) the “appropriate amount”;
  - (c) the amount of the consideration (if any) to be paid under paragraph A5, A11 or A17.
- (4) The factors referred to in sub-paragraph (3) are—
- (a) in the case of any disposal, the value of the land as at the date of the determination,
  - (b) in the case of any disposal, any enhancement in value of the land attributable to expenditure on the land by the local education authority or a relevant person,
  - (c) in the case of any disposal, any expenditure on the land by a relevant person,
  - (d) in the case of any disposal, any relevant payments made by a relevant person to the local education authority or the Secretary of State,

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- (e) in the case of any disposal, to the extent that they do not fall within paragraph (c) or (d), any payments in respect of the acquisition of the land, and
  - (f) in the case of a disposal falling within paragraph A1(1)(i), paragraph A7(1)(h) or paragraph A13(1)(h) or (k), (2)(a)(iii) or (b), or (3)(a)(ii), the extent to which the proceeds of disposal mentioned in the provision in question were publicly funded proceeds of disposal as defined for the purposes of paragraph A2, A8 or A14, as the case may be.
- (5) A “relevant person” means—
- (a) in the case of a disposal to which paragraph A2 or A14 applies, the governing body or the trustees of the school in question, and
  - (b) in the case of a disposal to which paragraph A8 applies, the foundation body in question.
- (6) A “relevant payment” means—
- (a) in the case of any disposal, a payment in respect of the current school site or sites to which the land relates,
  - (b) in the case of any disposal, a payment under any of the following provisions—
    - paragraph 2(6) of Schedule 3;
    - paragraph 16(5) of Schedule 6 (including that provision as applied by any enactment);
    - section 60(4) of the Education Act 1996;
    - paragraph 28(5) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment), and
  - (c) in the case of a disposal of land falling within any of the following provisions—
    - paragraph A1(1)(f) or (g);
    - paragraph A7(1)(e) or (f);
    - paragraph A13(1)(g), (i) or (j),
 a payment in respect of the grant mentioned in the provision in question.
- (7) The reference in sub-paragraph (5)(a) to the governing body or the trustees of the school in question includes—
- (a) where the school was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
  - (b) where the school was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
  - (c) where the school was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.
- (8) The reference in sub-paragraph (5)(b) to the foundation body in question includes—
- (a) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,

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- (b) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
- (c) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.

*Power to vary or revoke determinations or orders*

- A20 (1) A determination made by the adjudicator on a reference made to him under any of paragraphs A3 to A15 may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by a relevant person in relation to the determination, and
  - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (2) A “relevant person” in relation to a determination means—
- (a) the local education authority, governing body, foundation body or trustees who made the reference to the adjudicator in relation to which the determination was made, or
  - (b) any other of those persons who could have made that reference.
- (3) In determining whether to make a reference to the adjudicator under sub-paragraph (1)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4) An order made by the adjudicator on an application under paragraph A5, A11 or A17 may be varied or revoked by a further order made by him if—
- (a) an application for its variation or revocation is made to him by an appropriate person in relation to the order, and
  - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (5) An “appropriate person” in relation to an order made under paragraph A5, A11 or A17 means—
- (a) the governing body, the foundation body or the trustees, as the case may be, who applied for the order,
  - (b) the local education authority, or
  - (c) if different from that authority, the local authority to whom land is required to be transferred under the order.
- (6) In determining whether to make an application to the adjudicator under sub-paragraph (4)(a), an appropriate person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (7) Paragraph A19 applies in relation to the further determination by the adjudicator, by virtue of sub-paragraph (1) or (4), of any matter for the purposes of any of paragraphs A2 to A17 as it applies in relation to the original determination of the matter.



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### Meaning of “capital expenditure”

- A21 (1) This paragraph applies to the references to capital expenditure in the definition of “relevant capital expenditure” in paragraphs A6, A12 and A18.
- (2) Subject to sub-paragraphs (3) and (4), such references are references to—
- (a) in the case of paragraph A6, expenditure which, if it were to be incurred by the governing body, would fall to be capitalised in accordance with proper accounting practices;
  - (b) in the case of paragraph A12, expenditure which, if it were to be incurred by the foundation body, would fall to be capitalised in accordance with proper accounting practices;
  - (c) in the case of paragraph A18, expenditure which, if it were to be incurred by the trustees, would fall to be capitalised in accordance with proper accounting practices.
- (3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated—
- (a) for the purposes of paragraph A6 as being, or as not being, capital expenditure of any governing body, or any prescribed class or description of governing body;
  - (b) for the purposes of paragraph A12 as being, or as not being, capital expenditure of any foundation body, or any prescribed class or description of foundation body;
  - (c) for the purposes of paragraph A18 as being, or as not being, capital expenditure of any trustees, or any prescribed class or description of trustee.
- (4) The Secretary of State may by direction provide that—
- (a) expenditure of a particular governing body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A6 as being, or as not being, capital expenditure of that body;
  - (b) expenditure of a particular foundation body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A12 as being, or as not being, capital expenditure of that body;
  - (c) expenditure of particular trustees, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A18 as being, or as not being, capital expenditure of those persons.
- (5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.
- A22 (1) For the purposes of paragraph A21, “proper accounting practices”, in relation to a governing or foundation body, or to trustees, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by that body, or as the case may be, those persons, or
  - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the relevant local education authority.

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- (2) The “relevant local education authority” means the local education authority to whom notice of the disposal in question is required to be given under paragraph A2, A8 or A14.
- (3) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.

*Land required by local education authority for certain purposes*

- A23 (1) A local education authority in England may apply to the adjudicator for a transfer order under this paragraph in relation to publicly funded land which—
- (a) is held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school,
  - (b) is held by a foundation body for the purposes of the group of schools for which it acts, or
  - (c) is held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school.
- (2) A transfer order is an order requiring the land in relation to which it is made to be transferred by the body or trustees holding it to the authority, subject to the payment by the authority of such sum by way of consideration (if any) as the adjudicator determines to be appropriate.
  - (3) In determining whether to make an application under sub-paragraph (1) for a transfer order, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.
  - (4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give the body or trustees holding the land notice of the authority’s intention to make the application.
  - (5) An application under sub-paragraph (1) must state the purpose for which the land to which it relates is required by the authority (“the stated purpose”).
  - (6) In relation to the content of such an application, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.
  - (7) Where an application is made under sub-paragraph (1) for a transfer order in relation to publicly funded land, the adjudicator may make a transfer order if he is satisfied that—
    - (a) the land is not required for the purposes of the school or, as the case may be, the schools in the group,
    - (b) the land is required by the authority for the stated purpose,
    - (c) the stated purpose is a qualifying purpose, and
    - (d) it is appropriate for the land to be used for that purpose.
  - (8) For the purposes of sub-paragraph (7)(c) the stated purpose is a qualifying purpose if it falls within one or more of the following descriptions of purpose—
    - (a) the land is required for the purposes of any school or institution which is, or is to be, maintained by the authority, or which they have power to assist;

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- (b) the land is otherwise required for the purposes of the exercise of any of the functions of the authority;
  - (c) the land is required for the provision of children’s services by or on behalf of the local authority who are that authority in the exercise of any of the relevant functions of that local authority.
- (9) For the purposes of sub-paragraph (8)(c)—
- “children’s services” are services provided for or in relation to any of the following persons (whether or not they are also provided for or in relation to any other persons)—
- (a) children;
  - (b) persons aged 18 or 19;
  - (c) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989;
  - (d) persons over the age of 19 but under the age of 25 who have a learning difficulty, within the meaning of section 13 of the Learning and Skills Act 2000, and are receiving services under that Act;
- “relevant functions” means the functions described in any of paragraphs (a), (c), (d) or (e) of subsection (1) of section 135 of the Education and Inspections Act 2006.
- (10) Before making a transfer order the adjudicator must consult the body or trustees holding the land in relation to which the application for the transfer order is made.
- (11) In determining whether to make a transfer order, the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (12) Where a transfer order is made, the authority must use the land to which it relates for the stated purpose.
- (13) A transfer order made by the adjudicator may be varied or revoked by a further order made by the adjudicator if—
- (a) an application for its variation or revocation is made to him by a relevant person in relation to the order, and
  - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (14) A “relevant person” in relation to a transfer order means—
- (a) the local education authority who applied for the transfer order, or
  - (b) the body or trustees who held the land to which the order relates.
- (15) In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (16) Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.
- A24 (1) For the purposes of paragraph A23, land held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school is “publicly funded land” if it is—
- (a) land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
  - (b) land acquired under any of the following—

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- paragraph 2 of Schedule 3;
  - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
  - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
  - any regulations made under paragraph 5 of Schedule 8;
  - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
- (c) land acquired under any regulations made under—
- section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
  - section 27 of that Act by virtue of subsection (2)(b) of that section,
- (d) land acquired from a foundation body,
- (e) land acquired from the Funding Agency for Schools,
- (f) land acquired wholly by means of—
- (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
  - (ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
- (g) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
- (h) land acquired wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or
- (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (h).
- (2) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
  - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
  - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A25 (1) For the purposes of paragraph A23, land held by a foundation body for the purposes of the group of schools for which it acts is “publicly funded land” if it is—
- (a) land acquired under any of the following—
    - paragraph 2, 4 or 9 of Schedule 3;
    - paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
    - paragraph 5 or 6 of Schedule 21;

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- paragraph 5(4B)(d) of this Schedule;  
any regulations made under paragraph 5 of Schedule 8,
- (b) land acquired under any of the following—  
paragraph 8(5) of Schedule 8 to the Education Act 2002;  
paragraph 14(5) of Schedule 10 to the Education Act 2005;  
paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);  
any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;  
any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,
- (c) land acquired from the governing body of a maintained school,
- (d) land acquired from another foundation body,
- (e) land acquired wholly by means of—  
(i) any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), or  
(ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
- (f) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
- (g) land acquired wholly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or
- (h) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (g).
- (2) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—  
(a) prepared an appropriate statement in relation to the expenditure, and  
(b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—  
(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and  
(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A26 (1) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is “publicly funded land” if it is—  
(a) land acquired under section 60, 61 or 70 of the Education Act 1996,

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- (b) land acquired under any of the following—
    - paragraph 2 of Schedule 3;
    - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
    - paragraph 5(4B)(d) of this Schedule;
    - any regulations made under paragraph 5 of Schedule 8,
  - (c) land acquired under any of the following—
    - paragraph 4 or 9 of Schedule 3;
    - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
  - (d) land acquired under any of the following—
    - paragraph 8(5) of Schedule 8 to the Education Act 2002;
    - paragraph 14(5) of Schedule 10 to the Education Act 2005;
    - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
    - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
  - (e) land acquired wholly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
  - (f) land acquired from the Funding Agency for Schools,
  - (g) land acquired wholly by means of—
    - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
    - (ii) any grant paid under section 216(2) of that Act, or
    - (iii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
  - (h) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
  - (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (f) to (h), or
  - (j) land acquired wholly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996).
- (2) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation or foundation special school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
    - (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,
    - (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or

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- (iii) acquired by the governing body wholly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
  - (b) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a voluntary school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the governing body of the school—
    - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
    - (ii) wholly with the proceeds of disposal of any land so acquired, and transferred by the governing body to be held on trust by the trustees, or
  - (b) in the case of a school to which sub-paragraph (4) applies, land acquired wholly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
- (5) Land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is not “publicly funded land” for the purposes of paragraph A23 if it is—
- (a) land acquired under section 60 or 61 of the Education Act 1996, or
  - (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,
- by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).
- (6) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
  - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
  - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

*Notice in relation to grants under paragraph 5 of Schedule 3*

- A27 (1) Where a grant is made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), the Secretary of State may within the relevant period give the body or other persons to whom the grant is made notice that—
- (a) any land acquired, or enhanced in value, wholly or partly by means of the grant is land falling within paragraph A1(1)(g), A7(1)(f) and A13(1)(j), and
  - (b) any land acquired wholly or partly by means of the grant is land falling within paragraph A24(1)(g), A25(1)(f) and A26(1)(h).

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- (2) The “relevant period” means the period of 6 months beginning with the date upon which the grant is made.]

## PART I

### FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS [<sup>F790</sup>IN WALES]: DISPOSALS OF LAND

#### Textual Amendments

**F790** Words in Sch. 22 Pt. 1 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 3](#); [S.I. 2007/935](#), [art. 7\(p\)](#) (with art. 8(5))

#### *Disposal of land by governing body of foundation, voluntary or foundation special school*

- 1 (1) [<sup>F791</sup>Subject to sub-paragraph (1A),] this paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school [<sup>F792</sup>in Wales] of—
- <sup>F793</sup>(a) any land acquired under a transfer under section 201(1)(a) of the <sup>M75</sup>Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 [<sup>F794</sup>(including that provision as applied by any enactment)] or paragraph 5(4)(c) [<sup>F795</sup>or 5(4B)(d)] of this Schedule or under any regulations made under paragraph 5 of Schedule 8;
  - (b) any land acquired from a foundation body;
  - <sup>F796</sup>(c) .....
  - (d) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the <sup>M76</sup>Education Act 1996);
  - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature; or
  - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).
- [<sup>F797</sup>(1A) This paragraph does not apply to any disposal which—
- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
  - (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation [<sup>F798</sup>established otherwise than under this Act].]

(2) The governing body shall not make [<sup>F799</sup>any disposal to which this paragraph applies] without the written consent of the [<sup>F800</sup>Assembly].

(3) Where the governing body apply to the [<sup>F801</sup>Assembly] for [<sup>F802</sup>its] consent to any such disposal [<sup>F803</sup>and [<sup>F804</sup>the Assembly] decides to give that consent], [<sup>F804</sup>the Assembly] may do one or more of the following, namely—



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- (a) require the land or any part of the land to be transferred to such local authority as [<sup>F804</sup>the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [<sup>F804</sup>the Assembly] determines to be appropriate; and
  - (b) give the governing body, when the land or any part of the land is disposed of—
    - (i) a direction to pay, either to [<sup>F805</sup>the Assembly] or to such local authority as [<sup>F804</sup>the Assembly] may specify, the whole or any part of the proceeds of disposal; and
    - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (4) More than one direction may be given under sub-paragraph (3)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

#### Textual Amendments

- F791** Words in Sch. 22 para. 1(1) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(2)(a)** (with s. 119)
- F792** Words in Sch. 22 para. 1(1) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 4(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F793** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F794** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F795** Words in Sch. 22 para. 1(1)(a) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(2)(b)** (with s. 119)
- F796** Sch. 22 para. 1(1)(c) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 4 para. 4(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F797** Sch. 22 para. 1(1A) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(3)** (with s. 119)
- F798** Words in Sch. 22 para. 1(1A)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 4(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F799** Words in Sch. 22 para. 1(2) substituted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(4)** (with s. 119)
- F800** Word in Sch. 22 para. 1(2) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

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- F801** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F802** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F803** Words in Sch. 22 para. 1(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(5)** (with s. 119)
- F804** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F805** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(c)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

#### Marginal Citations

- M75** 1996 c. 56.  
**M76** 1996 c. 56.

#### *Disposal of land by foundation body*

- 2 (1) This paragraph applies to any disposal by a foundation body [<sup>F806</sup>in Wales] of—
- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 [<sup>F807</sup>(including that provision as applied by any enactment)] or paragraph 5 or 6 of Schedule 21 or under any regulations made under paragraph 5 of Schedule 8 [<sup>F808</sup>...];
  - (b) any land acquired from the governing body of a maintained school;
  - (c) any land acquired from another foundation body;
  - (d) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the [<sup>F809</sup>Assembly] on or after the appointed day;
  - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature; or
  - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).
- [<sup>F810</sup>(1A) A “foundation body in Wales” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in Wales.]
- (2) The foundation body shall not make any such disposal without the written consent of the [<sup>F811</sup>Assembly].
- (3) Where the foundation body apply to the [<sup>F812</sup>Assembly] for [<sup>F813</sup>its] consent to any such disposal [<sup>F814</sup>and [<sup>F815</sup>the Assembly] decides to give that consent], [<sup>F815</sup>the Assembly] may do either or both of the following, namely—
- (a) make any such requirement as is mentioned in paragraph 1(3)(a); and
  - (b) give any such direction to the foundation body as [<sup>F815</sup>the Assembly] could give to a governing body under paragraph 1(3)(b).
- (4) More than one direction may be given under sub-paragraph (3)(b) to make a payment in relation to the proceeds of disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.

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- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.

#### Textual Amendments

- F806** Words in Sch. 22 para. 2(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F807** Words in Sch. 22 para. 2(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 118(3)(a) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F808** Words in Sch. 22 para. 2(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(b), Sch. 18 Pt. 6; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F809** Word in Sch. 22 para. 2(1)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(c); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F810** Sch. 22 para. 2(1A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(3); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F811** Word in Sch. 22 para. 2(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(4); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F812** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(4); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F813** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(5)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F814** Words in Sch. 22 para. 2(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), Sch. 17 para. 3 (with s. 119)
- F815** Words in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(5)(b); S.I. 2007/935, art. 7(p) (with art. 8(5))

#### <sup>F816</sup>Disposal of land by trustees of foundation school or foundation special school

#### Textual Amendments

- F816** Sch. 22 para. 2A and cross-heading inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), Sch. 17 para. 4 (with s. 119)

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation or foundation special school [<sup>F817</sup>in Wales] of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,

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- (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a), or
  - (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation or foundation special school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
    - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
    - (ii) under any of the provisions mentioned in sub-paragraph (1)(a), or
  - (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a).
- (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the [<sup>F818</sup>Assembly].
- (4) Where the trustees apply to the [<sup>F819</sup>Assembly] for [<sup>F820</sup>its] consent to any such disposal and [<sup>F821</sup>the Assembly] decides to give that consent, [<sup>F821</sup>the Assembly] may do one or more of the following, namely—
- (a) require the land or any part of the land to be transferred to such local authority as [<sup>F821</sup>the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [<sup>F821</sup>the Assembly] determines to be appropriate; and
  - (b) give the trustees, when the land or any part of the land is disposed of—
    - (i) a direction to pay to such local authority as [<sup>F821</sup>the Assembly] may specify the whole or any part of the proceeds of the disposal; and
    - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Where the trustees of a foundation or foundation special school [<sup>F822</sup>in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
  - (b) the value of the land as at the date of any direction under sub-paragraph (4)(b)(i) or (ii) shall be treated as proceeds of the disposal of the land.]

#### Textual Amendments

**F817** Words in Sch. 22 para. 2A(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(2); S.I. 2007/935, art. 7(p) (with art. 8(5))

**F818** Word in Sch. 22 para. 2A(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(3); S.I. 2007/935, art. 7(p) (with art. 8(5))

**F819** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(3); S.I. 2007/935, art. 7(p) (with art. 8(5))

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- F820** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F821** Words in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F822** Words in Sch. 22 para. 2A(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(5)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

*Disposal of land by trustees of foundation, voluntary or foundation special school*

- 3 (1) [<sup>F823</sup>Subject to sub-paragraph (2A),] this paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school [<sup>F824</sup>in Wales] of—
- (a) any land acquired under section 60, 61 or 70 of the <sup>M77</sup>Education Act 1996, under paragraph 2, 4 or 9 of Schedule 3 or paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment)[<sup>F825</sup>, under paragraph 5(4B)(d) of this Schedule] or under any regulations made under paragraph 5 of Schedule 8 <sup>F826</sup> ...;
  - (b) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
  - (c) any land acquired by the governing body of the school—
    - (i) under a transfer under section 201(1)(a) of the <sup>M78</sup>Education Act 1996, or
    - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees;
  - <sup>F827</sup>(d) .....
  - (e) any land acquired, or enhanced in value, wholly or partly by means of—
    - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the <sup>M79</sup>Education Act 1996), or
    - (ii) any grant paid under section 216(2) of that Act;
  - (f) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph <sup>F828</sup>... (e); or
  - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the <sup>M80</sup>Education Act 1996).
- (2) If a voluntary aided school [<sup>F829</sup>in Wales] was, immediately before the appointed day, a controlled school within the meaning of the <sup>M81</sup>Education Act 1996, this paragraph also applies to any disposal by the trustees of the school of any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of that Act.
- [<sup>F830</sup>(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.]
- (3) Where paragraph (a), (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the local education authority that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds

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of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the [<sup>F831</sup>Assembly].

- (4) In making any determination under sub-paragraph (3), the trustees and the authority, or the [<sup>F832</sup>Assembly], as the case may be, shall have regard in particular to—
- (a) the value, as at the date of the determination, of the land acquired from the authority;
  - (b) any enhancement in value of the land attributable to expenditure by the local education authority, the trustees or the governing body of the school on school buildings on the land; and
  - (c) any payments already made by the trustees to the authority—
    - (i) in respect of the current school site; or
    - (ii) under section 60(4) of the <sup>M82</sup>Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act.
- (5) More than one determination may be made under sub-paragraph (3) in relation to a disposal of land within sub-paragraph (1) or (2) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Sub-paragraph (1)(b) shall not apply in the case of any expenditure unless the authority—
- (a) prepared a statement in writing—
    - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
    - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
  - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) Sub-paragraph (3) does not apply in the case of land acquired under section 60 or 61 of the <sup>M83</sup>Education Act 1996 or under paragraph 2 or 4 of Schedule 3 to this Act by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the <sup>M84</sup>Education Act 1996).
- (8) Where paragraph <sup>F833</sup>... (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the local education authority that that paragraph applies to them and they and their successors shall (subject to sub-paragraph (9)) undertake to the authority to use the proceeds of disposal—
- (a) for the purposes of the school, or
  - (b) for the purposes—
    - (i) of any other existing foundation, voluntary or foundation special school, or
    - <sup>F834</sup>(ii) of any other proposed foundation, voluntary or foundation special school, whether or not proposals have yet been published under [<sup>F835</sup>any enactment] in respect of that proposed school.
- (9) Where it appears to the [<sup>F836</sup>Assembly] that the trustees have not given a suitable undertaking under sub-paragraph (8), the [<sup>F836</sup>Assembly] may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as [<sup>F837</sup>the Assembly] determines to be just.

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- (10) More than one direction may be given under sub-paragraph (9) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (11) Where paragraph (g) of sub-paragraph (1) applies, the governing body of the school shall repay the grant referred to in that paragraph to the local education authority by whom the school is maintained, unless the governing body and the authority otherwise agree.
- (12) Where the trustees of a foundation, voluntary or foundation special school [<sup>F838</sup>in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
  - (b) the value of the land as at the date of any determination under sub-paragraph (3) or of any direction under sub-paragraph (9) shall be treated as proceeds of the disposal of the land.

