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:—
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 [F1 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 [F2 local 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.
Plans by LEAs for reducing infant class sizes.

Payment of grant in connection with reductions in infant class sizes.

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

1 Regulations shall make provision for the payment by the Secretary of State of grants to local 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 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 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 authorities to whom payments have been made under the regulations to comply with such requirements as may be so determined.
4 Interpretation of Chapter I.

In this Chapter—

“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;

"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)
Education development plans

Preparation of education development plans.

Approval, modification and review of statement of proposals.

Intervention by Secretary of State

Reserve power of Secretary of State to secure proper performance of local authority’s functions.

“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—

(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.

(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 M2Education 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.

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

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Marginal Citations
M2 1996 c. 56.

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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 [F10 eligible schools], he may by order provide for those schools to constitute collectively an education action zone for the purposes of this Chapter.

[F11(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.

[F12(3) ..............................................................

(4) No order shall be made by the Secretary of State under subsection (1) [F13 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—

[(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;

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).]

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

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Textual Amendments

F10 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

F11 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

F12 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

F13 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

F14 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

F15 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

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Modifications etc. (not altering text)

C17 s. 10(1) modified (temp.) (4.8.1998) by S.I. 1998/1878, reg. 2

C18 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 F16 . . . .

F17 (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.

Textual Amendments

F16 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

F17 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)


[F18]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

F18  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)

C20  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

[F19] 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,
      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

F19  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.]
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.

(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 \[F22\] 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 \[F2\] local authority.

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**Textual Amendments**

[F2] 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))

[F21] 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

[F22] 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

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

\[F23\] For section 3 of the M3 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;

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.”]
CHAPTER IV

INTERVENTION IN SCHOOLS [IN WALES] CAUSING CONCERN

Textual Amendments

F24 Pt. 1 Ch. 4 repealed (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 4(2); S.I. 2014/178, art. 2(f) (with art. 3)

F25 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)

F24 Intervention by [local authorities]

F24 14 Powers of intervention exercisable by [local authorities].

F24 15 Cases where local authority may exercise powers of intervention.

F24 16 Power of local authority to appoint additional governors.

F24 16A Power of local authority to provide for governing body to consist of interim executive members

F24 17 Power of local authority to suspend right to delegated budget.

F24 Intervention by [Assembly]

Textual Amendments

F26 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)

F24 18 Power of [Assembly] to appoint additional governors.
Textual Amendments

F27 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)

F24 18A Power of Assembly to provide for governing body to consist of interim executive members

F24 19 Power of Assembly to direct closure of school.

F24 19ZA Power of Welsh Ministers to direct local authority to give warning notice: teachers' pay and conditions

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 [F5 local 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 [F2local 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 [F28the change of category provisions]); or
   (b) it was established as a school of that category under [F29any enactment] (and has not changed its category under [F28the change of category provisions]); or
   (c) it has become a school of that category in accordance with [F28the change of category provisions].

[F30(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 or sections 45 to 55 of, and Schedule 4 to, the School Standards and Organisation (Wales) Act 2013.]

(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 [M4Education 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 [F2local 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 [F2local 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.

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,
(ii) a grant-maintained school that was a voluntary school immediately
before becoming grant-maintained,
within the meaning of the 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
(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 under section 19 of the Education and Inspections Act 2006 or in accordance with proposals made under section 45 of the School Standards and Organisation (Wales) Act 2013;
(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 \[^{F35}\] \[^{F36}\] under section 19 of
   the Education and Inspections Act 2006[\[^{F37}\]] or under section 48 of the
   School Standards and Organisation (Wales) Act 2013;
   (ii) for enabling the Secretary of State to require the publication under
   \[^{F38}\] either of those sections of proposals for the school to become a
   school of a category specified by him;

(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 \[^{F40}\] 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;

(i) for conferring functions on \[^{F41}\] \[^{F42}\] 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).

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**Textual Amendments**

F32 Words in s. 21(6)(a) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(3)(a)(i); S.I. 2013/1800, art. 3(j)

F33 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)

F34 Words in s. 21(6)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(3)(a)(ii); S.I. 2013/1800, art. 3(j)

F35 Words in s. 21(6)(f)(i) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(3)(b)(i); S.I. 2013/1800, art. 3(j)

F36 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)

F37 Words in s. 21(6)(f)(i) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(3)(b)(i); S.I. 2013/1800, art. 3(j)

F38 Words in s. 21(6)(f)(ii) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(3)(b)(ii); S.I. 2013/1800, art. 3(j)

F39 S. 21(6)(f)(iii) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(3)(a)(iii); S.I. 2013/1800, art. 3(j)
22 Maintenance and other funding of schools. E

(1) A [F2local 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[F42...]
   (c) any maintained schools established in their area[F43... otherwise than by them or any other [F2local authority]; and
   (d) any maintained nursery school established by them.

[F44]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 [F2local 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
   [F2local authority]’s duty to maintain the school includes—
   (a) the duty of defraying all the expenses of maintaining it, and
   (b) the duty, [F45under any enactment of providing new premises for the school].

(5) In the case of a voluntary aided school, the [F2local authority]’s duty to maintain the
   school includes—
   (a) the duty of defraying all the expenses of maintaining it, except any [F46expenditure that by virtue of paragraph 3 of Schedule 3 is to be met] by the
      governing body, and
   (b) the duty, [F47under 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, [F2local
   authorities] and the Secretary of State as to the funding of foundation, voluntary and
   foundation special schools) shall have effect.

(8) In this Act—
Maintenance and other funding of schools.

(1) A local 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;

(c) any maintained schools established in their area otherwise than by them or any other local authority; and

(d) any maintained nursery school established by them.

(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 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 [F2 local authority]'s duty to maintain the school includes—
(a) the duty of defraying all the expenses of maintaining it, and
(b) the duty, [F1077 under any enactment of providing new premises for the school].

(5) In the case of a voluntary aided school, the [F2 local 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
(b) the duty, [F1079 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, [F5 local 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 [F2 local authority], “the [F2 local 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 [F2 local authority] and is not a special school.
23 Charitable status of maintained schools, etc.

(1) The following shall be charities—
   (a) the governing body of any foundation, voluntary or foundation special school, and
   (b) any foundation body established under section 21;

[1A] Any body to which subsection (1)(a) or (b) applies is, as a result of its inclusion in Schedule 3 to the Charities Act 2011, an exempt charity for the purposes of that Act.

(2) . . . . . . . . . . . . . . . . .

(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 charity and is an institution which is to be treated for the purposes of section 31(3) of the Charities Act 2011 as if that provision applied to it.

(4) In this section—
   (a) “institution” has the same meaning as in the Charities Act 2011; and
   (b) “premises” includes a teacher’s dwelling-house.
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
   (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 trustee", in relation to a school to which this section applies, means any individual who is for the purposes of [the Charities Act 2011] 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 [the Charities Act 2011];
26

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 [Footnote 76] section 76 or sections 79 to 81 of the Charities Act 2011] for the removal or appointment of a charity trustee.

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

New arrangements for organisation of schools

School organisation committees.

.................
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 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).

(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.

26  School organisation plans.
F61 26A Plans of local learning and skills councils.

Textual Amendments
F61 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)


Textual Amendments
F61 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)

F62 27 Power to require committees or adjudicators for Wales.

Textual Amendments
F62 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)

CHAPTER II

ESTABLISHMENT, ALTERATION OR DISCONTINUANCE OF SCHOOLS

Modifications etc. (not altering text)
C24 Pt. II Chapter II modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, Sch.

Mainstream schools maintained by local authorities

F64 28 Proposals for establishment or alteration of community, foundation or voluntary school in Wales.

Textual Amendments
F63 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)
28A Proposals for establishment of community, foundation or voluntary school maintained by English LEA

Textual Amendments

F65 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 [F66 in Wales].

Textual Amendments

F66 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)

30 Notice by governing body to discontinue foundation or voluntary school [F68 in England].

(1) Subject to the following provisions of this section, the governing body of a foundation or voluntary school [F68 in England] may discontinue the school by serving on the Secretary of State and the [F2 local 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 [F2 local authority], or
(d) by an authority which was a local education authority within the meaning of any enactment repealed by the Education Act 1944 or an earlier Act, 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—

(a) if the school is in England—

(i) the [F71 Secretary of State], and
(ii) each local authority which has secured the provision of education for
any such persons at the school;

(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 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 authority.

(8) If a foundation or voluntary school is discontinued under this section, the duty of the
local authority to maintain the school as a foundation or voluntary school shall
cease.

(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 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—
(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 [F2local 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.

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**Textual Amendments**

F2 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))

F68 Words in s. 30 heading inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(5)(d); S.I. 2013/1800, art. 3(j) (with art. 4)

F69 Words in s. 30(1) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(5)(a); S.I. 2013/1800, art. 3(j) (with art. 4)

F70 Words in s. 30(3) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), Sch. 1 para. 35 (with art. 2(3))

F71 Words in s. 30(3)(a)(i) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 16 para. 12; S.I. 2012/924, art. 2

F72 S. 30(3)(b) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(5)(b); S.I. 2013/1800, art. 3(j) (with art. 4)

F73 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)

F74 S. 30(9)(a) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(5)(c); S.I. 2013/1800, art. 3(j) (with art. 4)

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

C25 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)

C26 S. 30 excluded (29.7.2010) by Academies Act 2010 (c. 32), ss. 6(9), 19(2); S.I. 2010/1937, art. 2, Sch. 1

**Marginal Citations**

M6 1944 c. 31.

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**Special schools maintained by [F75local authorities] in Wales**

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**Textual Amendments**

F75 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)
Proposals for establishment, alteration or discontinuance of community or foundation special school [in Wales].

Direction requiring discontinuance of community or foundation special school [in Wales].

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

Rationalisation of school places.
Change of category of school

School in Wales changing from one category to another.

Governing bodies

Instruments of government
Functions of governing body

F81.38 General responsibility of governing body for conduct of school.

Textual Amendments
F81 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

F81.39 Additional functions of governing body.

Textual Amendments
F81 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

F81.40 Control of use of school premises by governing body.

Textual Amendments
F81 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

### Responsibility for fixing dates of terms and holidays and times of sessions.

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<th>Textual Amendments</th>
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<td>F81 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</td>
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Reports and parents’ meetings

### Governors’ reports and other information.

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### Annual parents’ meetings.

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Government of new schools

Arrangements for government of new schools.

Budgetary framework

Maintained schools to have budget shares.

(1) For the purposes of the financing of maintained schools by local authorities, every such school shall have, for each funding period, a budget share which is allocated to it by the authority which maintains it.

(1A) In this Chapter “maintained school” means—

(a) a community, foundation or voluntary school,
(b) a community or foundation special school,
(c) a maintained nursery school, or
(d) a pupil referral unit in England.

(1B) In this Chapter “funding period” means a financial year or such other period as may be prescribed.

(2) Sections 45A to 47 have effect for determining the amount of a school’s budget share for a funding period.
(3) In this Chapter—
   (a) references to schools maintained by a [F2local authority] do not include [F8pupil referral units][F9in Wales];
   (aa) references to the governing body of a maintained school or of a school maintained by a local authority shall be read, in relation to a pupil referral unit in England, as references to the management committee for the unit (in spite of paragraph 1 of Schedule 1 to the Education Act 1996);
   (b) references to governors shall be read, in relation to a pupil referral unit in England, as references to the members of the management committee for the unit;
   (b) references, in a context referring to a [F2local 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 [F92any 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 [F2local 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).
Determination of specified budgets of [F2 local authority]

(1) For the purposes of this Part, a [F2 local authority]’s “[F94 non-schools education budget]” for a [F95 relevant period] is the amount appropriated by the authority for meeting all [F96 education] expenditure by the authority in [F97 that period] of a class or description prescribed for the purposes of this subsection.

[F98 In subsection (1) “relevant period” means a financial year or such other period as may be prescribed.]  

(2) For the purposes of this Part, a [F2 local authority]’s “schools budget” for a [F100 funding period] is the amount appropriated by the authority for meeting all [F106 education] expenditure by the authority in [F101 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).

[F102 The amount referred to in subsection (2) includes the amount of any grant which is 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 [F2 local authority]’s “individual schools budget” for a [F104 funding period] is the amount remaining after deducting from the authority’s schools budget for [F108 that period] such planned [F106 education] expenditure by the authority in respect of [F108 that period] as they may determine should be so deducted in accordance with regulations.

(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—

(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.

For the purposes of this Part, the duty imposed on a local authority in England by section 7(1) of the Childcare Act 2006 (duty to secure prescribed early years provision free of charge) is to be treated as an education function of the authority.

In this section “education expenditure” means expenditure incurred by a local authority in connection with the performance of their education functions.

Textual Amendments

F2 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))

F93 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

F94 Words in s. 45A(1) 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(6)(a)(i)

F95 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

F96 Word in s. 45A(1) inserted (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(6)(a)(ii)

F97 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

F98 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

F99 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

F100 Word in s. 45A(2) inserted (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(6)(b)

F101 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

F102 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

F103 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

F104 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

F105 Word in s. 45A(3) inserted (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(6)(c)
F106 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
F107 S. 45A(4B) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 202(2), 269(4); S.I. 2009/3317, art. 2, Sch.
F108 Words in s. 45A(4B) 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(6) (d)
F109 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
F110 S. 45A(7) added (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(6)(e)

[45A]Power to require [local authorities] in England to determine schools budget

(1) Regulations may require a [local 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 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 authority].

Textual Amendments
F2 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))
F5 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(3) (with Sch. 2 para. 10(4))
F111 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

[45AD]Duty of [local authorities] in Wales to determine schools budget
45AC  Power to require local authorities in Wales to determine schools budget

(1) Regulations may require a local 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—

(a) authorise or require local 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

(b) 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 authority.

45B  Power of Assembly to set minimum schools budget for local authority in Wales

(1) If it appears to the National Assembly for Wales that, in all the circumstances, the proposed amount of a local 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 [F2 local authority]’s schools budget for a funding period is—
   (a) 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
   (b) 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 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 [F2 local 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.]
[FH145C Effect of notice under section 45B(6)]

(1) The [F2]local 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 [F2]local 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 [F2]local 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 [F2]local 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]

F2 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))

F114 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)

[ FH145D 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]

F114 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)
Determination of LEA’s local schools budget and individual schools budget.

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**Textual Amendments**


47 Determination of school’s budget share.

(1) For the purposes of this Part a maintained school’s budget share for a [F116 funding period] is such amount as the [F119 local authority] may determine, in accordance with regulations, to allocate to the school out of the authority’s individual schools budget for [F116 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 [F119 local 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;

[**F118(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 [F118 funding period]—

(i) by redetermining budget shares for that [F128 funding period], or

(ii) by making adjustments to such shares for the following [F128 funding period], in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;

(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;
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;]

authorising [F5] local 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);]

[F123](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**

F2 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))

F5 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(3) (with Sch. 2 para. 10(4))

F116 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

F117 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

F118 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

F119 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

F120 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

F121 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

F122 S. 47(2)(gg) 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)

F123 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

**[F124]47ZA. Free of charge early years provision outside a maintained school: budgetary framework: England**

(1) This section applies where a local authority in England propose to allocate an amount of relevant financial assistance to a relevant childcare provider for a funding period out of the authority’s individual schools budget for the period.

(2) The amount to be allocated is to be determined in accordance with regulations.
(3) Financial assistance provided by a local authority in England to a childcare provider is “relevant” financial assistance if it is provided—

(a) for the purpose of the discharge of the authority's duty under section 7 of the Childcare Act 2006, and

(b) in respect of the provision of childcare.

(4) Regulations under this section may, in particular—

(a) specify factors or criteria which an authority are to take into account in determining the amount of any relevant financial assistance to be provided by them to a relevant childcare provider;

(b) specify factors or criteria which an authority are to disregard in determining such an amount;

(c) specify requirements as to other matters with which an authority are to comply in determining such an amount;

(d) make provision about consultation to be carried out by an authority in connection with determining such an amount;

(e) authorise an authority, in prescribed circumstances and to a prescribed extent, to determine such an amount in accordance with arrangements approved by the Secretary of State (instead of in accordance with arrangements provided for by the regulations);

(f) require an authority to provide relevant childcare providers with prescribed information relating to their determination of such an amount;

(g) make provision about the circumstances in which an authority are required to redetermine such an amount;

(h) specify a time by which an authority's determination of such an amount is to take place.

(5) For the purposes of this section—

(a) “childcare” has the meaning given in section 18 of the Childcare Act 2006;

(b) “relevant childcare provider” means a provider of childcare other than the governing body of a maintained school;

(c) a reference to an authority's determination of the amount of any relevant financial assistance includes a reference to the authority's redetermination of such an amount.]
School Standards and Framework Act 1998 (c. 31)
Part II – New framework for maintained schools
Chapter IV – Financing of maintained schools

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

47A Schools forums

(1) Every local authority must, in accordance with regulations, establish for their area a body to be known as a schools forum.

(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.

The purpose of a schools forum is—

(3) (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 other function that may be imposed on the schools forum by or under this Chapter.

In exercising its functions, a schools forum is to have regard to any children and young people's plan prepared by the local Children's Trust Board.

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—

(a) members representing governing bodies of schools maintained by the relevant authority, and

(b) members representing head teachers of such schools.

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.

Regulations may make provision as to the constitution, meetings and proceedings of a schools forum.

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

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

In this section “relevant authority”, in relation to a schools forum, means the local authority by whom the forum is established.

In this section—

(a) a “children and young people’s plan” means a plan published by a Children’s Trust Board under section 17 of the Children Act 2004;

(b) “the local Children's Trust Board”, in relation to a schools forum, is the Children's Trust Board established by arrangements made under section 10 of that Act by the relevant authority.
Local authority financial schemes.

(1) Each local authority shall maintain a scheme dealing with such matters connected with the financing of the schools maintained by the authority 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 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;

[F139(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;

(c) 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 [F140 maintained] by a [F13 local 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 F141 ... 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 [F142 the scheme for the time being maintained under this section].

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Textual Amendments

F5 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(3) (with Sch. 2 para. 10(4))

F136 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(e); S.I. 2010/736, arts. 2(b), 3(c) (with art. 4)

F137 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

F138 Words in s. 48(2)(a) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 7 (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F139 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

F140 Word in s. 48(3) 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(3); S.I. 2006/3400, art. 4(c); S.I. 2010/736, arts. 2(b), 3(c) (with art. 4)

F141 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) (with art. 4)

F142 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(e); S.I. 2010/736, arts. 2(b), 3(c) (with art. 4)

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Financial delegation

49 Maintained schools to have delegated budgets.

(1) Every maintained school shall have a delegated budget.
(2) 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 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) . . . . . . . . . . . . . . . . . .

(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 Education Act 1996 (education standards grants), and

(d) any provisions of the scheme,

a local authority may not delegate to the governing body of any maintained school the power to spend any part of the authority’s non-schools education budget or schools budget.

(5) Any amount made available by a local 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 expenses payable by the governing body under paragraph 3(1) or (2) of Schedule 3 expenditure payable by the governing body under paragraph 3(1) of Schedule 3, or paragraph 8 of Schedule 8 to the Education Act 2002, section 75(2)(b) of, or paragraph 4 of Schedule 3 to, the School Standards and Organisation (Wales) Act 2013.

(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

F2 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))
Effect of financial delegation.

(1) Where a maintained school has a delegated budget in respect of the whole or part of a funding period, the local authority shall secure that in respect of 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 period, a sum equal to the school’s budget share for the period, or

(b) where the school has a delegated budget in respect of only part of that period, a sum equal to that portion of the school’s budget share for the 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.

[\textit{F^{154}}(3A) In the case of a school in England—

(a) subject to regulations under paragraph (b) below, subsection (3)(a) has effect as if amounts spent on providing facilities or services under section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.) were spent for purposes of the school;

(b) regulations may impose restrictions as to the matters on which amounts may be spent under subsection (3)(a).]

(4) \[\textit{F^{155}}\] In the case of a school in Wales, “purposes of the school” in subsection (3)] does not include purposes wholly referable to the provision of—

\[\textit{F^{156}(za)}\] 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 \[\textit{F^{157}}\] 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).]

(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).

