



# School Standards and Framework Act 1998

## 1998 CHAPTER 31

### PART II

#### NEW FRAMEWORK FOR MAINTAINED SCHOOLS

### CHAPTER I

#### INTRODUCTORY

#### *The new categories of schools*

#### **20 New categories of maintained schools.**

- (1) Schools maintained by local education authorities on or after the appointed day shall be divided into the following categories—
  - (a) community schools;
  - (b) foundation schools;
  - (c) voluntary schools, comprising—
    - (i) voluntary aided schools, and
    - (ii) voluntary controlled schools;
  - (d) community special schools; and
  - (e) foundation special schools.
- (2) A school maintained by a local education authority is a school falling within one of the categories set out in subsection (1) if—
  - (a) it became a school of that category on the appointed day in accordance with Schedule 2 (and has not changed its category under Schedule 8); or
  - (b) it was established as a school of that category under [<sup>F1</sup>any enactment] (and has not changed its category under Schedule 8); or

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- (c) it has become a school of that category in accordance with Schedule 8.
- (3) Schedule 2 makes provision for, and in connection with, the allocation to the categories set out in subsection (1) of schools which immediately before the appointed day were (within the meaning of the <sup>M1</sup>Education Act 1996)—
- (a) county, voluntary or maintained special schools, or
  - (b) grant-maintained or grant-maintained special schools.
- (4) As from the appointed day a local education authority shall maintain (as a school falling within one of those categories)—
- (a) any school within subsection (3)(a) which was maintained by the authority immediately before that day; and
  - (b) (subject to subsection (5)) any school within subsection (3)(b) which immediately before that day was situated within the authority’s area.
- (5) Where a grant-maintained school within subsection (3)(b)—
- (a) was, immediately before becoming such a school, maintained by a local education authority (“the former maintaining authority”) other than the one within whose area it was then situated, and
  - (b) remains outside the area of the former maintaining authority immediately before the appointed day,
- nevertheless, if an order made by the Secretary of State before that day so provides, as from that day the school shall be maintained (as a school falling within one of the categories set out in subsection (1)) by the former maintaining authority rather than the authority in whose area it is situated on that day.
- (6) In this section “school” means a primary, secondary or special school, including a nursery school which is a special school but excluding—
- (a) a nursery school which is not a special school; and
  - (b) a pupil referral unit.
- (7) In this Act—
- “the appointed day” (except in Part I of Schedule 32) means such day as may be appointed for the purposes of this section by an order made by the Secretary of State;
- “maintained school” means (unless the context otherwise requires) a community, foundation or voluntary school or a community or foundation special school.
- (8) Any reference in this Act to the categories set out in subsection (1) or to any such category is to be read, in its application to voluntary schools, as (or as including) a reference to the sub-categories set out in subsection (1)(c)(i) and (ii) or to any such sub-category.

#### Subordinate Legislation Made

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

#### Textual Amendments

**F1** Words in s. 20(2)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 95](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#); [S.I. 2003/124](#), [art. 4](#)

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

**C1** S. 20 extended (1.4.1999) by S.I. 1999/704, reg. 2(4).

**Marginal Citations**

**M1** 1996 c. 56.

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

- (1) There may be three kinds of foundation school—
- (a) those having a foundation established otherwise than under this Act;
  - (b) those belonging to a group of schools for which a foundation body acts under this section; and
  - (c) those not falling within either of paragraphs (a) and (b).
- (2) There may be three kinds of voluntary controlled or voluntary aided school—
- (a) those having a foundation established otherwise than under this Act;
  - (b) those belonging to a group of schools for which a foundation body acts under this section; and
  - (c) those not falling within either of paragraphs (a) and (b) but having been either of the following immediately before the appointed day, namely—
    - (i) a voluntary school, or
    - (ii) a grant-maintained school that was a voluntary school immediately before becoming grant-maintained,within the meaning of the <sup>M2</sup>Education Act 1996.
- (3) For the purposes of this Act—
- (a) “foundation”, in relation to a foundation or voluntary school, means—
    - (i) any body of persons (whether incorporated or not but excluding the governing body) which holds land on trust for the purposes of the school, or
    - (ii) a foundation body;
  - (b) a school “has” a foundation if—
    - (i) such a body of persons exists for holding land on trust for the purposes of the school, or
    - (ii) the school belongs to a group of schools for which a foundation body acts under this section; and
  - (c) references to land or other property held on trust, or by trustees, for the purposes of a school include references to land or other property which—
    - (i) is held on trust for purposes which (whether the trust deed expressly so provides or not) include the purposes of the school, and
    - (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