#### Textual Amendments

- F823** Words in Sch. 22 para. 3(1) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(a)** (with s. 119)
- F824** Words in Sch. 22 para. 3(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F825** Words in Sch. 22 para. 3(1)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(b)** (with s. 119)
- F826** Words in Sch. 22 para. 3(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F827** Sch. 22 para. 3(1)(d) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(c), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F828** Words in Sch. 22 para. 3(1)(f) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(d), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F829** Words in Sch. 22 para. 3(2) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F830** Sch. 22 para. 3(2A) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(3)** (with s. 119)
- F831** Word in Sch. 22 para. 3(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F832** Word in Sch. 22 para. 3(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F833** Word in Sch. 22 para. 3(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(5), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F834** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F835** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F836** Word in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

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**F837** Words in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

**F838** Words in Sch. 22 para. 3(12) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(7)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

#### Marginal Citations

**M77** 1996 c. 56.

**M78** 1996 c. 56.

**M79** 1996 c. 56.

**M80** 1996 c. 56.

**M81** 1996 c. 56.

**M82** 1996 c. 56.

**M83** 1996 c. 56.

**M84** 1996 c. 56.

#### *Land required by local education authority for new school*

- 4 (1) This paragraph applies where, on an application made by a local education authority [<sup>F839</sup>in Wales], the [<sup>F840</sup>Assembly] is satisfied—
- (a) that any relevant land—
    - (i) held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the governing body or the trustees of the school, or
    - (ii) held by a foundation body for the purposes of the group of schools for which it acts,
 is not required for the purposes of the school or (as the case may be) those schools; and
  - (b) that that land is required by the authority as the site for a new maintained school or as the site to which a maintained school is to be transferred.
- (2) In such a case the [<sup>F841</sup>Assembly] may by order require the relevant land to be transferred to the authority by the body or trustees holding the land, subject to the payment by the authority of such sum by way of consideration (if any) as [<sup>F842</sup>the Assembly] determines to be appropriate.
- (3) In this paragraph “relevant land” means land which was acquired by the governing body of the school, or (as the case may be) one of the schools, mentioned in subparagraph (1)(a) under a transfer under section 201(1)(a) of the <sup>M85</sup>Education Act 1996.

#### Textual Amendments

**F839** Words in Sch. 22 para. 4(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 8(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

**F840** Word in Sch. 22 para. 4(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 8(2)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

**F841** Word in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 8(3)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

**F842** Words in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 8(3)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))



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### Marginal Citations

M85 1996 c. 56.

## PART II

### MAINTAINED SCHOOLS: DISPOSALS ON DISCONTINUANCE

#### *Discontinuance of foundation, voluntary and foundation special schools: land*

- 5 (1) This paragraph applies where—
- [<sup>F843</sup>(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted [<sup>F844</sup>, confirmed] or determined to be implemented under any enactment, or]
  - (b) the [<sup>F845</sup>appropriate authority] has given a direction—
    - [<sup>F846</sup>(i) under section 19(1) requiring a foundation, voluntary or foundation special school in Wales to be discontinued,
    - (ii) under section 32(1) requiring a foundation special school in Wales to be discontinued,
    - (iii) under section 68(1) of the Education and Inspections Act 2006 requiring a foundation, voluntary or foundation special school in England to be discontinued, or
    - (iv) under section 17(1) of that Act requiring a foundation special school in England to be discontinued.]
- (2) The governing body of the school shall apply to the [<sup>F847</sup>appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
- (a) if the school is in England, any land falling within paragraphs (a) to (i) of paragraph A1(1) other than land falling within sub-paragraph (2A), or
  - (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 1(1),
- which is held by the body for the purposes of the school.]
- [<sup>F848</sup>(2A) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (g) of paragraph A1(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
  - (b) land falling within paragraph (i) of paragraph A1(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.
- (2B) If the school is in England and the governing body dispose of any land falling within sub-paragraph (2A) which is held by them for the purposes of the school, paragraph A1 shall apply to them.]
- (3) Where the school is a member of the group for which a foundation body acts, the body shall apply to the [<sup>F849</sup>appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
- (a) if the school is in England, any land falling within paragraphs (a) to (h) of paragraph A7(1) other than land falling within sub-paragraph (3A), or

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- (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 2(1),

which is held by the body for the purposes of the schools comprising the group.]

[<sup>F850</sup>(3A) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (f) of paragraph A7(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (h) of paragraph A7(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(3B) If the school is in England and the foundation body disposes of any land falling within sub-paragraph (3A) which is held by it for the purposes of the schools comprising the group, paragraph A7 shall apply to it.]

(4) On an application under sub-paragraph (2) or (3), the [<sup>F851</sup>appropriate authority] may do one or more of the following, namely—

- [<sup>F852</sup>(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
- (b) direct the governing body or the foundation body, as the case may be, to pay, either to [<sup>F853</sup>the appropriate authority] or to such local authority as [<sup>F853</sup>the appropriate authority] may specify, the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph (2) or (3), as the case may be; and
- (c) in a case where the discontinuance of the school is connected with proposals under [<sup>F854</sup>any enactment] to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred to the governing body of such maintained school or the temporary governing body of such new school as [<sup>F855</sup>the appropriate authority] may specify.

[<sup>F856</sup>(4ZA) Where the school is in England, the trustees of the school shall apply to the appropriate authority for it to exercise its powers under sub-paragraph (4B) in relation to any land falling within paragraph A13(1), (2) or (3), other than land falling within sub-paragraph (4ZB), which is held by the trustees for the purposes of the school.

(4ZB) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (j) of paragraph A13(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (k) of paragraph A13(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.]

[<sup>F857</sup>(4A) Where the school [<sup>F858</sup>is in Wales and] is a foundation or foundation special school which has a foundation, the trustees of the school shall apply to the [<sup>F859</sup>appropriate authority for it to exercise its] powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), (b) or (c) which is held by the trustees for the purposes of the school.

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- (4B) On an application under sub-paragraph [<sup>F860</sup>(4ZA) or] (4A), the [<sup>F861</sup>appropriate authority] may do one or more of the following, namely—
- [<sup>F862</sup>(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
  - (b) where the trustees have power to use the land [<sup>F863</sup>—
    - (i) in the case of a school in England, for the purposes of another foundation, voluntary or foundation special school, or
    - (ii) in the case of a school in Wales, for the purposes of another foundation or foundation special school or for the purposes of a voluntary school,
 direct the trustees to exercise that power in such manner as the appropriate authority may specify;]
  - (c) direct the trustees to pay to such local authority as [<sup>F864</sup>the appropriate authority] may specify the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph [<sup>F865</sup>(4ZA) or, as the case may be,] (4A); and
  - (d) in a case where the discontinuance of the school is connected with proposals under any enactment to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred—
    - (i) to the trustees, foundation body or governing body of such maintained school as [<sup>F866</sup>the appropriate authority] may specify, or
    - (ii) to the trustees, foundation body or temporary governing body of such new school as [<sup>F866</sup>the appropriate authority] may specify.]
- (5) Where the governing body [<sup>F867</sup>, foundation body or trustees] fail to make an application as required by sub-paragraph [<sup>F868</sup>(2), (3) [<sup>F869</sup>, (4ZA)] or (4A)], as the case may be, the [<sup>F870</sup>appropriate authority] may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph [<sup>F871</sup>(4) or (4B), as the case may be].
- [<sup>F872</sup>(5A) Where the school is in England and the trustees of the school—
- (a) dispose of any land falling within sub-paragraph (4ZB), or
  - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph A13 shall apply to them.]
- (6) Where [<sup>F873</sup>the school is in Wales and] the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2) [<sup>F874</sup>but not within paragraph 2A(1)(a), (b) or (c)], or
  - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

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### Textual Amendments

- F843** Sch. 22 para. 5(1)(a) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(5)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F844** Words in Sch. 22 para. 5(1)(a) inserted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 40** (with art. 7)
- F845** Words in Sch. 22 para. 5(1)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(2)(a)**; S.I. 2007/935, art. 7(p)
- F846** Sch. 22 para. 5(1)(b)(i)-(iv) substituted for Sch. 22 para. 5(1)(b)(i)(ii) (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(2)(b)**; S.I. 2007/935, art. 7(p)
- F847** Words in Sch. 22 para. 5(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(3)**; S.I. 2007/935, art. 7(p)
- F848** Sch. 22 para. 5(2A)(2B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(4)**; S.I. 2007/935, art. 7(p)
- F849** Words in Sch. 22 para. 5(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(5)**; S.I. 2007/935, art. 7(p)
- F850** Sch. 22 para. 5(3A)(3B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(6)**; S.I. 2007/935, art. 7(p)
- F851** Words in Sch. 22 para. 5(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(a)**; S.I. 2007/935, art. 7(p)
- F852** Sch. 22 para. 5(4)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(b)**; S.I. 2007/935, art. 7(p)
- F853** Words in Sch. 22 para. 5(4)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(c)**; S.I. 2007/935, art. 7(p)
- F854** Words in Sch. 22 para. 5(4)(c) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(5)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F855** Words in Sch. 22 para. 5(4)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(7)(d)**; S.I. 2007/935, art. 7(p)
- F856** Sch. 22 para. 5(4ZA)(4ZB) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(8)**; S.I. 2007/935, art. 7(p)
- F857** Sch. 22 para. 5(4A)(4B) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(2)** (with s. 119)
- F858** Words in Sch. 22 para. 5(4A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(9)(a)**; S.I. 2007/935, art. 7(p)
- F859** Words in Sch. 22 para. 5(4A) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(9)(b)**; S.I. 2007/935, art. 7(p)
- F860** Words in Sch. 22 para. 5(4B) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(a)**; S.I. 2007/935, art. 7(p)
- F861** Words in Sch. 22 para. 5(4B) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(b)**; S.I. 2007/935, art. 7(p)
- F862** Sch. 22 para. 5(4B)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(c)**; S.I. 2007/935, art. 7(p)
- F863** Words in Sch. 22 para. 5(4B)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(d)**; S.I. 2007/935, art. 7(p)
- F864** Words in Sch. 22 para. 5(4B)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F865** Words in Sch. 22 para. 5(4B)(c) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(e)**; S.I. 2007/935, art. 7(p)

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- F866** Words in Sch. 22 para. 5(4B)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F867** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(a)** (with s. 119)
- F868** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(b)** (with s. 119)
- F869** Word in Sch. 22 para. 5(5) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(a)**; S.I. 2007/935, art. 7(p)
- F870** Words in Sch. 22 para. 5(5) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(b)**; S.I. 2007/935, art. 7(p)
- F871** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(c)** (with s. 119)
- F872** Sch. 22 para. 5(5A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(12)**; S.I. 2007/935, art. 7(p)
- F873** Words in Sch. 22 para. 5(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(13)**; S.I. 2007/935, art. 7(p)
- F874** Words in Sch. 22 para. 5(6)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(4)** (with s. 119)

*Discontinuance of foundation or voluntary school by  
notice given by its governing body: land and premises*

- 6 (1) This paragraph applies where the governing body of a foundation or voluntary school apply for the [<sup>F875</sup>appropriate authority's] consent to serve a notice under section 30(1).
- (2) If the [<sup>F876</sup>appropriate authority] gives such consent, [<sup>F877</sup>the appropriate authority] may impose any requirements in relation to the governing body or, where the school is a member of the group for which a foundation body acts, the foundation body that [<sup>F877</sup>the appropriate authority] thinks just—
- (a) in respect of the repayment of all or part of any expenditure incurred by [<sup>F878</sup>the appropriate authority] as mentioned in section 30(2);
  - (b) in respect of the transfer to the local education authority of any premises used for the purposes of the school which [<sup>F877</sup>the appropriate authority] is satisfied [<sup>F879</sup>the local education authority] will need for any purpose connected with education;
  - (c) (where any premises are to be so transferred) in respect of the payment by [<sup>F879</sup>the local education authority] of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
  - (d) (where any premises used for the purposes of the school are not to be so transferred) in respect of the payment by the governing body or the foundation body, as the case may be, to [<sup>F879</sup>the local education authority] of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- (a) the Funding Agency for Schools, or
  - (b) any local education authority or an authority within section 30(2)(d).

[<sup>F880</sup>(3A) Where the school is in England and the trustees of the school—

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- (a) dispose of any land falling within paragraph A13(1), (2) or (3), or
  - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph A13 shall apply to them.]
- (4) Where [<sup>F881</sup>the school is in Wales and] the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2), or
  - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

#### Textual Amendments

- F875** Words in Sch. 22 para. 6(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(2)**; S.I. 2007/935, art. 7(p)
- F876** Words in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(a)**; S.I. 2007/935, art. 7(p)
- F877** Word in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(b)**; S.I. 2007/935, art. 7(p)
- F878** Words in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(d)**; S.I. 2007/935, art. 7(p)
- F879** Words in Sch. 22 para. 6(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(3)(c)**; S.I. 2007/935, art. 7(p)
- F880** Sch. 22 para. 6(3A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(4)**; S.I. 2007/935, art. 7(p)
- F881** Words in Sch. 22 para. 6(4) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(5)**; S.I. 2007/935, art. 7(p)

#### *Disposal of property held by governing body of maintained school on their dissolution*

- 7 (1) This paragraph applies in connection with the dissolution of the governing body of a maintained school by virtue of [<sup>F882</sup>paragraph 5 of Schedule 1 to the Education Act 2002].
- (2) Where a governing body are so dissolved—
- (a) all land or other property of the governing body which is used or held for the purposes of the school, and
  - (b) all rights and liabilities (including rights and liabilities in relation to staff) of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school,
- shall on the date of dissolution be transferred to, and by virtue of this Act vest in—
- (i) the local education authority, or
  - (ii) one or more of the following, namely the governing body of a maintained school and the temporary governing body of a new school, if the [<sup>F883</sup>appropriate authority] so directs before the date of dissolution.
- (3) Sub-paragraph (2) does not apply to—
- (a) any land or other property for which provision has been made for transfer or payment under paragraph 5(4) or 6(2),

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- (b) any property of whatever nature which is held by the governing body on trust for the purposes of the school, or
  - (c) unless the [<sup>F884</sup>appropriate authority] otherwise directs by order made before the date of dissolution, any liabilities of the governing body in respect of any loan made to the governing body.
- (4) Subject to sub-paragraph (5), a governing body who are to be dissolved as mentioned in sub-paragraph (1) may transfer any land or other property which is held by them on trust for the purposes of the school to any person to hold such land or other property on trust for purposes connected with the provision of education in maintained schools.
- (5) Sub-paragraph (4) does not apply to any land or other property so held by the governing body of a foundation, voluntary or foundation special school where any other persons also hold any property on trust for the purposes of the school; and any such land or other property shall on the date of dissolution be transferred to, and by virtue of this Act vest in, those persons.
- (6) If any doubt or dispute arises as to the persons to whom any land or other property within sub-paragraph (5) falls to be transferred under that sub-paragraph, it shall be treated as falling to be so transferred to such persons as the [<sup>F885</sup>appropriate authority] thinks proper.

#### Textual Amendments

- F882** Words in Sch. 22 para. 7(1) substituted (1.10.2002 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(6)** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/2910, art. 4, Sch.
- F883** Words in Sch. 22 para. 7(2)(ii) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 11**; S.I. 2007/935, art. 7(p)
- F884** Words in Sch. 22 para. 7(3)(c) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 11**; S.I. 2007/935, art. 7(p)
- F885** Words in Sch. 22 para. 7(6) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 11**; S.I. 2007/935, art. 7(p)

#### *Notice by trustees terminating foundation or voluntary school's occupation of existing site*

- 8 (1) This paragraph applies where trustees have given a notice falling within section 30(10) which is effective to terminate a foundation or voluntary school's occupation of any land ("the relevant premises").
- (2) If any expenditure has been incurred on the relevant premises as mentioned in section 30(2)(a) to (d), the [<sup>F886</sup>appropriate authority] may impose any requirements that [<sup>F887</sup>the appropriate authority] thinks just—
- (a) in respect of the repayment by the trustees of all or part of any such expenditure which was incurred by [<sup>F888</sup>the appropriate authority];
  - (b) in respect of the transfer by the trustees to the local education authority of the whole or part of the relevant premises where [<sup>F887</sup>the appropriate authority] is satisfied [<sup>F889</sup>the local education authority] will need them for any purpose connected with education;

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- (c) (to the extent that the relevant premises are to be so transferred) in respect of the payment by [<sup>F889</sup>the local education authority] to the trustees of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
  - (d) (to the extent that the relevant premises are not to be so transferred) in respect of the payment by the trustees to [<sup>F889</sup>the local education authority] of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- (a) the Funding Agency for Schools, or
  - (b) any local education authority or an authority within section 30(2)(d).

#### Textual Amendments

- F886** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 12(a); S.I. 2007/935, art. 7(p)
- F887** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 12(b); S.I. 2007/935, art. 7(p)
- F888** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 12(c); S.I. 2007/935, art. 7(p)
- F889** Words in Sch. 22 para. 8(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 12(d); S.I. 2007/935, art. 7(p)

## [<sup>F890</sup>PART 2A

### MAINTAINED SCHOOL: TRANSFER OF LAND FROM TRUSTEE TO GOVERNING BODY

#### Textual Amendments

- F890** Sch. 22 Pt. 2A inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 13; S.I. 2007/935, art. 7(p)

- 8A (1) This paragraph applies where the trustee of one or more foundation or foundation special schools to which section 23A (requirements as to foundations) applies is a body corporate.
- (2) Where—
- (a) the body corporate has under any enactment passed a resolution for its winding up,
  - (b) a court has made an order for the winding up of the body corporate,
  - (c) the body corporate has been removed under subsection (4) of section 3 of the Charities Act 1993 from the register of charities kept under that section, or
  - (d) prescribed conditions relating to the ability of the body corporate to pay its debts or to its continued existence as a body corporate or as a charity are met,
- the Secretary of State may make an order under this paragraph.
- (3) Conditions may be prescribed under sub-paragraph (2)(d) by reference to the opinion of the Secretary of State as to any prescribed matter.



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- (4) An order under this paragraph is an order directing that any land falling within paragraph A13(1)(b) or (2) held by the body corporate on trust for one or more foundation or foundation special schools to which section 23A applies is to be transferred to, and by virtue of the order vest in—
- (a) the governing body of the school, or
  - (b) where the land is held on trust for two or more schools, such of the governing bodies of the schools as the Secretary of State thinks proper.

- (5) In a case where—
- (a) proposals to establish a new foundation or foundation special school fall to be implemented under Schedule 2 to the Education and Inspections Act 2006, and
  - (b) the local education authority have before the school opening date transferred land to be held on trust for the school,

references in this paragraph to a foundation or foundation special school include references to a proposed such school, references to a governing body include references to a proposed governing body and for the purpose of sub-paragraph (1) section 23A is to be taken to apply to the proposed school if it would apply to the school when it is established.

- (6) In this paragraph—
- “charity” has the same meaning as in the Charities Act 1993;
- “foundation” means a foundation established otherwise than under this Act.]

### PART III

#### GENERAL

- 9 (1) Where a transfer under paragraph [F891 A5, A11, A17, A23,] 1(3)(a), 2(3)(a), 4(2), 5(4)(a) or (c), 6(2)(b) [F892, 8(2)(b) or 8A] of this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the [F893 Land Registration Act 2002],
  - (b) to deliver any such certificate under [F894 that Act], and
  - (c) to do such other things under [F894 that Act],
- as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- (2) Paragraphs 6 to 8 of Schedule 10 to the M86 Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers under paragraph 7 of this Schedule as they apply in relation to transfers to which that Schedule applies.

#### Textual Amendments

**F891** Words in Sch. 22 para. 9(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 14(a); S.I. 2007/935, art. 7(p)

**F892** Words in Sch. 22 para. 9(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 14(b); S.I. 2007/935, art. 7(p)

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**F893** Words in Sch. 22 para. 9(1)(a) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 37\(a\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

**F894** Words in Sch. 22 para. 9(1)(b)(c) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\), s. 136\(2\), Sch. 11 para. 37\(b\)](#) (with s. 129); S.I. 2003/1725, art. 2(1)

#### Marginal Citations

**M86** 1988 c. 40.

- 10 (1) In this Schedule—
- (a) “the trustees”, in relation to a school, means any person (other than the governing body) holding property on trust for the purposes of the school;
  - (b) “disposal” includes—
    - (i) a compulsory disposal; and
    - (ii) in the case of any premises held under a tenancy to which Part II of the <sup>M87</sup>Landlord and Tenant Act 1954 (“the 1954 Act”) applies, the termination of that tenancy under that Part of that Act;
  - (c) references to “proceeds of disposal”, in relation to a disposal of land, are references to—
    - (i) any consideration for the disposal, including rent;
    - (ii) any compensation for the disposal, including any compensation paid by the landlord on the quitting of any premises within paragraph (b) (ii) by the governing body, foundation body or trustees (whether or not the compensation is required to be paid by section 37 of the 1954 Act (compensation where order for new tenancy precluded on certain grounds)); and
    - (iii) interest which has accrued in respect of any such consideration or compensation;
  - (d) “new school” has the meaning given by section 72(3).
  - <sup>F895</sup>(e) “the appropriate authority” means—
    - (i) in relation to a school in England, the Secretary of State, and
    - (ii) in relation to a school in Wales, the Assembly.]
- (2) In paragraphs (b)(ii) and (c)(ii) of sub-paragraph (1) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.
- (3) In paragraphs [<sup>F896</sup>A1(1), A13(1), (2) or (3)(a), A24 to A26,] 1(1), 3(1) and 4(3) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day—
- (a) to any land being acquired in a particular way, or
  - (b) to any grant being provided in a particular way,
- are references to the land being acquired in that way by, or (as the case may be) to the grant being provided in that way to, the governing body or trustees of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the <sup>M88</sup>Education Act 1996.
- (4) In paragraphs [<sup>F897</sup>A1(1), A13(1),] 1(1) and 3(1) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day, to any expenditure being incurred for the purposes of the school are references to such expenditure being incurred for

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the purposes of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the <sup>M89</sup>Education Act 1996.

- (5) In [<sup>F898</sup>paragraphs A1(1) and 1(1)] references, in relation to the governing body of a foundation, voluntary or foundation special school, to any land being acquired in a particular way include references to the land being acquired in that way by the temporary governing body for the school.

#### Textual Amendments

- F895** Sch. 22 para. 10(1)(e) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 15(2); S.I. 2007/935, art. 7(p)
- F896** Words in Sch. 22 para. 10(3) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 15(3); S.I. 2007/935, art. 7(p)
- F897** Words in Sch. 22 para. 10(4) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 15(4); S.I. 2007/935, art. 7(p)
- F898** Words in Sch. 22 para. 10(5) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 15(5); S.I. 2007/935, art. 7(p)

#### Marginal Citations

- M87** 1954 c. 56.
- M88** 1996 c. 56.
- M89** 1996 c. 56.