\textbf{Textual Amendments}

\textbf{F2} 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, \textit{Sch. 2 para. 10(2)} (with Sch. 2 para. 10(4))

\textbf{F150} Words in s. 50(1) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), \textit{Sch. 18 para. 8(a)} (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(c)

\textbf{F151} Words in s. 50(1) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), \textit{Sch. 18 para. 8(a)} (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(c)

\textbf{F152} Word in s. 50(1)(a) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), \textit{Sch. 18 para. 8(c)} (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(c)

\textbf{F153} Word in s. 50(1)(b) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), \textit{Sch. 18 para. 8(c)} (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(c)

\textbf{F154} S. 50(3A) inserted (1.4.2011) by Children, Schools and Families Act 2010 (c. 26), \textit{ss. 4(2), 29(5)} (with s. 27); S.I. 2010/1817, art. 4

\textbf{F155} Words in s. 50(4) substituted (1.4.2011) by Children, Schools and Families Act 2010 (c. 26), \textit{ss. 4(3), 29(5)} (with s. 27); S.I. 2010/1817, art. 4
Suspension of financial delegation

51 Suspension of financial delegation for mismanagement etc.

Schedule 15 (which provides for the suspension by a [F2local 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.

Textual Amendments

| F2 | 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)) |

Modifications etc. (not altering text)

| C36 | Ss. 49-51: power to modify conferred (1.4.2003 for E., 12.4.2010 for W.) by Education Act 2002 (c. 32), ss. 25(1)(b), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2010/707, art. 3(d) |
| C37 | Ss. 49-51 modified (E.) (1.9.2012) by The School Governance (Federations) (England) Regulations 2012 (S.I. 2012/1035), regs. 1, 29, Sch. 8 (with reg. 2) |
| C38 | Ss. 49-51: power to modify conferred (W.) (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), ss. 18, 33(2); S.I. 2014/1066, art. 2 |
| C42 | S. 50 modified (W.) (22.5.2014) by The Federation of Maintained Schools (Wales) Regulations 2014 (S.I. 2014/1132), regs. 1(1), 78 |

Textual Amendments

| F158 | 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 |
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 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 funding period.

(3) Subsection (2) applies at a time when the school does not have a delegated budget by virtue of any suspension under... Schedule 15 or section 8 of the School Standards and Organisation (Wales) Act 2013, as well as a time when it does have a delegated budget.

Textual Amendments

F2 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))

F159 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. 218(5), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

F160 Words in s. 51A(1) inserted (1.4.2011) by Children, Schools and Families Act 2010 (c. 26), ss. 4(4), 29(5) (with s. 27); S.I. 2010/1817, art. 4

F161 Words in s. 51A(2) inserted (1.4.2011) by Children, Schools and Families Act 2010 (c. 26), ss. 4(4), 29(5) (with s. 27); S.I. 2010/1817, art. 4

F162 Words in s. 51A(2) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 9 (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(c)

F163 Words in s. 51A omitted (W.) (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 4(3)(a); S.I. 2014/178, art. 2(f) (with art. 3)

F164 Words in s. 51A inserted (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 4(3)(b); S.I. 2014/178, art. 2(f) (with art. 3)

Financial statements: Wales.

(1) Before the beginning of each prescribed period a local authority shall prepare a statement containing such information relating to their planned expenditure in that period as may be prescribed.

(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 financial year a local authority in Wales shall prepare a statement containing such information with respect to the following matters as may be prescribed—

(a) the planned education expenditure in that year specified in the statement prepared by the authority under subsection (1),

(b) education expenditure actually incurred, or treated by the authority as having been incurred, by them in the period specified in the statement prepared by the authority under subsection (1), and

(c) any other resources allocated by the authority in the year to schools maintained by them during any part of the period.

(2A) In subsection (2)(d), “accountable resources”, in relation to a maintained school, means any resources which are not provided by the local 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).

(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.

(7) In this section “education expenditure” has the same meaning as in section 45A.
Status: This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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)

F168 Word in s. 52 inserted (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(9)(a)

F169 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

F170 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

F171 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

F172 Words in s. 52(2) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 253(2), 269(4); S.I. 2009/3317, art. 2, Sch.

F173 Word in ss. 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

F174 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

F175 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

F176 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

F177 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

F178 S. 52(7) added (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(9)(b)

F17953 Certification of statements by Audit Commission.

... ........................................

Textual Amendments

F179 S. 53 repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 253(3), 269(4), Sch. 16 Pt. 9; S.I. 2009/3317, art. 2, Sch.

F18053A Certification of statements by Auditor General for Wales

(1) A local 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.

(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 [F2 local authority] or to [F5 local authorities] generally or to any class or description of such authority.

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**Textual Amendments**

F2 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))

F5 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(3) (with Sch. 2 para. 10(4))

F180 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

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**CHAPTER V**

**STAFFING AND CONDUCT OF SCHOOLS**

**Staffing of schools**

F181 **54 Staffing of community, voluntary controlled and community special schools.**

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**Textual Amendments**

F181 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.

F181 **55 Staffing of foundation, voluntary aided and foundation special schools.**

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**Textual Amendments**

F181 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.

F181 **56 Staffing for non-school activities.**

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57 Payments in respect of dismissal, etc.

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58 Appointment and dismissal of certain teachers at schools with a religious character [F183: England].

(1) In this section—
   
   (a) subsections (2) to (6) apply to a foundation or voluntary controlled school [F184] which has a religious character; and
   
   (b) subsection (7) applies (subject to subsection (8)) to a voluntary aided school [F185] 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 [F186] in relation to a school in England, in accordance with... section 69(3).

(2) Where the number of [F188] teachers at a school to which this subsection applies is more than two, [F188] 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 [F190] the total number of teachers], including the head teacher (and for this purpose, where [F190] 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).
(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
   (b) shall not so appoint that person unless the foundation governors are satisfied as to his fitness and competence to give such religious education as is mentioned in subsection (2)(a).

(6) If the foundation governors of such a school consider that a reserved teacher has failed to give such religious education efficiently and suitably, they may—
   (a) in the case of a teacher who is an employee, require the appropriate body to dismiss him from employment as a reserved teacher at the school, and
   (b) in the case of a teacher who is engaged otherwise than under a contract of employment, require the governing body to terminate his engagement.

(7) If a teacher appointed to give religious education in a school to which this subsection applies fails to give such education efficiently and suitably, he may be dismissed on that ground by the governing body without the consent of the [F2 local authority].

(8) Subsection (7) does not apply—
   (a) where the school has a delegated budget, or
   (b) to religious education in accordance with an agreed syllabus.

(9) In this section—
   “the appropriate body” means—
   (a) in relation to a foundation school, the governing body, and
   (b) in relation to a voluntary controlled school, the [F2 local authority];
   “reserved teacher”, in relation to a foundation or voluntary controlled school, means a person employed [F193 or engaged] at the school in pursuance of subsection (2).

Textual Amendments

F2 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))

F183 Word in s. 58 heading inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(3)(a)

F184 Words in s. 58(1)(a) inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(3)(b)(i)

F185 Words in s. 58(1)(b) inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(3)(b)(ii)

F186 Words in s. 58(1) inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(3)(b)(iii)(a)

F187 Words in s. 58(1) omitted (1.9.2022 for specified purposes) by virtue of The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(3)(b)(iii)(bb)
F188 Words in s. 58(2) substituted (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 3 para. 6(2)(a) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

F189 Words in s. 58(2) substituted (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 3 para. 6(2)(b) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

F190 Words in s. 58(3) substituted (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 3 para. 6(3) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

F191 S. 58(4) repealed (30.6.2008 for W., 1.9.2008 for E.) by Education and Inspections Act 2006 (c. 40), ss. 37(1), 188(3), Sch. 18 Pt. 6; S.I. 2008/1429, art. 3(1), Sch. Pt. 1; S.I. 2008/1971, art. 2(a)

F192 Words in s. 58(6) substituted (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 3 para. 6(5) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

F193 Words in s. 58(9) inserted (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 3 para. 6(6) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

C43 S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2243, reg. 49(3).
S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2243, reg. 50(3).
S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2243, reg. 51(3).
S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2243, reg. 52(3).
S. 58(2)-6(9) applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 48, 49(3).
S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2262, regs. 48, 50(3).
S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2262, regs. 48, 51(3).
S. 58(2)-6(9) applied (1.9.1999) by S.I. 1999/2262, regs. 48, 52(3).

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

[F194]S. 58A. Appointment and dismissal of certain teachers at schools with a religious character: Wales

(1) In this section—
(a) subsections (3) to (7) apply to a foundation or voluntary controlled school in Wales that has a religious character, and
(b) subsections (8) and (9) apply (subject to subsection (10)) to a voluntary aided school in Wales that has a religious character.

(2) References in this Chapter to a school which has (or does not have) a religious character are to be construed, in relation to a school in Wales, in accordance with section 68A(1).

(3) Where the number of teachers at a school to which this subsection applies is more than two, the teachers must include persons (“reserved teachers”) who—
(a) are selected for their fitness and competence to provide teaching and learning within subsection (11), and
(b) are specifically appointed to provide that teaching and learning.

(4) The number of reserved teachers at a school must not exceed one fifth of the total number of teachers, including the head teacher; and for this purpose where the total number of teachers is not a multiple of five, it is to be treated as if it were the next higher multiple of five.

(5) Where the appropriate body propose to appoint a person as a reserved teacher in a school, that body—
(a) must consult the foundation governors, and
(b) must not appoint that person unless the foundation governors are satisfied as to the person’s fitness and competence to provide teaching and learning within subsection (11).

(6) Subsection (7) applies if the foundation governors of a school to which subsection (3) applies consider that a person appointed as a reserved teacher at the school has failed to provide teaching and learning within subsection (11) efficiently and suitably.

(7) The foundation governors may—

(a) in the case of a teacher who is an employee, require the appropriate body to dismiss the teacher from employment as a teacher appointed under subsection (3);

(b) in the case of a teacher who is engaged otherwise than under a contract of employment, require the governing body to terminate that engagement.

(8) Subsection (9) applies if a teacher appointed to provide teaching and learning within subsection (11), in a school to which this subsection applies, fails to provide that teaching and learning efficiently and suitably.

(9) The teacher may be dismissed by the governing body, without the consent of the local authority, on the ground of failure to provide the teaching and learning efficiently and suitably.

(10) Subsection (9) does not apply where the school has a delegated budget.

(11) Teaching and learning within this section is teaching and learning in Religion, Values and Ethics that accords with—

(a) any provisions of the school’s trust deed that relate to teaching and learning in Religion, Values and Ethics, or

(b) if there are no such provisions, the tenets of the religion or religious denomination specified in relation to the school under section 68A.

(12) In this section—

“the appropriate body” means—

(a) in relation to a foundation school, the governing body, and

(b) in relation to a voluntary controlled school, the local authority;

“Religion, Values and Ethics” has the same meaning as in the Curriculum and Assessment (Wales) Act 2021.

Textual Amendments

F194 S. 58A and cross-heading inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(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 \([F195]\) 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 \([F196]\) (in the case of a school in England) or to provide teaching and learning in Religion, Values and Ethics (in the case of a school in Wales).

(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 \([F197]\) or (as the case may be) provide teaching and learning in Religion, Values and Ethics, or
   (b) by reason of his religious opinions or of his attending or omitting to attend religious worship.

### Textual Amendments

- **F195** 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.
- **F196** Words in s. 59(3) inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(5)(a)
- **F197** Words in s. 59(4)(a) inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(5)(b)

### Modifications etc. (not altering text)

- **C45** 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. 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 with modifications (1.9.1999) by S.I. 1999/2262, regs. 48, 51(2).
- **C46** 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).
- **C47** S. 59(2)-(4) continued (28.7.2010) by The Academies Act 2010 (Commencement and Transitional Provisions) Order 2010 (S.I. 2010/1937), art. 5

### 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 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) [F198 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 [F199 section 68A or] 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 [F200 (in the case of a school in England) or to provide teaching and learning in Religion, Values and Ethics in accordance with those tenets (in the case of a school in Wales)];
   (b) regard may be had, in connection with the termination of the employment [F201 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 [F202 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 [F203 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 [M8 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

F198 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)

F199 Words in s. 60(5)(a)(i) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 31
Discipline: general

61 Responsibility of governing body and head teacher for discipline.

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Textual Amendments

62 Local authority’s reserve power to prevent a breakdown of discipline.

(1) The local authority in England may, in the circumstances mentioned in subsection (2) or where subsection (2A) 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.

[F208](2A) This subsection applies where, in the case of a school in England—

(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.]

F209 (3) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(4) Steps taken by a [F210]local authority] under subsection (1) may include the giving of any direction to the governing body or head teacher.

[F210](5) In this section “maintained school” includes a maintained nursery school.]
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 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 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.

(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;
Textual Amendments

F211 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.

F212 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.

F213 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.

F214 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)


Exclusion of pupils

F21564 Power of head teacher to exclude pupils.

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Textual Amendments

F215 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

F21565 Exclusion of pupils: duty to inform parents, etc.

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Textual Amendments

F215 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

F21566 Functions of governing body in relation to excluded pupils.

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Textual Amendments

F215 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 ETC AND WORSHIP**

**Textual Amendments**

**F215** Words in Pt. 2 Ch. 6 inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 32

**Designation of schools: Wales**

**Textual Amendments**

**F217** S. 68A inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 33

**68A** **Designation of schools with a religious character: Wales**

(1) For the purposes of this Part and the Curriculum and Assessment (Wales) Act 2021 a foundation or voluntary school in Wales has a religious character if it is designated as a school having such a character by an order made by the Welsh Ministers.

(2) An order under subsection (1) must state the religion or religious denomination in accordance with whose tenets provision in the school’s curriculum in respect of Religion, Values and Ethics is, or may be, required to be designed and implemented under the Curriculum and Assessment (Wales) Act 2021 (or, as the case may be, each such religion or religious denomination).

(3) The procedure to be followed in connection with—
69 Duty to secure due provision of religious education [F219: England].

(1) Subject to section 71, in relation to any community, foundation or voluntary school [F220 in England]—

(a) the [F221local 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 [F222section 80(1)(a) F224... of the Education Act 2002].

(2) Schedule 19 has effect for determining the provision for religious education which is required by [F225section 80(1)(a) F226...] 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 [F227in England] which do not have a religious character,

(b) foundation and voluntary controlled schools [F228in England] which have a religious character, and

(c) voluntary aided schools [F229in England] which have a religious character.

(3) For the purposes of this Part a foundation or voluntary school [F230in England] has a religious character if it is designated as a school having such a character by an order made by the Secretary of State.

(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

F2 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))

F219 Words in s. 69 heading inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(2)

F220 Words in s. 69(1) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(3)(a)

F221 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

F222 Words in s. 69(1) omitted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(3)(b)

F223 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

F224 Words in s. 69(2) omitted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(4)(a)

F225 Words in s. 69(2)(a) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(4)(b)

F226 Words in s. 69(2)(b) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(4)(c)

F227 Words in s. 69(2)(c) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(4)(d)

F228 Words in s. 69(3)(b) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 35(5)

Modifications etc. (not altering text)

C59 S. 69: power to disapply conferred (temp.) (23.6.2020) by 2020 c. 7, Sch. 17 para. 7(5)(ca) (with ss. 88-90) (as inserted (W.) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), 2(a))

C60 S. 69: power to modify conferred (temp.) (26.8.2020) by 2020 c. 7, Sch. 17 para. 7 (as amended (W.) by The Curriculum Requirements (Amendment of paragraph 7(6) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/891), regs. 1(2), 2(2))

Commencement Information

I2 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).
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 [F2 local 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.

Textual Amendments

F2 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))

71 Exceptions and special arrangements; provision for special schools.

[F229 (1) If the parent of a pupil at a community, foundation or voluntary school [F230 in England] 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 [F231 subsections (1) to (1B)]—
   (a) 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 [F232 section 80(1)(a) F233 ... of the Education Act 2002], and
   (b) 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) a pupil has been wholly or partly excused from receiving religious education or from attendance at religious worship and the local authority are satisfied—
   (a) 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,
   (b) 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
   (c) 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 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 and is not a sixth-form pupil requests that the pupil 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 his parent belongs,
   the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so.

(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) 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 authority.

(7) Regulations shall make provision for ensuring that, so far as practicable, every pupil attending a community or foundation special school in England—
   (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.]

[F240] Regulations made by the Welsh Ministers shall make provision for ensuring that, so far as practicable, every pupil attending a community or foundation special school in Wales attends religious worship unless withdrawn from attendance at such worship—
(a) in the case of a sixth-form pupil, in accordance with the pupil’s own wishes, and
(b) in any other case, in accordance with the wishes of the pupil’s parent.]

[F241] 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

F2 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))

F229 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

F230 Words in s. 71(1) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 36(2)

F231 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

F232 Words in s. 71(2)(a) substituted (1.10.2002 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, Sch. Pt. 1; S.I. 2003/124, art. 2

F233 Words in s. 71(2)(a) omitted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 36(3)

F234 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

F235 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

F236 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

F237 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

F238 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, Sch. 1; S.I. 2009/49, art. 2

F239 Words in s. 71(7) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 36(4)

F240 S. 71(7A) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 36(5)

F241 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
Further provisions relating to new schools

(1) Regulations may make provision for—
   (a) the staffing and conduct of a new school in advance of the school opening date;
   (b) the determination of matters in connection with a new school in advance of that date;
   (c) 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;
   (d) 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—
   (a) for which there is a temporary governing body constituted under [section 34 of the Education Act 2002], or
   (b) for which there is no such body but for which such a body—
      (i) are required to be so constituted by virtue of subsection (1) of that section, or
      (ii) may be so constituted in accordance with such anticipatory arrangements as are mentioned in subsection (5)(a) of that section.

Textual Amendments
F242 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.

Transfer of staff and land

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 authority to work solely at an existing school within subsection (1)(a), or
(b) is employed by the local 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 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 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
(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 F2 local 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 F2 local 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 M9 Education Act 1996.

(9) A person employed by a F2 local 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.
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 [F244A1 or] 1 of Schedule 22 does not apply to any transfer required by subsection (1).

Textual Amendments
F243 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) [F244Subject to subsections (2A) and (2B), except] with the consent of the Secretary of State, a body [F245or 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.

[F246(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.]

[F247(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, F248...

(b) to a disposal to which paragraph 5 or 6 of Schedule 22 (disposals on discontinuance) applies [F249or

(c) to a disposal in pursuance of—

(i) a transfer scheme under paragraph 1 or 2 of Schedule 1 to the Academies Act 2010 (transfer to person concerned with running of Academy), or
(ii) a direction under paragraph 10 of Schedule 1 to that Act (direction to transfer to local authority or person concerned with running [F259 of Academy school], where Academy order made).]

(3) [F251 Subject to [F252 subsection] (4A), except with the consent of the Secretary of State, [F253 a body or trustees to whom subsection (1) applies] shall not take any action (other than the making of a disposal [F254 which falls within subsection (1) or is excluded from that subsection by subsection [F255 (2B)(a), (b) or (c)]) 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 [F256, or by an [F257 Academy school] for the purposes of the [F257 Academy school]].

F259 (4) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[F259 (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.]

[F260 (4B) On receiving an application for consent under subsection (1) or (3), the Secretary of State may direct that the playing fields, or any part of them, be transferred to a person concerned with the running of an [F261 Academy school], subject to the payment by that person or the Secretary of State of such sum by way of consideration (if any) as the Secretary of State determines to be appropriate.]

(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 M18 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—

[F262 "local authority" includes—

(a) a non-metropolitan district council for an area for which there is a county council, and

(b) a parish council;]

[F263 "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 Education Act 1996.