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- (b) “the group”, in relation to a foundation body, means the group of three or more schools for which the body performs those functions.
- (5) The Secretary of State may by regulations make provision for and in connection with—
- (a) the establishment, membership, functions and winding up of a foundation body, and
  - (b) the steps to be taken in connection with schools joining or leaving the group.
- (6) Regulations under subsection (5) may, in particular, make provision—
- (a) with respect to the transfer of property, rights and liabilities to and from a foundation body when schools join or leave the group but do not change category in accordance with Schedule 8;
  - (b) with respect to the revision or replacement of the instruments of government of schools joining or leaving the group in such circumstances and the reconstitution of their governing bodies;
  - (c) authorising a foundation body to appoint foundation governors to every school in the group;
  - (d) prescribing a model instrument of government for adoption by a foundation body subject to variations approved by the Secretary of State;
  - (e) for conferring functions with respect to the resolution of disputes—
    - (i) between schools in the group, or
    - (ii) between one or more such schools and a foundation body,
 on such person or body as may be specified in the regulations;
  - (f) in connection with a school leaving the group—
    - (i) for requiring the publication of proposals under paragraph 2 of Schedule 8 (procedure for changing category of school);
    - (ii) for enabling the Secretary of State to require the publication under that paragraph of proposals for the school to become a school of a category specified by him;
    - (iii) for preventing a voluntary school from becoming one falling within subsection (2)(a) unless any conditions specified in pursuance of paragraph 4(2)(b) of that Schedule are satisfied in relation to the school;
  - (g) for the dissolution of a foundation body by order of the Secretary of State;
  - (h) for enabling the Secretary of State, in the case of any land held by a foundation body immediately before its dissolution which by virtue of this Act could not be disposed of without his consent, to determine how that land is to be dealt with on its dissolution;
  - (i) for conferring functions on school organisation committees and 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.

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- (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).

#### Marginal Citations

M2 1996 c. 56.

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

- (1) A local education authority are under a duty to maintain the following schools—
- (a) any maintained schools which they are required to maintain by virtue of section 20(4) or (5);
  - (b) any maintained schools established by them<sup>F2</sup>...;
  - (c) any maintained schools established in their area<sup>F3</sup>... otherwise than by them or any other local education authority; and
  - (d) any maintained nursery school established by them.
- (2) Subsection (1) has effect subject to the transfer under this Part of a maintained school from the area of one local education authority to that of another, and to the provisions of this Part relating to the discontinuance of schools.
- (3) In the case of a community school, a community special school or a maintained nursery school, the local education authority's duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - (b) the duty of making premises available to be used for the purposes of the school.
- (4) In the case of a foundation, voluntary controlled or foundation special school, the local education authority's duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, and
  - (b) the duty, [<sup>F4</sup>under any enactment of providing new premises for the school].
- (5) In the case of a voluntary aided school, the local education authority's duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, except any [<sup>F5</sup>expenditure that by virtue of paragraph 3 of Schedule 3 is to be met] by the governing body, and
  - (b) the duty, [<sup>F6</sup>under any enactment of providing new premises for the school].
- (6) For the purposes of this Act the expenses of maintaining a foundation, voluntary or foundation special school include the payment of rates.
- (7) Schedule 3 (which makes provision as to the functions of governing bodies, local education authorities and the Secretary of State as to the funding of foundation, voluntary and foundation special schools) shall have effect.
- (8) In this Act—
- (a) in relation to a school maintained (or proposed to be maintained) by a local education authority, “the local education authority” means that authority; and

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- (b) in relation to schools falling within subsections (3) to (6), “maintain” shall be read in accordance with those subsections.
- (9) In this Act “maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school.