## [<sup>F899</sup>PART IV

### DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE LOCAL EDUCATION AUTHORITY

#### Textual Amendments

- F899** Sch. 22 Pt. IV inserted (E.) (1.4.2002) by The Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002 (S.I. 2002/906), art. 12 (with art. 13)

- 11 (1) In this paragraph—
- [<sup>F900</sup>(a) subject to sub-paragraph (7), “capital expenditure” means expenditure of the governing body in question which falls to be capitalised in accordance with proper accounting practices;]
- (b) “commencement date” means the date on which [<sup>F901</sup>the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002] comes into force;
- (c) “relevant body” means—
- (i) the governing body of a voluntary aided school; or
  - (ii) if the school has been discontinued and the governing body dissolved, the trustees;
- (d) “relevant land” means—
- (i) any caretaker’s dwelling; or
  - (ii) other buildings which are not school buildings;
- which form part of the premises of a voluntary aided school.

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- (2) This paragraph applies to any disposal by the local education authority of relevant land enhanced in value wholly or partly by means of capital expenditure incurred by the governing body after the commencement date.
- (3) But this paragraph shall not apply unless the relevant body gives to the local education authority no later than 12 months after the expenditure is incurred a statement—
- (a) setting out the amount of expenditure; and
  - (b) stating that it is capital expenditure.
- (4) Where this paragraph applies, the local education authority shall notify the relevant body that the provision applies to them and they shall pay to the relevant body so much of the proceeds of disposal as may be determined to be just <sup>F902</sup>—
- (a) by agreement between the authority and the relevant body, or
  - (b) by the adjudicator where—
    - (i) the authority or the relevant body refer the matter to him for determination, and
    - (ii) by the time of his determination, the matter has not been determined by agreement between the authority and the relevant body.]
- <sup>F903</sup> [ In determining whether to make a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference.]
- (5) In making the determination under sub-paragraph (4), the relevant body and the local education authority, or the <sup>F904</sup>adjudicator], as the case may be, shall have regard in particular <sup>F905</sup>to any guidance given from time to time by the Secretary of State and] to any enhancement in value of the relevant land attributable to expenditure by or on behalf of the governing body.
- <sup>F906</sup> [ A determination made by the adjudicator on a reference made to him under sub-paragraph (4)(b) may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by the local education authority or the relevant body, and
  - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the local education authority or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter.]

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- (6) If the local education authority permit relevant land to be used for purposes not connected with the school—
- (a) they shall be treated for the purposes of this paragraph as having disposed of the land; and
  - (b) sub-paragraph (4) shall have effect as if the reference to proceeds of disposal were a reference to the value of the land.
- [ The Secretary of State may—
- <sup>F907</sup>(7) (a) by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of any governing body or of any prescribed class or description of governing body;
- (b) by direction provide that expenditure of a particular governing body which is expenditure of a particular class or description is to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of that body.
- (8) Directions under sub-paragraph (7)(b) may be expressed to have effect in specified circumstances or subject to specified conditions.]]

#### Textual Amendments

- F900** Sch. 22 para. 11(1)(a) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(2\)](#); S.I. 2007/935, art. 7(p)
- F901** Words in Sch. 22 para. 11(1)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(3\)](#); S.I. 2007/935, art. 7(p)
- F902** Words in Sch. 22 para. 11(4) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(4\)](#); S.I. 2007/935, art. 7(p)
- F903** Sch. 22 para. 11(4A)(4B) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(5\)](#); S.I. 2007/935, art. 7(p)
- F904** Word in Sch. 22 para. 11(5) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(6\)\(a\)](#); S.I. 2007/935, art. 7(p)
- F905** Words in Sch. 22 para. 11(5) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(6\)\(b\)](#); S.I. 2007/935, art. 7(p)
- F906** Sch. 22 para. 11(5A)-(5C) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(7\)](#); S.I. 2007/935, art. 7(p)
- F907** Sch. 22 para. 11(7)(8) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(8\)](#); S.I. 2007/935, art. 7(p)

- <sup>F908</sup>12(1) For the purposes of paragraph 11(1)(a), “proper accounting practices”, in relation to a governing body, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the governing body, or
  - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.
- (2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph,

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only those falling within paragraph (a) are to be regarded as proper accounting practices.]

**Textual Amendments**  
**F908** Sch. 22 para. 12 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 17**; S.I. 2007/935, art. 7(p)

F909 SCHEDULE 23 Section 93.

**Textual Amendments**  
**F909** Sch. 23 repealed (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 5); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.

F910 SCHEDULE 24 Section 94.

ADMISSION APPEALS

**Textual Amendments**  
**F910** Sch. 24 repealed (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

F911 SCHEDULE 25 Section 95.

CHILDREN TO WHOM SECTION 87 APPLIES: APPEALS BY GOVERNING BODIES 12.10.01

**Textual Amendments**  
**F911** Sch. 25 repealed (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

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SCHEDULE 26

Section 122.

INSPECTION OF NURSERY EDUCATION [F912 IN WALES]

**Textual Amendments**

**F912** Words in Sch. 26 title inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(2); S.I. 2008/2261, art. 2 (with Sch. 1)

*Introductory*

- 1 (1) In this Schedule “relevant nursery education” means—
- [F913](za) nursery education provided in a maintained school [F914; in Wales] or a maintained nursery school [F914; in Wales];
  - (a) nursery education [F915; not falling within paragraph (za)] which is provided by a local education authority [F916; in Wales];
  - [F917](b) nursery education which is provided by any other person under arrangements made with that person by a local education authority [F918; in Wales] in pursuance of the duty imposed on the authority by section 118 and in consideration of financial assistance provided by the authority under the arrangements.]
  - F919(c) .....
- (2) In this Schedule “nursery education under consideration for funding” means nursery education provided by a person [F920; to whom a local education authority [F921; in Wales] are considering giving financial assistance and whose provision of nursery education would fall to be taken into account by the authority in formulating proposals for the purposes of section 120(2)(a).] [F920; with whom a local education authority [F921; in Wales] are considering making arrangements in pursuance of the duty imposed on the authority by section 118 for the provision of nursery education in consideration of financial assistance provided by the authority under the arrangements.]
- [F922](3) Where—
- (a) any education is for the time being provided at any premises for children who have not attained the age prescribed for the purposes of section 118(1)
  - (b) (“the prescribed age”), and
  - (b) that education is provided by a person—
    - (i) who proposes to provide nursery education at those premises for children who have attained the prescribed age, and
    - (ii) with whom a local education authority [F923; in Wales] are considering making arrangements of the kind mentioned in sub-paragraph (2),
- the education is to be treated for the purposes of this Schedule as nursery education under consideration for funding even though it is provided for children who have not attained the prescribed age.]

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### Textual Amendments

- F913** Sch. 26 para. 1(1)(za) inserted (1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 9(2)(a)** (with s. 119); S.I. 2006/1338, art. 3, Sch. 1
- F914** Words in Sch. 26 para. 1(1)(za) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 36(3)(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F915** Words in Sch. 26 para. 1(1)(a) inserted (1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 9(2)(b)** (with s. 119); S.I. 2006/1338, art. 3, Sch. 1
- F916** Words in Sch. 26 para. 1(1)(a) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 36(3)(b)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F917** Sch. 26 para. 1(1)(b) substituted (1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 9(2)(c)** (with s. 119); S.I. 2006/1338, art. 3, Sch. 1
- F918** Words in Sch. 26 para. 1(1)(b) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 36(3)(c)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F919** Sch. 26 para. 1(1)(c) repealed (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F920** Words in Sch. 26 para. 1(2) substituted (1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 9(3)** (with s. 119); S.I. 2006/1338, art. 3, Sch. 1
- F921** Words in Sch. 26 para. 1(2) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 36(4)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F922** Sch. 26 para. 1(3) substituted (1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 9(4)** (with s. 119); S.I. 2006/1338, art. 3, Sch. 1
- F923** Words in Sch. 26 para. 1(3)(b)(ii) inserted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 36(5)**; S.I. 2008/2261, art. 2 (with Sch. 1)

2 [F924(1) In this Schedule—

<sup>F925</sup>(a) .....

(b) “the Chief Inspector for Wales” means Her Majesty's Chief Inspector of Education and Training in Wales, and

[<sup>F926</sup>(c) “the Chief Inspector” (without more) means the Chief Inspector for Wales.]

(2) In this Schedule references to registered [<sup>F927</sup>Welsh] nursery education inspectors are to persons registered under paragraph 8.

[ In this Schedule “members of the Welsh Inspectorate” means—

<sup>F928</sup>(3) (a) the Chief Inspector for Wales,

(b) Her Majesty's Inspectors of Education and Training in Wales, and

(c) additional inspectors with whom the Chief Inspector for Wales has made arrangements to give him assistance under paragraph 2 of Schedule 2 to the Education Act 2005.]

<sup>F929</sup>(4) .....

[<sup>F930</sup>(5) In this Schedule, “well-being” in relation to children for whom nursery education is provided in Wales, is a reference to their well-being having regard to the matters mentioned in section 25(2) of the Children Act 2004.]]

### Textual Amendments

- F924** Sch. 26 para. 2(1) substituted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 10(2)** (with s. 119); S.I. 2005/2034, art. 6



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- F925** Sch. 26 para. 2(1)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(6)(a), Sch. 3 Pt. 2; S.I. 2008/2261, art. 2 (with Sch. 1)
- F926** Sch. 26 para. 2(1)(c) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(6)(b); S.I. 2008/2261, art. 2 (with Sch. 1)
- F927** Word in Sch. 26 para. 2(2) inserted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 7 para. 10(3) (with s. 119); S.I. 2005/2034, art. 6
- F928** Sch. 26 para. 2(3) substituted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 7 para. 10(4) (with s. 119); S.I. 2005/2034, art. 6
- F929** Sch. 26 para. 2(4) repealed (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 7 para. 10(5), Sch. 19 Pt. 1 (with s. 119); S.I. 2005/2034, art. 6
- F930** Sch. 26 para. 2(5) substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(7); S.I. 2008/2261, art. 2 (with Sch. 1)

### General functions of the Chief Inspector

- 3 The Chief Inspector has the general duty of keeping [<sup>F931</sup>the Assembly] informed about—
- (a) the quality and standards of relevant nursery education,
  - [<sup>F932</sup>(aa) how far relevant nursery education meets the needs of the range of children for whom it is provided,
  - (ab) the quality of leadership and management in connection with the provision of relevant nursery education,
  - (ac) the contribution of relevant nursery education to the well-being of the children for whom it is provided,] and
  - (b) the spiritual, moral, social and cultural development of children for whom relevant nursery education is provided.

#### Textual Amendments

- F931** Words in Sch. 26 para. 3 substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(8); S.I. 2008/2261, art. 2 (with Sch. 1)
- F932** Sch. 26 para. 3(aa)-(ac) inserted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 7 para. 11 (with s. 119); S.I. 2005/2034, art. 6

- 4 When asked to do so by [<sup>F933</sup>the Assembly], the Chief Inspector shall give advice to [<sup>F933</sup>the Assembly] on such matters relating to relevant nursery education as may be specified in [<sup>F934</sup>the Assembly's] request.

#### Textual Amendments

- F933** Words in Sch. 26 para. 4 substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(9)(a); S.I. 2008/2261, art. 2 (with Sch. 1)
- F934** Words in Sch. 26 para. 4 substituted (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(9)(b); S.I. 2008/2261, art. 2 (with Sch. 1)

- 5 The Chief Inspector may at any time give advice to [<sup>F935</sup>the Assembly] on any matter connected with—
- (a) relevant nursery education generally, or
  - (b) relevant nursery education, or nursery education under consideration for funding, provided at particular premises.

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#### Textual Amendments

**F935** Words in Sch. 26 para. 5 substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 36\(10\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)

F936  
...

#### Textual Amendments

**F936** Sch. 26 paras. 6A, 6B, 7 and cross-headings substituted for Sch. 26 paras. 6, 7 (1.8.2005 for E. for specified purposes, 3.10.2005 for E. so far as not already in force, 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 12](#) (with s. 119); S.I. 2005/2034, arts. 2, 6; S.I. 2006/1338, art. 3, [Sch. 1](#)

F936<sup>6</sup> .....

*[<sup>F936</sup>Inspections in England*

F937<sup>6A</sup> .....

#### Textual Amendments

**F937** Sch. 26 para. 6A repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 36\(11\)\(a\)](#), [Sch. 3 Pt. 2](#); S.I. 2008/2261, art. 2 (with Sch. 1)

#### *Inspections in Wales*

- 6B (1) The Chief Inspector for Wales—
- (a) shall secure that relevant nursery education provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at such intervals as may be prescribed,
  - (b) shall secure that relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any time when the National Assembly for Wales requires the Chief Inspector for Wales to secure its inspection, and
  - (c) may secure that any relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any other time when the Chief Inspector for Wales considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 28 of the Education Act 2005 (duty to arrange regular inspections of certain schools) applies.
- (3) The Chief Inspector for Wales may comply with sub-paragraph (1) either by organising inspections or by making arrangements with others for them to organise inspections.

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- (4) A requirement such as is mentioned in sub-paragraph (1)(b) may relate to nursery education provided at particular premises or a class of premises.

*[<sup>F936</sup>Reports of inspections under paragraph <sup>F938</sup>... 6B*

#### Textual Amendments

**F938** Words in Sch. 26 para. 7 cross-heading repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(11)(b), Sch. 3 Pt. 2; S.I. 2008/2261, art. 2 (with Sch. 1)

- 7 A person conducting an inspection under paragraph <sup>F939</sup>... 6B shall report on—
- the quality and standards of the nursery education provided,
  - how far that nursery education meets the needs of the range of children for whom the education is provided,
  - the quality of leadership and management in connection with the provision of the nursery education,
  - the contribution made by that nursery education to the well-being of those children, and
  - so far as it is reasonably practicable to do so, the spiritual, moral, social and cultural development of the children for whom the nursery education is provided.]

#### Textual Amendments

**F939** Words in Sch. 26 para. 7 repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(11)(c), Sch. 3 Pt. 2; S.I. 2008/2261, art. 2 (with Sch. 1)

*Registration of nursery education inspectors [<sup>F940</sup>for Wales]*

#### Textual Amendments

**F940** Words in Sch. 26 para. 8 heading inserted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 7 para. 13 (with s. 119); S.I. 2005/2034, art. 6

- 8 (1) <sup>F941</sup>... [<sup>F942</sup>Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] shall establish and maintain a register of nursery education inspectors for Wales.
- (2) The Chief Inspector [<sup>F943</sup>for Wales]—
- shall give guidance to registered [<sup>F944</sup>Welsh] nursery education inspectors and such other persons as he considers appropriate in connection with inspections under paragraph [<sup>F945</sup>6B] and the making of reports of such inspections, and
  - shall keep under review the system of inspections under paragraph [<sup>F945</sup>6B] and, in particular, the standard of such inspections and of the reports made of them.

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- (3) The Chief Inspector [<sup>F943</sup>for Wales] shall not register a person under this paragraph unless, having regard to any conditions that he proposes to impose under sub-paragraph [<sup>F946</sup>(5B)], it appears to him that the person—
- (a) is a fit and proper person for discharging the functions of a registered [<sup>F947</sup>Welsh] nursery education inspector, and
  - (b) will be capable of conducting inspections under paragraph [<sup>F948</sup>6B] competently and effectively and no person shall be so registered if he falls within a category of persons prescribed for the purposes of this sub-paragraph.
- [<sup>F949</sup>(4) Subject to that, the Chief Inspector [<sup>F943</sup>for Wales] shall register such persons as he considers appropriate.
- (5) The factors which the Chief Inspector [<sup>F943</sup>for Wales] may take into account for the purposes of sub-paragraph (4) include the extent to which there is a need for registered inspectors in any part of <sup>F950</sup>... Wales.
- (5A) The Chief Inspector [<sup>F943</sup>for Wales] may require payment of a fee before registering a person under sub-paragraph (4).
- (5B) Registration under sub-paragraph (4) may be subject to such conditions as the Chief Inspector [<sup>F943</sup>for Wales] considers it appropriate to impose.]
- (6) Conditions imposed under sub-paragraph [<sup>F951</sup>(5B)] may be conditions applying generally in relation to all cases, or particular classes of case, or such conditions together with specific conditions applying in the particular case.
- (7) Where a person is registered subject to conditions imposed under sub-paragraph [<sup>F951</sup>(5B)], he shall be taken to be authorised to act as a [<sup>F952</sup>registered Welsh nursery education inspector] only so far as those conditions permit.
- (8) The period for which any registration is to have effect shall be determined by the Chief Inspector [<sup>F943</sup>for Wales] and shall be entered in the register kept by him.
- <sup>F953</sup>(9) .....

#### Textual Amendments

- F941** Words in Sch. 26 para. 8(1) repealed (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(2\)](#), [Sch. 19 Pt. 1](#) (with s. 119); S.I. 2005/2034, art. 6
- F942** Words in Sch. 26 para. 8(1) substituted (W.) (1.1.2001) by [2000 c. 21](#), s. 73(3)(a); S.I. 2000/3230, art. 2, [Sch.](#)
- F943** Words in Sch. 26 para. 8(2)-(8) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(3\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F944** Word in Sch. 26 para. 8(2)(a) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(4\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F945** Word in Sch. 26 para. 8(2) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(4\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F946** Words in Sch. 26 para. 8(3) substituted (2.9.2002 for E., 1.9.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 14 para. 2\(2\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2004/1728, art. 5, [Sch. Pt. 2](#)

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- F947** Word in Sch. 26 para. 8(3)(a) inserted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 14(5)(a)** (with s. 119); S.I. 2005/2034, art. 6
- F948** Word in Sch. 26 para. 8(3)(b) substituted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 14(5)(b)** (with s. 119); S.I. 2005/2034, art. 6
- F949** Sch. 26 para. 8(4)-(5B) substituted (2.9.2002 for E., 1.9.2004 for W.) for Sch. 26 para. 8(4)(5) by Education Act 2002 (c. 32), s. 216(4), **Sch. 14 para. 2(3)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F950** Words in Sch. 26 para. 8(5) repealed (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 7 para. 14(6), **Sch. 19 Pt. 1** (with s. 119); S.I. 2005/2034, art. 6
- F951** Word in Sch. 26 para. 8(6)(7) substituted (2.9.2002 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 14 para. 2(4)** (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F952** Words in Sch. 26 para. 8(7) substituted (3.10.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 14(7)** (with s. 119); S.I. 2005/2034, art. 6
- F953** Sch. 26 para. 8(9) repealed (1.10.2002 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/1395, art. 4, Sch.

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

- C231** Sch. 26 para. 8(2)-(9) applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

- 9 (1) If the Chief Inspector [<sup>F954</sup>for Wales] is satisfied that any of the conditions mentioned in sub-paragraph (2) is satisfied with respect to a nursery education inspector registered in his register, he may remove the name of that inspector from that register.
- (2) The conditions are that—
- (a) he is no longer a fit and proper person for discharging the functions of a registered [<sup>F955</sup>Welsh] nursery education inspector under paragraph [<sup>F956</sup>6B],
  - (b) he is no longer capable of conducting inspections under that paragraph competently and effectively,
  - (c) there has been a significant failure on his part to comply with any condition imposed under [<sup>F957</sup>paragraph 8(5B)] subject to which his registration has effect,
  - (d) he has, without reasonable explanation, produced a report of an inspection under paragraph [<sup>F958</sup>6B] which is, in whole or in part, seriously misleading.
- (3) The Chief Inspector [<sup>F959</sup>for Wales] may vary any condition subject to which the registration of an inspector has effect, or vary the registration of an inspector by imposing a condition subject to which it will have effect, if he is satisfied—
- (a) that he is authorised by sub-paragraph (1) to remove the name of the inspector from his register, or
  - (b) that it would otherwise be in the public interest for him to do so.
- (4) References in this Schedule to a condition imposed under [<sup>F960</sup>paragraph 8(5B)] include a condition imposed under sub-paragraph (3).

<sup>F961</sup>(5) .....

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### Textual Amendments

- F954** Words in Sch. 26 para. 9(1) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 15\(2\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F955** Word in Sch. 26 para. 9(2)(a) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 15\(3\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F956** Word in Sch. 26 para. 9(2)(a) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 15\(3\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F957** Words in Sch. 26 para. 9(2)(c) substituted (2.9.2002 for E., 1.9.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 14 para. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F958** Word in Sch. 26 para. 9(2)(d) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 15\(3\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F959** Words in Sch. 26 para. 9(3) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 15\(4\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F960** Words in Sch. 26 para. 9(4) substituted (2.9.2002 for E., 1.9.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 14 para. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F961** Sch. 26 para. 9(5) repealed (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 15\(5\)](#), [Sch. 19 Pt. 1](#) (with s. 119); S.I. 2005/2034, art. 6

### Modifications etc. (not altering text)

- C232** Sch. 26 para. 9(1)-(4) applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [1989 c. 41](#), s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [2000 c. 14](#), ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), [Sch.](#); S.I. 2002/920, arts. 2, 3 (subject to [Schs. 1-3](#)); S.I. 2002/2215, arts. 2, 3

- 10 (1) Any person who is aggrieved by—
- (a) the refusal of the Chief Inspector [<sup>F962</sup>for Wales] to renew his registration under paragraph 8,
  - (b) the imposition or variation of any condition subject to which he is registered under that paragraph, or
  - (c) the removal of his name from the register under paragraph 9,
- may appeal against the Chief Inspector's decision.

<sup>F963</sup>(1A) . . . . .

[ An appeal under sub-paragraph (1) shall be made to a tribunal with the same <sup>F964</sup>(2) constitution as a tribunal to hear an appeal under section 27 of the Education Act 2005; and paragraph 2 (procedure) and paragraph 3 (staff) of Schedule 3 to that Act apply to tribunals to hear appeals under sub-paragraph (1) as they apply to tribunals to hear appeals under that section.]

- (3) No decision against which an appeal may be made under sub-paragraph (1) shall have effect until—
- (a) any appeal against it which is duly made is disposed of, or
  - (b) the period within which an appeal may be made expires without an appeal being made.
- (4) Sub-paragraph (3) shall not apply where the Chief Inspector [<sup>F965</sup>for Wales]—

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- (a) is satisfied that the circumstances of the case justify the decision in question taking effect immediately or earlier than would otherwise be the case, and
  - (b) notifies the person concerned to that effect.
- (5) On determining any appeal under this paragraph, the tribunal may—
- (a) confirm, reverse or vary the decision appealed against, or
  - (b) remit the case to the Chief Inspector [<sup>F965</sup>for Wales] with directions as to the action to be taken by him.

