



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 section 28 or 31 (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 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.

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 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 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;

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- (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.
- (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).

22 Maintenance and other funding of schools

- (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 under section 28 or 31;
 - (c) any maintained schools established in their area under section 28 otherwise than by them or any other local education authority; and
 - (d) any maintained nursery school established by them.

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- (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, under paragraph 2 of Schedule 3 or paragraph 13 or 15 of Schedule 6, of providing new premises for the school under and in accordance with paragraph 2 of Schedule 3 or (as the case may be) paragraph 16 of Schedule 6.
- (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
 - (b) the duty, under paragraph 4 of Schedule 3 or paragraph 14 of Schedule 6, of providing new premises for the school under and in accordance with that paragraph.
- (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.

23 Charitable status of maintained schools, etc

- (1) The following shall be charities which are exempt charities for the purposes of the 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—

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- (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 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 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 Charities Act 1993;
 - (b) “premises” includes a teacher’s dwelling-house.

New arrangements for organisation of schools

24 School organisation committees

- (1) Each local education authority in England shall establish a school organisation committee for their area.
- (2) A school organisation committee shall be constituted in accordance with regulations made by the Secretary of State.
- (3) Those regulations must be so framed as to secure that every school organisation committee includes at least one person within each of the following categories—
 - (a) a member of the local education authority;
 - (b) a person nominated by the Diocesan Board of Education for any diocese of the Church of England any part of which is comprised in the authority’s area; and
 - (c) a person nominated by the bishop of any Roman Catholic Church diocese any part of which is comprised in the authority’s area.
- (4) In this Act any reference to “the school organisation committee” in relation to—
 - (a) a local education authority in England,
 - (b) a school maintained or proposed to be maintained by such a local education authority, or
 - (c) any proposals relating to such a school,
 is a reference to the school organisation committee established for the local education authority’s area.
- (5) Schedule 4 has effect in relation to 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 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).
- (4) Schedule 5 has effect in relation to adjudicators.

26 School organisation plans

- (1) Every local education authority shall prepare a school organisation plan for their area, and shall prepare further such plans at such times as may be prescribed.
- (2) A school organisation plan is a statement which sets out—
 - (a) how the authority propose to exercise their functions during the prescribed period with a view to securing the provision of primary and secondary education that will meet the needs of the population of their area during that period; and
 - (b) any facilities which the authority expect to be available outside their area for providing such education.
- (3) A school organisation plan must deal with such matters, and take such form, as may be prescribed.
- (4) The matters prescribed for the purposes of subsection (3) shall include the provision which the authority propose to make during the period in question for children with special educational needs.
- (5) A school organisation plan prepared by a local education authority in England requires the approval of the school organisation committee or the adjudicator; and regulations may make provision with regard to the procedure to be followed in connection with the preparation and approval of such plans.
- (6) Regulations under subsection (5) may, in particular, make provision—
 - (a) requiring a local education authority in England to publish a draft school organisation plan prepared by them, and enabling objections to be made to it;
 - (b) requiring—
 - (i) the draft plan (whether as published by the authority or as revised by them in the light of any such objections), and
 - (ii) all such objections,to be submitted to the school organisation committee;
 - (c) authorising the matters so submitted to be also submitted, in any prescribed circumstances, to the adjudicator;
 - (d) for the functions of the school organisation committee in relation to the matters submitted to them by the authority, or in relation to any proposals made by the adjudicator, including power for the committee—
 - (i) to approve a draft plan with or without modifications, or
 - (ii) to prepare a school organisation plan for publication by the authority as their approved plan;
 - (e) for the functions of the adjudicator in relation to any matters submitted to him by virtue of paragraph (c), or referred to him by the committee in the exercise

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of any function conferred by virtue of paragraph (d), including power for the adjudicator—

- (i) to approve a draft plan either with modifications proposed by the committee or without modifications, or
 - (ii) to make proposals to the committee for modifications to be made to the draft plan;
 - (f) requiring the publication of the plan as approved;
 - (g) 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.
- (7) A school organisation plan prepared by a local education authority in Wales requires adoption by the authority; and regulations may make provision with regard to the procedure to be followed in connection with the preparation and adoption of such plans.
- (8) Regulations under subsection (7) may, in particular, make provision—
- (a) requiring a local education authority in Wales to publish a draft school organisation plan prepared by them, and to consult such bodies or persons in connection with the draft plan as may be prescribed;
 - (b) requiring the authority, in the light of such consultation, either—
 - (i) to adopt the draft plan with or without modifications, or
 - (ii) to prepare a further draft school organisation plan for publication and consultation in accordance with any provision made by virtue of paragraph (a);
 - (c) requiring the publication of the plan as adopted by the authority;
 - (d) 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.

27 Power to require committees or adjudicators for Wales

- (1) Regulations may make provision—
- (a) for the establishment by local education authorities in Wales of school organisation committees; and
 - (b) for the appointment by the Secretary of State of adjudicators, or panels of adjudicators, for Wales;
- and the regulations may provide for any of the provisions of sections 24 and 25 and Schedules 4 and 5 to apply for the purposes of the regulations with or without modifications.
- (2) In connection with any provision made by virtue of subsection (1), regulations may make provision—
- (a) for applying in relation to Wales any provision of section 26, Chapter II of this Part or Chapter I of Part III which would otherwise apply in relation to England only;
 - (b) for disapplying in relation to Wales any such provision which would otherwise apply in relation to Wales only;
 - (c) for any statutory provision to have effect with such modifications as appear to the Secretary of State to be appropriate.