#### Extent Information

**E1** This version of this provision extends to England only; a separate version has been created for Wales.

#### Textual Amendments

- F2** Words in s. 22(1)(b) repealed (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 96(2)(a), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F3** Words in s. 22(1)(c) repealed (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 96(2)(b), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F4** Words in s. 22(4)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 96(3)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F5** Words in s. 22(5)(a) substituted (E.) (1.4.2002) by The Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002 (S.I. 2002/906), **art. 3**
- F6** Words in s. 22(5)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 96(4)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4

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

- (1) A local education authority are under a duty to maintain the following schools—
- any maintained schools which they are required to maintain by virtue of section 20(4) or (5);
  - <sup>F7</sup>(b) any maintained schools established by them <sup>F8</sup>. . . ;
  - <sup>F9</sup>(c) any maintained schools established in their area <sup>F10</sup>. . . otherwise than by them or any other local education authority; and
  - any maintained nursery school established by them.
- (2) Subsection (1) has effect subject to the transfer under this Part of a maintained school from the area of one local education authority to that of another, and to the provisions of this Part relating to the discontinuance of schools.
- (3) In the case of a community school, a community special school or a maintained nursery school, the local education authority’s duty to maintain the school includes—
- the duty of defraying all the expenses of maintaining it, and
  - the duty of making premises available to be used for the purposes of the school.
- (4) In the case of a foundation, voluntary controlled or foundation special school, the local education authority’s duty to maintain the school includes—
- the duty of defraying all the expenses of maintaining it, and
  - <sup>F11</sup>(b) the duty, [<sup>F12</sup>under any enactment of providing new premises for the school] .

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- (5) In the case of a voluntary aided school, the local education authority's duty to maintain the school includes—
- (a) the duty of defraying all the expenses of maintaining it, except any expenses that by virtue of paragraph 3 of Schedule 3 are payable by the governing body, and
  - <sup>F13</sup>(b) the duty, [<sup>F14</sup>under any enactment of providing new premises for the school] .
- (6) For the purposes of this Act the expenses of maintaining a foundation, voluntary or foundation special school include the payment of rates.
- (7) Schedule 3 (which makes provision as to the functions of governing bodies, local education authorities and the Secretary of State as to the funding of foundation, voluntary and foundation special schools) shall have effect.
- (8) In this Act—
- (a) in relation to a school maintained (or proposed to be maintained) by a local education authority, “the local education authority” means that authority; and
  - (b) in relation to schools falling within subsections (3) to (6), “maintain” shall be read in accordance with those subsections.
- (9) In this Act “maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school.

#### Extent Information

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

#### Textual Amendments

- F7** Words in s. 22(1)(b) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(2\)\(a\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F8** Words in s. 22(1)(b) repealed (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1)(2), 216, [Sch. 21 para. 96\(2\)\(a\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F9** Words in s. 22(1)(c) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(2\)\(b\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F10** Words in s. 22(1)(c) repealed (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1)(2), 216, [Sch. 21 para. 96\(2\)\(b\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F11** Words in s. 22(4)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F12** Words in s. 22(4)(b) substituted (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 96\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1
- F13** Words in s. 22(5)(b) substituted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 96\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F14** Words in s. 22(5)(b) substituted (19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 96\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, [art. 4](#), Sch. Pt. 1

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## 23 Charitable status of maintained schools, etc.

(1) The following shall be charities which are exempt charities for the purposes of the <sup>M3</sup>Charities Act 1993—

- (a) the governing body of any foundation, voluntary or foundation special school; and
- (b) any foundation body established under section 21;

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

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

- (a) is administered by or on behalf of any body to which subsection (1)(a) or (b) applies, and
- (b) is established for the general purposes of, or for any special purpose of or in connection with, that body or any school or schools falling within subsection (1)(a),

shall also be an exempt charity for the purposes of the <sup>M4</sup>Charities Act 1993.

(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 which (subject to section 3(5B) of the <sup>M5</sup>Charities Act 1993) is not required to be registered for the purposes of that Act (but is not an exempt charity for the purposes of that Act).

(4) In this section—

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

### Marginal Citations

- M3** 1993 c. 10.
- M4** 1993 c. 10.
- M5** 1993 c. 10.
- M6** 1993 c. 10.



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