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

**Textual Amendments**

<table>
<thead>
<tr>
<th>Amendment Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>F244</td>
<td>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)</td>
</tr>
<tr>
<td>F245</td>
<td>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)</td>
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<td>F246</td>
<td>S. 77(2) inserted (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)</td>
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<tr>
<td>F247</td>
<td>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)</td>
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<tr>
<td>F248</td>
<td>Word in s. 77(2B)(a) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 18(2)(a); S.I. 2012/84, art. 3 (with art. 5)</td>
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<tr>
<td>F249</td>
<td>S. 77(2B)(c) and word inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 18(2)(b); S.I. 2012/84, art. 3 (with art. 5)</td>
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<td>F250</td>
<td>Words in s. 77(2B)(c)(ii) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 10(2)(a); S.I. 2012/924, art. 2</td>
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<td>F251</td>
<td>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)</td>
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<td>F258</td>
<td>S. 77(4) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 18(4); S.I. 2012/84, art. 3 (with art. 5)</td>
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<td>F259</td>
<td>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)</td>
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<td>F260</td>
<td>S. 77(4B) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 18(5); S.I. 2012/84, art. 3 (with art. 5)</td>
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<tr>
<td>F261</td>
<td>Words in s. 77(4B) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 10(2)(c); S.I. 2012/924, art. 2</td>
</tr>
<tr>
<td>F262</td>
<td>Words in s. 77(7) 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(10)</td>
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<tr>
<td>F263</td>
<td>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)</td>
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</tbody>
</table>

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

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<tr>
<td>C62</td>
<td>S. 77(1) restricted (28.7.2000) by 2000 c. 21, s. 131, Sch. 8 para. 9(3) (with s. 150)</td>
</tr>
<tr>
<td>C63</td>
<td>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)</td>
</tr>
</tbody>
</table>
Rating of maintained schools.

For the purposes of Part III of the 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 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.

Stamp duty

Stamp duty.

.............................................

Stamp duty land tax

.............................................
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 [F2 local 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 [M13 Further and Higher Education Act 1992 (as inserted by section 125(4) of this Act) applies.

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,
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, the Learning and Skills Act 2000, the Education Act 2002, the Education and Inspections Act 2006, the Academies Act 2010 or the School Standards and Organisation (Wales) Act 2013 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.

(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.
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—

(a) the foundation governors,

(b) those appointed by the [F2 local authority], and

(c) 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.
CHAPTER I

ADMISSION ARRANGEMENTS

84 Code [F271 for school admissions].

(1) The Secretary of State shall issue, and may from time to time revise, [F273 a code for school admissions containing such provision] as he thinks appropriate in respect of the discharge by—
   (a) [F5 local authorities],
   (b) the governing bodies of maintained schools,
   [F274 (ba) admission forums,]
   (c) appeal panels, and
   (d) adjudicators,
   of their respective functions under this Chapter.

(2) The code may [F275 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 [F5 local 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 [F3 local authority], or the governing body of a maintained school, of functions under this Chapter,
   [F276 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 [F277 ...]) 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 [F277 ...]);
   and references in this section to “the code” or to functions under this Chapter shall have effect, in relation to any such separate code [F277 ...], 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;
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 \[F^{279} in accordance with regulations under section 94(5) or 95(3)] for the purpose of hearing an appeal under this Chapter;

F^{280} “child” includes a person who has not attained the age of 19, except in sections 96 and 97 in so far as those sections apply in relation to Wales;

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

F^{281} ...}

\[F^{282}(7)\] In this Chapter, references to a child who is looked after by a local authority are to be read—

(a) in relation to a local authority in England, in accordance with section 22 of the Children Act 1989;

(b) in relation to a local authority in Wales, in accordance with section 74 of the Social Services and Well-being (Wales) Act 2014.]

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Textual Amendments

\[F^2\] 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))

\[F^5\] 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, \[Sch. 2 para. 10(3)\] (with Sch. 2 para. 10(4))

\[F^{272}\] 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)

\[F^{273}\] 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)

\[F^{274}\] 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)

\[F^{275}\] 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)

\[F^{276}\] 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)

\[F^{277}\] 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)

\[F^{278}\] 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)

\[F^{279}\] 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))

\[F^{280}\] Words in s. 84(6) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 43(2), 269(4); S.I. 2010/303, art. 3, Sch. 2
(1) Where the Secretary of State proposes to issue or revise a code 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.

(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,

(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.

(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

<table>
<thead>
<tr>
<th>Reference</th>
<th>Date of Appointed</th>
</tr>
</thead>
<tbody>
<tr>
<td>P2 S. 85(5)</td>
<td>28.2.2007 appointed by S.I. 2007/566, art. 3</td>
</tr>
<tr>
<td>P3 S. 85(5)</td>
<td>17.1.2008 appointed (E.) by S.I. 2008/53, art. 2</td>
</tr>
<tr>
<td>P4 S. 85(5)</td>
<td>10.2.2009 appointed (E.) by S.I. 2009/211, art. 2</td>
</tr>
<tr>
<td>P5 S. 85(5)</td>
<td>10.2.2009 appointed (E.) by S.I. 2009/210, art. 2</td>
</tr>
<tr>
<td>P6 S. 85(5)</td>
<td>15.7.2009 appointed (W.) by S.I. 2009/1844, art. 2</td>
</tr>
<tr>
<td>P7 S. 85(5)</td>
<td>15.7.2009 appointed (W.) by S.I. 2009/1845, art. 2</td>
</tr>
<tr>
<td>P8 S. 85(5)</td>
<td>10.2.2010 appointed (E.) by S.I. 2010/302, art. 2</td>
</tr>
</tbody>
</table>

Textual Amendments

F283 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)

F284 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)


F286 Admission forums

F287 Admission forums

F288 [local authority] in Wales]

F289 [and]
(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,
   
   (c) as to the establishment by [F5 local authorities] of joint admission forums.

(3A) ..............................................................

(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 [F5 local 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.

[F297(5A) ..............................................................]

[F297(5B) ..............................................................]]
Parental preferences

86 Parental preferences.

(1) A [F2local 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.

[F299(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.]

[F300(1A) A [F2local 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 [F301subsection (3)] and section 87 (children excluded from two or more schools), [F302the admission authority for a maintained school] shall comply with any preference expressed in accordance with arrangements made under subsection (1).

[F303(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; 

(b) 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.

(3A) 

(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 authority and governing body to comply with limit on infant class sizes).

(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 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 88C or 89 by the admission authority of the admission arrangements which are to apply for that year includes the determinations mentioned in 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 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 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.

(6) 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 Education Act 1996 (application for a particular school to be named in a school attendance order);
and references in subsection (3) to a preference and a preferred school shall be construed accordingly.

(9) Where admission 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 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
F2 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))
F299 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)
F300 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)
F301 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)
F302 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
F303 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))
F304 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))
F305 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.)
F306 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)
F307 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)
F308 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.

F309 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)

F310 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)

F311 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)

F312 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)

F313 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)

F314 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.

F315 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(c) (with art. 6); S.I. 2009/784, art. 3(d) (with art. 4)

F316 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))

F317 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(c)(f) (with art. 6); S.I. 2009/784, art. 3(c) (with art. 4)

Modifications etc. (not altering text)

C78 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
S. 86 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), 2-8.

C79 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)


C81 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

C82 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))

C83 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

C84 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

C85 S. 86(1) applied (with modifications) (1.9.1999) by S.I. 1999/1812, reg. 8, Sch. 2 para. 5(b)

C86 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)
Preferences relating to sixth-form education: [F2local authority] arrangements

(1) A [F2local 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,

(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 [F2local 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).
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.

(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.]
A child who has been permanently excluded from a school in England shall not be treated for the purposes of this section as having been so excluded if any of the following applies—

(a) the child was reinstated as a pupil at the school following a direction from the responsible body—
   (i) in accordance with regulations under subsection (3)(b) of section 51A of the Education Act 2002;
   (ii) following a recommendation from the review panel that the responsible body reconsider the matter under subsection (4)(b) of that section;

(b) the child would have been reinstated as a pupil at the school following a direction from the responsible body as described in paragraph (a)(i) or (ii), if it had been practical for the responsible body to give such a direction;

(c) the review panel has quashed a decision of the responsible body not to reinstate the child as a pupil at the school under subsection (4)(c) of section 51A of the Education Act 2002;

(d) the child was so excluded at a time when the child had not attained compulsory school age.

(3B) In subsection (3A) “the responsible body” has the same meaning as in section 51A of the Education Act 2002.

... 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

(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 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 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.
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 school, means the arrangements for the admission of pupils to the school, including the school’s admission policy.

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### Admission arrangements: England

<table>
<thead>
<tr>
<th>Textual Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>F2</td>
</tr>
<tr>
<td>F324</td>
</tr>
<tr>
<td>F325</td>
</tr>
<tr>
<td>F326</td>
</tr>
<tr>
<td>F327</td>
</tr>
<tr>
<td>F328</td>
</tr>
</tbody>
</table>

### Modifications etc. (not altering text)


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### Prohibition on interviews

(1) No admission arrangements for a maintained school 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 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).

[F332] 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.

[F333] Textual Amendments

F330 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
F331 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)
F332 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)

[F333] 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—

(a) specifying persons who must be consulted, or who must be consulted about prescribed provisions of proposed arrangements;
(b) specifying provisions of proposed arrangements about which any such consultation is to be carried out;
(c) specifying matters to which any such consultation is, or is not, to relate;
(d) 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.

(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**

F333 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**

F333 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.

(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).
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;

(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 [F2 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) [F334... and

(g) such other persons as may be prescribed.

(4) In subsection (3), “the relevant area” means—

(a) the area of the [F2 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 [F2 local authority]) as may be determined by or in accordance with the regulations.
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.

(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.

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.

(1A) This section also applies where admission arrangements for an Academy school have been determined by the proprietor of an Academy school under Academy arrangements.

(2) Where—

(a) a body or 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 body or person may refer the objection to the adjudicator.

(3) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(4) On a reference under subsection (2) 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

(ii) the adjudicator is required to determine an objection referred to him under subsection (4);

(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) but has not yet been determined.
(d) prohibiting or restricting the reference under subsection (2) ..., 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.

Textual Amendments

F333 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)
F335 S. 88H(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 64(3), 82(3); S.I. 2012/84, art. 3
F336 Words in s. 88H(1A) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 10(a); S.I. 2012/924, art. 2
F337 Words in s. 88H(2)(a) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 36(2)(a), 82(3); S.I. 2012/84, art. 3
F338 Words in s. 88H(2) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 36(2)(b), 82(3); S.I. 2012/84, art. 3
F339 S. 88H(3) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 36(3), 82(3); S.I. 2012/84, art. 3
F340 Words in s. 88H(4) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 36(4), 82(3); S.I. 2012/84, art. 3
F341 Words in s. 88H(5)(a)(i) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 36(5)(a), 82(3); S.I. 2012/84, art. 3
F342 Word in s. 88H(5)(a)(ii) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 36(5)(b), 82(3); S.I. 2012/84, art. 3
F343 Words in s. 88H(5)(c) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 36(5)(c), 82(3); S.I. 2012/84, art. 3
F344 Words in s. 88H(5)(d) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 36(5)(d), 82(3); S.I. 2012/84, art. 3
F345 S. 88H(6) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 36(6), 82(3); S.I. 2012/84, art. 3

88I Other functions of adjudicator relating to admission arrangements

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

(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.

(3) Subsection (4) applies where —
   (a) the Secretary of State refers the admission arrangements to the adjudicator under subsection (2), ...
   (b) ........................................

(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).

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**Textual Amendments**

**F333** 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)

**F346** Words in s. 88I(1) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 64(4)(a), 82(3); S.I. 2012/84, art. 3

**F347** S. 88I(1)(b) and word inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 64(4)(b), 82(3); S.I. 2012/84, art. 3

**F348** Words in s. 88I(1)(b) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 10(5); S.I. 2012/924, art. 2

**F349** S. 88I(3)(b) and word omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 34(3), 82(3); S.I. 2012/84, art. 3

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**F350** S. 88J repealed (1.2.2012) by Education Act 2011 (c. 21), ss. 34(4), 82(3); S.I. 2012/84, art. 3

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**88K** Sections 88H [F351] and 88I: 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, [[F352]

(b) under section 88I(4)(b) or (5)(b) on whether admission arrangements conform with the requirements relating to admission arrangements, [[F353]

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(2) Any decision of the adjudicator to which this subsection applies is binding on—

(a) the admission authority in question, and
(3) Where the adjudicator makes a decision mentioned in subsection (1), the adjudicator must publish a report containing—
(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, and
(b) the reasons for that decision.

(4) Regulations may make provision—
(a) requiring an admission authority for a maintained school in England or an Academy school 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, 88I 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 section 88I and this section “the requirements relating to admission arrangements” means—
(a) in relation to a maintained school, the requirements imposed by or under this Part as to the content of admission arrangements for maintained schools in England, and
(b) in relation to an Academy school, the requirements imposed by or under Academy arrangements as to the content of its admission arrangements.

Textual Amendments
F333 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)
F351 Words in s. 88K heading substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 10 para. 4(2)(e); S.I. 2012/84, art. 3
F352 Word in s. 88K(1)(a) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 10 para. 4(2)(a)(i); S.I. 2012/84, art. 3
F353 S. 88K(1)(c) and word omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), Sch. 10 para. 4(2)(a)(ii); S.I. 2012/84, art. 3
F354 S. 88K(2)(b) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 36(7), 82(3); S.I. 2012/84, art. 3
F355 S. 88K(3) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 10 para. 4(2)(b); S.I. 2012/84, art. 3
F356 Words in s. 88K(4)(a) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 64(5)(a), 82(3); S.I. 2012/84, art. 3
F357 Words in s. 88K(4)(a) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 10(6)(a); S.I. 2012/924, art. 2
88L Restriction on alteration of admission arrangements following adjudicator’s decision

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Textual Amendments
F362 S. 88L repealed (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 10 para. 4(3); S.I. 2012/84, art. 3

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88M Co-ordination of admission arrangements

(1) Regulations may require a [F2local 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 [F2local 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 [F2local 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 [F2local 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—

(a) that each [F2local 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 [F2local 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.

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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) [F5 local authorities] in England, and

(b) the admission authorities for maintained schools in England.

(2) Regulations may provide that where a [F5 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 [F5 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 [F5 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 [F5 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 [F5 local authority] although they are not the admission authority, the governing body of the school must implement the decision.

(5) Before proposing a scheme for adoption under section 88M(1) a [F5 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.

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Textual Amendments

F2 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))

F5 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(3) (with Sch. 2 para. 10(4))

F333 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

F5 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(3) (with Sch. 2 para. 10(4))

F333 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 required by the code for school admissions.

(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;
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 school,
(c) a city technology college, or
(d) a city college for the technology of the arts.

Textual Amendments

F2 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))

F5 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(3) (with Sch. 2 para. 10(4))

F333 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)

F363 Words in s. 88P(1) substituted (1.2.2012) by Education Act 2011 (c. 21), ss. 34(5)(a), 82(3); S.I. 2012/84, art. 3

F364 Words in s. 88P(3)(b) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 13 para. 10(7); S.I. 2012/924, art. 2

F365 S. 88P(4)(5) omitted (1.2.2012) by virtue of Education Act 2011 (c. 21), ss. 34(5)(b), 82(3); S.I. 2012/84, art. 3

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) 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;
(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 school,
(ii) a city technology college, or
(iii) a city college for the technology of the arts,
in the area of the \([F2]\text{local authority}\);  
(e) any other \([F2]\text{local authority}\) in England;  
(f) such other person as may be prescribed.\]
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 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,

(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 of any prescribed description;

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.

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.

In subsection (2) “the relevant area” means—

(a) the area of the [local authority]; or

(b) if regulations so provide, such other area (whether more or less extensive than the area of the [local authority]) as may be determined by or in accordance with the regulations.

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 appropriate bodies of those admission arrangements.

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 the [Welsh Ministers], and shall (in every case) notify the appropriate bodies of the proposed variations.

The Welsh Ministers shall consider whether the arrangements should have effect with those variations until the end of that year; and if they determine that the arrangements should so have effect or that they should so have effect subject to such modification of those variations as they may determine—
(a) the arrangements shall have effect accordingly as from the date of their determination; and
(b) the admission authority shall (except in such cases as may be prescribed) notify the appropriate bodies of the variations subject to which the arrangements are to have effect.

(7) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(8) Regulations may make provision—
(a) specifying matters to which any consultation required by subsection (2) is, or is not, to relate;
(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);

(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.

(9) Where the local 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).

(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,

(b) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(8) Regulations may make provision—
(a) specifying matters to which any consultation required by subsection (2) is, or is not, to relate;
(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);

(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.

(9) Where the local 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).

(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,
Textual Amendments

F2  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))

F369  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)

F370  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)

F371  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)

F372  S. 89(2)(2A) substituted for s. 89(2) (1.10.2002 for E., 1.2.2006 for W.) by Education and Skills 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.

F373  Words 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)(c); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

F374  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

F375  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.

F376  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)

F377  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)

F378  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)

F379  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)

F380  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)

F381  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.

F382  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)

F383  S. 89(8)(a) 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.

F384  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)(w) (with s. 167(2)); S.I. 2008/3077, art. 2(d)

F385  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.

F386  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.

F387  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)

F388  Word in s. 89(10) replaced (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 2; S.I. 2008/3077, art. 2(e)
Determination of admission numbers

(1) A determination under section 89 by the admission authority for a maintained school 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 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.]
Co-ordination of admission arrangements

(1) Regulations may require a local authority 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), the Welsh Ministers may make, in relation to the area of a local authority 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 Welsh Ministers with a copy of the scheme and inform them that the scheme has been so adopted.

(4) The Welsh Ministers may by regulations require local authorities in Wales to provide other local authorities in connection with the exercise of any of their functions under this Chapter.

(5) Regulations may provide—
(a) that each local authority 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 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 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 maintained schools in Wales of pupils—
(a) who—
(i) have ceased to be of compulsory school age, or
Part III – School admissions

School Standards and Framework Act 1998 (c. 31)

Chapter I – Admission arrangements

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) [F5 local authorities][F405 in Wales], and

(b) the admission authorities for maintained schools [F406 in Wales].
(2) Regulations may provide that where a \[^{F2}\]local authority\[^{F407}\] in Wales or the governing body of a maintained school \[^{F408}\]in Wales have, in such manner as may be prescribed, adopted a scheme formulated by a \[^{F2}\]local authority\[^{F409}\] for the purpose mentioned in section 89B(1)(a)\[^{F409}\]—

(a) Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”) (intervention in conduct of maintained schools) is to apply as if any obligations imposed on a governing body under the scheme were duties imposed by the Education Acts.

(b) Chapter 2 of Part 2 of the 2013 Act (intervention in local authorities) is to apply as if any obligation imposed on a local authority were an education function.]

(3) Regulations may provide that where any decision as to whether a child is to be granted or refused admission to a maintained school \[^{F410}\]in Wales falls to be made in prescribed circumstances, the decision shall, if a scheme adopted or made \[^{F411}\]by virtue of section 89B so provides, be made by the \[^{F2}\]local authority\[^{F409}\] 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 maintained school \[^{F412}\]in Wales is (by virtue of regulations under subsection (3)) made by the \[^{F2}\]local authority\[^{F413}\] 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 \[^{F2}\]local authority\[^{F409}\] 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 to maintained schools in the areas of different \[^{F5}\]local authorities\[^{F5}\] 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 \[^{F2}\]local authority\[^{F414}\], the Welsh Ministers\[^{F415}\] shall consult—

(a) the \[^{F2}\]local authority\[^{F414}\], 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 \[^{F415}\]the Welsh Ministers\[^{F416}\].]
F406 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)

F407 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)

F408 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)

F409 S. 89C(2)(a)(b) substituted for words (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 4(5); S.I. 2014/178, art. 2(f) (with art. 3)

F410 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)

F411 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

F412 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

F413 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)

F414 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)

F415 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)


C102 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))

F416 89D Power to restrict alteration of admission arrangements following establishment or expansion

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Textual Amendments

F416 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)(c)

90 Reference of objections to [F417 Welsh Ministers].

(1) Where—

(a) admission arrangements have been determined by an admission authority under section 89(4), but

[F418 (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 [F419 the Welsh Ministers].

(2) Where—

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(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 [F420] the Welsh Ministers].

[F421](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.

[F422](3) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[F422](4) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[F422](5) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[F423](5A) Where [F424] the Welsh Ministers are required by virtue of [F425](2A) to decide whether to uphold an objection to admission arrangements, [F426] they may consider whether it would be appropriate for changes to be made to any aspect of the admission arrangements, whether or not [F426] they would be required to do so for the purpose of determining the objection.

(5B) In the case of any objection referred to [F427] them] under this section, [F428] the Welsh Ministers] must publish a report containing the following—

(a) [F429] their] decision on the objection,
(b) any decision [F430] they have] made on whether it would be appropriate for changes to be made to the admission arrangements, whether in the light of [F431] their] decision on the objection or otherwise,

[F432](c) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(d) [F433] their] reasons for the decisions mentioned in paragraphs (a) [F434] and (b).