#### Textual Amendments

- F962** Words in Sch. 26 para. 10(1) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 16\(2\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F963** Sch. 26 para. 10(1A) repealed (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), Sch. 7 para. 16(3), [Sch. 19 Pt. 1](#) (with s. 119); S.I. 2005/2034, art. 6
- F964** Sch. 26 para. 10(2) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 16\(4\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F965** Words in Sch. 26 para. 10(4)(5) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 16\(5\)](#) (with s. 119); S.I. 2005/2034, art. 6

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

- C233** Sch. 26 para. 10 applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [1989 c. 41](#), s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [2000 c. 14](#), ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

### *[<sup>F966</sup>Training of registered Welsh nursery education inspectors]*

#### Textual Amendments

- F966** Sch. 26 para. 11 heading substituted (3.10.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 17](#) (with s. 119); S.I. 2005/2034, art. 6; S.I. 2006/1338, art. 3, [Sch. 1](#)

- 11 (1) A registered [<sup>F967</sup>Welsh] nursery education inspector shall not conduct an inspection under paragraph 6 unless he has, in the opinion of the Chief Inspector [<sup>F968</sup>for Wales], satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector [<sup>F968</sup>for Wales].
- (2) Sub-paragraph (1) shall not apply in such circumstances as may be specified, either generally or in relation to a particular case or class of case, by the Chief Inspector [<sup>F969</sup>for Wales].
- (3) Where the Chief Inspector [<sup>F970</sup>for Wales] provides such training he may charge such fees as are reasonable for the purpose of recovering the whole, or part, of the cost of providing it.

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#### Textual Amendments

- F967** Word in Sch. 26 para. 11(1) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 18\(2\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F968** Words in Sch. 26 para. 11(1) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 18\(2\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F969** Words in Sch. 26 para. 11(2) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 18\(3\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F970** Words in Sch. 26 para. 11(3) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 18\(3\)](#) (with s. 119); S.I. 2005/2034, art. 6

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

- C234** Sch. 26 para. 11 applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [1989 c. 41](#), s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [2000 c. 14](#), ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), [Sch.](#); S.I. 2002/920, arts. 2, 3 (subject to [Schs. 1-3](#)); S.I. 2002/2215, arts. {2}, 3

#### *Impartiality*

- 12 A person shall not undertake an inspection under paragraph [<sup>F971</sup>6B] of nursery education provided by a person at any premises, or accompany a person undertaking such an inspection, if he has, or has at any time had, any connection with—
- (a) the person by whom the education is provided (or, where it is provided by a body, any member of the body), or
  - (b) any person employed by that person (whether or not at the premises), of a kind which might reasonably be taken to raise doubts about his ability to act impartially.

#### Textual Amendments

- F971** Word in Sch. 26 para. 12 substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 19](#) (with s. 119); S.I. 2005/2034, art. 6

#### *[<sup>F972</sup>Reports of inspections: England*

<sup>F973</sup>13A .....

#### Textual Amendments

- F973** Sch. 26 para. 13A repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 36\(11\)\(d\)](#), [Sch. 3 Pt. 2](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))

#### *Reports of inspections: Wales*

- 13B (1) Where a person has conducted an inspection under paragraph 6B he shall make his report in writing to the Chief Inspector for Wales within such period as may be prescribed, subject to any extension not exceeding three months which the Chief Inspector for Wales may consider necessary.



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- (2) Once the report of an inspection has been made to the Chief Inspector for Wales under sub-paragraph (1) he shall without delay send a copy to such authorities and persons as may be prescribed.
- (3) Regulations may require any prescribed person to whom a copy of the report is sent under subsection (2) to make a copy of the report available for inspection by prescribed persons.
- (4) Subsections (2) to (4) of section 29 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to Wales as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.]

### *Annual reports of the Chief Inspector*

[<sup>F975</sup>(1) .....  
<sup>F974</sup>14

- (2) The annual report of the Chief Inspector for Wales required by subsection (1)(a) of section 21 of the Education Act 2005 to be made to the National Assembly for Wales shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by subsection (1)(b) of that section to make other reports to the Assembly includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.]

#### **Textual Amendments**

- F974** Sch. 26 para. 14 substituted (3.10.2005 for E. for specified purposes) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 21](#) (with s. 119); S.I. 2005/2034, art. 6
- F975** Sch. 26 para. 14(1) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 35\(4\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)

### *Reserve powers of the Chief Inspector*

<sup>F976</sup>15 .....

#### **Textual Amendments**

- F976** Sch. 26 para. 15 repealed (1.10.2002 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/1395, art. 4, Sch.

- 16 If the Chief Inspector elects in the case of an inspection within paragraph (b) or (c) of sub-paragraph (1) of paragraph <sup>F977</sup>[<sup>F978</sup>... 6B] that the inspection shall be treated as if it were an inspection within paragraph (a) of that sub-paragraph, the inspection shall be so treated.

#### **Textual Amendments**

- F977** Words in [Sch. 26 para. 16](#) repealed (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 36\(1\)\(f\)](#), [Sch. 3 Pt. 2](#); S.I. 2008/2261, art. 2 (with [Sch. 1](#))
- F978** Words in [Sch. 26 para. 16](#) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 22](#) (with s. 119); S.I. 2005/2034, art. 6

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[<sup>F979</sup>17 Where an inspection in Wales is being conducted by a registered Welsh nursery education inspector under paragraph 6B, the Chief Inspector for Wales may arrange for the inspection to be monitored by one or more members of the Welsh Inspectorate.]

#### Textual Amendments

**F979** Sch. 26 para. 17 substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 7 para. 23** (with s. 119); [S.I. 2005/2034](#), art. 6

#### *Rights of entry*

- 18 (1) [<sup>F980</sup>This paragraph applies to—
- (a) the Chief Inspector for England when conducting an inspection under paragraph 6A,
  - (b) a registered Welsh nursery education inspector or member of the Welsh Inspectorate conducting an inspection under paragraph 6B, or
  - (c) a member of the Welsh Inspectorate monitoring under paragraph 17 an inspection under paragraph 6B.]
- (2) A person to whom this paragraph applies shall have at all reasonable times—
- (a) a right of entry to the premises at which the relevant nursery education concerned is provided; and
  - (b) a right to inspect, and take copies of—
    - (i) any records kept by the person providing that education, and
    - (ii) any other documents containing information relating to the provision of that education,
 which he requires for the purposes of conducting or (as the case may be) monitoring the inspection.
- (3) [<sup>F982</sup>Section 58 of the Education Act 2005 (inspection of computer records for the purposes of Part 1 of that Act) shall apply for the purposes of this paragraph as it applies for the purposes of Part 1 of that Act.]
- (4) [<sup>F982</sup>It shall be an offence—
- <sup>F983</sup>(a) .....
  - (b) intentionally to obstruct a member of the Welsh Inspectorate or a registered Welsh nursery education inspector in the exercise of his functions in relation to an inspection under paragraph 6B.]
- (5) Any person guilty of an offence under sub-paragraph (4) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) In this paragraph “documents” and “records” each include information recorded in any form.]

#### Textual Amendments

**F980** Sch. 26 para. 18(1) substituted (3.10.2005 for E. for specified purposes) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 7 para. 24(2)** (with s. 119); [S.I. 2005/2034](#), art. 6

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- F981** Sch. 26 para. 18(1)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(11) (g), **Sch. 3 Pt. 2**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F982** Sch. 26 para. 18(3)(4) substituted (3.10.2005 for E. for specified purposes) by Education Act 2005 (c. 18), s. 125(4), **Sch. 7 para. 24(3)** (with s. 119); S.I. 2005/2034, art. 6
- F983** Sch. 26 para. 18(4)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), s. 109(2), Sch. 2 para. 36(11) (g), **Sch. 3 Pt. 2**; S.I. 2008/2261, art. 2 (with Sch. 1)

[<sup>F984</sup>SCHEDULE 27

Section 125.

FURTHER PROVISION ABOUT PARTNERSHIP ARRANGEMENTS IN WALES

**Textual Amendments**

- F984** Sch. 27 repealed (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8, 1.1.2001 (W.) otherwise) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**

**Commencement Information**

- I29** Sch. 27 wholly in force at 1.9.1999; Sch. 27 not in force at Royal Assent see s. 145(3); Sch. 27 in force at 1.4.1999 for specified purposes by S.I. 1998/2212, art. 2, **Sch. 1 Pt. IV**; Sch. 27 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

“SCHEDULE 5A

FURTHER PROVISION ABOUT PARTNERSHIP ARRANGEMENTS IN WALES

*Interpretation*

- 1 In this Schedule—
- “the participating bodies”, in relation to an arrangement, means—
- (i) the parties to the arrangement,
  - (ii) the Further Education Funding Council for Wales, and
  - (iii) each governing body of a school which has consented to the arrangement;
- and
- “the parties”, in relation to an arrangement, means—
- (i) each local education authority, and
  - (ii) each governing body of an institution (or institutions) within the further education sector,
- which is a party to the arrangement.

*Approval by the Secretary of State*

- 2 (1) An application for approval of an arrangement by the Secretary of State for the purposes of section 60A of this Act (“an application”) shall be made jointly by the parties to the arrangement.
- (2) An application shall be in such form and contain such information as may be prescribed by regulations.

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- (3) In addition, the participating bodies shall provide the Secretary of State with such further information as he may require for the purpose of deciding whether or not to grant the approval.

*Termination of arrangement etc*

- 3 (1) Subject to any provision of the arrangement to the contrary and to sub-paragraph (2) below, a partnership arrangement to which section 60A of this Act applies shall continue in force indefinitely.
- (2) The Secretary of State may withdraw approval of a partnership arrangement to which section 60A of this Act applies.
- (3) The Secretary of State shall exercise his powers under sub-paragraph (2) in accordance with the provisions of the arrangement.

*Variation of arrangement*

- 4 (1) The parties to a partnership arrangement to which section 60A of this Act applies shall not make any change to the arrangement except—
- (a) with the consent of the other participating bodies, and
- (b) if the change amounts to a significant change to the arrangement, with the consent of the Secretary of State.
- (2) If a question arises whether a change to an arrangement would be a significant change, that question shall be determined by the Secretary of State.

*Interpretation of existing enactments*

- 5 (1) Regulations may provide—
- (a) for any reference in an enactment to secondary education to be construed as including further education provided under a partnership arrangement to which section 60A of this Act applies, and
- (b) for any enactment containing such a reference to apply in relation to such further education with such modifications (if any) as may be specified in the regulations.
- (2) In sub-paragraph (1), enactment includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M91</sup>Interpretation Act 1978).”]

**Marginal Citations**

**M91** 1978 c. 30.

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## SCHEDULE 28

Section 135.

### AMENDMENTS RELATING TO SCHOOL AND NURSERY INSPECTIONS

#### PART I

#### SCHOOL INSPECTIONS

##### *Introductory*

F985<sub>1</sub> .....

##### **Textual Amendments**

**F985** Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

##### *Persons who may be registered inspectors*

F985<sub>2</sub> .....

##### **Textual Amendments**

**F985** Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

##### *Decisions of Chief Inspector having immediate effect*

F985<sub>3</sub> .....

##### **Textual Amendments**

**F985** Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

##### *Enrolment of persons to act as team members*

F985<sub>4</sub> .....

##### **Textual Amendments**

**F985** Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

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PROSPECTIVE

*Replacement of inspectors*

F985

**Textual Amendments**

**F985** Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F986 **PART II**

**Textual Amendments**

**F986** Sch. 28 Pt. II repealed (1.4.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/1395, art. 4, Sch.

SCHEDULE 29

Section 137.

AMENDMENTS RELATING TO FUNCTIONS OF EDUCATION TRANSFER COUNCIL

*Introductory*

1 In this Schedule “the 1988 Act” means the <sup>M92</sup>Education Reform Act 1988.

**Marginal Citations**

**M92** 1988 c. 40.

*General provisions as to transfers*

2 (1) Section 198 of the 1988 Act (transfers under Parts I and II of that Act) shall be amended as follows.

(2) For subsections (1) to (4) substitute—

“(1) This section applies to any transfer under any of the following provisions, namely—

- (a) section 126 or 130 of this Act,
- (b) Schedule 21 to the School Standards and Framework Act 1998 (“the 1998 Act”), or
- (c) any regulations made—

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- (i) under section 21(5) or (9) of that Act, or
  - (ii) under paragraph 10 of Schedule 2 or paragraph 5 of Schedule 8 to that Act;
- and those provisions, so far as relating to transfers under them, shall in each case have effect subject to Schedule 10 to this Act.
- (1A) However, nothing in—
- (a) the provisions of that Schedule other than paragraph 2(4), or
  - (b) subsection (3) below,
- applies in relation to any transfer agreement falling to be made under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act.
- (2) Schedule 10 to this Act has effect for the purpose of—
- (a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies by a transferor authority or body where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or other educational institution;
  - (b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer;
  - (c) providing for identifying and defining the property, rights and liabilities which fall to be transferred under a transfer to which this section applies; and
  - (d) making supplementary and consequential provisions in relation to such transfers.
- (3) In carrying out the functions conferred or imposed on them by that Schedule—
- (a) the Education Transfer Council—
    - (i) shall, subject to subsection (4) below, not act on behalf of the transferor, the transferee or any other interested person, but
    - (ii) shall seek to ensure that all such persons' interests are protected; and
  - (b) it shall be the duty of the Council, so far as it is reasonably practicable for them to do so, to secure that each transfer to which this section applies is, so far as possible, fully effective on the date on which it takes effect under this Act or under or by virtue of the 1998 Act.
- (4) Where the transferor under any such transfer is a local authority and in accordance with that Schedule anything falls to be or may be done by the Council for the purposes of or in connection with that transfer—
- (a) it may not be done by the transferee; and
  - (b) in doing it the Council shall be regarded as acting on behalf and in the name of the transferee;
- and in a case where the transferee is a body corporate established under this Act or the 1998 Act paragraph (b) above applies both in relation to things

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done before and in relation to things done after that body is established under this Act or the 1998 Act.”

- (3) For “the Board”, wherever occurring in subsections (5) and (6) of section 198, there is substituted (in accordance with section 136(2) of this Act) “the Council”.

*Division and apportionment of property etc.*

- 3 For paragraph 1 of Schedule 10 to the 1988 Act (supplementary provisions with respect to transfers) substitute—

*“ Division and apportionment of property etc.*

- 1 (1) Any property, rights and liabilities of a transferor authority held or used or subsisting—
- (a) for the purposes of more than one relevant institution; or
  - (b) partly for the purposes of one or more relevant institutions and partly for other purposes of the transferor authority;
- shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferees, or (as the case may be) between the transferor authority and the transferee or transferees, in such proportions as may be appropriate.
- (2) Any property, rights or liabilities of a transferor body shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferees, or (as the case may be) between the transferor body and the transferee or transferees, in such proportions as may be appropriate.
- (3) Where any estate or interest in land falls to be divided in accordance with either sub-paragraph (1) or sub-paragraph (2) above—
- (a) any rent payable under a lease in respect of that estate or interest; and
  - (b) any rent charged on that estate or interest;
- shall be correspondingly divided or apportioned so that each part is payable in respect of, or charged on, only one part of the estate or interest and the other part or parts are payable in respect of, or charged on, only the other part or parts of the estate or interest.
- (4) Any such property, right or liability as is mentioned in sub-paragraph (1) or (2) above the nature of which does not permit its division or apportionment as so mentioned shall be transferred to the transferee (or to one or other of the transferees) or retained by the transferor authority or body according to—
- (a) in the case of an estate or interest in land, whether on the transfer date the transferor authority or body or the transferee (or one or other of the transferees) appears to be in greater need of the security afforded by that estate or interest or, where none of them appears to be in greater need of that security, which of them appears on that date to be likely to make use of the land to the greater extent; or
  - (b) in the case of any other property or any right or liability, which of them appears on the transfer date to be likely to make use of



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the property or (as the case may be) to be affected by the right or liability to the greater extent;

subject (in either case) to such arrangements for the protection of the other person or persons concerned as may be agreed between the transferor authority or body and the relevant person or determined by the Secretary of State under paragraph 3 below.

(5) In this paragraph—

- (a) “relevant institution” means—
  - (i) any institution which a body corporate is established under this Act to conduct;
  - (ii) any institution to which section 130 of this Act applies; and
  - (iii) any maintained school;
- (b) “the relevant person” means—
  - (i) in a case where the transferor is a transferor authority, the Education Transfer Council;
  - (ii) in a case where the transferor is a transferor body, the transferee;
- (c) references to a transferor authority are references to a local authority who are the transferor for the purposes of any transfer to which this Schedule applies;
- (d) references to a transferor body are references to any foundation body who are the transferor for the purposes of any transfer to which this Schedule applies;

and for the purposes of this sub-paragraph references to a maintained school or a foundation body have the same meaning as in the School Standards and Framework Act 1998.”

*Identification of property, rights and liabilities*

4 For paragraph 2 of Schedule 10 to the 1988 Act substitute—

*“ Identification of property, rights and liabilities*

- 2 (1) It shall be the duty of the transferor and the relevant person, whether before or after the transfer date, so far as practicable to arrive at such written agreements, and to execute such other instruments, as are necessary or expedient to identify or define the property, rights and liabilities transferred to the transferee or retained by the transferor or for making any such arrangements as are mentioned in paragraph 1(4) above and as will—
  - (a) afford to the transferor and the transferee as against one another such rights and safeguards as they may require for the proper discharge of their respective functions; and
  - (b) make as from such date, not being earlier than the transfer date, as may be specified in the agreement or instrument such clarifications and modifications of the effect of the provision of this Act or of the 1998 Act (or any regulations made under it) under which the transfer is required on the property, rights and

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liabilities of the transferor as will best serve the proper discharge of the respective functions of the transferor and the transferee.

- (2) Any such agreement shall provide so far as it is expedient—
- (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not;
  - (b) for the granting of indemnities in connection with the severance of leases and other matters;
  - (c) for responsibility for registration of any matter in any description of statutory register.
- (3) Except in a case where the transferor is a local authority, the Education Transfer Council shall—
- (a) assist the transferor, the transferee and any other interested person in identifying or defining the property, rights and liabilities transferred to the transferee or retained by the transferor;
  - (b) advise such persons as to the terms of any agreement or instrument falling to be made under sub-paragraph (1) above;
  - (c) assist such persons to negotiate any such agreement or instrument and mediate in any such negotiations;
  - (d) prepare drafts of any such agreement or instrument; and
  - (e) assist the parties in executing and giving effect to any such agreement or instrument.
- (4) If and to the extent that they are requested to do so by any person falling to make a transfer agreement under paragraph 4 or 7 of Schedule 21 to the 1998 Act or any corresponding provision of regulations under that Act, the Education Transfer Council shall exercise any one or more functions falling within sub-paragraph (3) above in relation to such an agreement, or an instrument made pursuant to such an agreement, as if it were an agreement or instrument falling to be made under sub-paragraph (1) above.
- (5) Any transfer of any estate or interest in land under this paragraph or under paragraph 1 above (whether by virtue of an agreement or instrument entered into before or after the transfer date) shall be regarded as having taken place on the transfer date.
- (6) In this paragraph—
- “the 1998 Act” means the School Standards and Framework Act 1998; and
- “the relevant person” means—
- (a) in a case where the transferor is a local authority, the Education Transfer Council;
  - (b) in a case where the transferor is not a local authority, the transferee.”

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### *Resolution of disputes*

5 For paragraph 3 of Schedule 10 to the 1988 Act substitute—

#### *“ Resolution of disputes*

- 3 (1) The Education Transfer Council shall notify the Secretary of State if it appears to them that it is unlikely in the case of any matter on which agreement is required to be reached under paragraph 2(1) above that such an agreement will be reached.
- (2) Where the Secretary of State has received a notification from the Council under sub-paragraph (1) above, he may, whether before or after the transfer date, give a direction determining that matter, and may include in the direction any provision which might have been included in an agreement under paragraph 2(1) above.
- (3) Any property, rights or liabilities required by a direction under this paragraph to be transferred to the transferee shall be regarded as having been transferred to, and by virtue of this Act vested in, the transferee on the transfer date.
- (4) The Secretary of State shall consult the transferor, the transferee and any other interested person before giving a direction under this paragraph.
- (5) The Education Transfer Council shall give the Secretary of State such assistance and advice as he may require for the purpose of determining any matter under this paragraph.”

#### *Proof of title by certificate*

6 In paragraph 5 of Schedule 10 to the 1988 Act, for “or of the Education Act 1996” substitute “ or of the School Standards and Framework Act 1998 ”.

#### *Construction of agreements etc.*

7 In paragraph 7 of Schedule 10 to the 1988 Act, for “or of the Education Act 1996”, in both places, substitute “ or of the School Standards and Framework Act 1998 ”.

#### *Third parties affected by vesting provisions*

- 8 In paragraph 9 of Schedule 10 to the 1988 Act—
- (a) in sub-paragraph (6)(a), after “Board” insert “ or (as the case may be) the transferee ”;
- (b) in sub-paragraph (6)(b), for “or of the Education Act 1996” substitute “ or of the School Standards and Framework Act 1998 (or any regulations made under it) ”; and
- (c) in sub-paragraph (9), after “Board” insert “ or (as the case may be) the transferee ”.

#### *Delivery of documents to transferee*

9 In paragraph 10 of Schedule 10 to the 1988 Act, after “transfer” insert “ under which the transferor is a local authority ”.

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*Amendment of references to Education Assets Board*

- 10 For “the Education Assets Board” or “the Board”, wherever occurring in Schedule 10 to the 1988 Act, there is substituted (in accordance with section 136(2) of this Act) “ the Education Transfer Council ” or “ the Council ” respectively.

SCHEDULE 30

Section 140(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

*Children and Young Persons Act 1933 (c.12)*

- 1 In section 1(7) of the <sup>M93</sup>Children and Young Persons Act 1933 (saving for right of parents etc. to administer corporal punishment), for “teacher, or other person” substitute “ or (subject to section 548 of the Education Act 1996) any other person, ”.

**Marginal Citations**

**M93** 1996 c. 56.

*Local Authorities (Goods and Services) Act 1970 (c.39)*

- 2 (1) Subject to sub-paragraph (2), in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) “public body” shall include any Education Action Forum established in an education action zone.
- (2) The provision in sub-paragraph (1) shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person shall be a public body for the purposes of the Act).
- (3) An order under section 1(5) may accordingly vary or revoke the provisions of sub-paragraph (1) above as they apply to an Education Action Forum specified in the order.

*Local Government Act 1972 (c.70)*

- 3 (1) Section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176) shall be amended as follows.
- (2) In subsection (1), omit the words from the beginning to “committees),”.
- <sup>F987</sup>(3) .....

**Textual Amendments**

**F987** Sch. 30 para. 3(3) repealed (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2005/1395, art. 4, Sch.

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*Local Government Act 1974 (c.7)*

- 4 (1) The Local Government Act 1974 shall be amended as follows.
- (2) For section 25(5) (authorities subject to investigation by Local Commissioner) substitute—
- “(5) Any reference to an authority to which this Part of this Act applies also includes a reference to—
- (a) a school organisation committee constituted in accordance with section 24 of the School Standards and Framework Act 1998,
  - (b) an exclusion appeals panel constituted in accordance with Schedule 18 to that Act,
  - (c) an admission appeals panel constituted in accordance with Schedule 24 or paragraph 3 of Schedule 25 to that Act, and
  - (d) the governing body of any community, foundation or voluntary school so far as acting in connection with the admission of pupils to the school or otherwise performing any of their functions under Chapter I of Part III of that Act.”

**Commencement Information**

**I30** Sch. 30 para. 4 wholly in force at 1.9.1999; Sch. 30 para. 4 not in force at Royal Assent see s. 145(3); Sch. 30 para. 4 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 4 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

*Sex Discrimination Act 1975 (c.65)*

- 5 In section 22 of the Sex Discrimination Act 1975 (discrimination by bodies in charge of educational establishments), in the Table, in paragraph 1, for “governors” substitute “governing body”.
- 6 In section 27 of that Act (exception for single-sex establishments turning co-educational), after subsection (1) insert—
- “(1A) Without prejudice to subsection (1), a transitional exemption order may be made in accordance with paragraph 21 or 22 of Schedule 6 or paragraph 16 or 17 of Schedule 7 to the <sup>M94</sup>School Standards and Framework Act 1998 (transitional exemption orders for purposes of the Sex Discrimination Act 1975: England and Wales).”

**Marginal Citations**

**M94** 1975 c. 65.

*Race Relations Act 1976 (c.74)*

- 7 In section 17 of the Race Relations Act 1976 (discrimination by bodies in charge of educational establishments), in the Table, in paragraph 1, for “governors” substitute “governing body”.

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**Changes to legislation:** School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 23 May 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)

*National Health Service Act 1977 (c.49)*

F988 8 .....

**Textual Amendments**

**F988** Sch. 30 para. 8 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

*Representation of the People Act 1983 (c.2)*

- 9 The Representation of the People Act 1983 shall be amended as follows.
- 10 In section 95(2)(a) (schools and rooms for parliamentary election meetings), for “county schools voluntary schools and grant-maintained schools” substitute “community, foundation and voluntary schools”.
- 11 In section 96(2)(a) (schools and rooms for local election meetings), for “county voluntary or grant-maintained school” substitute “community, foundation or voluntary school”.
- 12 In Schedule 5 (use for parliamentary election meetings of rooms in school premises and meeting rooms), in paragraph 1(1), for “a grant-maintained school” substitute “a foundation or voluntary aided school”.

*Local Government Act 1986 (c.10)*

F989 13 .....

**Textual Amendments**

**F989** Sch. 30 para. 13 repealed (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), s. 128(2)(f)(vii), [Sch. 8 Pt. 1](#)

*Education (No. 2) Act 1986 (c.61)*

F990 14 .....

**Textual Amendments**

**F990** Sch. 30 para. 14 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), art. 3; [S.I. 2007/3611](#), art. 4(1), [Sch. Pt. 1](#)

*Local Government Act 1988 (c.9)*

- 15 In Schedule 1 to the Local Government Act 1988 (defined activities open to competition), in paragraph 8(5), for the words from “county or” to “education authority;” substitute “community, foundation or voluntary schools or community or foundation special schools;”.

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*Education Reform Act 1988 (c.40)*

16 The Education Reform Act 1988 shall be amended as follows.

F991 17 .....

**Textual Amendments**

**F991** Sch. 30 para. 17 repealed (1.10.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 5; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

18 In section 221(1)(b) (avoidance of certain contractual terms), for “an aided or grant-maintained school;” substitute “ a foundation, voluntary aided or foundation special school; ”.

19 In section 226(4) (services to schools in member States providing education to British children), for the words from “any county” to the end substitute “ any community, foundation or voluntary school. ”

20 In Schedule 8 (provisions relating to the body to be known as the Education Transfer Council)—

- (a) omit paragraph 6(3); and
- (b) in paragraph 8—
  - (i) in sub-paragraph (4), omit “given with the consent of the Treasury”; and
  - (ii) in sub-paragraph (7), for “Treasury” substitute “ Secretary of State ”.

*Children Act 1989 (c.41)*

21 In Schedule 9 to the Children Act 1989 (child minding and day care for young children), in paragraph 3(3), for the definitions of “assisted” and “maintained” substitute—

““assisted” has the same meaning as in the <sup>M95</sup>Education Act 1996;  
“maintained” has the same meaning as in the School Standards and Framework Act 1998; and”.

**Marginal Citations**

**M95** 1996 c. 56.

*Local Government and Housing Act 1989 (c.42)*

22 In section 13(5) of the Local Government and Housing Act 1989 (voting rights of certain members of committees)—

- (a) after “is required” insert “ either ”; and
- (b) at the end insert “ or pursuant to regulations under subsection (6) of that section. ”

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*Environmental Protection Act 1990 (c.43)*

23 In section 98(2) of the Environmental Protection Act 1990 (definitions), for paragraphs (f) and (g) substitute—

- “(f) any community, foundation or voluntary school;
- “(g) any community or foundation special school.”

*School Teachers’ Pay and Conditions Act 1991 (c.49)*

F99224 .....

**Textual Amendments**

**F992** Sch. 30 paras. 24-28 repealed (1.10.2002 for specified purposes, 1.8.2003 in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(2), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2; S.I. 2003/1667, art. 2

F99225 .....

**Textual Amendments**

**F992** Sch. 30 paras. 24-28 repealed (1.10.2002 for specified purposes, 1.8.2003 in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(2), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2; S.I. 2003/1667, art. 2

F99226 .....

**Textual Amendments**

**F992** Sch. 30 paras. 24-28 repealed (1.10.2002 for specified purposes, 1.8.2003 in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(2), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2; S.I. 2003/1667, art. 2

F99227 .....

**Textual Amendments**

**F992** Sch. 30 paras. 24-28 repealed (1.10.2002 for specified purposes, 1.8.2003 in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(2), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2; S.I. 2003/1667, art. 2

F99228 .....

**Textual Amendments**

**F992** Sch. 30 paras. 24-28 repealed (1.10.2002 for specified purposes, 1.8.2003 in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(2), **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2; S.I. 2003/1667, art. 2



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*Diocesan Boards of Education Measure 1991 (1991 No.2)*

- 29 The Diocesan Boards of Education Measure 1991 shall be amended as follows.
- 30 In section 3 (transactions for which advice or consent of Board is required)—
- (a) in subsection (1), for the words from “before making” to the end substitute “before—
    - (a) publishing proposals for any prescribed alteration to the school under section 28(2)(b) of the School Standards and Framework Act 1998;
    - (b) publishing proposals for the discontinuance of the school under section 29(2) of that Act;
    - (c) serving notice of an intention to discontinue the school under section 30(1) of that Act;
    - (d) publishing proposals for changing the category of the school under paragraph 2 or 3 of Schedule 8 to that Act; or
    - (e) making any application to, or entering into any agreement with, any body or person for or in connection with any disposal (whether by sale or otherwise) of the premises of the school or any part of them.”;
  - (b) in subsection (2), for “an aided or special agreement school” substitute “a voluntary aided school”;
  - (c) omit subsections (4) and (5); and
  - (d) in subsection (6)—
    - (i) omit “or (5)”, and
    - (ii) for “the secretary of the governing body” substitute “the clerk to the governing body”.
- 31 In section 7 (powers of Board to give directions to governing bodies)—
- (a) for subsection (1) substitute—

“(1) Where the Board is satisfied that the governing body of a voluntary aided church school in the diocese in discharging, or failing to discharge, its functions so far as relating to—

    - (a) the making of any prescribed alteration to the school under Chapter II of Part II of the School Standards and Framework Act 1998, or
    - (b) the discontinuance of the school under that Chapter, or
    - (c) changing the school’s category in accordance with paragraph 2 or 3 of Schedule 8 to that Act,

is acting in a manner which is not in the interests of that school or of church schools generally, the Board may, subject to subsection (1A) below, give directions to the governing body as to the discharge of those functions.

    - (1A) The Board may not, under subsection (1) above, give directions as to the publication of proposals under paragraph 2 or 3 of Schedule 8 to that Act which would prevent the publication of proposals for the school to become a foundation school.”;
  - (b) in subsection (2), for “the secretary of the governing body” substitute “the clerk to the governing body”;

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**Changes to legislation:** School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 23 May 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)

- (c) in subsection (3), for the words from the beginning of paragraph (a) onwards substitute—
    - “(a) publication of proposals for any prescribed alteration to the school under section 28(2)(b) of the School Standards and Framework Act 1998; or
    - (b) publication of proposals under paragraph 2 or 3 of Schedule 8 to that Act,

the Board may itself publish those proposals, and the provisions of that Act shall apply to anything done by the Board by virtue of this subsection as if it had been done by the governing body of the school.”;

  - (d) omit subsection (5); and
  - (e) for the sidenote substitute “Powers of Board to give directions to governing bodies of voluntary aided church schools.”
- 32 (1) Section 10 (interpretation) shall be amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “Church of England voluntary school”, and
  - (b) for the definition of “church school” substitute—
 

““church school” means a foundation or voluntary school which is a Church of England school as defined by section 142(1) of the School Standards and Framework Act 1998;”.
- (3) Omit subsection (2).
- (4) For subsection (3) substitute—
- “(3) Expressions used in this Measure which are also used in the School Standards and Framework Act 1998 shall, unless the context otherwise requires, have the same meaning as in that Act.”

*Further and Higher Education Act 1992 (c.13)*

- 33 The Further and Higher Education Act 1992 shall be amended as follows.
- 34 In section 5(4) (administration of funds by councils), for “grant-maintained school” substitute “maintained school”.
- 35 In section 21 (initial instruments and articles)—
- (a) in subsection (1), omit—
    - (i) paragraph (a), and
    - (ii) “(b) in any other case;”;
  - (b) in subsection (2), omit—
    - (i) “orders and”,
    - (ii) in paragraph (a), “grant-maintained school or other”, and
    - (iii) in paragraph (b), “grant-maintained schools or other”; and
  - (c) in subsection (3), for the words from “a grant-maintained” to “earlier enactment)” substitute “a maintained school, the governing body incorporated under Chapter III of Part II of the School Standards and Framework Act 1998”.
- 36 For section 25 substitute—

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**“25 Transfer of property, etc. from foundation bodies.**

- (1) This section applies where a further education corporation is established to conduct an institution which, on the date the corporation is established, is a foundation or voluntary school belonging to the group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998.
- (2) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the transfer, in any such case, of property, rights and liabilities from the foundation body to the further education corporation.
- (3) Regulations under subsection (2) may, in relation to any such transfer of property, rights or liabilities—
  - (a) modify any provision made by or under any of sections 23, 24, 36 and 38 of this Act and Schedule 5 to this Act;
  - (b) apply any such provision with or without modifications;
  - (c) make provision corresponding or similar to any such provision.
- (4) In this section “foundation body” and “group of schools” have the same meaning as in the School Standards and Framework Act 1998.”

37

In section 26 (transfer of staff to further education corporation)—

- (a) in subsection (1), omit “or was a grant-maintained school”; and
- (b) in subsection (6)—
  - (i) for “that authority” substitute “ references to that authority, and ”, and
  - (ii) for paragraphs (b) and (c) substitute—
    - “(b) in relation to a corporation established to conduct an institution which, on that date, was a foundation or voluntary aided school, references to the governing body of that school.”

38

In section 28(2)(a) (designation of institutions as eligible for funds) after “school” insert “ (other than one belonging to a group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998) ”.

39

In section 32 (transfer of property, etc., to designated institutions), after subsection (2) insert—

“(2A) In the case of an institution which when designated was a voluntary aided school, on the designation date—

- (a) all land and other property which, immediately before that date, was property of the governing body of the school incorporated under Chapter III of Part II of the School Standards and Framework Act 1998, and
- (b) all rights and liabilities of that body subsisting immediately before that date,

shall be transferred to and, by virtue of this Act, vest in the governing body of the designated institution; and the governing body of the school shall be dissolved on that date.”

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- 40 In section 37 (attribution of surpluses and deficits)—
- (a) in subsection (1), for “section 103 of the Education Act 1996 (schemes for financing schools)” substitute “ section 48 of the School Standards and Framework Act 1998 (LEAs’ financial schemes) ”; and
  - (b) in subsection (7), in the definition of “budget share”, for “Part II of the Education Act 1996” substitute “ Part II of the School Standards and Framework Act 1998 ”.

F993 41 .....

**Textual Amendments**  
**F993** Sch. 30 para. 41 repealed (28.7.2000 for specified purposes, 1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

F994 42 .....

**Textual Amendments**  
**F994** Sch. 30 para. 42 repealed (28.7.2000 for specified purposes and 1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

- 43 In section 47(2) (transfer of higher education institutions to further education sector) for the words from “any provision” to the end substitute “ provision as to the initial name of the corporation as a further education corporation. ”

44 F995 .....

**Textual Amendments**  
**F995** Sch. 30 para. 44 repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 215(2), 216, **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2 (with Sch.)

F996 45 .....

**Textual Amendments**  
**F996** Sch. 30 para. 45 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(q)

- 46 In section 90 (interpretation)—
- (a) after subsection (3) insert—
    - “(3A) In this Act references to a voluntary aided school are—
    - (a) in relation to any time before the appointed day within the meaning of the <sup>M96</sup>School Standards and Framework Act 1998, references to a voluntary aided school within the meaning of the Education Act 1996; or
    - (b) in relation to any time on or after that day, references to a voluntary aided school within the meaning of the 1998 Act.”; and

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- (b) in subsection (5), at end insert “ and section 140(2) of the School Standards and Framework Act 1998 has effect for defining the expressions there mentioned. ”

#### Marginal Citations

M96 1996 c. 56.

#### *Tribunals and Inquiries Act 1992 (c.53)*

- 47 In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under general supervision of Council on Tribunals)—

<sup>F997</sup>(a) .....

- (b) in paragraph (d), for “(c. 38)” substitute “ (c. 57) ”.

#### Textual Amendments

**F997** Sch. 30 para. 47(a) repealed (20.1.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2005/1395, art. 4, Sch.

#### Commencement Information

**I31** Sch. 30 para. 47 wholly in force at 1.9.1999; Sch. 30 para. 47 not in force at Royal Assent see s. 145(3); Sch. 30 para. 47 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)); Sch. 30 para. 47 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

#### *Charities Act 1993 (c.10)*

<sup>F998</sup>48 .....

#### Textual Amendments

**F998** Sch. 30 para. 48 repealed (31.1.2009) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 9](#); S.I. 2008/3267, art. 2, [Sch.](#) (with arts. 3-27) (as amended: (29.9.2009) by [S.I. 2009/2648](#), art. 3; (26.7.2010) by [S.I. 2010/1942](#), art. 2; and (1.8.2011) by [S.I. 2011/1725](#), arts. 1(2), 3, [Sch. para. 6](#))

- 49 In section 79(9) of that Act (parochial charities), for the words from “voluntary or” to the end substitute “ foundation or voluntary school within the meaning of the School Standards and Framework Act 1998. ”

#### *Welsh Language Act 1993 (c.38)*

- 50 In section 6(1) of the Welsh Language Act 1993 (meaning of “public body”), for paragraph (l) substitute—

“(l) the governing body of a community, foundation or voluntary school or a community or foundation special school (within the meaning of the School Standards and Framework Act 1998);”.

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*Value Added Tax Act 1994 (c.23)*

- 51 In Schedule 9 to the Value Added Tax Act 1994 (exemptions), in paragraph (a) of Note (1) to Group 6 (education)—
  - (a) in sub-paragraph (iii), for the <sup>M97</sup>words from “a county” to “Education Act 1996” substitute “ a community, foundation or voluntary school within the meaning of the <sup>M98</sup>School Standards and Framework Act 1998, a special school within the meaning of section 337 of the Education Act 1996 ”; and
  - (b) omit sub-paragraphs (v) and (vii).

**Marginal Citations**

- M97** 1996 c. 56.
- M98** 1996 c. 56.

*Education Act 1994 (c.30)*

- 52 The Education Act 1994 shall be amended as follows.

**Commencement Information**

- I32** Sch. 30 para. 54 wholly in force at 1.9.1999; Sch. 30 para. 54 not in force at Royal Assent see s. 145(3); Sch. 30 para. 54 in force for certain purposes at 1.4.1999 by [S.I. 1999/2212, art. 2, Sch. 1 Pt. IV](#); Sch. 30 para. 54 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

- 53 In section 11A (general duty of Secretary of State with respect to training), omit “grant-maintained schools,”.

<sup>F999</sup>54 . . . . .

**Textual Amendments**

- F999** Sch. 30 para. 54 repealed (1.9.2005) by [Education Act 2005 \(c. 18\), s. 125\(3\)\(b\), Sch. 19 Pt. 3](#)

*Employment Rights Act 1996 (c.18)*

- 55 In section 134(1) of the Employment Rights Act 1996 (teachers in aided schools), for the words from “an aided school” to “1996” substitute “ a foundation, voluntary aided or foundation special school is dismissed by the governing body of the school in pursuance of a requirement of the local education authority under section 55(5) of the School Standards and Framework Act 1998 ”.

*Nursery Education and Grant-Maintained Schools Act 1996 (c.50)*

<sup>F1000</sup>56 . . . . .

**Status:** Point in time view as at 22/04/2009. This version of this Act contains provisions that are not valid for this point in time.

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### Textual Amendments

**F1000**Sch. 30 para. 56 repealed (1.9.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

### Education Act 1996 (c.56)

- 57 The Education Act 1996 shall be amended as follows.
- 58 In section 1(2) (the stages of education), omit paragraph (b) and the “and” preceding it.
- F1001**59 .....

### Textual Amendments

**F1001**Sch. 30 para. 59 repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

- 60 In section 6(2) (nursery schools and special schools), for the words from “and” onwards substitute “ and (in the case of a school which is not maintained by a local education authority) is for the time being approved, as mentioned in section 337. ”
- 61 In section 9 (pupils to be educated in accordance with parents’ wishes), for the words from “State,” to “funding authorities” substitute “ State and local education authorities ”.
- 62 In section 14 (functions of local education authorities in respect of provision of primary and secondary schools), omit subsection (5).
- 63 After section 15 insert—

### “15A Functions in respect of full-time education for 16 to 18 year olds.

- (1) A local education authority may secure the provision for their area of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, including provision for persons from other areas.
- (2) Subsections (6) and (7) of section 14 shall apply in relation to functions under this section as they apply in relation to functions under that section.”

VALID FROM 12/01/2010

- 64 (1) Section 16 (power to establish, maintain and assist primary and secondary schools) is amended as follows.
- (2) In subsection (1)—
- (a) at the end of paragraph (a) insert “ and ”, and
- (b) omit paragraph (c) and the “and” preceding it.
- (3) In subsection (2), for “, maintain and assist” substitute “ and maintain ”.

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(4) For the sidenote substitute “ Power to establish and maintain primary and secondary schools. ”

PROSPECTIVE

65 In section 17(2) (powers in respect of nursery education), for “establish, maintain and assist” substitute “ establish and maintain ”.

66 Omit sections 20 to 28 (the funding authorities).

**Commencement Information**

**I33** Sch. 30 para. 66 wholly in force at 1.11.1999; Sch. 30 para. 66 not in force at Royal Assent see s. 145(3); Sch. 30 para. 66 in force for specified purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 66 in force at 1.11.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(2\)](#), [Sch. 2](#) (with [arts. 3-5, Schs. 5-7](#)).

67 In section 29 (provision of information by local education authorities)—  
 (a) omit subsection (2), and  
 (b) in subsection (3), omit the words “and the funding authority”.

68 Omit section 30 (provision of information by funding authorities).

69 Part II (schools maintained by local education authorities) shall be omitted.

**Commencement Information**

**I34** Sch. 30 para. 69 wholly in force at 1.9.1999; Sch. 30 para. 69 not in force at Royal Assent see s. 145(3); Sch. 30 para. 69 in force for specified purposes at 1.10.1998 and 1.4.1999 by [S.I. 1998/2212, art. 2](#), [Sch. 1 Pts. I and IV](#); Sch. 30 para. 69 in force for specified purposes at 10.3.1999 by [S.I. 1999/120, art. 2\(2\)](#), [Sch. 2](#); Sch. 30 para. 69 in force for specified purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 69 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

70 Part III (grant-maintained schools) shall be omitted.

**Commencement Information**

**I35** Sch. 30 para. 70 partly in force; Sch. 30 para. 70 not in force at Royal Assent see s. 145(3); Sch. 30 para. 70 in force at 1.10.1998 for certain purposes by [S.I. 1998/2212, art. 2](#), [Sch. 1 Pt. I](#); Sch. 30 para. 70 in force at 1.4.1999 for certain purposes by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 70 in force for certain purposes at 1.9.1999 by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

71 In section 312 (definitions for purposes of Part IV)—  
 (a) in subsection (4)(a) omit “or grant-maintained schools in their area”; and  
 (b) in subsection (5) for the definition of “maintained school” substitute—

““maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital.”



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- 72 In section 313(1) (code of practice on special educational needs), for “maintained or grant-maintained schools, or grant-maintained special schools,” substitute “maintained schools”.
- 73 In section 315(2) (review of arrangements for special educational provision), for the words from “the funding” onwards substitute “the governing bodies of community, foundation and voluntary and community and foundation special schools in their area.”
- 74 (1) Section 317 (duties of governing body or local education authority in relation to pupils with special educational needs) shall be amended as follows.
- <sup>F1002</sup>(2) .....
- <sup>F1002</sup>(3) .....
- (4) In subsection (3)—
- (a) in paragraph (a)—
- (i) for “county, voluntary and grant-maintained schools” substitute “community, foundation and voluntary schools”, and
- (ii) omit “, the funding authority”; <sup>F1003</sup> ...
- <sup>F1003</sup>(b) .....
- (5) In subsection (4), for “a county, voluntary or grant-maintained school” substitute “a community, foundation or voluntary school”.
- (6) In subsection (5), for “each county, voluntary, maintained special or grant-maintained school” substitute “each community, foundation or voluntary or community or foundation special school”.
- (7) In subsection (6), for “each county, voluntary or grant-maintained school” substitute “each community, foundation or voluntary school”.
- (8) In subsection (7), for the words from “the articles” onwards substitute “section 42 of the School Standards and Framework Act 1998.”

#### Textual Amendments

<sup>F1002</sup>Sch. 30 para. 74(2)(3) repealed (1.9.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

<sup>F1003</sup>Sch. 30 para. 74(4)(b) repealed (1.9.2003 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

- 75 (1) Section 318 (provision of goods and services in connection with special educational needs) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “county, voluntary or grant-maintained schools” substitute “community, foundation or voluntary schools”, and
- (b) in paragraph (b), for “maintained or grant-maintained special schools” substitute “community or foundation special schools”.
- (3) In subsection (2), for the words from “this section” to “in any other area” substitute “this section to the governing bodies of community, foundation or voluntary schools or community or foundation special schools in any other area”.