(5C) Where [F435] the Welsh Ministers decide] that it would be appropriate for changes to be made to the admission arrangements, [F436] their] decision may specify the modifications that are to be made to the arrangements.

[F437](6) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[F437](7) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(8) [F438] The decisions of [F439] 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 [F440] the Welsh Ministers][F441] 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 [F441] the Welsh Ministers] under subsection (1) or (2), or
(ii) [F441] the Welsh Ministers][F443] are] required to determine an objection referred to [F443] them] under subsection (2);
(b) prescribing the steps which may be taken by an admission authority where an objection has been referred to [the Welsh Ministers] under subsection (1) or (2) but has not yet been determined;

(c) as to the manner in which [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 [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 [the Welsh Ministers] relating to the admission arrangements for another school, and the procedure to be followed in such a case.

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,

(b) ...
Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

F428 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)(b) (with s. 167(2)); S.I. 2008/3077, art. 2(d)

F429 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)

F430 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)

F431 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)

F432 S. 90(5B)(c) repealed (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), Sch. 1 para. 62(7)(c), Sch. 2; S.I. 2008/3077, art. 2(d)

F433 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)

F434 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)

F435 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)

F436 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)

F437 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)(j); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

F438 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

F439 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)

F440 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)

F441 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)

F442 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)(ii) (with s. 167(2)); S.I. 2008/3077, art. 2(d)

F443 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)

F444 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)

F445 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)

F446 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

F447 Words in s. 90(9)(c) 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)

F448 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)

F449 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)(j); S.I. 2008/1429, art. 3(1), Sch. Pt. 1

F450 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)

F451 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(c)

F452 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)
School Standards and Framework Act 1998 (c. 31)
Part III – School admissions
Chapter I – Admission arrangements

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

Modifications etc. (not altering text)

Commencement Information
I6  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. I; 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).

[F453] S. 90Z.A 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
F453  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)

F454  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)

91  Special arrangements to preserve religious character of foundation or voluntary aided school.

Textual Amendments
F455  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)
**Publication of information about admissions: England and Wales**

Regulations may—

(a) require the publication by a [local 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 authority], or by the local 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.

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**Fixing admission numbers.**
94 Admission appeals

(1) A [F2 local authority] shall make arrangements for enabling [F459 the appropriate person] to appeal against—
[F460 (za)] in a case where the [F2 local authority] are the admissions authority, any decision made by or on behalf of the authority refusing a child admission to a school,
[F461 (a)] any other decision made by or on behalf of the authority as to the school at which education is to be provided for [F462 a child] in the exercise of the authority’s functions, other than a decision leading to or embodied in a direction under section 96 [F463 or 97A] (directions for admission), and
[F464 (b)] 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 [F465 a child] admission to the school.

[F466 (1A)] A [F2 local authority] shall make arrangements for enabling [F467 the appropriate person] in relation to [F468 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 [F469 the appropriate person] to appeal against any decision made by or on behalf of the governing body refusing [F460 a child] admission to the school.

[F470 (2A)] The governing body of a foundation or voluntary aided school shall make arrangements for enabling [F471 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.

[F472 (2B)] In this section, “the appropriate person”, in relation to a child, means—
[F473 (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) \[F473\]or (2A)\] by the governing bodies of two or more foundation or voluntary aided schools maintained by the same \[F2\]local authority\].

(4) A \[F2\]local 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) \[F474\]or (1A)\] as the authority may determine; and

(b) arrangements made by the governing body or bodies in pursuance of subsection (2) \[F474\]or (2A)\].

\[F475\]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,

\[F476\](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 \[F2\]local 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) \[F477\]or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011\] to apply with prescribed modifications in relation to members of an appeal panel.

(6) The decision of an appeal panel on an appeal \[F478\]pursuant to arrangements under this section\] shall be binding on—

(a) the \[F2\]local authority\] or the governing body by whom or on whose behalf the decision under appeal was made, and

(b) in the case of a decision made by or on behalf of a \[F2\]local 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.

\[F479\](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.\]
Textual Amendments

F2 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))

F459 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)

F460 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)

F461 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)

F462 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)

F463 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)

F464 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

F465 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)

F466 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))

F467 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)

F468 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)

F469 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)

F470 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))

F471 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)

F472 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)

F473 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))

F474 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))
Where a S. 94 applied (with modifications) (1.9.1999) by S. 94(7)
S. 94 applied (with modifications) (1.2.2006) by
made by or on behalf of the admission authority for a maintained school, and
S. 94 excluded (prosp.) by
S. 94 applied (with modifications) (8.5.2003) by
S. 94 modified (temp. from 22.4.1999) by
S. 94 excluded (1.9.2005) by
S. 94 restricted (29.3.1999) by


to admit to the school a child to whom, at the time when the decision is made,
body of the school to appeal against any decision made by or on behalf of the authority
controlled school, the authority shall make arrangements for enabling the governing
as in section 94.

section 87(2) applies.

in a case where, at the time when the decision is made, section 87(2) applies to the

(2) Where a [F2local 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.

<table>
<thead>
<tr>
<th>Modifications etc. (not altering text)</th>
</tr>
</thead>
<tbody>
<tr>
<td>C107 S. 94 restricted (29.3.1999) by S.I. 1999/1016, art. 6, Sch. 4 paras. 1, 8</td>
</tr>
<tr>
<td>C108 S. 94 modified (temp. from 22.4.1999) by S.I. 1999/1064, reg. 5</td>
</tr>
<tr>
<td>C109 S. 94 applied (with modifications) (1.9.1999) by S.I. 1999/2800, reg. 7, Sch. paras. 1, 2-8</td>
</tr>
<tr>
<td>C110 S. 94 excluded (prosp.) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 36(5)(b)(10), 162(2) (with s. 159)</td>
</tr>
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<td>C112 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</td>
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<td>C113 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))</td>
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<td>C114 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</td>
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<tr>
<td>C115 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</td>
</tr>
</tbody>
</table>

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 [F481the appropriate person] to appeal against a decision—

(a) made by or on behalf of the admission authority for a maintained school, and
(b) refusing [F482a child] admission to the school,

in a case where, at the time when the decision is made, section 87(2) applies to the child.

[1A] In subsection (1), “the appropriate person”, in relation to a child, has the same meaning as in section 94.

(2) Where a [F2local 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.
Regulations made by virtue of subsection (3A)(c) may provide for any of the
S. 95 applied (with modifications) (18.10.1999) by
requiring prescribed information to be given to governing bodies in prescribed
The decision of an appeal panel on an appeal made pursuant to arrangements under
as to the matters to which an appeal panel is to have regard in considering
for the payment by the
S. 95(2A)
as to the procedure on such appeals,
Regulations may make provision about the making of appeals pursuant to
Subsection (2) does not apply in relation to a decision made by or on behalf of a\[F2\]local authority] in England to admit to a school a child who is looked after by \[F485\]such an authority] (provision for references to the adjudicator in relation to such a decision being made by section 95A).

\[F486\](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.

\[F487\](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\[F2\]local 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.

\[F488\](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) \[F488\]or (in relation to Wales) Part 8 of
the Local Government (Wales) Measure 2011] 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\[F2\]local authority] and the governing body.
95A References relating to looked after children to whom section 87(2) applies

(1) This section applies where—

(a) the admission authority for a community or voluntary controlled school in England is a local authority,

(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 admission 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
   (ii) is requested by the adjudicator for the purposes of any such determination.]

Textual Amendments
F488 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)
F489 S. 95A(1)(a) 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(12)(a)
F490 Words in s. 95A(2) 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(12)(b)

Power to direct admission of child to school

96 Direction to admit child to specified school.

(1) The [F491local authority] may give a direction under this section [F491to 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 [F492the appropriate authority (within the meaning of section 97)] under section 97(4), specify a school in the area referred to in subsection (1).

[F493(3A) A direction under this section to admit a child shall not specify a school which has in place admission arrangements that make provision for selection by ability falling within section 99(2)(c) unless the child satisfies the selection criteria.]

(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 [F494(in the case of a local
authority in England) to any special educational needs or (in the case of a local authority in Wales) to any additional learning needs] he may have.

(8) In this section and [F496sections 97 to 97C] “school” means a maintained school.

Textual Amendments

F2 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))

F491 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))

F492 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)

F493 S. 96(3A) inserted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 43(3), 269(4); S.I. 2010/303, art. 3, Sch. 2

F494 Words in s. 96(7) substituted (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 7(2); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-23); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

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)

Modifications etc. (not altering text)


C120 Ss. 95-99 applied (with modifications) (W.) (1.12.2006) by The New School (Admissions) (Wales) Regulations 2006 (S.I. 2006/175), regs. 1(1), 9, Sch. (with reg. 2(2))

C123 S. 96 applied (with modifications) (18.10.1999) by S.I. 1999/2666, reg. 8, Sch. paras. 1(c), 2-8.

97 Procedure for giving direction under section 96.

(1) Before deciding to give a direction under section 96, the [F3local authority] shall consult—

[F496(za) the child, in a case within subsection (1A);]

(a) the parent of the child, and

(b) the governing body of the school they propose to specify in the direction.

[F497(1A) A case is within this subsection if—]

(a) the local authority are a local authority in England, and

(b) the child is over compulsory school age.]

(2) Where the [F3local 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 [F496] the appropriate authority] under subsection (3) has expired and, if it is so referred, [F496] the appropriate authority] has made [F496] 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 [F500] the appropriate authority] and, if they do so, shall inform the [F52] local authority].

[F501](4) On a reference under subsection (3) [F582] the appropriate authority] may determine which school is to be required to admit the child, and [F583] if it does so]—

(a) where the [F52] 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 [F584] the appropriate authority's] determination, and

(b) in any other case, that school shall be specified in the direction.]

(5) [F585] 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.

[F586](6) A direction under section 96 shall be given by notice in writing; and a copy of the notice shall be given by the [F52] local authority] to the head teacher of the school.

[F507](6A) In this section, “the appropriate authority” means—

(a) in relation to a [F52] local authority] in England, the adjudicator, and

(b) in relation to a [F52] local authority] in Wales, the Assembly.

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**Textual Amendments**

F2 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))

F496 S. 97(1)(za) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), Sch. 1 para. 36(a) (with art. 2(3))

F497 S. 97(1A) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), Sch. 1 para. 36(b) (with art. 2(3))

F498 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)

F499 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)

F500 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)

F501 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))

F502 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)

F503 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)
**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**

**F508** 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)
(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 [F2 local authority] who are not the authority proposing to give the direction and are not the admission authority, the [F2 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

(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.
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.

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.

(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;
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 [F511 or EHC plans].

(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.

[F512 (2) The admission of children to a school for nursery education shall be disregarded—
(a) for the purposes of any determination under section [F513 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 [F514 88D or] 89A what is a relevant age group in relation to a primary school.]

(3) Subject to subsection (4), nothing in this Chapter [F515 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.

[F516 (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 [F52 local authority] and the governing body of such a school of functions in connection with such arrangements.

(6) Apart from section [F517 92(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 [F518 EHC plans are maintained under section 37 of the Children and Families Act 2014 or] [F519 individual development plans are maintained under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 in respect of which section 48 of that Act applies (duty to admit children to maintained schools)].

(8) Any provision made by, or (as the case may be) by virtue of, section 84 or [F520 92(c) and (d)] or this section [F521, 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.

[F522 (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 [182 or 88C] 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).
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.

CHAPTER II

SELECTION OF PUPILS

Partial selection

General restriction on selection by ability or aptitude.
(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.

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Textual Amendments

F525 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

F526 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)


C120 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))


C130 S. 99(5) applied (29.7.2010) by Academies Act 2010 (c. 32), ss. 6(4), 19(2); S.I. 2010/1937, art. 2, Sch. 1

Commencement Information

I9 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. 1, Sch. 2 Pt. 1 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 [I198] so long as—
   (a) the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and
(1) Subject to {\textsuperscript{(2A)}} the admission arrangements for a maintained school \textsuperscript{(2)} 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.

{\textsuperscript{(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")—
(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
[F2 local authority],
(ii) children in that age group who live in the area of the [F2 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) [F532 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.

[F533 (2A) If the admission authority for a maintained school in England is the [F2 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.]
102  Permitted selection [F538 in maintained schools in England]: aptitude for particular subjects.

(1) Subject to subsection (2), the admission arrangements for a maintained school [F538 in England] 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 [F538 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.
102A
Permitted selection in maintained schools in Wales: aptitude for particular areas of learning and experience etc.

(1) The admission arrangements for a maintained school in Wales may make provision for the selection of pupils for admission to the school by reference to their aptitude for—
   (a) one or more prescribed areas of learning and experience, or
   (b) one or more prescribed elements within one or more areas of learning and experience.

(2) But the admission arrangements may make such provision only where—
   (a) the admission authority for the school are satisfied that the school has a specialism in the area or areas, or element or elements, in question, and
   (b) the proportion of selective admissions in any relevant age group does not exceed 10 per cent.

(3) 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 the applicant’s aptitude other than for the area or areas, or element or elements, in question.

(4) 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 section 101(1), the reference in subsection (3) to a test of ability does not include any such test for which provision may be made under that section.

(5) 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 area or areas, or element or elements, in question.

(6) In this section—

“area of learning and experience” has the same meaning as in the Curriculum and Assessment (Wales) Act 2021;

“test” includes assessment and examination.]

Textual Amendments
F541 S. 102A inserted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(8)

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 F542 88C to 88K or, as the case may be, F543 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 F544 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 F545 regulated alteration within the meaning of Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013].]

(3) Any admission arrangements to which F546 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 F547 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
F542 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)
F543 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(l)
F544 Words in s. 103(2)(b) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(10); S.I. 2013/1800, art. 3(j)
F545 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(c)
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.
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 Education Act 1996; and in the application of subsection (1) to a maintained school on or after the appointed day the reference to 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.

In this Chapter “grammar school” means a school for the time being designated under this section.

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—
(a) to all grammar schools within the area of a prescribed [local authority] or within such other area as may be prescribed,
(b) to a prescribed group of grammar schools, or
(c) to any grammar school not falling within paragraph (a) or (b).

(3) Ballot regulations may make provision—
(a) 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;
(b) 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;
(c) 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—
(i) make the arrangements for the holding of ballots under this section, and
(ii) 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);
(d) requiring prescribed bodies or persons, or bodies or persons falling within any prescribed category—
   (i) to provide the designated body or any other person with any prescribed information requested by that body or person, or
   (ii) to publish prescribed information in such manner as may be prescribed;
(c) 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 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 authority,
   (b) the proprietor of an independent school, or
   (c) a local 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 Education Act 1996 shall be taken—

(a) to be a school maintained by a local authority, and
(b) to be maintained by the authority in whose area it is situated.

(11) In this section and section 106 “ballot regulations” means regulations made under this section.

Textual Amendments
F2 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))

Modifications etc. (not altering text)

Marginal Citations
M18 1996 c. 56.
M19 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 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 authority which are situated in such area as may be prescribed, together with (if the regulations so provide) all schools maintained by such local 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 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 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—
(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).

Textual Amendments

F2 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))

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 [F2local authority], and
(b) the governing body of any school maintained by a [F2local 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.

(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 M20Education 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.

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 F54788C 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.

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
(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 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 section 19 of the 2006 Act by the governing body and not by the local 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 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 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 section 19 of the 2006 Act have fallen to be implemented under 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.

(6) In this section “the 2006 Act” means the Education and Inspections Act 2006.
PART IV

OTHER PROVISIONS ABOUT SCHOOL EDUCATION

S. 110 cross-heading omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), Sch. 16 para. 2(1); S.I. 2015/2074, art. 2

110  Home-school agreements.
112 **Extended work experience for Key Stage 4 pupils.**

(1) Section 560 of the 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.

113 **Provision of secondary education for Key Stage 4 pupils by FE institutions.**

(1) In section 18(1) of the 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

[Food and drink provided on school premises etc]

Textual Amendments
F557 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))

F557 114 Nutritional standards for school lunches.

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F557 114A 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 F2local authority] in England], or

(b) food or drink provided at a place other than school premises by a F2local authority] in England] 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 F2local 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 [F2 local 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 [F2 local 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 [F2 local authority].

(10) References in this section to food or drink provided by a [F2 local 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.

Textual Amendments
F2 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))
115 Extension of LEA functions concerning school lunches, etc.

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Textual Amendments

F560 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 [F2 local authority] 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
(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.”

Textual Amendments

F2 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))

PART V

NURSERY EDUCATION

Modifications etc. (not altering text)

C144 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 [F2local authority]

118 Duty of [F2local authority] as respects availability of nursery education.

(1) A [F2local authority] 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 [F2 local authority]—
(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 [F562 the National Assembly for Wales].

Textual Amendments

[F561] 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)

[F562] 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)


[F564] 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 [F565 and childcare] partnerships

Textual Amendments

119 Early years development [F566 and childcare] partnerships.

(1) Every [F2local authority][F565] in Wales shall establish for their area a body to be known as an early years development [F568 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 [F569] 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, [F570] . . .

[F571(ab) [F572 in reviewing the sufficiency of childcare provision for the authority’s area for the purposes of section 118A, [F573] . . .]]

(6) [F574] The Assembly may by order confer on early years development [F575 and childcare] partnerships such additional functions as are specified in the order.

Textual Amendments

F2 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))

F565 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

F566 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)

F567 Words in s. 119(1) 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

F568 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)

F570 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

F571 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

F572 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)

F573 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)

F574 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)
Early years development [F576 and childcare] plans

Textual Amendments
F576 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

120 Early years development [F577 and childcare] plans.

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Textual Amendments
F577 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

F578 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)(l); S.I. 2006/885, art. 2(3)(b)

121 Approval, modification and review of statement of proposals.

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Textual Amendments
F579 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)(l); S.I. 2006/885, art. 2(3)(b)

Inspection of nursery education

122 Inspection of nursery education [F580 in Wales].

(1) Schedule 26 (inspections, etc. of providers of nursery education [F581 in Wales]) shall have effect.

F582 (2) ........................................

(3) Any register of nursery education inspectors established by [F583 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.
In subsection (3) [F584]“the Chief Inspector for Wales” means [F585]Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

Further provisions relating to nursery education

123 Children with special educational needs.

(1) It shall be the duty of—

(a) any [F586]local authority[ in England] or other person providing [F587]relevant early years education], and

(b) any person employed by such an authority or other person, or otherwise engaged to provide his services, in the provision of such education, [F588]to have regard to the provisions of the code of practice issued under section 77 of the Children and Families Act 2014 (in the case of education in England) [F589]....]

[F590]Subsection (1) does not apply in so far as the person in question is already under a duty to have regard to the provisions of the code of practice in question.]


(3) But unless [F595]the code of practice in question] includes provision made by virtue of subsection (2)—

(a) the Secretary of State shall publish a document explaining how the practical guidance contained in that code applies in circumstances where functions under [F596]Part 3 of the Children and Families Act 2014 [F597]... 1996] do not fall to be discharged, and

(b) the duty imposed by subsection (1) includes a duty to have regard to the provisions of that document.

[F598]Subsection (3B) applies if—

(a) a [F599]local authority] or other person providing [F599]relevant early years education] for a child makes special educational provision for him because it is considered that he has special educational needs;

(b) no [F600]EHC plan] [F601]... 1996 is maintained for the child; and
(c) his parent has not previously been informed under subsection (3B) of the special educational provision made for him.

(3B) The [local 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.

F607(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—

F603

(i) 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); or

(ii) provided under arrangements made by a local authority in pursuance of any duty imposed under section 2 of the Childcare Act 2016 (whether or not the local authority provides the early years provision);

(b) .................................................. ]

Textual Amendments

F2 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))

F586 Words in s. 123(1)(a) inserted (W.) (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 7(4)(a); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

F587 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)

F588 Words in s. 123(1) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 69(2); S.I. 2014/889, art. 7(a)

F589 Words in s. 123(1) omitted (W.) (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 7(4)(b); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

F590 S. 123(1A) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 69(3); S.I. 2014/889, art. 7(a)

F591 Words in s. 123(2) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 69(4)(a); S.I. 2014/889, art. 7(a)

F592 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)

F593 Words in s. 123(2) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 69(4)(b); S.I. 2014/889, art. 7(a)
Words in s. 123(2) omitted (W.) (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 7(4)(e); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

Words in s. 123(3) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 69(5)(a); S.I. 2014/889, art. 7(a)

Words in s. 123(3) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 69(5)(b); S.I. 2014/889, art. 7(a)

Words in s. 123(3)(a) omitted (W.) (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 7(4)(d); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

S. 123(3A)(3B) inserted (1.1.2002 for E. and 1.4.2002 for W.) by Children and Families Act 2014 (c. 6), Sch. 3 Sch. 1 para. 7(4)(c); S.I. 2021/1243, arts. 4-18; S.I. 2021/1244, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3

Words in para. 69(5)(b) omitted (W.) (1.9.2021 for specified purposes, 1.1.2022 for specified purposes, 1.9.2022 for specified purposes) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), Sch. 1 para. 7(4)(d); S.I. 2021/373, arts. 3, 4, 6, 7 (as amended by S.I. 2021/938, art. 2); S.I. 2021/1243, art. 3 (with arts. 4-23) (as amended by S.I. 2021/1428, art. 2); S.I. 2021/1244, art. 3 (with arts. 4-21) (as amended by S.I. 2021/1428, art. 3); S.I. 2021/1245, arts. 3, 4 (with art. 1(4)); S.I. 2022/891, art. 3 (with arts. 4-25); S.I. 2022/892, arts. 2, 3 (with arts. 4-18); S.I. 2022/893, art. 4; S.I. 2022/894, art. 3; S.I. 2022/895, arts. 3, 4; S.I. 2022/896, art. 3 (with arts. 1(7), 4-22); S.I. 2022/897, art. 3 (with arts. 1(8), 4-21); S.I. 2022/898, arts. 2, 3
Travel arrangements for children receiving nursery education otherwise than at school.

After section 509 of the 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.

(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 Nursery Education and Grant-Maintained Schools Act 1996.”
PART 5A – TEACHERS AND STAFF AT INDEPENDENT SCHOOLS HAVING A RELIGIOUS CHARACTER

Chapter II – Selection of pupils

124A. Employment of teachers at independent schools having a religious character

(1) This section applies to an independent school which has a religious character, other than an Academy to which section 124AA applies.

(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.

Staff at certain Academies with religious character

(1) This section applies if—
Chapter II – Selection of pupils

(a) an Academy order has been made in respect of a foundation or voluntary controlled school which is designated by order under section 69(3) as a school having a religious character,

(b) the school has been converted into an Academy (see section 4(3) of the Academies Act 2010), and

(c) the Secretary of State has not made an order in respect of the school under subsection (2).

(2) The Secretary of State may by order provide that this section does not apply to a school specified in the order.

(3) Where there are more than two teachers at the Academy, the teachers must include persons who—

(a) are selected for their fitness and competence to give religious education in accordance with the tenets of the religion or the religious denomination specified in relation to the Academy in the order under section 69(3) (as applied by section 6(8) of the Academies Act 2010), and

(b) are specifically appointed to do so.

A teacher employed or engaged at the Academy in pursuance of this subsection is a “reserved teacher”, and any other teacher at the Academy is a “non-reserved teacher”.

(4) The number of reserved teachers in the Academy must not exceed one-fifth of the total number of teachers, including the principal (and for this purpose, where the total number of teachers is not a multiple of five, it is to be treated as if it were the next higher multiple of five).

(5) In connection with the appointment of a person to be the principal of the Academy, in a case where the principal 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 Academy.

(6) Preference may be given, in connection with the appointment, promotion or remuneration of reserved teachers at the Academy, to persons—

(a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the Academy in the order under section 69(3) (as applied by section 6(8) of the Academies Act 2010), or

(b) who attend religious worship in accordance with those tenets, or

(c) who give, or are willing to give, religious education at the Academy in accordance with those tenets.

(7) Regard may be had, in connection with the termination of employment or engagement of any reserved teacher at the Academy, to any conduct on the part of the teacher which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination specified in the order under section 69(3) (as applied by section 6(8) of the Academies Act 2010).

(8) No person, other than a reserved teacher, is to be disqualified by reason of their religious opinions, or of their attending or omitting to attend religious worship—

(a) from being a teacher at the Academy, or

(b) from being employed or engaged for the purposes of the Academy otherwise than as a teacher.

(9) A non-reserved teacher must not be required to give religious education.
A non-reserved teacher must not receive any less remuneration than any other non-reserved teacher, or be deprived of, or disqualified for, any promotion or other advantage available to other non-reserved teachers—

(a) for the reason that the teacher gives, or does not give, religious education, or
(b) for reasons related to the teacher's religious opinions or to the teacher's attending or omitting to attend religious worship.

124B. Designation of independent schools as having a religious character

Subsections (1) and (3) of section 68A (which relate to the designation of foundation or voluntary schools in Wales as having a religious character) apply in relation to an independent school in Wales as they apply in relation to a foundation or voluntary school in Wales, but as if—

(a) in subsection (1) of that section, the references to Part 2 and the Curriculum and Assessment (Wales) Act 2021 were a reference to this Part, and
(b) in subsection (3) of that section, the reference to subsection (2) of that section were a reference to subsection (2) of this section.

(1) Subsections (3) and (5) of section 69 (which relate to the designation of foundation or voluntary schools in England as having a religious character) apply in relation to an independent school (other than an alternative provision Academy) 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 68A by virtue of subsection (A1) or 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.
PART VI

Textual Amendments

F615 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

125 [Partnership arrangements to secure provision of certain further education in Wales.]

(1) The 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 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),

(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

F616 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.
126 Provisions relating to education provided under partnership arrangements.

(1) The 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 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 Further and Higher Education Act 1992 (as inserted by section 125(4)) applies.
PART VII

MISCELLANEOUS AND GENERAL

Code of practice for [F5 local authorities] and maintained schools [F618 in Wales]

Textual Amendments

F618 Words in s. 127 cross-heading inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(7), 188(2)

F620 127 Code of practice for securing effective relationships between [F5 local authorities] and maintained schools [F618 in Wales].

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Textual Amendments

F619 Words in s. 127 heading inserted (8.1.2007) by Education and Inspections Act 2006 (c. 40), ss. 58(7), 188(2)

F620 S. 127 repealed (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), ss. 96, 100(4); S.I. 2014/178, art. 2(c) (with art. 3)

Financial assistance to non-maintained schools

F621 128 Financial assistance to non-maintained schools.

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Textual Amendments

F621 S. 128 repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 58(1)(a), 269(2), Sch. 16 Pt. 1

129 Payment of school expenses; grant of scholarships, etc.

For section 518 of the [M28] 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—

(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.”

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130 Transfer of assisted places.

(1) In section 3(2) of the M29 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 M30 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.
Abolition of corporal punishment

131 Abolition of corporal punishment in schools etc.

(1) For section 548 of the 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

(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 M32 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.”

Textual Amendments

F622 S. 131(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

Marginal Citations

M31 1996 c. 56.
M32 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”).

(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.

(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
F623 S. 132(2)-(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7
F624 S. 132(6) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7

Modifications etc. (not altering text)

F625 133 Removal of power to establish Schools Funding Council for Wales.

School and nursery inspections

134 Publication of inspection reports.

F626 (1) ..................................................
F627 (2) ..................................................

(3) In section 39 of the Education Act 1997 (reports of inspections of local 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
F5 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(3) (with Sch. 2 para. 10(4))
F626 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)
F627 S. 134(2) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 7
F628 135  Miscellaneous amendments relating to school and nursery inspections.

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 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;

(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 \[F629\], 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 \[M35\] Education Reform Act 1988 \[F630\] 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.

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### Supplementary

#### 138  Orders and regulations.

(1) Subject to subsection (2), any power of the Secretary of State \[F631\] 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) \[F632\], 124AA(2) or 142(1); or

(b) paragraph 5 of Schedule 5, paragraph 2 or 3 of Schedule 7, \[F633\] paragraph 1 of Schedule 14, paragraph 10 of Schedule 21, paragraph 4(2) \[F634\], 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 \[F635\] 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), \[F636\] paragraph 69(3), 85(5), 104 \[F638\] or 145; or

(b) \[F639\] paragraph 1 of Schedule 32.
(5) Subsection (3) also does not apply to—

(a) any order under—

(i) section 1(5),

(ii) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

F640

(iii) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

F640

; or

(b) the first regulations to be made under—

(i) section 38(3) or 39(1),

(ii) section F641 . . . , 47 or 48(1), or

(iii) section 105 or 108(2); F642 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 [F643 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).

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### Subordinate Legislation Made

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>S. 138(7) power partly exercised (20.1.1999): different days appointed for specified provisions by S.I. 1999/120.</td>
</tr>
</tbody>
</table>

### Textual Amendments

<table>
<thead>
<tr>
<th>F631</th>
<th>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</th>
</tr>
</thead>
<tbody>
<tr>
<td>F632</td>
<td>Word in s. 138(2)(a) inserted (1.2.2012) by Education Act 2011 (c. 21), ss. 62(4)(b), 82(3); S.I. 2012/84, art. 3</td>
</tr>
<tr>
<td>F633</td>
<td>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.</td>
</tr>
<tr>
<td>F634</td>
<td>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)</td>
</tr>
</tbody>
</table>
School Standards and Framework Act 1998 (c. 31)
Part VII – Miscellaneous and general
Chapter II – Selection of pupils

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

F635 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
F636 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)
F637 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
F638 Word in s. 138(4)(a) omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), Sch. 16 para. 2(2)(a); S.I. 2015/2074, art. 2
F639 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
F640 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
F641 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
F642 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
F643 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

138 Regulations made by Welsh Ministers under section 71(7A) or sections 89 to 90

(1) Any power of the Welsh Ministers to make regulations under section 71(7A) or 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
F644 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)
F645 Words in s. 138A heading inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 38(a)
F646 Words in s. 138A(1) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 38(b)

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 the 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
F647 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)
F648 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 M36 Education Act 1996 immediately before the appointed day shall cease to have effect on that day.
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—
   (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 authority to be served by the school.

Textual Amendments

F2 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))
142 General interpretation.

(1) In this Act, unless the context otherwise requires—

“church in Wales school” means a [foundation or voluntary] school in the Province of Wales in relation to which the religion or religious denomination specified under section 68A 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 Welsh Ministers may by order designate in respect of that diocese;

“Church of England school” means a [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;

“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 Employment Rights Act 1996;

“employment” (except in section 92(4)) means employment under a contract of employment, and “employed” shall be construed accordingly;

“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” 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” 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 [foundation or voluntary] school in relation to which the religion or religious denomination specified under section 68A or 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 \[F2\] local 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 \[M38\] 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” \[F658\] the Welsh Ministers 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 \[F659\] section 68A, \[F660\] section 69(4) or 124B(2) \[F661\] 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 \[F662\] (or Part 4 of the Education and Inspections Act 2006) to “the appropriate diocesan authority” is—

(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 \[F663\] or of section 64(4) or (6) of the Education and Inspections Act 2006, to both of them acting together).

(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 \[F2\] local 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 \[F2\] local 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 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.
### 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.

<table>
<thead>
<tr>
<th>Expression</th>
<th>Relevant provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>ability (in Chapter II of Part III)</td>
<td>section 99(5)</td>
</tr>
<tr>
<td>adjudicator</td>
<td>section 25(3)</td>
</tr>
<tr>
<td>admission arrangements (in Part III in relation to a maintained school)</td>
<td>sections 88(2) and 99(5)</td>
</tr>
<tr>
<td>admission authority (in Chapter I of Part III in relation to a maintained school)</td>
<td>section 88(1)</td>
</tr>
<tr>
<td>admitted to a school for nursery education</td>
<td>section 142(5)</td>
</tr>
<tr>
<td>[F665 alteration (in Part II in the context of a prescribed alteration to a maintained school)]</td>
<td>[F665 section 28(11)]</td>
</tr>
<tr>
<td>appeal panel (in Chapter I of Part III)</td>
<td>section 84(6)</td>
</tr>
<tr>
<td>appointed day (except in Part I of Schedule 32)</td>
<td>section 20(7)</td>
</tr>
<tr>
<td>appropriate diocesan authority (in relation to a Church in Wales, Church of England or Roman Catholic Church school)</td>
<td>section 142(1) and (4)</td>
</tr>
<tr>
<td>appropriate further education funding council</td>
<td>section 142(1)</td>
</tr>
<tr>
<td>[F666 area (in Part II)]</td>
<td>[F666 section 28(11)]</td>
</tr>
<tr>
<td>[F667 Assembly]</td>
<td>section 142(1)</td>
</tr>
<tr>
<td>budget share (in Part II)</td>
<td>section 47(1)</td>
</tr>
<tr>
<td>Chief Inspector (in Chapter IV of Part I)</td>
<td>section 14(4)</td>
</tr>
</tbody>
</table>
child (in Chapter I of Part III but not in sections 96 and 97) section 84(6)

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 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) 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 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 authority) (in Chapter IV of Part II) section 45(3)

grammar school (in Chapter II of Part III) section 104(7)

group (in relation to a foundation body) section 21(4)

individual schools budget (in Part II) 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)

local authority (in relation to a school maintained, or proposed to be maintained, by such an authority) section 22(8)

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) . . .

[in Chapter IV of Part II in a context referring to a [F675 local 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) [F676 non-schools education budget (in Part 2)] Section 45A(1)
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)

[F677 prescribed (generally) section 142(1)

(in sections 89 to 90) section 90ZA]

[F678 promoters (in Part II) [F678 in relation to Wales]] [F680 section 28(2) . . .]

[F681 school teacher] (in Chapter I of Part I in relation to an infant class) section 4

reception class section 142(1) [F682 regulations (generally) section 142(1)

(in sections 89 to 90) section 90ZA]

relevant age group section 142(1) [F683 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
scheme (in Part II in relation to a
maintained school)
school having a delegated budget (in Part
II)
school maintained by a [F2]local authority]
(generally)
(in Chapter IV of Part II)
[F884]school opening date
[F885]section 33(6)]

[F86

school requiring special measures (in
Chapter IV of Part I)
[F87]school which has a religious character
(F88 in England)[]
[F87](in Part 2 in relation to a foundation
or voluntary school)
[F87](in Part 5A in relation to an
independent school)
[F88]school in Wales which has a religious character
(in Part 2 in relation to a foundation
or voluntary school)
(in Part 5A in relation to an independent school)
school which has selective admission
arrangements (in Chapter II of Part III)
[F690]schools budget (in Part 2)
specified religion or religious
denomination
statutory provision

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**Textual Amendments**

**F2** 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))

**F665** S. 143 entry omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(11)(a); S.I. 2013/1800, art. 3(j)

**F666** S. 143 entry omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(11)(b); S.I. 2013/1800, art. 3(j)

**F667** 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

**F668** 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)
F669 S. 143 entry omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(11)(e); S.I. 2013/1800, art. 3(j)

F670 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

F671 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.

F672 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

F673 S. 143 entry omitted (5.5.2010) by virtue of The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 10(13)(a)

F674 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

F675 Words in s. 143 omitted (W.) (20.2.2014) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 477; S.I. 2014/178, art. 2(f) (with art. 3)

F676 Words in s. 143 inserted (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(13)(b)

F677 S. 143 entry substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), ss. 173(4), Sch. 1 para. 73(2); S.I. 2008/3077, art. 2(d)

F678 S. 143 entry omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(11)(d); S.I. 2013/1800, art. 3(j)

F679 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)

F680 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)

F681 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

F682 S. 143 entry substituted (2.12.2008) by Education and Skills Act 2008 (c. 25), ss. 173(4), Sch. 1 para. 73(3); S.I. 2008/3077, art. 2(d)

F683 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; S.I. 2006/172, art. 4, Sch.

F684 S. 143 entry omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(11)(e); S.I. 2013/1800, art. 3(j)

F685 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.

F686 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)

F687 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

F688 Words in s. 143 entry substituted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 40(2)

F689 Words in s. 143 entry inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 40(3)

F690 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(q) (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
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 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 authority within the meaning of the 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;
(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 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 authority within the meaning of the 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.
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 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);
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 Education (Scotland) Act 1980 extends to Scotland only.

Subordinate Legislation Made

P12 S. 145(3) power partly exercised (7.8.1998): different dates appointed for specified provisions by S.I. 1998/2048

S. 145(3) power partly exercised (20.1.1999): different dates appointed for specified provisions by S.I. 1999/120
Status: This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

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
M42 1996 c. 56.
M43 1980 c. 44.
SCHEDULES

SCHEDULE 1

PROVISIONS RELATING TO AN EDUCATION ACTION FORUM

Powers

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.
(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**

[F691 10 An Education Action Forum shall be a charity and is an institution which is to be treated for the purposes of section 31(3) of the Charities Act 2011 (institutions required to be excepted from registration under that Act) as if that provision applied to it.]

**Textual Amendments**

F691 Words in Sch. 1 para. 10 substituted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by The Charities (Pre-consolidation Amendments) Order 2011 (S.I. 2011/1396), art. 1, Sch. para. 46(2) and Sch. 1 para. 10 further substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, Sch. 7 para. 78 (with s. 20(2), Sch. 8)
### SCHEDULE 2 – Allocation of existing schools to new categories

**Section 20.**

**Allocation of existing schools to new categories**

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

**C151** Sch. 2 excluded (7.9.1998) (temp.) by S.I. 1998/1969, reg.18

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**Allocation of local authority-maintained schools**

1. A school which immediately before the appointed day is (within the meaning of the Education Act 1996)—
   - (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.

<table>
<thead>
<tr>
<th>Existing school</th>
<th>Allocated new category</th>
</tr>
</thead>
<tbody>
<tr>
<td>A county school.</td>
<td>Community school.</td>
</tr>
<tr>
<td>A controlled school.</td>
<td>Voluntary controlled school.</td>
</tr>
<tr>
<td>(1) An aided school.</td>
<td>Voluntary aided school.</td>
</tr>
<tr>
<td>(2) A special agreement school.</td>
<td>Community special school.</td>
</tr>
<tr>
<td>A maintained special school.</td>
<td>Community special school.</td>
</tr>
</tbody>
</table>

**Marginal Citations**

**M44** 1996 c. 56.

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**Allocation of grant-maintained and grant-maintained special schools**

2. A school which immediately before the appointed day is (within the meaning of the 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.
Indicative allocation of schools within paragraph 2

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.

<table>
<thead>
<tr>
<th>Existing school</th>
<th>Indicative new category</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A grant-maintained school formerly a county or controlled school.</td>
<td>Foundation school.</td>
</tr>
<tr>
<td>(2) A grant-maintained school established by the Funding Agency for Schools.</td>
<td></td>
</tr>
<tr>
<td>(1) A grant-maintained school formerly an aided or special agreement school.</td>
<td>Voluntary aided school.</td>
</tr>
<tr>
<td>(2) A grant-maintained school established by promoters (within the meaning of Part III of the Education Act 1996).</td>
<td></td>
</tr>
<tr>
<td>A grant-maintained special school.</td>
<td>Foundation special school.</td>
</tr>
</tbody>
</table>

Preliminary decision by governing body as to new category

(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.

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### 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—

(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).

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### 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.

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
(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.

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.

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
       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.

(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


Marginal Citations

M46 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

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 [F5 local authorities] 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 [F2 local 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—

[F693 (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 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 [F1094 or the person by whom proposals were made is required to provide by virtue of Part 2 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013 (provision of premises and other assistance)]; or

(b) require the [F2 local 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 [F2 local 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 [F2 local authority] that paragraph (b) applies to them and they or their successors shall pay to the [F2 local 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 [M47 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.

(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 [M48 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 [F695 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.
PART II

VOLUNTARY AIDED SCHOOLS

\[ F696 \] Interpretation of Part

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.

Obligations of governing bodies

\[ F697 \] (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 \[ F2 local authority] for purposes other than those of the school;

(c) to capital expenditure on the provision of any new site which the \[ F2 local authority] is to provide by virtue of paragraph 4 of this Schedule.
Obligations of local authorities as regards provision of sites (otherwise than in connection with statutory proposals)

4 (1) In the case of a voluntary aided school, the local 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 any enactment; or
   (b) require the local 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 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 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 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 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 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—
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 [F701 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 [F702 capital expenditure incurred or to be incurred] by that body on behalf of the governing body.

(2) [F703]

(3) The amount of any grant paid under this paragraph in respect of any such expenditure—

[F704 (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.