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(4) For subsection (3) substitute—

“(3) A local education authority may supply goods and services to any authority or other person (other than a governing body within subsection (1)) for the purpose only of assisting them in making for any child to whom subsection (3A) applies any special educational provision which any learning difficulty of the child calls for.

(3A) This subsection applies to any child—

- (a) who is receiving relevant nursery education within the meaning of section 123 of the School Standards and Framework Act 1998, or
- (b) in respect of whose education grants are (or are to be) made under section 1 of the <sup>M99</sup>Nursery Education and Grant-Maintained Schools Act 1996.”

**Commencement Information**

**I36** Sch. 30 para. 75 wholly in force at 1.9.1999; Sch. 30 para. 75 not in force at Royal Assent see s. 145(3); Sch. 30 para. 75(4) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#); Sch. 30 para. 75 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

**Marginal Citations**

**M99** 1996 c. 50.

76 In section 321(3) (general duty of local education authority towards children for whom they are responsible)—

- (a) in paragraph (a), for the words from “maintained” onwards substitute “maintained school”, and
- (b) for paragraph (b) substitute—
  - “(b) education is provided for him at a school which is not a maintained school but is so provided at the expense of the authority.”

77 In section 324 (statement of special educational needs)—

- (a) in subsection (5)(b), for “maintained, grant-maintained or grant-maintained special school” substitute “maintained school”; and
- (b) after subsection (5) insert—

“(5A) Subsection (5)(b) has effect regardless of any duty imposed on the governing body of a school by section 1(6) of the School Standards and Framework Act 1998.”

**Commencement Information**

**I37** Sch. 30 para. 77 wholly in force at 1.9.1999; Sch. 30 para. 77 not in force at Royal Assent see s. 145(3); Sch. 30 para. 77(b) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#); Sch. 30 para. 77(a) in force at 1.9.1999 by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

78 In section 327 (access for local education authority to certain schools), for subsection (b) substitute—

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“(b) in pursuance of the statement education is provided for the child at a school maintained by another local education authority.”

79 Omit section 330 (assessment of education needs at request of governing body of grant-maintained school).

80 For section 337 substitute—

### “337 Special schools.

(1) A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs.

(2) There are the following categories of special school—

(a) special schools maintained by local education authorities, comprising—

(i) community special schools, and

(ii) foundation special schools; and

(b) special schools which are not so maintained but are for the time being approved by the Secretary of State under section 342.”

81 Omit sections 338 to 341 (establishment of maintained and grant-maintained special schools).

#### Commencement Information

**I38** Sch. 30 para. 81 wholly in force at 1.9.1999; Sch. 30 para. 81 not in force at Royal Assent see s. 145(3); Sch. 30 para. 81 in force for specified purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 81 in force at 1.9.1999 in so far as it is not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5, Sch. 5-7](#)).

82 For section 342 substitute—

“ *Approval of non-maintained special schools*

### 342 Approval of non-maintained special schools.

(1) The Secretary of State may approve under this section any school which—

(a) is specially organised to make special educational provision for pupils with special educational needs, and

(b) is not a community or foundation special school,

and may give his approval before or after the school is established.

(2) Regulations may make provision as to the requirements which are to be complied with as a condition of approval under subsection (1) above.

(3) Any school which was a special school immediately before 1st April 1994 shall be treated, subject to subsection (4) below, as approved under this section.

(4) Regulations may make provision as to—

(a) the requirements which are to be complied with by a school while approved under this section, and

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- (b) the withdrawal of approval from a school (including approval treated as given under subsection (3)) at the request of the proprietor or on the ground that there has been a failure to comply with any prescribed requirement.
- (5) Without prejudice to the generality of subsections (2) and (4), the requirements which may be imposed by the regulations include requirements—
  - (a) which call for arrangements to be approved by the Secretary of State, or
  - (b) as to the organisation of any special school as a primary school or as a secondary school.
- (6) Regulations shall make provision for securing that, so far as practicable, every pupil attending a special school approved under this section—
  - (a) receives religious education and attends religious worship, or
  - (b) is withdrawn from receiving such education or from attendance at such worship in accordance with the wishes of his parent.”

83 Omit sections 343 to 346 (government etc. of special schools).

**Commencement Information**

**I39** Sch. 30 para. 83 wholly in force at 1.9.1999; Sch. 30 para. 83 not in force at Royal Assent see s. 145(3); Sch. 30 para. 83 in force for certain purposes at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#); Sch. 30 para. 83 partly in force for certain purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\), Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 83 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

84 In section 348 (provision of special education at non-maintained schools), for subsection (3) substitute—  
“(3) In this section “maintained school” means a school maintained by a local education authority.”

F100485 .....

**Textual Amendments**

**F1004**Sch. 30 paras. 85-90 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#); [S.I. 2007/3611, art. 4\(1\), Sch. Pt. 1](#)

F100486 .....

**Textual Amendments**

**F1004**Sch. 30 paras. 85-90 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\), Sch. 22 Pt. 3](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/2439, art. 3](#); [S.I. 2007/3611, art. 4\(1\), Sch. Pt. 1](#)

F100487 .....

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**F1004**Sch. 30 paras. 85-90 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

**F1004**88 . . . . .

### Textual Amendments

**F1004**Sch. 30 paras. 85-90 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

**F1004**89 . . . . .

### Textual Amendments

**F1004**Sch. 30 paras. 85-90 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

**F1004**90 . . . . .

### Textual Amendments

**F1004**Sch. 30 paras. 85-90 repealed (1.10.2002 for E., 2.1.2008 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2007/3611, art. 4(1), Sch. Pt. 1

91 Omit sections 370 to 374 (functions of local education authority etc. in relation to curriculum).

### Commencement Information

**I40** Sch. 30 para. 91 wholly in force at 1.9.1999; Sch. 30 para. 91 not in force at Royal Assent see s. 145(3); Sch. 30 para. 91 in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pt. I](#); Sch. 30 para. 91 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

92 Omit sections 376 to 389 (religious education and worship).

93 In section 390 (constitution of advisory councils), for subsection (2) substitute—  
“(2) The council shall consist of such groups of persons appointed by the authority as representative members (“representative groups”) as are required by subsection (4).”

94 (1) Section 391 (functions of advisory councils) shall be amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

“(a) to advise the local education authority on such matters connected with—

(i) religious worship in community schools or in foundation schools which (within the meaning of Part II of the School

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Standards and Framework Act 1998) do not have a religious character, and

(ii) the religious education to be given in accordance with an agreed or other syllabus in accordance with Schedule 19 to that Act,

as the authority may refer to the council or as the council may see fit, and”.

(3) Omit subsections (8) and (9).

95 In section 392 (advisory councils: supplementary provisions), omit subsection (4).

96 Omit section 393 (duty to constitute new standing advisory council).

97 (1) Section 394 (determination of cases in which requirement for Christian worship is not to apply) shall be amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for “county school” substitute “community school”;

(b) for paragraph (b) substitute—

“(b) any foundation school which has not been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character,”; and

(c) for “section 386(2)” substitute “paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 (requirement for Christian collective worship)”.

(3) In subsection (4), for “section 387” substitute “paragraph 4 of Schedule 20 to the School Standards and Framework Act 1998 (disapplication of requirement for Christian collective worship)”.

(4) In subsection (8), for “a school which becomes a grant-maintained school” substitute “a community school which becomes a foundation school (by virtue of section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998)”.

98 In section 395(1) (review of determinations under section 394), for “section 386(2)” substitute “paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998”.

99 In section 396(1) (power of Secretary of State to direct council to revoke determination or discharge duty), for “section 386(2)” substitute “paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998”.

100 In section 399 (determination of question whether religious education in accordance with trust deed), for “a voluntary or grant-maintained school” substitute “a foundation or voluntary school”.

101 In section 402(6) (obligation to enter pupils for public examinations), for “a maintained special school” substitute “a community or foundation special school”.

102 In section 403(2) (sex education: manner of provision), for “a maintained special school” substitute “a community or foundation special school”.

103 In section 404 (sex education: statements of policy)—

(a) in subsection (2), for “a maintained special school” substitute “a community or foundation special school”; and

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(b) omit subsection (3).

#### Commencement Information

**I41** Sch. 30 para. 103 wholly in force at 1.9.1999; Sch. 30 para. 103 not in force at Royal Assent see s. 145(3); Sch. 30 para. 103(b) in force at 1.10.1998 by [S.I.1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 30 para. 103(a) in force at 1.9.1999 by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

- 104 In section 406(3) (political indoctrination), for “a maintained special school” substitute “a community or foundation special school”.
- 105 In section 407(2) (duty to secure balanced treatment of political issues), for “a maintained special school” substitute “a community or foundation special school”.
- 106 In section 408 (provision of information)—
- (a) omit subsection (1)(b);
  - (b) in subsection (2)(d), for “pupils at such categories of school” substitute “such classes or descriptions of pupils”;
  - (c) omit subsection (3); and
  - (d) in subsection (4)—
    - (i) omit paragraphs (b) and (c); and
    - (ii) in paragraph (d), for “389” substitute “390”.

#### Commencement Information

**I42** Sch. 30 para. 106 wholly in force at 1.9.1999; Sch. 30 para. 106 not in force at Royal Assent see s. 145(3); Sch. 30 para. 106(b) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 30 para. 106 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

- 107 In section 409 (complaints and enforcement: maintained schools)—
- (a) in subsection (1), for “of aided schools and of special agreement schools,” substitute “of foundation and voluntary aided schools,”;
  - (b) in subsection (2), for the words from “any county” to “special school” substitute “any community, foundation or voluntary school maintained by the authority or any community or foundation special school”;
  - (c) in subsection (3)(b), omit “other than grant-maintained schools”; and
  - (d) for the sidenote substitute “Complaints and enforcement: maintained schools.”
- 108 For the cross-heading “SCHOOL ADMISSIONS” preceding section 411 substitute — “ADMISSION, REGISTRATION AND WITHDRAWAL OF PUPILS”.
- 109 Omit sections 411 to 432 (admission of pupils: general).

#### Commencement Information

**I43** Sch. 30 para. 109 partly in force; Sch. 30 para. 109 not in force at Royal Assent see s. 145(3); Sch. 30 para. 109 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); Sch. 30 para. 109 in force for certain purposes at 1.9.1999 by [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch. 3](#) (with [arts. 3-6](#), [Sch. 4](#)).

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- 110 Omit section 433(4) (time for admission of pupils: admission for nursery education).
- 111 In section 434(4)(c) (registration of pupils: returns)—
- (a) at the end of sub-paragraph (i) insert “ and ”; and
  - (b) omit sub-paragraph (ii).
- 112 Omit section 436 (effect of admission for nursery education).
- 113 In section 437 (school attendance orders)—
- (a) in each of subsections (5) and (6), omit “or grant-maintained”; and
  - (b) in subsection (8), for the definition of “maintained school” substitute—
 

““maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital; and”.
- 114 In section 438 (choice of school: child without statement of special educational needs)—
- (a) for subsection (4)(a) substitute—
 

“(a) within the period mentioned in subsection (3) the parent applies for the child to be admitted to a school maintained by a local education authority and, where that authority are not the authority by whom the notice was served, notifies the latter authority of the application, and”;
  - (b) for subsection (5) substitute—
 

“(5) If—

    - (a) within the period mentioned in subsection (3), the parent applies to the local education authority by whom the notice was served for education to be provided at a school which is not a school maintained by a local education authority, and
    - (b) the child is offered a place at the school and the authority are required by virtue of regulations under section 18(3) to pay the fees payable in respect of the education provided for him at the school,

that school shall be named in the order.”; and
  - (c) in subsection (6)(a)(i), omit “and is not a grant-maintained school”.

#### **Commencement Information**

**I44** Sch. 30 para. 114 partly in force; Sch. 30 para. 114 not in force at Royal Assent see s. 145(3); Sch. 30 para. 114 in force at 1.9.1999 for certain purposes by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

- 115 (1) Section 439 (specification of schools in notices under section 438(2)) shall be amended as follows.
- (2) In subsection (2), for the words from “fixed” to “as the number” substitute “ fixed in accordance with section 93 of the School Standards and Framework Act 1998 (fixing admission numbers) as the number ”.
  - (3) In subsections (3), (5) and (6), omit “or grant-maintained” wherever occurring.



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(4) After subsection (4) insert—

“(4A) A local education authority shall not specify a school in a notice under section 438(2) if the admission of the child concerned would result in prejudice of the kind referred to in section 86(3)(a) of the School Standards and Framework Act 1998 (parental preferences) by reason of measures required to be taken as mentioned in subsection (4) of that section.”

116 In section 440 (amendment of order at request of parent: child without statement of special educational needs)—

(a) in subsection (2)(a), omit “or grant-maintained school”;

(b) in subsection (3), for paragraphs (a) and (b) substitute—

“(a) the parent applies to the authority for education to be provided for the child at a school which is not a school maintained by a local education authority and which is different from the school named in the order,

(b) the child is offered a place at the school and the authority are required by virtue of regulations under section 18(3) to pay the fees payable in respect of the education provided for him at the school, and”;

(c) in subsection (4)(a), omit “and is not a grant-maintained school”.

#### Commencement Information

**I45** Sch. 30 para. 116 partly in force; Sch. 30 para. 116 not in force at Royal Assent see s. 145(3); Sch. 30 para. 116 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

117 In section 444(4)(b) (offence: failure to secure regular attendance at school of registered pupil), omit the words “or the funding authority”.

118 Omit section 448 (exemption where child becomes five during term).

119 For section 449 and the cross-headings preceding it substitute—

### “CHAPTER III

#### CHARGES IN CONNECTION WITH EDUCATION AT MAINTAINED SCHOOLS

##### *Preliminary*

#### **449 Meaning of “maintained school” in Chapter III.**

In this Chapter “maintained school” means any school maintained by a local education authority.”

120 In section 451 (prohibition of charges for provision of education)—

(a) in subsection (1), omit “Subject to subsection (5)”,

(b) in subsection (3)(b), for the words from “or 384” onwards substitute “ (implementation of National Curriculum) or section 69 of the School

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- Standards and Framework Act 1998 (duty to secure due provision of religious education). ”,
- (c) in subsection (4)(b), for “384” substitute “ section 69 of the School Standards and Framework Act 1998 ”, and
- (d) omit subsection (5).
- 121 In section 456(1) (regulation of permitted charges), omit the words from “, other than” to “section 231(8)”.
- 122 In section 457 (charges and remissions policies)—
- (a) in subsection (1), omit the words from “This subsection” onwards; and
- (b) in subsection (3), omit “other than a grant-maintained school”.
- 123 In section 458 (charges for board and lodging at boarding schools)—
- (a) in subsection (1)—
- (i) for the words from “pupil concerned” to “charges” substitute “ pupil concerned, to the local education authority, charges ”, and
- (ii) omit “or governing body”;
- (b) in subsection (2)—
- (i) omit paragraph (a), and
- (ii) in paragraph (b), for “for his area” substitute “ for that pupil’s area ”,
- (c) omit subsection (3); and
- (d) in subsection (4)(b), omit “or to the governing body of a grant-maintained school”.
- 124 In section 463 (meaning of “independent school”)—
- (a) at the end of paragraph (b) insert “ or ”; and
- (b) omit paragraph (c) and the “or” preceding it.
- 125 In section 484 (grants for education support and training)—
- (a) in subsection (1), for “grants for education support and training,” substitute “ education standards grants, ”;
- (b) in subsections (3) and (4), for “any grant for education support and training” substitute “ any education standards grant ”; and
- (c) for the sidenote substitute “ Education standards grants. ”
- 126 In section 489 (conditions as to payment of grants under sections 484 to 488), in subsection (2)(a) for “grant for education support and training,” substitute “ education standards grant, ”.
- 127 In section 490(1) (grants in respect of special provision for ethnic minorities), omit paragraph (a).
- 128 For section 494 substitute—

**“494 Recoupment: excluded pupils.**

- (1) Subsection (2) applies where a pupil is permanently excluded from any school maintained by a local education authority (“the old authority”) and, in the financial year in which the exclusion first takes effect, he is subsequently provided with education by another local education authority (“the new authority”), whether at a school maintained by that authority or otherwise than at school.

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- (2) The old authority shall pay to the new authority, in connection with the provision of education for that pupil in that financial year, such amount, if any, as is payable in accordance with regulations.
- (3) Where a pupil is permanently excluded from any school maintained by a local education authority and, in the financial year in which the exclusion first takes effect, the following events subsequently occur—
- (a) he is first provided by another local education authority (“the intermediate authority”) with education in a pupil referral unit or otherwise than at school, and
- (b) at any time afterwards he is provided with education by a local education authority other than the intermediate authority (“the last authority”), whether at a school maintained by that authority or otherwise than at school,
- then, in connection with the provision of the education mentioned in paragraph (b), subsection (2) shall apply to the intermediate authority and the last authority as if they were an old authority and a new authority respectively.
- (4) Any dispute as to whether any local education authority are entitled to be paid any amount under this section by any other such authority shall be determined by the Secretary of State.
- (5) Regulations may prescribe the time when the permanent exclusion of a pupil is to be regarded as taking effect for the purposes of this section.”
- 129 In section 496 (power of Secretary of State to prevent unreasonable use of functions), in subsection (2)—
- (a) at the end of paragraph (a) insert “ and ”; and
- (b) for paragraphs (b) and (c) substitute—
- “(b) the governing body of any community, foundation or voluntary school or any community or foundation special school.”
- 130 In section 497 (general default powers of the Secretary of State), in subsection (2)—
- (a) at the end of paragraph (a) insert “ and ”; and
- (b) for paragraphs (b) and (c) substitute—
- “(b) the governing body of any community, foundation or voluntary school or any community or foundation special school.”
- 131 In section 498 (powers of Secretary of State where no properly constituted governing body), for subsection (2) substitute—
- “(2) This section applies to any community, foundation or voluntary school or any community or foundation special school.”
- 132 Omit sections 500 to 505 (rationalisation of school places).

#### Commencement Information

- I46** Sch. 30 para. 132 wholly in force at 1.9.1999; Sch. 30 para. 132 not in force at Royal Assent see s. 145(3); Sch. 30 para. 132 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts.

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3-6, Sch. 4); Sch. 30 para. 132 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

133 In section 509 (provision of transport etc.)—

(a) omit subsection (5)(a); and

<sup>F1005</sup>(b) .....

#### Textual Amendments

<sup>F1005</sup>Sch. 30 para. 133(b) repealed (20.1.2003 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/1718, art. 5, Sch. Pt. II

#### Commencement Information

<sup>I47</sup> Sch. 30 para. 133 wholly in force at 1.9.1999; Sch. 30 para. 133 not in force at Royal Assent see s. 145(3); Sch. 30 para. 133(b) in force at 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pt. IV; Sch. 30 para. 133(a) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

134 In section 510 (provision of clothing)—

(a) in subsection (1)(a) and (c), omit “or at a grant-maintained school” wherever occurring;

(b) in subsection (3)(a), omit “or a grant-maintained school”;

(c) in subsection (4)(a), omit “, at a grant-maintained school”; and

(d) in subsection (5)(a), omit “grant-maintained school or”.

135 In section 514 (provision of board and lodging otherwise than at school), in subsection (1)(a), for the words from “particular” onwards substitute “particular community, foundation or voluntary or community or foundation special school, but”.

136 In section 515(2) (provision of teaching services for day nurseries), for “voluntary school” substitute “foundation or voluntary school”.

137 Omit section 516 (supply by LEA of goods and services to grant-maintained schools).

#### PROSPECTIVE

138 Omit section 517 (payment of fees at schools not maintained by a [<sup>F1006</sup>local authority]).

#### Textual Amendments

<sup>F1006</sup>Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(2) (with Sch. 2 para. 10(4))

139 (1) Section 519 (allowances for governors, etc.) shall be amended as follows.

(2) In subsection (1), for the words from “travelling” to “section 115);” substitute “such allowances as may be prescribed to governors of—

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- (a) any community, foundation or voluntary school or community or foundation special school which does not have a delegated budget (within the meaning of Part II of the School Standards and Framework Act 1998);”.
- (3) In subsection (3), for “travelling and subsistence allowances” substitute “ such allowances as may be prescribed ”.
- (4) After subsection (6) add—
  - “(7) Regulations may impose a limit on the amount which may be paid by way of any allowance under this section.”

**Commencement Information**

**I48** Sch. 30 para. 139 wholly in force; Sch. 30 para. 139 not in force at Royal Assent see s. 145(3); Sch. 30 para. 139 in force at 20.11.1998 for certain purposes and at 1.4.1999 for all other purposes by [S.I. 1998/2791](#), [art. 2](#)

- 140 Omit section 520(3) (medical inspection and treatment of pupils: grant-maintained schools excluded).
- 141 In section 521 (examination of pupils for cleanliness), in subsection (4), omit paragraph (b) and the “and” preceding it.
- 142 In section 524 (removal of pupil at direction of medical officer)—
  - (a) in subsection (1), for “excluded” substitute “ suspended ”;
  - (b) omit subsection (3)(b) and the “or” preceding it; and
  - (c) for the sidenote substitute “ Suspension of a pupil pending examination or cleansing. ”
- 143 In section 525 (offence of neglecting the cleanliness of a pupil), in subsection (3), omit “or a grant-maintained school”.
- F1007 144 .....

**Textual Amendments**

**F1007** Sch. 30 para. 144 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); [S.I. 2005/394](#), [art. 2\(1\)\(i\)](#); [S.I. 2006/885](#), [art. 2\(3\)\(b\)](#)

- 145 In section 529 (power to accept gifts on trust for educational purposes)—
  - F1008 (a) .....
  - (b) in subsection (3) for “a county school” substitute “ a community school ”.

**Textual Amendments**

**F1008** Sch. 30 para. 145(a) repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 2](#); [S.I. 2006/2129](#), [art. 4](#)

- 146 In section 530 (compulsory purchase of land)—
  - (a) in subsection (2) for “voluntary school” substitute “ foundation, voluntary or foundation special school ”; and

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F1009(b) .....

#### Textual Amendments

**F1009**Sch. 30 para. 146(b) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 3](#); S.I. 2007/935, art. 7(q)

- 147 In section 531(2) (acquisition of land by agreement) for “voluntary school” substitute “ foundation, voluntary or foundation special school ”.
- 148 In section 533 (duties of governing bodies of maintained schools with respect to provision of school meals etc.)—
- (a) in subsection (2), for “a voluntary” substitute “ any such ”; and
  - (b) in subsection (3), after “Part II” insert “ of the School Standards and Framework Act 1998 ”.
- 149 Omit section 534 (duties of governing bodies of grant-maintained schools with respect to school meals).
- 150 In section 535(1) (provision of teaching services for day nurseries), for “a county or voluntary primary school” substitute “ a community, foundation or voluntary primary school ”.
- 151 Omit section 536 (medical inspection and treatment of pupils at grant-maintained schools).
- 152 In section 537 (power of Secretary of State to require information from governing bodies etc.)—
- (a) for subsection (1) substitute—
    - “(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 special school which is not maintained by such an authority, and
    - (b) the proprietor of every independent school, to provide such information about the school as may be prescribed.”; and
  - (b) in subsection (7)(a), omit “or which is a grant-maintained school”.
- 153 For section 537A substitute—

#### “537A Provision of information about individual pupils.

- (1) Regulations may make provision requiring—
  - (a) the governing body of every school which is—
    - (i) maintained by a local education authority, or
    - (ii) a special school which is not maintained by such an authority, and
  - (b) the proprietor of every independent school, to provide to the relevant person such individual pupil information as may be prescribed.

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- (2) In subsection (1) “the relevant person” means one or more of the following—
  - (a) the Secretary of State, and
  - (b) any prescribed person.
- (3) Where any person within paragraph (b) of subsection (2) receives information by virtue of subsection (1), the Secretary of State may require that person to provide any such information—
  - (a) to him, or
  - (b) to any prescribed person.
- (4) The Secretary of State may provide any individual pupil information—
  - (a) to any information collator,
  - (b) to any prescribed person, or
  - (c) to any person falling within a prescribed category.
- (5) Any information collator—
  - (a) may provide any individual pupil information—
    - (i) to the Secretary of State,
    - (ii) to any other information collator, or
    - (iii) 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 such individual pupil information as may be prescribed—
    - (i) to any prescribed person, or
    - (ii) to any person falling within a prescribed category.
- (6) Any person holding any individual pupil information (other than the Secretary of State or an information collator) may provide that information to—
  - (a) the Secretary of State,
  - (b) any information collator, or
  - (c) any prescribed person.
- (7) No 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.
- (8) Regulations under this section may provide that, in such circumstances as may be prescribed, the provision of information to a person other than the Secretary of State is to be treated, for the purposes of any provision of such regulations or this section, as compliance with any requirement imposed by or by virtue of any such provision and relating to the provision of information to the Secretary of State.
- (9) In this section—

“individual pupil information” means information relating to and identifying individual pupils or former pupils at any school within subsection (1), whether obtained under subsection (1) or otherwise;

“information collator” means 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 pupils.”

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- 154 In section 538 (provision of information to Secretary of State by governing bodies of maintained schools), for “a county, voluntary or maintained special school” substitute “ a community, foundation or voluntary school or a community or foundation special school ”.
- 155 Omit section 539 (provision of information by governing body of grant-maintained schools).
- 156 In section 540 (distribution of information about schools providing a secondary education), for subsection (2) substitute—
- “(2) In this section “school” means—
- (a) any community, foundation or voluntary school, or
- (b) any community or foundation special school (which is not established in a hospital).”
- 157 In section 541 (distribution of information about further education institutions), for subsection (4) substitute—
- “(4) In this section “school” means—
- (a) any community, foundation or voluntary school, or
- (b) any community or foundation special school (which is not established in a hospital).”
- 158 In section 542 (prescribed standards for school premises)—
- (a) in subsection (1), omit “and of grant-maintained schools”;
- (b) omit subsection (3); and
- (c) in subsection (4), for “subsections (2) and (3) have” substitute “ subsection (2) has ”.
- 159 In section 543 (relaxation of prescribed standards in special cases)—
- (a) in subsection (1), for “or (4)” substitute “ , (4) or (4A) ”; and
- (b) after subsection (4) insert—
- “(4A) This subsection applies, in relation to any playing fields used by the school for the purposes of the school, if the Secretary of State is satisfied that, having regard to other facilities for physical education available to the school, it would be unreasonable to require conformity with any prescribed requirement relating to playing fields.
- In this subsection “playing fields” has the same meaning as in section 77 of the School Standards and Framework Act 1998 (control of disposals or changing use of school playing fields).”
- 160 In section 544 (approval etc. of school premises and boarding houses)—
- (a) in subsection (1), omit the words from “(or,” to “authority”); and
- (b) in subsection (3)—
- (i) at the end of paragraph (a) insert “ and ”, and
- (ii) omit paragraph (b).



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### Commencement Information

**I49** Sch. 30 para. 160 wholly in force at 1.9.1999; Sch. 30 para. 160 not in force at Royal Assent see s. 145(3); Sch. 30 para. 160(a) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 160(b) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 161 In section 545(2) (exemption from building byelaws of approved buildings), omit paragraph (b) and the “or” preceding it.
- 162 In section 546(2) (control of potentially harmful materials and apparatus in schools)
- (a) at the end of paragraph (a) insert “ and ”; and
  - (b) omit paragraph (b).
- 163 In section 547 (nuisance or disturbance on school premises)—
- (a) in subsection (2), omit paragraph (b) and the “or” preceding it;
  - (b) in each of subsections (4) and (7), for “an aided, special agreement or grant-maintained school” substitute “ a foundation, voluntary aided or foundation special school ”; and
  - (c) in each of subsections (5) and (8), for “a voluntary or grant-maintained school” substitute “ a foundation, voluntary or foundation special school ”.
- 164 Omit sections 549 and 550 (provisions about corporal punishment).
- 165 In section 550B(2) (detention), as inserted by section 5 of the <sup>M100</sup>Education Act 1997, omit “(b) a grant-maintained or grant-maintained special school;”.

### Marginal Citations

**M100** 1997 c. 44.

- 166 In section 551(2) (regulations as to duration of school day etc.)—
- (a) at the end of paragraph (a) insert “ and ”; and
  - (b) omit paragraph (b).
- 167 Omit section 552 (transitional exemption orders for purposes of Sex Discrimination Act 1975).

### Commencement Information

**I50** Sch. 30 para. 167 wholly in force at 1.9.1999; Sch. 30 para. 167 not in force at Royal Assent see s. 145(3); Sch. 30 para. 167 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 167 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 168 (1) Section 554 (power to make new provision as to use of endowments) shall be amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies where—
- (a) in relation to any time before the appointed day, the premises of a voluntary or grant-maintained school (within the meaning of this

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Act) have ceased to be used for such a voluntary or (as the case may be) grant-maintained school; or

- (b) in relation to any time on or after the appointed day—
- (i) the premises of a foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998) have ceased to be used for such a foundation or (as the case may be) voluntary school; or
  - (ii) in the opinion of the Secretary of State it is likely such premises will cease to be so used;

and in this subsection “the appointed day” has the meaning given by section 20(7) of the School Standards and Framework Act 1998.”

(3) In subsection (3)—

(a) for paragraph (a) substitute—

“(a) that the school was or has been maintained as a voluntary or grant-maintained school (within the meaning of this Act) or as a foundation or voluntary school (within the meaning of the <sup>M101</sup>School Standards and Framework Act 1998) since 1st April 1945 (the date when Part II of the Education Act 1944 came into force); and”;

(b) in paragraph (b), for “(or any corresponding earlier enactment)”, substitute “of this Act (or any corresponding earlier enactment) or paragraph 3 or 4 of Schedule 19 to the School Standards and Framework Act 1998 ”.

(4) For subsection (4)(b) substitute—

“(b) where religious education in accordance with such tenets is shown to have been given to any pupils at—

- (i) a controlled school (within the meaning of this Act),
- (ii) a grant-maintained school (within the meaning of this Act) which was a controlled school immediately before it became a grant-maintained school, or
- (iii) a foundation or voluntary controlled school with a religious character (within the meaning of Part II of the School Standards and Framework Act 1998),

the religious education shall be taken to have been given to them at the request of their parents, unless the contrary is shown.”

#### **Marginal Citations**

**M101** 1944 c. 31.

- 169 In section 556(2) (content of orders under section 554)—
- (a) in paragraph (a), for “voluntary schools or grant-maintained schools” substitute “ foundation schools or voluntary schools ”; and
  - (b) in paragraph (b), for “voluntary” onwards substitute “ school at the premises referred to in section 554(1). ”
- 170 In section 557(9) (adoption of statutory trusts), in the definition of “relevant school” for “a voluntary school or a grant-maintained school” substitute “ a foundation or voluntary school ”.

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- 171 In section 559 (power of local education authorities to prohibit or restrict employment of children)—
- (a) in subsection (1), for “county” substitute “ community, foundation ”; and
  - (b) in subsection (2), for “county” substitute “ community, foundation ”.
- 172 In section 563(3) (educational records)—
- (a) at the end of paragraph (a) insert “ and ”; and
  - (b) omit paragraph (b).
- 173 In section 566(1)(b) (evidence: documents), for “a county or voluntary school” substitute “ a maintained school ”.
- 174 Omit section 567 (stamp duty).
- 175 In section 568 (orders)—
- (a) for subsection (2) substitute—
    - “(2) For the purposes of subsection (1) “the excepted provisions” are—  
section 349;  
sections 468, 471(1) and 474;  
section 489(3);  
section 497; and  
section 545.”;
  - (b) in subsection (3), omit “section 517(6),”; and
  - (c) omit subsection (5)(b) and the “or” preceding it.
- 176 In section 569 (regulations)—
- (a) in subsection (2), for “section 480 or 492 or paragraph 1(4) of Schedule 20,” substitute “ section 492, ”; and
  - (b) in subsection (3), for “section 480 or 492 or paragraph 1(4) of Schedule 20” substitute “ section 492 ”.
- 177 In section 570 (revocation and variation of certain orders and directions)—
- (a) in subsection (1)—
    - (i) at the end of paragraph (a) insert “ or ”, and
    - (ii) omit paragraph (b); and
  - (b) in subsection (2), omit “, the funding authority”.
- 178 In section 573 (meaning of expressions relating to alteration etc. of premises or character of schools)—
- (a) in subsection (2), omit the words from “and “alterations”” onwards; and
  - (b) omit subsections (4) to (6).
- 179 Omit section 575 (meaning of expressions relating to employment).
- 180 In section 576 (meaning of “parent”)—
- (a) in subsection (1), for “the provisions mentioned in subsection (2)” substitute “ section 499(8) ”; and
  - (b) omit subsection (2).
- 181 Omit section 577 (minor authorities).
- 182 In section 578 (meaning of “the Education Acts”), insert at the appropriate place—  
“ the School Standards and Framework Act 1998 ”.

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- 183        In section 579 (general interpretation)—
- (a)    in subsection (1)—
- (i)    at the appropriate place insert—
- ““assist”, in relation to any school, institution or university, shall be construed in accordance with subsections (5) to (7) below;”,
- (ii)    omit the definitions of “the appropriate further education funding council”, “exclude”, “governing body” (and “governors”), “the local education authority”, “reception class” and “relevant age group”,
- (iii)    in the definition of “proprietor”, for “a county, voluntary or grant-maintained school,” substitute “ a community, foundation or voluntary or community or foundation special school, ”, and
- (iv)    for the definition of “trust deed” substitute—
- ““trust deed” includes any instrument (other than an instrument of government) regulating the constitution of the school’s governing body or the maintenance, management or conduct of the school;”; and
- (b)    omit subsection (3).
- 184        In Schedule 1 (pupil referral units)—
- (a)    in paragraph 6—
- (i)    for sub-paragraphs (1) and (2) substitute—
- “(1) In relation to every pupil referral unit, the local education authority, the management committee (where applicable) and the teacher in charge shall exercise their functions with a view to securing that the curriculum for the unit satisfies the requirements of section 351(1) (balanced and broadly based curriculum).
- (2) Regulations may make provision for the determination and organisation of the curriculum in relation to every pupil referral unit, including provision as to making, and keeping up to date, a written statement of the policy in relation to that curriculum for the unit; and such regulations may require—
- (a)    the local education authority, the management committee (where applicable), or the teacher in charge to exercise, or
- (b)    such of them as may be prescribed to collaborate with each other in exercising,
- such functions in relation to the curriculum as may be prescribed.”, and
- (ii)    in sub-paragraph (3)(a), for “or under any enactment referred to in sub-paragraph (2)” substitute “ sub-paragraph (1) or (2) ”;
- (b)    omit paragraphs 12 and 13; and
- (c)    in paragraph 15(2)(c) omit the words “(including grant-maintained schools)”.

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### Commencement Information

**I51** Sch. 30 para. 184 wholly in force at 1.9.1999; Sch. 30 para. 184 not in force at Royal Assent see s. 145(3); Sch. 30 para. 184(a) in force at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; Sch. 30 para. 184 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

185 Schedules 2 to 25A shall be omitted.

### Commencement Information

**I52** Sch. 30 para. 185 partly in force; Sch. 30 para. 185 not in force at Royal Assent see s. 145(3); Sch. 30 para. 185 in force for certain purposes at 1.10.1998 and 1.4.1999 by S.I. 1998/2212, art. 2, **Sch. 1 Pts. I and IV**; Sch. 30 para. 185 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4); Sch. 30 para. 185 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7); Sch. 30 para. 185 in force for certain purposes at 1.11.1999 by S.I. 1999/2323, art. 2(2), **Sch. 2** (with arts. 3-5, Schs. 5-7).

186 (1) Schedule 27 (making and maintenance of statements under section 324) shall be amended as follows.

(2) In paragraph 3—

(a) in sub-paragraph (1), for “the maintained, grant-maintained or grant-maintained special school” substitute “ the maintained school ”; and

<sup>F1010</sup>(b) .....

(3) In paragraph 8(1)(a), for “a maintained, grant-maintained or grant-maintained special school” substitute “ a maintained school ”.

### Textual Amendments

**F1010**Sch. 30 para. 186(2)(b) repealed (1.1.2002 for E. and 1.4.2002 for W.) by 2001 c. 10, s. 42(1)(6), Sch. 8 Pt. 2 para. 23(4), **Sch. 9**; S.I. 2001/2217, art. 5, **Sch. Pt. II** (which S.I. was amended by S.I. 2001/2614, art. 4); S.I. 2001/3992, art. 5, **Sch. Pt. II**

187 Schedule 28 (government and conduct of grant-maintained special schools) shall be omitted.

188 In Schedule 31 (agreed syllabuses of religious education), omit paragraphs 11 and 15.

189 The following provisions shall be omitted—

- (a) Schedule 32 (reduction of standard number for admission of pupils);
- (b) Schedule 33 (admission appeals);
- (c) Schedule 33A (children to whom section 411A(2) applies: appeals by governing bodies);
- (d) Schedule 33B (restrictions on admissions to grant-maintained schools);
- (e) in Schedule 37 (consequential amendments), paragraphs 9, 27, 33, 37(a), 41, 42(4)(b), 75, 82(1)(b) and the “and” preceding it, 82(2)(a), 82(2)(c) and the “and” preceding it, 82(3), 96(2), 97, 102, 103, 104(3), 105 to 108, 110(2) and (3)(a), 122 and 125(c) and (d);
- (f) in Schedule 39 (transitional provisions and savings), paragraphs 2(3) and 15; and

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(g) Schedule 40 (transitory provisions).

**Commencement Information**

**I53** Sch. 30 para. 189 wholly in force at 1.9.1999; Sch. 30 para. 189 not in force at Royal Assent see s. 145(3); Sch. 30 para. 189(g) in force at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; Sch. 30 para. 189(a)-(d) in force at 1.9.1999 by S.I. 1999/1016, art. 2(3), **Sch. 3** (with arts. 3-6, **Sch. 4**); Sch. 30 para. 189(e) (f) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, **Schs. 5-7**).

*School Inspections Act 1996 (c.57)*

F1011 190 . . . . .

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F1011 191 . . . . .

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F1011 192 . . . . .

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F1011 193 . . . . .

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F1011 194 . . . . .

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F1011 195 . . . . .

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**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**196 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**197 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**198 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**199 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**200 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**201 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**202 .....

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**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**203 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**204 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**205 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

**F1011**206 .....

**Textual Amendments**

**F1011** Sch. 30 paras. 190-206 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 19 Pt. 1**; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

*Education Act 1997 (c.44)*

207 The Education Act 1997 shall be amended as follows.

- 208 Omit the following provisions—
- (a) sections 2 and 3 (school discipline);
  - (b) sections 6 to 8 (exclusion of pupils);
  - (c) Part III (school admissions).

**Commencement Information**

**I54** Sch. 30 para. 208 wholly in force at 1.9.1999; Sch. 30 para. 208 not in force at Royal Assent see s. 145(3); Sch. 30 para. 208(c) in force at 1.2.1999 for certain purposes by S.I. 1998/2212, art. 2, **Sch. 1 Pt. III**; Sch. 30 para. 208 (c) in force otherwise at 1.9.1999 by S.I. 1999/1060, art. 2(3), Sch. 3; Sch. 30 para. 208 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).



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- 209 In section 15 (baseline assessments: interpretation), in the definition of “maintained primary school”, for paragraphs (a) to (c) substitute—  
“(a) a community, foundation or voluntary school, or  
(b) a community or foundation special school (other than one established in a hospital).”
- 210 In section 16(5) (adoption of baseline assessment schemes), for “a school which is maintained by a local education authority,” substitute “a maintained primary school.”
- 211 In section 17 (assessment of pupils)—  
(a) in subsection (5), for paragraph (b) substitute—  
“(b) the local education authority by whom the school is maintained.”; and  
(b) in subsection (7)(a), omit the words from “(except” to “school”).
- 212 In section 18 (regulations for Chapter I of Part IV)—  
(a) in subsection (1)(b), omit the words from “(except” to “school.”; and  
(b) in subsection (2)(a), omit the words from “(in” to “school.”
- 213 In section 19 (school performance targets), for subsection (3) substitute—  
“(3) In this section “maintained school” means—  
(a) a community, foundation or voluntary school, or  
(b) a community or foundation special school (other than one established in a hospital).”
- 214 In section 23 (functions of Qualifications and Curriculum Authority)—  
(a) <sup>F1012</sup> .....  
(b) in subsection (5), in the definition of “maintained school”, for paragraphs (a) to (c) substitute—  
“(a) any community, foundation or voluntary school, and  
(b) any community or foundation special school.”

#### Textual Amendments

**F1012**Sch. 30 para. 214(a) repealed (1.10.2002) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 2](#) (with Sch.)

- 215 In section 29(3) (functions of Qualifications, Curriculum and Assessment Authority for Wales), for the words from “receiving nursery” onwards substitute “under compulsory school age.”
- 216 In section 42 (miscellaneous amendments relating to school inspections), omit the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.
- 217 In section 43(2) (provision of careers education)—  
(a) for paragraph (a) substitute—  
“(a) community, foundation and voluntary schools.”; and  
(b) omit paragraph (b); and  
(c) for paragraph (c) substitute—  
“(c) community or foundation special schools (other than those established in hospitals).”

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- 218 Omit section 50 (recoupment by local education authority of costs of teachers' premature retirement).
- 219 In section 52 (commencement of compulsory school age), omit subsections (4) and (5).
- 220 In section 57 (minor and consequential amendments, repeals etc), omit subsections (2) and (3).
- 221 In section 58(4) (commencement) omit "section 50,".
- 222 Omit the following provisions—
- (a) Schedules 1 to 3;
  - (b) in Schedule 6, paragraph 5.

#### Commencement Information

**I55** Sch. 30 para. 222 wholly in force at 1.9.1999; Sch. 30 para. 222 not in force at Royal Assent see s. 145(3); Sch. 30 para. 222(b) in force at 1.10.1998 by [S.I. 1998/2212, art. 2](#), [Sch. 1 Pt. I](#) and Sch. 30 para. 222(a) in force for certain purposes at 1.2.1999 by Sch. 1 Pt. III of the same S.I.; Sch. 30 para. 222(a) in force for certain purposes at 1.9.1999 by [S.I. 1999/1016, art. 2\(3\)](#), [Sch. 3](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 222 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

- 223 In Schedule 7 (minor and consequential amendments), omit paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.

#### Commencement Information

**I56** Sch. 30 para. 223 wholly in force at 1.9.1999; Sch. 30 para. 223 not in force at Royal Assent see s. 145(3); Sch. 30 para. 223 in force for certain purposes at 1.9.1999 by [S.I. 1999/1016, art. 2\(3\)](#), [Sch. 3](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 223 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

#### *Education (Schools) Act 1997 (c.59)*

- 224 In section 2 of the Education (Schools) Act 1997 (transitional arrangements for existing assisted pupils), after subsection (6) add—
- “(7) Nothing in subsection (1) shall be taken as prejudicing the operation of any regulations under section 3 by virtue of which assisted places authorised to be provided under that subsection by a former participating school may instead be so provided by another such school or a new school created on the merger of such a school with another school.”

#### *Audit Commission Act 1998 (c.18)*

- 225 In section 36(3) of the Audit Commission Act 1998 (studies at request of educational bodies)—
- (a) for the words from “corporation, a” to “school” substitute “ corporation or further education corporation ”, and
  - (b) in paragraph (b), omit “or governing body”.

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## SCHEDULE 31

Section 140(3).

## REPEALS

**Extent Information**

**E11** Sch. 31: the entry relating to the Education (Scotland) Act 1998 extends to Scotland only see s. 145(9).

**Commencement Information**

**I57** Sch. 31 partly in force; Sch. 31 not in force at Royal Assent see s. 145(3); Sch. 31 in force for certain purposes at 1.10.1998, 1.2.1999 and 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pts. I, III and IV; Sch. 31 in force for certain purposes at 10.3.1999 by S.I. 1999/120, art. 2(2), Sch. 2; Sch. 31 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 31 in force for certain purposes at 1.9.1999 by S.I. 1999/1016, art. 2(3), Sch. 3 (with arts. 3-6, Sch. 4); Sch. 31 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7); Sch. 31 in force for certain purposes at 1.11.1999 by S.I. 1999/2323, art. 2(2), Sch. 2 (with arts. 3-5, Schs. 5-7).

Chapter or number	Short title	Extent of repeal
1958 c. 51.	Public Records Act 1958.	In Schedule 1, in Part II of the Table at the end of paragraph 3, the entry relating to the Schools Funding Council for Wales.
1963 c. 33.	London Government Act 1963.	Section 31.
1972 c. 11.	Superannuation Act 1972.	In Schedule 1, the entries relating to the Funding Agency for Schools and the Schools Funding Council for Wales.
1972 c. 70.	Local Government Act 1972.	In section 134(1) and (2), the words “or of a grant-maintained school”.  In section 177(1), the words from the beginning to “committees)”.
1974 c. 7.	Local Government Act 1974.	In Schedule 5, paragraph 5(1).
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entries “Any member of an education association in receipt of remuneration”, “Any member of the Funding Agency for Schools in receipt of remuneration”, and “Any member of the Funding Council for Wales in receipt of remuneration”.