[F705 (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 [F3 local authority] for the purpose of securing that the school premises conform to the standards prescribed under section 542 of the Education Act 1996 [M49 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 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
   (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;

Grants by Secretary of State in respect of preliminary expenditure

(1) The Secretary of State may pay grants—
   (a) to the governing body of a voluntary aided school in respect of preliminary expenditure incurred [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 \(^{F707}\) or to be incurred\(^{F707}\) 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 \(^{F708}\) or to be incurred\(^{F708}\) by them for the purposes of a scheme for the provision of a site for the school or of any buildings which would be \(^{F709}\) 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 \(^{F710}\) used for the purposes of the school\(^{F710}\), 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.

(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.\(^{F711}\)

(6) Where—
   (a) a grant is paid under sub-paragraph (1) in the case of any voluntary aided school, or
   (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 expenditure

Textual Amendments
F712 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 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 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 initial expenditure is expenditure to be incurred in providing—

(a) a site or 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 buildings for a new voluntary aided school,

being 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 initial expenditure shall be taken to be so much of the 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 expenditure incurred by that body on behalf of the governing body as it applies to expenditure incurred by the governing body; and in those provisions, as they 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 local authorities in respect of maintenance and other obligations of governing bodies

8 A local 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 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.

Meaning of “capital expenditure”

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.

(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 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.]
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 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 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 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.
(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 or under Part 2 of the Education and Inspections Act 2006, of matters to adjudicators and their determination of matters so referred.

(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.
Status: This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

Textual Amendments

F724 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) section 149 of the Equality Act 2010,
(b) Parts 3 and 6 of the Equality Act 2010,

are owed by any [f2local authority] or governing body which will be affected by the decision.

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 House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place there shall be inserted—


Marginal Citations

M51 1975 c. 24.

Parliamentary Commissioner

9 For the purposes of section 5 of the 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 [f727the [f728Department for Education]].
Status: This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

Textual Amendments

F727 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

F728 Words in Sch. 5 para. 9 substituted (18.8.2010) by The Secretary of State for Education Order 2010 (S.I. 2010/1836), art. 1(2), Sch. para. 2

Marginal Citations

M52 1967 c. 13.

Supervision of Council on Tribunals

10 (1) In section 7 of the 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.”

Marginal Citations

M53 1992 c. 53.

F729 SCHEDULE 6 Sections 28, 29 and 31.

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Textual Amendments

F729 Schs. 6-8 omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(13); S.I. 2013/1800, art. 3(j) (with art. 4)

F729 SCHEDULE 7 Section 34.
SCHEDULE 8

CHANGES OF CATEGORY OF SCHOOL

Permitted changes of category

Procedure for changing category of school

Mandatory publication of proposals for voluntary aided school to change category

Restrictions on changing category of school

Implementation of proposals

SCHEDULE 9

CONSTITUTION OF GOVERNING BODIES

Textual Amendments

SCHEDULE 10

INCORPORATION AND POWERS OF GOVERNING BODIES
SCHEDULE 11 – Membership and proceedings etc. of governing bodies

MEMBERSHIP AND PROCEEDINGS ETC. OF GOVERNING BODIES

SCHEDULE 12

INSTRUMENTS OF GOVERNMENT

SCHEDULE 13

CONTROL OF SCHOOL PREMISES BY GOVERNING BODIES

SCHEDULE 14

[REVISIION OF LOCAL AUTHORITY] SCHEMES]

Textual Amendments

F731 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)

[Publication of schemes]

Textual Amendments

F732 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)
Sch. 14 – Revision of local authority schemes

F733 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)

F734 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)

Revision of schemes

F735 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)

F736 Sch. 14 para. 2(4) 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(6); 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 \[^{local authority}'s\] 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 \[^{local authority}'s\] 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.

SCHEDULE 15

Suspension of financial delegation

Modifications etc. (not altering text)

C159 Sch. 15: power to modify conferred (1.4.2003 for E., 12.4.2010 for W.) by Education Act 2002 (c. 32), ss. 251(1)(b), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2010/707, art. 3(d)

C160 Sch. 15 modified (E.) (1.9.2012) by The School Governance (Federations) (England) Regulations 2012 (S.I. 2012/1035), regs. 1, 29, Sch. 8 (with reg. 2)

C161 Sch. 15: power to modify conferred (W.) (28.4.2014) by Education (Wales) Measure 2011 (nawm 7), ss. 18, 33(2); S.I. 2014/1066, art. 2

Suspension of financial delegation for mismanagement, etc.

1 (1) This paragraph applies where it appears to the \[^{local authority}'s\] that the governing body of a school which has a delegated budget—
(a) have been guilty of a substantial or persistent failure to comply with any delegation requirement or restriction, \[^{F737}\] ... 
(b) are not managing in a satisfactory manner the expenditure or appropriation of the sum referred to in section 50(1) \[^{F738}\] 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).

\[^{F739}\] (4) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(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.

\[^{F740}\] (6) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(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**

\[^{F2}\] 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))

\[^{F737}\] 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

\[^{F738}\] 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

\[^{F739}\] Sch. 15 para. 1(4) 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. 6(a), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d); S.I. 2010/736, art. 3(c)(d)

\[^{F740}\] Sch. 15 para. 1(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. 6(a), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d); S.I. 2010/736, art. 3(c)(d)
SCHEDULE 15 – Suspension of financial delegation

Review of suspension

2 (1) The [F2]local authority concerned—
   (a) shall review before the beginning of every [F741funding 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 [F742that 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 [F743funding 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 [F743funding 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.

[F744(5) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .]

Textual Amendments

F2 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))

F741 Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(2)(a) (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F742 Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(2)(b) (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F743 Words in Sch. 15 para. 2(3) substituted (1.11.2005 for E., 1.4.2010 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(3) (with s. 119); S.I. 2005/2034, art. 8; S.I. 2010/735, art. 2(e)

F744 Sch. 15 para. 2(5) 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. 6(b), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d); S.I. 2010/736, art. 3(c)(d)
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 [F2local 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.
SCHEDULE 17

STAFFING OF FOUNDATION, VOLUNTARY AIDED AND FOUNDATION SPECIAL SCHOOLS

Textual Amendments
F747 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.

SCHEDULE 18

APPEALS AGAINST EXCLUSION OF PUPILS

Textual Amendments
F748 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

SCHEDULE 19

REQUIRED PROVISION FOR RELIGIOUS EDUCATION

Modifications etc. (not altering text)
C163 Sch. 19: power to disapply conferred (temp.) (23.6.2020) by 2020 c. 7, Sch. 17 para. 7(5)(ca) (with ss. 88-90) (as inserted (W.) by The Curriculum Requirements (Amendment of paragraph 7(5) of Schedule 17 to the Coronavirus Act 2020) (Wales) Regulations 2020 (S.I. 2020/624), regs. 1(2), 2(a))

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 F749 section 80(1)(a) F750 of the Education Act 2002 to be included in the school’s basic curriculum.

(2) In this Schedule “agreed syllabus” has the meaning given by section 375(2) of F751 the Education Act 1996.

Textual Amendments
F749 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
Community schools and foundation and voluntary schools without a religious character

2 (1) This paragraph applies to—

(a) any community school [in England]; and

(b) any foundation or voluntary school [in England] 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 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 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 taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies).
Foundation and voluntary controlled schools with a religious character

3 (1) This paragraph applies to any foundation or voluntary controlled school [F754 in England] 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 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.
Voluntary aided schools with a religious character

4 (1) This paragraph applies to any voluntary aided school [F755 in England] 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 [F2 local 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 [F756 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 [F2 local 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.
SCHEDULE 20

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.

(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 [constituted under section 390 of the Education Act 1996] have determined (under section 394 of the 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.

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Textual Amendments

F757 Words in Sch. 20 para. 4(1) substituted (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(9)

Marginal Citations

M56 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 [F758 68A or] 69(4).

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Textual Amendments

F758 Words in Sch. 20 para. 5 inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), Sch. 2 para. 43
SCHEDULE 21

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 Education Act 1996.

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 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.

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 [F2 local 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 [M59 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 [F2 local 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.

Textual Amendments

F2 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))

Marginal Citations

M59 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 [F2local 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 [M60Education 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 [F2local 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.
Textual Amendments

F2 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))

Marginal Citations

M60 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 [F2 local 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 [F2 local 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—
   (a) made for the purposes of sub-paragraph (2) between the [F2 local 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.

Textual Amendments

F2 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))

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.

SCHEDULE 22

DISPOSALS OF LAND IN CASE OF CERTAIN SCHOOLS AND DISPOSALS ON DISCONTINUANCE

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),

paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,

(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 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).

(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.

Textual Amendments

F2 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))

F760 Words in Sch. 22 para. A1(1)(b) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 3; S.I. 2012/84, art. 3 (with art. 5)

A1A (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 A2 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 Secretary of State notice of their intention to dispose of the land.

(5) On receipt of the notice, the Secretary of State must—

(a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and

(b) notify the governing body of that decision.

(6) The governing body may not dispose of the land until they have been notified of the Secretary of State's decision.

(7) If the Secretary of State decides to make a direction in respect of the land, the governing body may not dispose of the land except in accordance with the direction.

A1A

(1) This paragraph applies where a governing body receives a notification under paragraph A1A(5)(b) that the Secretary of State has decided not to make a direction in respect of the land.

(4) The governing body must give the [local 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.

(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).

Textual Amendments
F2 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))
SCHEDULE 22 – Disposals of land in case of certain schools and disposals on discontinuance

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.

(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 notice of their intention to do so to the authority mentioned in sub-paragraph (1)(a).

[ In this paragraph “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

Textual Amendments

F763 Words in Sch. 22 para. A5(3) 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(14)(a)(i)

F764 Sch. 22 para. A5(4) inserted (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(14)(a)(ii)

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;
   - 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 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 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
(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.
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 A8 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 Secretary of State notice of its intention to dispose of the land.

(5) On receipt of the notice, the Secretary of State must—

(a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and

(b) notify the foundation body of that decision.

(6) The foundation body may not dispose of the land until it has been notified of the Secretary of State’s decision.

(7) If the Secretary of State decides to make a direction in respect of the land, the foundation body may not dispose of the land except in accordance with the direction.

This paragraph applies where a foundation body receives a notification under paragraph A7A(5)(b) that the Secretary of State has decided not to make a direction in respect of the land.

(4) The foundation body must give the 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
   (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 subparagraph (9).

(15) The “relevant requirements” in relation to a notice given under subparagraph (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 subparagraph (9).

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Textual Amendments

**F2** 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))

**F767** Sch. 22 para. A7(1) substituted for Sch. 22 para. A7(1)-(3) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 8; S.I. 2012/84, art. 3 (with art. 5)

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**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—
(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
   (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 notice of their intention to do so to the authority mentioned in sub-paragraph (1)(a).

[In this paragraph “local authority” includes a non-metropolitan district council for an area for which there is a county council.]

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**Textual Amendments**

**F768** Words in Sch. 22 para. A11(3) 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(14)(b)(i)

**F769** Sch. 22 para. A11(4) inserted (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(14)(b)(ii)

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**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.

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**Textual Amendments**

**F2** 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))

**F765** Words in Sch. 22 para. A7(1)(b) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 6; S.I. 2012/84, art. 3 (with art. 5)

**F766** Sch. 22 para. A7A inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 7; S.I. 2012/84, art. 3 (with art. 5)

**F767** Sch. 22 para. A7(1) substituted for Sch. 22 para. A7(1)-(3) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 8; S.I. 2012/84, art. 3 (with art. 5)

**F768** Words in Sch. 22 para. A11(3) 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(14)(b)(i)

**F769** Sch. 22 para. A11(4) inserted (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(14)(b)(ii)

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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;
   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,
   [F770 paragraph 15(3)(d) or 16(6)(d) of Schedule 1 to the Academies Act 2010,]

(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 [F2local 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—

(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 [F771] or Academies [F772] the preceding provisions of this paragraph and paragraphs [A13A 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.

Textual Amendments

F2 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))
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 A14 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, 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 Secretary of State notice of their intention to dispose of the land.

(7) On receipt of the notice, the Secretary of State must—

(a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and

(b) notify the trustees of that decision.

(8) The trustees may not dispose of the land until they have been notified of the Secretary of State's decision.

(9) If the Secretary of State decides to make a direction in respect of the land, the trustees may not dispose of the land except in accordance with the direction.]
(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)
(a) 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)—
   (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”.

Textual Amendments

F2 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))

F774 Sch. 22 para. A14(1) substituted for Sch. 22 para. A14(1)-(5) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 11; S.I. 2012/84, art. 3 (with art. 5)
matter to the adjudicator for a determination by him as to whether he approves the disposal.

(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.

(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 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 \[^{775}\] notice of their intention to do so to the authority mentioned in sub-paragraph (1) (a).

[In this paragraph “local authority” includes a non-metropolitan district council for an area for which there is a country council.]

Textual Amendments

\[^{775}\] Words in Sch. 22 para. A17(3) 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(14)(e)(i)

\[^{776}\] Sch. 22 para. A17(4) inserted (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(14)(c)(ii)

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.

Textual Amendments

\[^{F2}\] 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))

\[^{F770}\] Words in Sch. 22 para. A13(1)(d) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 9(2); S.I. 2012/84, art. 3 (with art. 5)

\[^{F771}\] Words in Sch. 22 para. A13(7) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 9(3)(a); S.I. 2012/84, art. 3 (with art. 5)

\[^{F772}\] Words in Sch. 22 para. A13(7) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 9(3)(b); S.I. 2012/84, art. 3 (with art. 5)

\[^{F773}\] Sch. 22 para. A13A inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 10; S.I. 2012/84, art. 3 (with art. 5)

\[^{F774}\] Sch. 22 para. A14(1) substituted for Sch. 22 para. A14(1)-(5) (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 11; S.I. 2012/84, art. 3 (with art. 5)

\[^{F775}\] Words in Sch. 22 para. A17(3) 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(14)(e)(i)
Duty to have regard to guidance etc

A19 [ In determining whether, and how, to give notice to the Secretary of State under paragraph A1A, A7A or A13A, a governing body, a foundation body or trustees must have regard to any guidance given from time to time by the Secretary of State.]

(1) A local 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 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 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 authority or the Secretary of State,

(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 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 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,

(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 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 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 [F2 local 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 [F2 local authority], or

(c) if different from that authority, the local authority [F778 (within the meaning of paragraph A5, A11 or A17 as the case may be)] 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.
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 authority].

(2) The “relevant local authority” means the local 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.

**Textual Amendments**

F2 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))

**Land required by local authority for certain purposes**

(1) A local 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 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 notice of their intention to make the application to—
   (a) the body or trustees holding the land, and
   (b) the Secretary of State.

(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 an application under sub-paragraph (1) or a notice under sub-paragraph (4), a local authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(6A) On receipt of a notice under sub-paragraph (4)(b), the Secretary of State must—
   (a) decide whether to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 (transfer to Academy) in respect of the land, and
   (b) notify the local authority of that decision.

(6B) If the Secretary of State decides to make a direction under paragraph 12 of Schedule 1 to the Academies Act 2010 in respect of the land, the local authority may not make an application under sub-paragraph (1) for a transfer order in relation to the land.

(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;
   (b) the land is otherwise required for the purposes of the exercise of any of the [education] functions of the authority;
   (c) the land is required for the provision of children’s services by or on behalf of the authority in the exercise of any of their relevant functions.

(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 15ZA(6) and (7) of the Education Act 1996, and are receiving services under
(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 [F2]local 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.

Notes:

[F786] section 15ZA of the Education Act 1996 or section [F787]... 86 or 87 of the Apprenticeships, Skills, Children and Learning Act 2009];

“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.

Textual Amendments

F2 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))

F779 Sch. 22 para. A23(4) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 13(2); S.I. 2012/84, art. 3 (with art. 5)

F780 Words in Sch. 22 para. A23(6) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 13(3); S.I. 2012/84, art. 3 (with art. 5)

F781 Sch. 22 para. A23(6A)(6B) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 13(4); S.I. 2012/84, art. 3 (with art. 5)

F782 Words in Sch. 22 para. A23(8) inserted (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(14) (e)(i)

F783 Words in Sch. 22 para. A23(8) 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(14) (e)(ii)

F784 Words in Sch. 22 Pt. A1 para. A23(9) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 70(a); S.I. 2014/889, art. 7(a)
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—
   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 [F2local 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.

Textual Amendments

F2 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))

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;
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 [F2local 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.

Textual Amendments

F2 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))

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,

(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,
SCHEDULE 22 – Disposals of land in case of certain schools and disposals on discontinuance

This version of this Act contains provisions that are prospective.

Changes to legislation:
School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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)

View outstanding changes

(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 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
   (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.

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**Textual Amendments**

F2 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))

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**Textual Amendments**

F2 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))

F779 Sch. 22 para. A23(4) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 13(2); S.I. 2012/84, art. 3 (with art. 5)

F780 Words in Sch. 22 para. A23(6) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 13(3); S.I. 2012/84, art. 3 (with art. 5)

F781 Sch. 22 para. A23(6A)(6B) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 13(4); S.I. 2012/84, art. 3 (with art. 5)

F782 Words in Sch. 22 para. A23(8) inserted (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(14)(e)(i)

F783 Words in Sch. 22 para. A23(8) 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(14)(e)(ii)

F784 Words in Sch. 22 Pt. A1 para. A23(9) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 70(a); S.I. 2014/889, art. 7(a)

F785 Words in Sch. 22 para. A23(9) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), Sch. 1 para. 37(a) (with art. 2(3))
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).

(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 [F788 IN WALES]: DISPOSALS OF LAND

Disposal of land by governing body of foundation, voluntary or foundation special school

1  (1) [F789 Subject to sub-paragraph (1A),] this paragraph applies to any disposal by the governing body of a foundation [F789 or voluntary] school [F790 in Wales] of—

   (a) any land acquired under a transfer under section 201(1)(a) of the Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 [F792 (including that provision as applied by any enactment)] or paragraph 5(4)(c) [F793 or 5(4B)(d)] of this Schedule or under any regulations made under paragraph 5 of Schedule 8;

   (aa) any land acquired under paragraph 7 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under that paragraph as applied by section 76(1) of that Act or under Part 3 of Schedule 4 to that Act;

   (b) any land acquired from a foundation body;

   (c) 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 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 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).

[F797](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 established otherwise than under this Act.

(2) The governing body shall not make any disposal to which this paragraph applies without the written consent of the Assembly.

(3) Where the governing body apply to the Assembly for its consent to any such disposal and the Assembly decides to give that consent, 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 the Assembly may specify, subject to the payment by that authority of such sum by way of consideration (if any) as 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 the Assembly or to such local authority as 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.
Disposal of land by foundation body

2. (1) This paragraph applies to any disposal by a foundation body \[F^{886}\] in Wales of—
   (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 \[F^{887}\] (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 \[F^{888}\] …;
   \[F^{889}\]
   (aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under either of those
paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act;]
(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 [F810 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 [F2 local 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).

[F811(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 [F2 local authority] in Wales.]

(2) The foundation body shall not make any such disposal without the written consent of the [F812 Assembly].

(3) Where the foundation body apply to the [F813 Assembly] for [F814 its] consent to any such disposal [F815 and [F816 the Assembly] decides to give that consent], [F816 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 [F816 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.

(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

F2 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))

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))
Disposal of land by trustees of foundation school

2A

(1) This paragraph applies to any disposal by the trustees of a foundation school 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;

(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) [F821(aa)], 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 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) \[F824\] or (aa), 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) \[F825\] or (aa).

(3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the \[F826\] Assembly.

(4) Where the trustees apply to the \[F827\] Assembly for \[F828\] its consent to any such disposal and \[F829\] the Assembly decides to give that consent, \[F829\] 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 \[F829\] the Assembly may specify, subject to the payment by that authority of such sum by way of consideration (if any) as \[F829\] 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 \[F829\] 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 \[F830\] ... school \[F831\] 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.

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**Textual Amendments**

F819 Words in Sch. 22 para. 2A(1) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(i); S.I. 2013/1800, art. 3(j)

F820 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))

F821 Sch. 22 para. 2A(1)(aa) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(iii); S.I. 2013/1800, art. 3(j)

F822 Words in Sch. 22 para. 2A(1)(b) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(iii); S.I. 2013/1800, art. 3(j)

F823 Words in Sch. 22 para. 2A(1)(c) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(iv); S.I. 2013/1800, art. 3(j)

F824 Words in Sch. 22 para. 2A(2)(a)(ii) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(v); S.I. 2013/1800, art. 3(j)

F825 Words in Sch. 22 para. 2A(2)(b) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(c)(vi); S.I. 2013/1800, art. 3(j)
Disposal of land by trustees of foundation [F832] or voluntary school

Textual Amendments

F832 Words in Sch. 22 para. 3 heading substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(d)(viii); S.I. 2013/1800, art. 3(j)

3 (1) [F833] Subject to sub-paragraph (2A), this paragraph applies to any disposal by the trustees of a foundation [F834] or voluntary [F835] school [F836] in Wales of—

(a) any land acquired under section 60, 61 or 70 of the 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) [F837], under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8 [F838] ...;

[F838] (aa) any land acquired under paragraph 7 or 11 of Schedule 3 to the School Standards and Organisation (Wales) Act 2013, under those paragraphs as applied by section 76(1) or (3) of that Act or under Part 3 of Schedule 4 to that Act;

(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 [F2] local 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 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;

(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 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 F840 ... (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 Education Act 1996).

(2) If a voluntary aided school in Wales was, immediately before the appointed day, a controlled school within the meaning of the 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.

(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), (aa), (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the local authority that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Assembly.

(4) In making any determination under sub-paragraph (3), the trustees and the authority, or the 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 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 Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act or under paragraph 7(6) of Schedule 3 to the School Standards and Organisation (Wales) Act 2013.

(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 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 Education Act 1996).
(8) Where paragraph ... (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the [local 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 or voluntary school, or
      (ii) of any other proposed voluntary school, whether or not proposals have yet been published under any enactment in respect of that proposed school.

(9) Where it appears to the [Assembly] that the trustees have not given a suitable undertaking under sub-paragraph (8), the [Assembly] may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as the Assembly determines to be just.

(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 authority] by whom the school is maintained, unless the governing body and the authority otherwise agree.

(12) Where the trustees of a foundation or voluntary school 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.
This paragraph applies where, on an application made by a [local authority] in Wales, the [Assembly] is satisfied—

(a) that any relevant land—
(i) held, or held on trust, for the purposes of a foundation or voluntary 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 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 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 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 sub-paragraph (1)(a) under a transfer under section 201(1)(a) of the Education Act 1996.

Textual Amendments

F856 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))
F857 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))
F858 Words in Sch. 22 para. 4(1)(a)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(e); S.I. 2013/1800, art. 3(j)
F859 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))
F860 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))

Marginal Citations
M71 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—

[F861(a)] proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted [F862, confirmed] or determined to be implemented under any enactment, or

(b) the [F863(appropriate authority)] has given a direction—
(i) under section 16 of the School Standards and Organisation (Wales) Act 2013 requiring a foundation or voluntary school in Wales to be discontinued,

(ii) 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

(iii) under section 17(1) of that Act requiring a foundation special school in England to be discontinued.

But this paragraph does not apply where proposals mentioned in sub-paragraph (1)

(a) have been approved, adopted, confirmed or determined to be implemented in consequence of an Academy order made in respect of the school.

(2) The governing body of the school shall apply to the 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.

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 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

(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.

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 [F873 appropriate authority] may do one or more of the following, namely—

[F874(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;

[F875(aa)] in the case of a school in England, make a direction in respect of the land under paragraph 11 of Schedule 1 to the Academies Act 2010 (transfer to Academy);

(b) direct the governing body or the foundation body, as the case may be, to pay, either to [F876 the appropriate authority] or to such local authority as [F876 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 [F877 any enactment] to establish, or to make a prescribed alteration [F878 or regulated 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 [F879 the appropriate authority] may specify.

[F880(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.

[F881(4A)] Where the school [is in Wales and] is a foundation [F883 ... school which has a foundation, the trustees of the school shall apply to the [F884 appropriate authority for it to exercise its] powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), [F886(aa),] (b) or (c) which is held by the trustees for the purposes of the school.

(4B) On an application under sub-paragraph [F886(4ZA) or] (4A), the [F887 appropriate authority] may do one or more of the following, namely—

[F888(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;

[F889(aa)] in the case of a school in England, make a direction in respect of the land under paragraph 11 of Schedule 1 to the Academies Act 2010 (transfer to Academy);

(b) where the trustees have power to use the land [F889]—
(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...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 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 (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 or regulated 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 the appropriate authority may specify, or
   (ii) to the trustees, foundation body or temporary governing body of such new school as the appropriate authority may specify.

(5) Where the governing body, foundation body or trustees fail to make an application as required by sub-paragraph (2), (3), (4ZA) or (4A), as the case may be, the appropriate authority may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph (4) or (4B), as the case may be.

(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 or Academies,
paragraph A13 shall apply to them.

(6) Where the school is in Wales and the trustees of the school—
   (a) dispose of any land falling within paragraph 3(1) or (2) but not within paragraph 2A(1)(a), 2A(5)(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.

(7) In this paragraph “local authority” includes a non-metropolitan district council for an area for which there is a county council.
SCHEDULE 22 – Disposals of land in case of certain schools and disposals on discontinuance

School Standards and Framework Act 1998 (c. 31)

F863 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)

F864 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)

F865 Words in Sch. 22 para. 5(1)(b)(i) substituted (W.) (20.2.2014) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 4(9); S.I. 2014/178, art. 2(f) (with art. 3)

F866 Words in Sch. 22 para. 5(1)(b)(i) substituted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(f)(ii); S.I. 2013/1800, art. 3(j)

F867 Sch. 22 para. 5(1)(b)(ii) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(f)(ii); S.I. 2013/1800, art. 3(j)

F868 Sch. 22 para. 5(1A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 14(2); S.I. 2012/84, art. 3 (with art. 5)

F869 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)

F870 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)

F871 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)

F872 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)

F873 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)

F874 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)

F875 Sch. 22 para. 5(4)(aa) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 14(3); S.I. 2012/84, art. 3 (with art. 5)

F876 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)

F877 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

F878 Words in Sch. 22 para. 5(4)(c) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(f)(iii); S.I. 2013/1800, art. 3(j)

F879 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)

F880 Sch. 22 para. 5(4A)(4B) 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)

F881 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)

F882 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)

F883 Words in Sch. 22 para. 5(4A) omitted (W.) (1.10.2013) by virtue of School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(f)(iv); S.I. 2013/1800, art. 3(j)

F884 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)

F885 Word in Sch. 22 para. 5(4A) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(f)(iv); S.I. 2013/1800, art. 3(j)

F886 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)

F887 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)

F888 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)
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 consent of the appropriate authority’s] to serve a notice under section 30(1) of the School Standards and Organisation (Wales) Act 2013.

(2) If the appropriate authority[ gives such consent, 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 thinks just—

(a) in respect of the repayment of all or part of any expenditure incurred by the appropriate authority as mentioned in section 30(2) of the School Standards and Organisation (Wales) Act 2013;
(b) in respect of the transfer to the \[^{f2}\]local authority\[^{f3}\] of any premises used for the purposes of the school which \[^{f913}\]the \[^{f3}\]local authority\[^{f1}\] will need for any purpose connected with education;
(c) (where any premises are to be so transferred) in respect of the payment by \[^{f913}\]the \[^{f2}\]local authority\[^{f2}\] 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 \[^{f913}\]the \[^{f2}\]local authority\[^{f2}\] 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 \[^{f2}\]local authority\[^{f1}\] or an authority within section 30(2)(d).

\[^{f914}\](3A) Where the school is in England and the trustees of the school—
(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 \[^{f915}\]the school is in Wales and\[^{f1}\] 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

\[^{f2}\]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))

\[^{f907}\]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)

\[^{f908}\]Words in Sch. 22 para. 6(1) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(g)(i); S.I. 2013/1800, art. 3(j)

\[^{f909}\]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)

\[^{f910}\]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)

\[^{f911}\]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)

\[^{f912}\]Words in Sch. 22 para. 6(2)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(g)(ii); S.I. 2013/1800, art. 3(j)

\[^{f913}\]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)

\[^{f914}\]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)
Disposal of property held by governing body of maintained school on their dissolution

(1) This paragraph applies in connection with the dissolution of the governing body of a maintained school by virtue of paragraph 5 of Schedule 1 to the Education Act 2002 other than a dissolution by virtue of paragraph 5(2)(a)(iv) of that Schedule (dissolution following Academy order).

(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 authority,
   (ii) one or more of the persons or bodies mentioned in sub-paragraph (2A),

if the appropriate authority so directs before the date of dissolution.

(2A) The persons and bodies are—
   (a) the governing body of a maintained school;
   (b) the temporary governing body of a new school;
   (c) in the case of the dissolution of a governing body of a maintained school in England, a person concerned with the running of an Academy.

(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),
   (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 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 [F922]appropriate authority] thinks proper.

Textual Amendments

F2 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))

F916 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.

F917 Words in Sch. 22 para. 7(1) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 15(2); S.I. 2012/84, art. 3 (with art. 5)

F918 Words in Sch. 22 para. 7(2)(ii) substituted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 15(3); S.I. 2012/84, art. 3 (with art. 5)

F919 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)

F920 Sch. 22 para. 7(2A) inserted (1.2.2012) by Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 15(4); S.I. 2012/84, art. 3 (with art. 5)

F921 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)

F922 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) [F923]or section 80(11) of the School Standards and Organisation (Wales) Act 2013 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) [F924]or section 80(2) of the School Standards and Organisation (Wales) Act 2013, the [F925]appropriate authority] may impose any requirements that [F926]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 [F927]the appropriate authority];

(b) in respect of the transfer by the trustees to the [F2]local authority] of the whole or part of the relevant premises where [F928]the appropriate authority] is satisfied [F929]the [F2]local authority]] will need them for any purpose connected with education;

(c) (to the extent that the relevant premises are to be so transferred) in respect of the payment by [F928]the [F2]local 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 [F928]the [F2]local 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 [F2]local authority] or an authority within section 30(2)(d).

### Textual Amendments

**F2** 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(4) (with Sch. 2 para. 10(4))

**F923** Words in Sch. 22 para. 8(1)(a) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(h)(i); S.I. 2013/1800, art. 3(j)

**F924** Words in Sch. 22 para. 8(2) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(h)(ii); S.I. 2013/1800, art. 3(j)

**F925** 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)

**F926** 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)

**F927** 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)

**F928** 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)

### [F929]PART 2A

**MAINTAINED SCHOOL: TRANSFER OF LAND FROM TRUSTEE TO GOVERNING BODY**

### Textual Amendments

**F929** 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 [F38]removed under section 34 of the Charities Act 2011 from the register of charities kept under section 29 of that Act, 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.
(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 [F2] local 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—

  “foundation” means a foundation established otherwise than under this Act.

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### Textual Amendments

**F2** 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))

**F930** Words in Sch. 22 para. 8A(2)(c) substituted (14.3.2012) by Charities Act 2011 (c. 25), s. 355, Sch. 7 para. 79 (with s. 20(2), Sch. 8)

**F931** Words in Sch. 22 para. 8A(6) omitted (14.3.2012 immediately before the Charities Act 2011 (c. 25) comes into force) by virtue of The Charities (Pre-consolidation Amendments) Order 2011 (S.I. 2011/1396), art. 1, Sch. paras. 40(1)(2)(d)

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### PART III

#### GENERAL

9 (1) Where a transfer under paragraph [F932] A5, A11, A17, A23,] 1(3)(a), 2(3)(a), 4(2), 5(4)(a) or (c), 6(2)(b) [F933], 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 [F934] Land Registration Act 2002],
(b) to deliver any such certificate under [F935] that Act], and
(c) to do such other things under [F935] 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 M72 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
F932 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)
F933 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)
F934 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)
F935 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
M72 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 M73 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).
[e936(c) “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.]
[e937(f) “regulated alteration” has the same meaning as in Chapter 2 of Part 3 of the School Standards and Organisation (Wales) Act 2013.]

(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 [e938 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 Education Act 1996.

(4) In paragraphs 1(1), 13(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 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 Education Act 1996.

(5) In paragraphs 1(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

| F936 | Sch. 22 para. 10(1)(c) 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) |
| F937 | Sch. 22 para. 10(1)(f) inserted (W.) (1.10.2013) by School Standards and Organisation (Wales) Act 2013 (anaw 1), s. 100(4), Sch. 5 para. 19(14)(i); S.I. 2013/1800, art. 3(j) |
| F938 | 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) |
| F939 | 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) |
| F940 | 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

M73 1954 c. 56.
M74 1996 c. 56.
M75 1996 c. 56.

| F941 | PART IV |

DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE [2]LOCAL AUTHORITY|

Textual Amendments

| F941 | 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) |
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 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.

(2) This paragraph applies to any disposal by the local 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 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 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—

(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.

(4A) 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 adjudicator, as the case may be, shall have regard in particular 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.

(5A) 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 \[^{F2}\] local 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 \[^{F2}\] local 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.

(6) If the \[^{F2}\] local 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.

\[^{F949}\] The Secretary of State may—

(7) 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**

*F942* 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)

*F943* 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)

*F944* 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)

*F945* Sch. 22 para. 11(4)(A)(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)

*F946* 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)

*F947* 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)

*F948* 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)

*F949* 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)
(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 [F2local 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.
SCHEDULE 25

CHILDREN TO WHOM SECTION 87 APPLIES: APPEALS BY GOVERNING BODIES 12.10.01

Textual Amendments

F953 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))

SCHEDULE 26

INSPECTION OF NURSERY EDUCATION [F954 IN WALES]

Textual Amendments

F954 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—

F955 (za) nursery education provided in a maintained school [F956 in Wales] or a maintained nursery school [F956 in Wales];

(a) nursery education [F957 not falling within paragraph (za)] which is provided by a [F2 local authority][F958 in Wales];

F959 (b) nursery education which is provided by any other person under arrangements made with that person by a [F2 local authority][F960 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.

F961 (c) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(2) In this Schedule “nursery education under consideration for funding” means nursery education provided by a person [F962 to whom a [F2 local authority][F963 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),[F964 with whom a [F2 local authority][F963 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.]

F964 (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 authority 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.]

### Textual Amendments

<table>
<thead>
<tr>
<th>Amendment</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>F2</strong></td>
<td>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))</td>
</tr>
<tr>
<td><strong>F955</strong></td>
<td>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</td>
</tr>
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<td>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)</td>
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<td>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)</td>
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<tr>
<td><strong>F959</strong></td>
<td>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</td>
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<tr>
<td><strong>F960</strong></td>
<td>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)</td>
</tr>
<tr>
<td><strong>F961</strong></td>
<td>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</td>
</tr>
<tr>
<td><strong>F962</strong></td>
<td>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</td>
</tr>
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<td><strong>F964</strong></td>
<td>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</td>
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<tr>
<td><strong>F965</strong></td>
<td>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)</td>
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(1) In this Schedule—

(a) ......................................................

(b) “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales, and

(c) “the Chief Inspector” (without more) means the Chief Inspector for Wales.]
(4) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(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

F966 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
F967 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)
F968 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)
F969 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
F970 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
F971 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
F972 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

(1) The Chief Inspector has the general duty of keeping the Assembly informed about—

(a) the quality and standards of relevant nursery education,

(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,

(ad) the development of children for whom relevant nursery education is provided, by reference to the four purposes of a curriculum for those children, and

(b) the spiritual, moral, social and cultural development of children for whom relevant nursery education is provided.

(2) In sub-paragraph (1), the four purposes of a curriculum for the children mentioned in paragraph (ad) are those set out in section 2(1) of the Curriculum and Assessment (Wales) Act 2021.

Textual Amendments

F973 Sch. 26 para. 3 renumbered as Sch. 26 para. 3(1) (1.9.2022 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), Sch. 2 para. 4(10)(a)
When asked to do so by the Assembly, the Chief Inspector shall give advice to the Assembly on such matters relating to relevant nursery education as may be specified in the Assembly's request.

The Chief Inspector may at any time give advice to 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.

Inspections in England
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.

(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.

7 A person conducting an inspection under paragraph 6B shall report on—
   (a) the quality and standards of the nursery education provided,
   (b) how far that nursery education meets the needs of the range of children for whom the education is provided,
   (c) the quality of leadership and management in connection with the provision of the nursery education,
   (d) the contribution made by that nursery education to the well-being of those children, and
(e) 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

[F985](#) 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 [F986] for Wales

[F986](#) 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) [F987] 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 [F989] for Wales—

(a) shall give guidance to registered [F990] Welsh nursery education inspectors and such other persons as he considers appropriate in connection with inspections under paragraph [F991] 6B and the making of reports of such inspections, and

(b) shall keep under review the system of inspections under paragraph [F991] 6B and, in particular, the standard of such inspections and of the reports made of them.

(3) The Chief Inspector [F989] for Wales shall not register a person under this paragraph unless, having regard to any conditions that he proposes to impose under sub-paragraph [F992] (5B), it appears to him that the person—

(a) is a fit and proper person for discharging the functions of a registered [F993] Welsh nursery education inspector, and

(b) will be capable of conducting inspections under paragraph [F994] 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.

[F995](4) Subject to that, the Chief Inspector [F989] for Wales shall register such persons as he considers appropriate.

(5) The factors which the Chief Inspector [F989] 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 ... Wales.

(5A) The Chief Inspector [F996] 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 considers it appropriate to impose.

(6) Conditions imposed under sub-paragraph (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 (5B), he shall be taken to be authorised to act as a 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 and shall be entered in the register kept by him.

Textual Amendments

F987 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

F988 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.

F989 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

F990 Words 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

F991 Words 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

F992 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

F993 Words 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

F994 Words 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

F995 Sch. 26 para. 8(4)-(5B) substituted (2.9.2002 for E., 1.9.2004 for W.) 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

F996 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

F997 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

F998 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

F999 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.
The Chief Inspector [F1006] that it would otherwise be in the public interest for him to do so. If the Chief Inspector [F1007], he has, without reasonable explanation, produced a report of an inspection that he is authorised by sub-paragraph (1) to remove the name of the inspector from his register, or vary the registration of an inspector by imposing a condition subject to which it will have effect, if he is

registered in his register, he may remove the name of that inspector from that register. In sub-paragraph (2) is satisfied with respect to a nursery education inspector under paragraph 8(5B) subject to which his registration has effect, or vary the registration of an inspector by imposing a condition subject to which it will have effect, if he is no longer a fit and proper person for discharging the functions of a registered [F1008] nursery education inspector under paragraph 8(5B)

which is, in whole or in part, seriously misleading. The Chief Inspector [F1005] 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 paragraph 8(5B) include a condition imposed under sub-paragraph (3).

Textual Amendments

[F1000]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

[F1001]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

[F1002]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

[F1003]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

[F1004]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

[F1005]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

[F1006]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

[F1007]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

Status: This version of this Act contains provisions that are prospective. Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes
10 (1) Any person who is aggrieved by—
   (a) the refusal of the Chief Inspector [F1008 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.

[F1009](1A) .................................................................

   [ An appeal under sub-paragraph (1) shall be made to a tribunal with the same
   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.]

(2) 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 [F1011 for Wales]—
    (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 [F1011 for Wales] with directions as to the
        action to be taken by him.

Textual Amendments

F1008 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
F1009 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
F1010 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
F1011 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
304
School Standards and Framework Act 1998 (c. 31)
SCHEDULE 26 – Inspection of nursery education in Wales
Document Generated: 2023-09-06

Status: This version of this Act contains provisions that are prospective.

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Modifications etc. (not altering text)

[F1012 Training of registered Welsh nursery education inspectors]}

Textual Amendments
F1012 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 [F1013 Welsh] nursery education inspector shall not conduct an inspection under paragraph 6 unless he has, in the opinion of the Chief Inspector [F1014 for Wales], satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector [F1014 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 [F1015 for Wales].

(3) Where the Chief Inspector [F1016 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.

Textual Amendments
F1013 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
F1014 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
F1015 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
F1016 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)

Impartiality
12 A person shall not undertake an inspection under paragraph [F1017] 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
F1017 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

Reports of inspections: England

Textual Amendments
F1019 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.

(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

(1) 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.
School Standards and Framework Act 1998 (c. 31)

SCHEDULE 26 – Inspection of nursery education in Wales

Status: This version of this Act contains provisions that are prospective.
Changes to legislation:
School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

Reserve powers of the Chief Inspector

15

16 If the Chief Inspector elects in the case of an inspection within paragraph (b) or (c) of sub-paragraph (1) of paragraph 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.