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1975 c. 65.	Sex Discrimination Act 1975.	<p>In sections 22, in the Table, paragraph 3A.</p> <p>Section 23C.</p> <p>In section 25, in subsections (2) and (4), “, 23C”;</p> <p>and in subsection (6), in paragraph (c)(i) “3A” and paragraph (e).</p> <p>In Schedule 2, paragraph 1.</p>
1976 c. 74.	Race Relations Act 1976.	<p>In section 17, in the Table, paragraph 3A.</p> <p>Section 18C.</p> <p>In section 19, in subsections (2) and (4) “, 18C”</p> <p>wherever occurring and in subsection (6), in paragraph (c)(i) “3A” and paragraph (e).</p>
1977 c. 49.	National Health Service Act 1977.	<p>In section 5, in subsections (1)(a) and (1A)(a) the words “or at grant-maintained schools”.</p>
1980 c. 44.	Education (Scotland) Act 1980.	<p>In section 75A(9A), the word “and” immediately preceding paragraph (b).</p>
1981 c. 67.	Acquisition of Land Act 1981.	<p>In section 17(4), paragraphs (ab) and (ac).</p>
1983 c. 2.	Representation of the People Act 1983.	<p>In Schedule 1, in paragraph 22(1)(i) the words “a grant-maintained school”.</p>
1984 c. 55.	Building Act 1984.	<p>In section 4(1)(a), in paragraph (ii) the words “under section 39 or 44 of the Education Act 1996 or” and paragraphs (iii) and (iv).</p>
1986 c. 61.	Education (No. 2) Act 1986.	<p>Section 49(3)(ba).</p>
1988 c. 40.	Education Reform Act 1988.	<p>Sections 166 and 167.</p> <p>In section 197(7), the words “or grant-maintained”.</p> <p>In section 236(1), the entry relating to section 219.</p> <p>In Schedule 8, paragraph 6(3) and in paragraph 8(4)</p>

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		the words “given with the consent of the Treasury”.
		In Schedule 12, paragraphs 11, 13, 15, 16, 18 to 22, 30, 31 and 36.
1989 c. 41.	Children Act 1989.	In Schedule 9, in paragraph 3, sub-paragraph (1)(f), and in sub-paragraph (3) the definition of “grant maintained”.
1991 c. 49.	School Teachers’ Pay and Conditions Act 1991.	In section 1, in subsection (5) the words from “and, where” to “that subsection” and subsection (6).  In section 2, subsection (2), in subsection (4), in paragraph (a) the words “, in the case of a grant-maintained school,” and the words from “and provide” to the end and paragraph (h), in subsection (5) the words from “and, where” to “(2) above” and in subsection (6)(a) the words from “or, in” to “such schools,”.
1991 No. 2.	Diocesan Boards of Education Measure 1991.	In section 3, subsections (4) and (5) and in subsection (6), the words “or (5)”.  Section 5. Section 6(2). Section 7(5). Section 9.  In section 10, in subsection (1) the definition of “Church of England voluntary school” and subsection (2).
1992 c. 13.	Further and Higher Education Act 1992.	In section 2(6), the words “grant-maintained schools,”.  In section 16, in subsection (2), the words “or any grant-maintained school” wherever occurring, and in subsection (3)(a) the words

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		“or is a grant-maintained school”.
		In section 21, in subsection (1) paragraph (a) and the words “(b) in any other case,” and in subsection (2) the words “orders and”, “grant-maintained school or other” and “grant-maintained schools or other”.
		In section 26(1), the words “or was a grant-maintained school”.
		In section 54(1)(b), the words “grant-maintained school,”.
		In Schedule 8, paragraphs 61 to 64.
1993 c. 10.	Charities Act 1993.	In Schedule 2, paragraph (d).
1994 c. 23.	Value Added Tax Act 1994.	In Schedule 9, Group 6, Note (1), paragraph (a)(v) and (vii).
1994 c. 30.	Education Act 1994.	In section 11A, the words “grant-maintained schools,”. Section 12(4) and (5). Section 18(1)(a).
1995 c. 50.	Disability Discrimination Act 1995.	Section 19(6)(c) and (d).
1996 c. 18.	Employment Rights Act 1996.	In section 50(9)(b) the words “grant-maintained school,”.
1996 c. 50.	Nursery Education and Grant-Maintained Schools Act 1996.	Section 5.  Schedule 1.
1996 c. 56.	Education Act 1996.	In section 1(2), paragraph (b) and the word “and” preceding it. Section 14(5). In section 16(1), paragraph (c) and the “and” preceding it. Sections 20 to 28. In section 29, subsection (2) and in subsection (3) the

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words “and the funding authority”.

Section 30. . Part II Part III.

In section 312(4)(a), the words “or grant-maintained schools in their area”.

In section 317(3)(a), the words “, the funding authority”.

Section 330.

Sections 338 to 341.

Sections 343 to 346.

In section 356(5)(a)(ii), the words “(except in the case of grant-maintained schools)”.

Section 357(2).

In section 366, in subsection (1)(b) the words from “where” to “special school,” and subsection (5).

Sections 370 to 374.

Sections 376 to 389.

Section 391(8) and (9).

Section 392(4).

Section 393.

Section 404(3).

In section 408, subsections (1)(b), (3) and (4)(b) and (c).

In section 409(3)(b), the words “other than grant-maintained schools”.

Sections 411 to 432.

Sections 433(4).

Section 434(4)(c)(ii).

Section 436.

In section 437, in subsections (5) and (6) the words “or grant-maintained” wherever occurring.

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In section 438(6)(a)(i), the words “and is not a grant-maintained school”.

In section 439, in subsections (3), (5) and (6) the words “or grant-maintained” wherever occurring.

In section 440, in subsection (2)(a) the words “or grant-maintained school” and in subsection (4)(a) the words “and is not a grant-maintained school”.

In section 444(4)(b), the words “or the funding authority”. Section 448.

In section 451, in subsection (1) the words “Subject to subsection (5),” and subsection (5).. In section 456(1), the words from “, other than” to “section 231(8)”.

In section 457, in subsection (1) the words from “This subsection” onwards and in subsection (3) the words “other than a grant-maintained school”.

In section 458, in subsection (1) the words “or governing body”, subsections (2)(a) and (3), and in subsection (4)(b) the words “or to the governing body of a grant-maintained school”.

In section 463, paragraph (c) and the “or” preceding it.

Section 490(1)(a).

Sections 500 to 505.

Section 509(5)(a).

In section 510, in subsection (1)(a) and (c) the words “or at a grant-maintained school” wherever occurring; in subsection (3)



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(a) the words “or a grant-maintained school”; in subsection (4)(a) the words “, at a grant-maintained school”; in subsection (5)(a) the words “grant-maintained school or”.

Sections 516 and 517.

Section 520(3).

In section 521(4), paragraph (b) and the “and” preceding it.

In section 524(3), paragraph (b) and the “or” preceding it.

In section 525(3), the words “or a grant-maintained school”.

Section 534.

Section 536.

In section 537(7)(a), the words “or which is a grant-maintained school”.

Section 539.

In section 542, in subsection (1) the words “and of grant-maintained schools” and subsection (3).

In section 544, in subsection (1) the words from “(or,” to “authority)” and subsection (3)(b).

In section 545(2), paragraph (b) and the “or” preceding it. Section 546(2)(b).

In section 547(2), paragraph (b) and the “or” preceding it.

Sections 549 and 550.

In section 550B(2), the words “(b) a grant-maintained or grant-maintained special school;”.

Section 551(2)(b).

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Section 552.

In section 560(6), the words “or the governing body of a grant-maintained school”.

Section 563(3)(b).

Section 567.

In section 568, in subsection (3) the words “section 517(6)” and subsection (5)(b) and the “or” preceding it.

In section 570, subsection (1) (b) and in subsection (2) the words “, the funding authority”.

In section 573, in subsection (2) the words from “and “alterations”” onwards, and subsections (4) to (6).

Section 575.

Section 576(2).

Section 577.

In section 579, in subsection (1) the definitions of “the appropriate further education funding council”, “exclude”, “governing body” (and “governors”), “the local education authority”, “reception class” and “relevant age group” and subsection (3).

In Schedule 1, paragraphs 12 and 13 and in paragraph 15(2)(c) the words “(including grant-maintained schools)”.

Schedules 2 to 25A.

Schedule 28.

In Schedule 31, paragraphs 11 and 15.

Schedules 32 to 33B.

In Schedule 37, paragraphs 9, 27, 33, 37(a), 41, 42(4)(b), 75, 82(1)(b) and the “and”

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1996 c. 57.	School Inspections Act 1996.	<p>preceding it, 82(2)(a), 82(2)(c) and the “and” preceding it, 82(3), 96(2), 97, 102, 103, 104(3), 105 to 108, 110(2) and (3)(a), 122 and 125(c) and (d).</p> <p>In Schedule 39, paragraphs 2(3) and 15.</p> <p>Schedule 40.</p> <p>In section 9(3)(a), the words “are exceptional and”.</p> <p>In section 10, in subsection (3) the words “(4) or” and paragraph (b) and subsection (4).</p> <p>In section 11(5)(b), the words “whose governing body does not have a delegated budget”.</p> <p>In section 16, in subsection (1)(a) the words from “and, if” to “of State” and subsection (3)(e) and (f).</p> <p>Section 17(3)(c) and (5)(b) and (c).</p> <p>In section 20(3), the words “the funding authority, or”.</p> <p>In section 21(4), the words “the funding authority, or”.</p> <p>In section 23, subsections (2) and (3) and in subsection (8), in paragraph (a) the words “if the inspection is conducted by virtue of subsection (1),” and in paragraph (b) the words “if the inspection is conducted by virtue of subsection (2),”.</p> <p>Part II</p> <p>Section 44.</p> <p>In section 45, in subsection (1) the words “(except an order under section 38)” and in subsection (2) the words “(except an order under section 31, 33, or 39)”.</p>
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1997 c. 44.	Education Act 1997.	<p>In section 46(1), the definition of “the transfer date”.</p> <p>Schedule 5.</p> <p>Schedule 6, paragraph 7.</p> <p>Sections 2 and 3.</p> <p>Sections 6 to 8.</p> <p>Part III</p> <p>In section 17(7)(a), the words from “(except” to “school)”.</p> <p>In section 18, in subsection (1)(b) the words from “(except” to “school)” and in subsection (2)(a) the words from “(in” to “school)”.</p> <p>In section 42, the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.</p> <p>Section 43(2)(b).</p> <p>Section 50.</p> <p>Section 52(4) and (5).</p> <p>Section 57(2) and (3).</p> <p>In section 58(4), “section 50.”.</p> <p>Schedules 1 to 3.</p> <p>In Schedule 6, paragraph 5.</p> <p>In Schedule 7, paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.</p>
1997 c. 59.	Education (Schools) Act 1997.	<p>Section 6(1).</p> <p>In section 7, in subsection (3) (a) “section 6(1)”, and in subsection (4)(a) “(1) and”.</p>
1998 c. 18.	Audit Commission Act 1998.	<p>In section 36, in subsection (1) the entries relating to the Funding Agency for Schools, the Schools Funding Council for Wales and the governing body of a grant-maintained</p>

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school, and in subsection (3)  
(b) the words “or governing  
body”.

In Schedule 3, paragraphs 25  
and 32.

## SCHEDULE 32

Section 144.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

#### FUNDING

##### *Interpretation*

1 In this Part of this Schedule—

“the 1996 Act” means the <sup>M102</sup>Education Act 1996;

“the appointed day”, in relation to any provision of this Schedule, means such day as may be appointed for the purposes of that provision by an order made by the Secretary of State.

#### **Marginal Citations**

**M102** 1996 c. 56.

##### *Continued operation of GMS grants provisions*

2 (1) Subject to the provisions of this paragraph, the GMS grants provisions shall continue to have effect on and after the appointed day in relation to—

- (a) any payments of maintenance grant under section 244 or 250 of the 1996 Act in respect of any financial year (or part of such a year) beginning before that day; and
- (b) any payments of capital or special purpose grants under section 245, 246, 251 or 252 of that Act made before that day.

(2) Regulations may provide—

- (a) for any functions of the funding authority under the GMS grants provisions—
  - (i) to be discharged instead by the Secretary of State as from a date specified in the regulations, or
  - (ii) to be discharged instead by local education authorities as from the appointed day (either subject to obtaining the Secretary of State’s consent or otherwise); and
- (b) for any of those provisions to have effect, for any purposes specified in the regulations, with such modifications as are so specified.

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- (3) Regulations under sub-paragraph (2) shall not authorise a local education authority to impose any requirement under section 247(1) of that Act (as it has effect by virtue of sub-paragraph (1)); but the Secretary of State may by order—
- (a) impose such a requirement; or
  - (b) waive or remove such a requirement even though a local education authority is by such regulations also authorised to do so.
- (4) In this paragraph “the GMS grants provisions” means sections 244 to 254 and 256 to 258 of the 1996 Act and any regulations in force under any of those provisions immediately before the appointed day.

**Commencement Information**

**I58** Sch. 32 in force at Royal Assent see s. 145(4); by [S.I. 1999/531](#), **art. 2** it is provided that the appointed day for the purpose of Sch. 32 para. 2(1) and (4) shall be 1.4.1999

*Existing loans*

- 3 (1) Any loan made under section 255 of the 1996 Act (loans to governing bodies) shall not be affected by the repeal of that section by this Act.
- (2) Where such a loan was made by the funding authority, any rights or liabilities of the authority in respect of the loan shall become rights or liabilities of the Secretary of State on the appointed day.

**Commencement Information**

**I59** Sch. 32 in force at Royal Assent see s. 145(4); by [S.I. 1999/531](#), **art. 2(2)** it is provided that the appointed day for the purpose of Sch. 32 para. 3 shall be 1.4.1999

*Grants by Secretary of State in respect of planned expenditure*

- 4 (1) Regulations may provide for the payment by the Secretary of State of grants to—
- (a) the governing bodies of schools to which this paragraph applies, or
  - (b) local education authorities,
- in respect of relevant expenditure incurred or to be incurred by them.
- (2) Regulations under this paragraph may—
- (a) in relation to grants made to the governing bodies of any such schools, make provision corresponding to sub-paragraphs (6) and (7) of paragraph 5 of Schedule 3; and
  - (b) in relation to grants made to the governing bodies of voluntary aided schools, make in addition provision corresponding to sub-paragraphs (8) to (10) of paragraph 5 of that Schedule.
- (3) This paragraph applies to a school if immediately before the appointed day—
- (a) the school was a grant-maintained or grant-maintained special school within the meaning of the 1996 Act, or
  - (b) proposals for the establishment of the school fell to be implemented in accordance with section 215 of that Act.

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- (4) Each of the following provisions of Schedule 22, namely—
- (a) [F<sup>1013</sup> paragraphs A1(1)(f) and 1(1)(d)],
  - (b) [F<sup>1014</sup> paragraphs A7(1)(e) and 2(1)(d)], and
  - (c) [F<sup>1015</sup> paragraphs A13(1)(g) and 3(1)(e)],
- shall (subject to sub-paragraph (5) below) apply in relation to any grant made by virtue of this paragraph as if it were such a grant as is mentioned in that provision.
- (5) Sub-paragraph (4) does not apply to any grant made by virtue of this paragraph to the governing body of a voluntary aided school.
- (6) In this paragraph “relevant expenditure” means such expenditure (being expenditure arising out of an obligation incurred or decision made before the appointed day) as may be prescribed.

#### Textual Amendments

**F1013** Words in Sch. 32 para. 4(4)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 23(a); S.I. 2007/935, art. 7(p)

**F1014** Words in Sch. 32 para. 4(4)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 23(b); S.I. 2007/935, art. 7(p)

**F1015** Words in Sch. 32 para. 4(4)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 23(c); S.I. 2007/935, art. 7(p)

#### Commencement Information

**I60** Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, art. 2(3) and by S.I. 1999/1498, art. 2 it is provided that the appointed days for Sch. 32, para. 4(3) and (6) for certain purposes shall be 1.4.1999 and 1.9.1999 respectively  
by S.I. 1999/2221, art. 2 it is provided that the appointed day for Sch. 32 para. 4(3) and (6) for certain purposes shall be 1.9.1999

#### *Deferment of governing body's right to delegated budget*

- 5 (1) A maintained school falling within section 49(1) shall not have a delegated budget as from the day on which section 49 comes into force if—
- (a) the governing body's right to a delegated budget has been suspended under section 117 of the <sup>M103</sup>Education Act 1996 (suspension of financial delegation for mismanagement etc.) or section 28 of the <sup>M104</sup>School Inspections Act 1996 (suspension of right to delegated budget); and
  - (b) that suspension has not been previously revoked with effect from that or any earlier day.
- (2) Such a school shall, however, have a delegated budget as from the day with effect from which that suspension is revoked.
- (3) The Secretary of State may by order determine that a relevant school shall not have a delegated budget as from the day on which section 49 comes into force where he considers that it would not be expedient for the school to have such a budget as from that day for reasons connected with—
- (a) the financial position, or
  - (b) the financial management,

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of the school.

- (4) Where the Secretary of State makes an order under sub-paragraph (3) in relation to a school—
- (a) for the purposes of Part II of this Act the right of the governing body to a delegated budget shall be treated as if it had been suspended by the local education authority under paragraph 1 of Schedule 15 on the day on which section 49 comes into force;
  - (b) paragraphs 2 to 4 (but not 3(1)(a)) of that Schedule shall apply to any such suspension; and
  - (c) the school shall have a delegated budget as from the day with effect from which that suspension is revoked.
- (5) Any reference in any of sections 54 to 57 to any suspension of a school’s delegated budget under Schedule 15 includes a reference to—
- (a) any suspension of a school’s delegated budget by virtue of sub-paragraph (1); and
  - (b) (in accordance with sub-paragraph (4)), any such suspension by virtue of sub-paragraph (3).
- (6) Where the day on which section 49 comes into force is earlier than the day appointed under section 20(7) any reference in this paragraph to a maintained school is a reference to a school which is (within the meaning of the <sup>M105</sup>Education Act 1996)—
- (a) a school maintained by a local education authority, or
  - (b) a grant-maintained or grant-maintained special school,
- and to which section 49 applies in accordance with regulations under section 144(1).
- (7) In this paragraph—
- (a) “relevant school” means a maintained school which immediately before the day on which section 49 comes into force was a grant-maintained or grant-maintained special school within the meaning of the <sup>M106</sup>Education Act 1996; and
  - (b) references to a school having a delegated budget or to a governing body’s right to such a budget shall be construed in accordance with section 49(7).

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

C235 Sch. 32 para. 5(5)(a) modified (20.11.1998) by S.I. 1998/2670, reg. 5(2)

**Marginal Citations**

M103 1996 c. 56.

M104 1996 c. 57.

M105 1996 c. 56.

M106 1996 c. 56.



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## PART II

### OTHER PROVISIONS

#### *Limit on class sizes*

- 6 (1) The transitional provision which may be made for the purposes of section 1 by regulations under section 144(1) includes provision with respect to any relevant time—
- (a) for disapplying to any extent in relation to existing maintained schools (whether or not subject to compliance with any prescribed requirements) section 411(6), 416(1) or 426(1) of the <sup>M107</sup>Education Act 1996 (provisions about admission numbers);
  - (b) for otherwise modifying any of the provisions (whether statutory provisions or articles of government) which are relevant to the determination or publication of the arrangements—
    - (i) for the admission of pupils to such schools, or
    - (ii) for appeals by parents against decisions taken in relation to the admission of pupils to such schools,or to the procedure relating to such appeals;
  - (c) for requiring or authorising bodies responsible for determining such arrangements to determine and publish fresh arrangements, subject to such consultation as may be prescribed, where arrangements previously determined (or previously determined and published) by them are to any extent inconsistent with the provisions mentioned in paragraph (b) as they have effect in accordance with the regulations.
- (2) Regulations made in pursuance of paragraph (b) of sub-paragraph (1) may, in particular, modify the provisions mentioned in that paragraph so that they apply in relation to existing maintained schools with the addition of provisions whose purposes correspond to those of any of paragraphs 6(5), 10(5) and 11 of Schedule 23 to this Act.
- (3) In this paragraph—
- “existing maintained school” means—
- (a) any county or voluntary school, or
  - (b) any grant-maintained school,
- within the meaning of the <sup>M108</sup>Education Act 1996;
- “relevant time”, in relation to an existing maintained school, means any time after the coming into force of regulations under section 1 by virtue of which any limit on class sizes is to apply, or be varied, in relation to the school.

#### Marginal Citations

M107 1996 c. 56.

M108 1996 c. 56.

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### *School Teachers' Pay and Conditions Act 1991*

F1016-7 .....

#### **Textual Amendments**

**F1016** Sch. 32 para. 7 repealed (1.8.2003) by [Education Act 2002 \(c. 32\)](#), s. 216(2), Sch. 21 para. 119, **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 2

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

**C236** Sch. 32 para. 7 applied with modification (from 1.9.1998 to 1.9.1999) by [S.I. 1998/2115](#), **regs.2,3** and 4

#### *Orders for purposes of section 20(5)*

- 8 The Secretary of State may only make an order under section 20(5) where he considers it appropriate to do so on an application made for the purpose by—
- (a) the former maintaining authority (within the meaning of that provision), or
  - (b) the local education authority in whose area the school in question will be situated immediately before the appointed day,
- and received by him not later than 30th November 1998.

#### *Notice by trustees to terminate former voluntary school's occupation of land*

- 9 (1) This paragraph applies where—
- (a) at any time before the appointed day, whether before or after the date on which this Act is passed, any trustees (being entitled to do so) have given to the governing body of a former voluntary school a notice which is effective to terminate, on or after that day, the school's occupation of any land held by the trustees for the purposes of the school; and
  - (b) the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site.
- (2) Paragraph 8(2) of Schedule 22 shall apply in relation to the land to which such a notice relates as it applies in relation to the land to which a notice falling within section 30(10) relates.
- (3) Section 30(12) and (13) shall apply, with any necessary modifications, for the purposes of sub-paragraph (1)(b) as they apply for the purposes of section 30(10)(b).
- (4) In this paragraph "former voluntary school" means—
- (a) any voluntary school, or
  - (b) any grant-maintained school which was a voluntary school immediately before becoming grant-maintained or was established by promoters,
- within the meaning of the <sup>M109</sup>Education Act 1996, which on the appointed day becomes a foundation or voluntary school within the meaning of this Act.

#### **Marginal Citations**

**M109** 1996 c. 56.

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*Transfer of sites provided under sections 60 and 61 of the Education Act 1996*

- 10 (1) This paragraph applies where—
- (a) before the appointed day a site was provided for a school by a local education authority under section 60 or 61 of the <sup>M110</sup>Education Act 1996 (obligation of LEAs to provide new sites and buildings for voluntary schools); but
  - (b) no conveyance was made in respect of that site under section 60(2) or (as the case may be) section 61(2) of that Act before that day.
- (2) Where the site was provided under section 60 of that Act, sub-paragraphs (3) to (11) (but not (7)(b)) of paragraph 2 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.
- (3) Where the site was provided under section 61 of that Act, sub-paragraphs (3) to (9) of paragraph 4 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.

**Marginal Citations**

M110 1996 c. 56.

**Status:**

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