Rights of entry

18 (1) 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) [F1028 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) [F1028 It shall be an offence—
   (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
F1026 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
F1027 Sch. 26 para. 18(1)(a) repealed (1.9.2008) by Childcare Act 2006 (c. 21), Sch. 2 para. 36(11)(g), Sch. 3 Pt. 2; S.I. 2008/2261, art. 2 (with Sch. 1)
F1028 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
F1029 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)
“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.

(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.
309

(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 Interpretation Act 1978).”]

Marginal Citations
M77  1978 c. 30.
Decisions of Chief Inspector having immediate effect

Textual Amendments

F1031 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), 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

Textual Amendments

F1031 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Replacement of inspectors

Textual Amendments

F1031 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

F1032 PART II

Textual Amendments

F1032 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

AMENDMENTS RELATING TO FUNCTIONS OF EDUCATION TRANSFER COUNCIL

Introductory

In this Schedule “the 1988 Act” means the Education Reform Act 1988.
General provisions as to transfers

(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—

(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, 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 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.

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 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 transferrer 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 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.”

Resolution of disputes

For paragraph 3 of Schedule 10 to the 1988 Act substitute—

“Resolution of disputes

(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

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 ”.

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

MINOR AND CONSEQUENTIAL AMENDMENTS

Children and Young Persons Act 1933 (c.12)

1 In section 1(7) of the 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

M79 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),”.

Textual Amendments
F1033Sch. 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.

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
123 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)

Textual Amendments

F1034 Sch. 30 para. 5 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), Sch. 2 (see S.I. 2010/2317, art. 2))

Race Relations Act 1976 (c.74)

Textual Amendments

F1035 Sch. 30 para. 6 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), Sch. 2 (see S.I. 2010/2317, art. 2))

National Health Service Act 1977 (c.49)

Textual Amendments

F1036 Sch. 30 para. 7 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), Sch. 2 (see S.I. 2010/2317, art. 2))

Representation of the People Act 1983 (c.2)

The Representation of the People Act 1983 shall be amended as follows.

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”.

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)

Textual Amendments

F1038 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)

Textual Amendments

F1039 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;”.

Education Reform Act 1988 (c.40)

16 The Education Reform Act 1988 shall be amended as follows.

Textual Amendments

F1040 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 Education Act 1996;

   “maintained” has the same meaning as in the School Standards and Framework Act 1998; and”.

Marginal Citations

M80 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. ”

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)

Textual Amendments

F1041 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

F1041
Textual Amendments
F1041 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

F1041 26  ......................................................

Textual Amendments
F1041 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

F1041 27  ......................................................

Textual Amendments
F1041 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

F1041 28  ......................................................

Textual Amendments
F1041 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

F1042 ...  ......................................................

Textual Amendments
F1042 Sch. 30 para. 29 32 and cross-heading repealed (29.6.2021) by Diocesan Boards of Education Measure 2021 (No. 1), ss. 21(3)(b), 24(3) (with s. 23(8), Sch. 2 para. 6)

F1042 29  ......................................................

F1042 30  ......................................................

F1042 31  ......................................................

F1042 32  ......................................................

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 ”.
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 ”.

For section 25 substitute—

“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.”

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.”

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.”

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 ”.

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### Textual Amendments


F1045 Sch. 30 para. 44 repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. I (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 2 (with Sch.)
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 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

   (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.”
Textual Amendments

F1049 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)

Marginal Citations

M82 1996 c. 56.
M83 1996 c. 56.

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);”.

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 words from “a county” to “Education Act 1996” substitute “a community, foundation or voluntary school within the meaning of the 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).

Commencement Information

I25 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,”.
School Standards and Framework Act 1998 (c. 31)
SCHEDULE 30 – Minor and consequential amendments

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>54</td>
<td>Textual Amendments Sch. 30 para. 54 repealed (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(b), Sch. 19 Pt. 3</td>
</tr>
<tr>
<td>55</td>
<td>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”</td>
</tr>
<tr>
<td>56</td>
<td>Textual Amendments 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</td>
</tr>
<tr>
<td>57</td>
<td>The Education Act 1996 shall be amended as follows.</td>
</tr>
<tr>
<td>58</td>
<td>In section 1(2) (the stages of education), omit paragraph (b) and the “and” preceding it.</td>
</tr>
<tr>
<td>59</td>
<td>Textual Amendments 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</td>
</tr>
<tr>
<td>60</td>
<td>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.”</td>
</tr>
<tr>
<td>61</td>
<td>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.”</td>
</tr>
<tr>
<td>62</td>
<td>In section 14 (functions of local authorities in respect of provision of primary and secondary schools), omit subsection (5).</td>
</tr>
</tbody>
</table>
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.”

Omit sections 20 to 28 (the funding authorities).

In section 29 (provision of information by local authorities)—

(a) omit subsection (2), and

(b) in subsection (3), omit the words “and the funding authority”.

Omit section 30 (provision of information by funding authorities).
69 Part II (schools maintained by [local authorities]) shall be omitted.

Textual Amendments

**F5** 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(3) (with Sch. 2 para. 10(4))

Commencement Information

| 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

| 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.”

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 [F2 local authority] in relation to pupils with special educational needs) shall be amended as follows.

F1055 (2) ...................................................

F1055 (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”, F1056...

(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
F2 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))

F1055 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

F1056 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”.

F1057(4) . . . . . . . . . . . . . . . . . . . . . . . . . . .

Textual Amendments
F1057 Sch. 30 para. 75(4) omitted (1.9.2014) by virtue of Children and Families Act 2014 (c. 6), s. 139(6), Sch. 3 para. 16(4)(a); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))

Commencement Information
129 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. 1; 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).
76 In section 321(3) (general duty of \[^{F2}\text{local authority}\] 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;.”

Textual Amendments
F2 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))

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
I30 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 \[^{F2}\text{local authority}\] to certain schools), for subsection (b) substitute—
“(b) in pursuance of the statement education is provided for the child at a school maintained by another local education authority.”

Textual Amendments
F2 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))

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

131 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
   (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**

I32 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.”

**Textual Amendments**

F1058 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
Textual Amendments

F1058 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

Omit sections 370 to 374 (functions of local authority etc. in relation to curriculum).

Textual Amendments

F2 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))

Commencement Information

I33 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. 1; 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).

Omit sections 376 to 389 (religious education and worship).

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).”

(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 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).

In section 392 (advisory councils: supplementary provisions), omit subsection (4).
Omit section 393 (duty to constitute new standing advisory council).

(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.”;
   (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)”.

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”.

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”.

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”.

In section 402(6) (obligation to enter pupils for public examinations), for “a maintained special school” substitute “a community or foundation special school”.

In section 403(2) (sex education: manner of provision), for “a maintained special school” substitute “a community or foundation special school”.

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
   (b) omit subsection (3).

**Commencement Information**

134 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”.
In section 407(2) (duty to secure balanced treatment of political issues), for “a maintained special school” substitute “a community or foundation special school”.

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”.

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.”

For the cross-heading “SCHOOL ADMISSIONS” preceding section 411 substitute—“ADMISSION, REGISTRATION AND WITHDRAWAL OF PUPILS.”

Omit sections 411 to 432 (admission of pupils: general).

Omit section 433(4) (time for admission of pupils: admission for nursery education).

In section 434(4)(c) (registration of pupils: returns)—

(a) at the end of sub-paragraph (i) insert “and”;
(b) omit sub-paragraph (ii).

Omit section 436 (effect of admission for nursery education).

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—
In section 438 (choice of school: child without statement of special educational needs)—

(a) for subsection (4)(a) substitute—

“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

137 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.

(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”; and

(c) in subsection (4)(a), omit “and is not a grant-maintained school”.

**Commencement Information**

138 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 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”.
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”.

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.

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. ”

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, “.

In section 490(1) (grants in respect of special provision for ethnic minorities), omit
paragraph (a).

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.

(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

139 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. 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).

Textual Amendments

F1059 Sch. 30 para. 133 repealed (W.) (1.9.2009) by Learner Travel (Wales) Measure 2008 (nawm 2), s. 28(2), Sch. 2; S.I. 2009/371, art. 2(2), Sch. Pt. 2

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 [2]local authority] of goods and services to grant-maintained schools).

Textual Amendments
F2 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))

PROSPECTIVE

138 Omit section 517 (payment of fees at schools not maintained by a [2]local authority]).

Textual Amendments
F2 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—
   (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

140 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”.

### Textual Amendments

F1060 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)(d); S.I. 2006/885, art. 2(3)(b)

145 In section 529 (power to accept gifts on trust for educational purposes)—

(a) .........................

(b) in subsection (3) for “a county school” substitute “a community school”.

F1061 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

(b) .........................

F1062 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.

(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.”

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).
(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 Education Act 1997, omit “(b) a grant-maintained or grant-maintained special school;”.

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).

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 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 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.”

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**Marginal Citations**

M85 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”;

(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”.

171 In section 559 (power of local authorities to prohibit or restrict employment of children)—

(a) in subsection (1), for “county” substitute “community, foundation”;

(b) in subsection (2), for “county” substitute “community, foundation”.

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**Textual Amendments**

F5 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(3) (with Sch. 2 para. 10(4))

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
class 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”.

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
authorities”,
(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)”.

Commencement Information

143 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. 1; 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.
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

(b) ........................................

F1063

(3) In paragraph 8(1)(a), for “a maintained, grant-maintained or grant-maintained special school” substitute “ a maintained school ”.

Textual Amendments

F1063 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

(g) Schedule 40 (transitory provisions).

Commencement Information

144  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 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

F1063

(b) ........................................

187  Schedule 28 (government and conduct of grant-maintained special schools) shall be omitted.

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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

(g) Schedule 40 (transitory provisions).
(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(c)
(e) 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)

Textual Amendments

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)
Textual Amendments
F1064 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)

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The Education Act 1997 shall be amended as follows.

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
146 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).

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 “(except” to “school)”;
and
(b) in subsection (2)(a), omit the words “(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 29(3) (functions of Qualifications, Curriculum and Assessment Authority for Wales), for the words from “receiving nursery” onwards substitute “under compulsory school age.”

215 In section 42 (miscellaneous amendments relating to school inspections), omit the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.

216 In section 43(2) (provision of careers education)—
(a) for paragraph (a) substitute—
“(a) community, foundation and voluntary schools;”;
(b) omit paragraph (b); and
(c) for paragraph (c) substitute—
“(c) community or foundation special schools (other than those established in hospitals);”.

217 Omit section 50 (recoupment by local authority) of costs of teachers’ premature retirement.

218 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

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 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

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 ..................................................
SCHEDULE 31

REPEALS

Extent Information

E10 Sch. 31: the entry relating to the Education (Scotland) Act 1998 extends to Scotland only see s. 145(9).

Commencement Information

149 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).

<table>
<thead>
<tr>
<th>Chapter or number</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958 c. 51.</td>
<td>Public Records Act 1958.</td>
<td>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.</td>
</tr>
<tr>
<td>1972 c. 11.</td>
<td>Superannuation Act 1972.</td>
<td>In Schedule 1, the entries relating to the Funding Agency for Schools and the Schools Funding Council for Wales.</td>
</tr>
</tbody>
</table>
| 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),”.
| 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”.

Status: This version of this Act contains provisions that are prospective.
<table>
<thead>
<tr>
<th>Year</th>
<th>Act</th>
<th>Section/Paragraph</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>Sex Discrimination Act 1975</td>
<td>22, 3A</td>
<td>In sections 22, in the Table, paragraph 3A.</td>
</tr>
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<td>23C</td>
<td>Section 23C.</td>
</tr>
<tr>
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<td>25, (2) and (4), “23C”; (6), in paragraph (c)(i) “3A” and paragraph (e).</td>
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<td>In Schedule 2, paragraph 1.</td>
</tr>
<tr>
<td>1976</td>
<td>Race Relations Act 1976</td>
<td>17, 3A</td>
<td>In section 17, in the Table, paragraph 3A.</td>
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<td>18C</td>
<td>Section 18C.</td>
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<td>19, (2) and (4) “18C” wherever occurring and in paragraph (e)(i) “3A” and paragraph (e).</td>
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</tr>
<tr>
<td>1977</td>
<td>National Health Service Act 1977.</td>
<td>5, (1)(a) and (1A)(a) the words “or at grant-maintained schools”.</td>
<td></td>
</tr>
<tr>
<td>1980</td>
<td>Education (Scotland) Act 1980.</td>
<td>75A(9A)</td>
<td>In section 75A(9A), the word “and” immediately preceding paragraph (b).</td>
</tr>
<tr>
<td>1981</td>
<td>Acquisition of Land Act 1981.</td>
<td>17(4), paragraphs (ab) and (ac).</td>
<td></td>
</tr>
<tr>
<td>1983</td>
<td>Representation of the People Act 1983.</td>
<td>1(1)(i)</td>
<td>In Schedule 1, in paragraph 22(1)(i) the words “a grant-maintained school”.</td>
</tr>
<tr>
<td>1984</td>
<td>Building Act 1984.</td>
<td>4(1)(a), in paragraph (ii) the words “under section 39 or 44 of the Education Act 1996 or” and paragraphs (iii) and (iv).</td>
<td></td>
</tr>
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<td>1986</td>
<td>Education (No. 2) Act 1986</td>
<td>49(3)(ba)</td>
<td>Section 49(3)(ba).</td>
</tr>
<tr>
<td>1988</td>
<td>Education Reform Act 1988</td>
<td>166 and 167</td>
<td>Sections 166 and 167.</td>
</tr>
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<td>197(7)</td>
<td>In section 197(7), the words “or grant-maintained”.</td>
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<td>236(1)</td>
<td>In section 236(1), the entry relating to section 219.</td>
</tr>
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<td>6(3) and in paragraph 8(4)</td>
<td>In Schedule 8, paragraph 6(3) and in paragraph 8(4)</td>
</tr>
</tbody>
</table>
357

**Status:** This version of this Act contains provisions that are prospective.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 06 September 2023. 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) View outstanding changes

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1989 c. 41.  
Children Act 1989.

In Schedule 12, paragraphs 11, 13, 15, 16, 18 to 22, 30, 31 and 36.

In Schedule 9, in paragraph 3, sub-paragraph (1)(f), and in sub-paragraph (3) the definition of “grant maintained”.

1991 c. 49.  

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.  

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).


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
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.


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,”.


In section 1(2), paragraph (b) and the word “and” preceding it. Section 14(5).

F1067

Sections 20 to 28.

In section 29, subsection (2) and in subsection (3) the
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.
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)
School Standards and Framework Act 1998 (c. 31)

SCHEDULE 31 – Repeals

Document Generated: 2023-09-06

(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).
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”
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(e)
and (d).

In Schedule 39, paragraphs
2(3) and 15.

Schedule 40.


In section 9(3)(a), the words
“are exceptional and”.

In section 10, in
subsection (3) the words “(4)
or” and paragraph (b) and
subsection (4).

In section 11(5)(b), the words
“whose governing body does
not have a delegated budget”.

In section 16, in
subsection (1)(a) the words
from “and, if” to “of State”
and subsection (3)(e) and (f).

Section 17(3)(c) and (5)(b)
and (c).

In section 20(3), the words
“the funding authority, or”.

In section 21(4), the words
“the funding authority, or”.

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),”.

Part II
Section 44.

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)”.
In section 46(1), the definition of “the transfer date”.
Schedule 5.
Schedule 6, paragraph 7.

Sections 2 and 3.
Sections 6 to 8.
Part III
In section 17(7)(a), the words from “(except” to “school)”.
In section 18, in subsection (1)(b) the words from “(except” to “school)” and in subsection (2)(a) the words from “(in” to “school)”.
In section 42, the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.
Section 43(2)(b).
Section 50.
Section 52(4) and (5).
Section 57(2) and (3).
In section 58(4), “section 50,”.
Schedules 1 to 3.
In Schedule 6, paragraph 7.
In Schedule 7, paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.

Section 6(1).

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
SCHEDULE 32

TRANSACTIONAL PROVISIONS AND SAVINGS

PART I

FUNDING

Interpretation

1 In this Part of this Schedule—

“the 1996 Act” means the 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.
(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 \[F5\] local 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.

(3) Regulations under sub-paragraph (2) shall not authorise a \[F2\] local 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 \[F2\] local 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.

### 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.

### 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) [F5 local 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.

(4) Each of the following provisions of Schedule 22, namely—

(a) [F1068 paragraphs A1(1)(f) and 1(1)(d)],

(b) [F1069 paragraphs A7(1)(e) and 2(1)(d)], and

(c) [F1070 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.

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**Textual Amendments**

F5 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(3) (with Sch. 2 para. 10(4))

F1068 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)

F1069 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)

F1070 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**

I52 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

(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 Education Act 1996 (suspension of financial delegation for mismanagement etc.) or section 28 of the 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,

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 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 Education Act 1996)—

(a) a school maintained by a local 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 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).

Textual Amendments
F2 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))

Modifications etc. (not altering text)
C169 Sch. 32 para. 5(5)(a) modified (20.11.1998) by S.I. 1998/2670, reg. 5(2)

Marginal Citations
M87 1996 c. 56.
M88 1996 c. 57.
M89 1996 c. 56.
M90 1996 c. 56.

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 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 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
M91 1996 c. 56.
M92 1996 c. 56.

School Teachers’ Pay and Conditions Act 1991

Textual Amendments
F1071 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)
C170 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 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.

Textual Amendments
F2 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))

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,

(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 Education Act 1996, which on the appointed day becomes a foundation or voluntary school within the meaning of this Act.

Marginal Citations

M93 1996 c. 56.

Transfer of sites provided under sections 60 and 61 of the Education Act 1996

(1) This paragraph applies where—

(a) before the appointed day a site was provided for a school by a local authority under section 60 or 61 of the Education Act 1996 (obligation of local authorities 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.

Textual Amendments

F2 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))

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M94 1996 c. 56.
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Changes and effects yet to be applied to:
- Pt. 1 Ch. 4 power to modify conferred by 2011 nawm 7 s. 18
- s. 49(6)(b) words omitted by 2022 asc 1 Sch. 4 para. 11(2)
- s. 86(1)(2) excluded by 2002 c. 41 s. 36(5)(a)(10)
- s. 94 excluded by 2002 c. 41 s. 36(5)(b)(10)
- s. 118 expiry of earlier affecting provision 2020 c. 7, Sch. 16 para. 3 by S.I. 2021/1399 reg. 5
- Sch. 22 para. 1(1)(aa) words omitted by 2022 asc 1 Sch. 4 para. 11(3)(a)
- Sch. 22 para. 2(1)(aa) words omitted by 2022 asc 1 Sch. 4 para. 11(3)(b)
- Sch. 22 para. 2A(1)(aa) words omitted by 2022 asc 1 Sch. 4 para. 11(3)(c)
- Sch. 22 para. 3(1)(aa) words omitted by 2022 asc 1 Sch. 4 para. 11(3)(d)
- Sch. 26 para. 14(1) repealed by 2006 c. 21 Sch. 2 para. 36(1)(e) Sch. 3 Pt. 2 (This amendment not applied to legislation.gov.uk. Sch. 26 para. 14(1) repealed (1.4.2007) by 2006 c. 40, Sch. 14 para. 35(4), Sch. 18 Pt. 5.)
- Sch. 30 para. 71-79 omitted by 2018 anaw 2 Sch. 1 para. 6(b)
- Sch. 30 para. 81 omitted by 2018 anaw 2 Sch. 1 para. 6(b)
- Sch. 30 para. 84 omitted by 2018 anaw 2 Sch. 1 para. 6(b)
- Sch. 30 para. 186 omitted by 2018 anaw 2 Sch. 1 para. 6(b)
- Sch. 30 para. 125 omitted by 2022 asc 1 Sch. 4 para. 11(4)
- Sch. 30 para. 126 omitted by 2022 asc 1 Sch. 4 para. 11(4)
- Sch. 30 para. 215 repealed by 2002 c. 32 Sch. 22 Pt. 2
- Sch. 30 para. 60 repealed by 2008 c. 25 Sch. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- s. 14(3)(aa) inserted by 2011 nawm 7 s. 16(2) (Amendment not applied to legislation.gov.uk - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by 2011 nawm 7 s. 16(3) (Amendment not applied to legislation.gov.uk - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)