

Status: Point in time view as at 25/05/2007.

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SCHEDULES

SCHEDULE 1

Section 11.

PROVISIONS RELATING TO AN EDUCATION ACTION FORUM

Powers

- 1 (1) An Education Action Forum may, subject to sub-paragraph (2), do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions.
- (2) A Forum shall not have power to borrow money.

Chairman

- 2 The members of an Education Action Forum shall elect one of their number to be chairman of the Forum, who shall hold office for such period as is specified in the order by which the Forum is established under section 10(1).

Committees

- 3 An Education Action Forum may—
- (a) establish a committee for any purpose; and
 - (b) authorise any such committee to exercise such of its functions as it may determine.

Proceedings

- 4 The Secretary of State may by regulations make provision as to the meetings and proceedings of an Education Action Forum.
- 5 The validity of the proceedings of an Education Action Forum shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 6 Subject to the preceding provisions of this Schedule, an Education Action Forum may regulate its own procedure and that of any of its committees.

Accounts

- 7 (1) It shall be the duty of an Education Action Forum—
- (a) to keep proper accounts and proper records in relation to the accounts,
 - (b) to prepare in respect of each financial year of the Forum a statement of accounts, and
 - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.

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- (2) The statement of accounts shall comply with any directions given by the Secretary of State as to—
- (a) the information to be contained in it,
 - (b) the manner in which the information contained in it is to be presented, or
 - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the date on which the Forum is established and ending with the 31st March following that date, and each successive period of twelve months.

Application of seal and proof of instruments

- 8 The application of the seal of an Education Action Forum shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specially by the Forum to act for that purpose, and
 - (b) of one other member.
- 9 Every document purporting to be an instrument made or issued by or on behalf of an Education Action Forum and to be duly executed under the seal of the Forum, or to be signed or executed by a person authorised by the Forum to act in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

Charitable status

- 10 An Education Action Forum shall be a charity which is an exempt charity for the purposes of the ^{M1}Charities Act 1993.

Marginal Citations

M1 1993 c. 10.

[^{F1}SCHEDULE 1A

Section 19A

GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

Textual Amendments

F1 Sch. 1A inserted (2.9.2002 for E. otherwise prosp.) by [Education Act 2002 \(c. 32\)](#), ss. 59(2), 216, [Sch. 6](#) (with ss. 210(8), 214(4)); [S.I. 2002/2002](#), [art. 4](#)

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Interpretation of Schedule

1 (1) In this Schedule—

“the appropriate authority” means—

- (a) where this Schedule applies by virtue of a notice under section 16A(1), the local education authority who gave the notice, and
- (b) where this Schedule applies by virtue of a notice under section 18A(1), the ^{F2}Assembly];

“existing governors”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;

“the interim period”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule;

“a normally constituted governing body” means a governing body constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002 (governing bodies).

- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

Textual Amendments

- F2** Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 17](#); [S.I. 2007/935, art. 5\(cc\)](#)

Modifications etc. (not altering text)

- C1** [Sch. 1A para. 1](#) modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\), regs. 1, 5\(a\)](#)

Governing body to consist of members appointed by appropriate authority

- 2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002.

(2) In the following provisions of this Schedule—

- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and
- (b) the members of the governing body as so constituted are referred to as “interim executive members”.

Modifications etc. (not altering text)

- C2** [Sch. 1A para. 2](#) modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\), regs. 1, 5\(b\)](#)

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Effect of notice under section 16A(1) or 18A(1)

- 3 (1) On the date specified in the notice under section 16A(1) or 18A(1), the existing governors shall vacate office.
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.
- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school shall have effect, in relation to the school, as a reference to an interim executive member.
- (4) During the interim period, section 83 (modification of provisions making governors of foundation or voluntary school ex officio trustees) shall have effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

Interim executive members

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members shall be made so as to take effect on the date specified in the notice under section 16A(1) or 18A(1).
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.
- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.
- (2) An interim executive member—
- (a) shall hold office in accordance with the terms of his appointment and subject to paragraph 18, and
- (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice.

Duty of appropriate authority to inform other persons

- 6 (1) The appropriate authority shall give a copy of the notice under section 16A(1) or 18A(1) and of every instrument of appointment of an interim executive member—
- (a) to every interim executive member,
- (b) to every existing governor of the school,
- (c) where the local education authority are the appropriate authority, to the [F²Assembly],
- (d) where the [F²Assembly] is the appropriate authority, to the local education authority,
- (e) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, to the appropriate diocesan authority, and
- (f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed.

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- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

Textual Amendments

- F2** Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 7 para. 17](#); [S.I. 2007/935, art. 5\(cc\)](#)

Power to specify duration of interim period

- 7 The appropriate authority may in the notice under section 16A(1) or 18A(1) specify the duration of the interim period.

Chairman

- 8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

Remuneration and allowances

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

Duty of interim executive board

- 10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

Proceedings of interim executive board

- 11 (1) The interim executive board may determine their own procedure.
- (2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person.

Effect on suspension of delegated budget

- 12 (1) If immediately before the date specified in a notice under section 16A(1) or 18A(1) the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 (suspension of delegated budget for mismanagement etc.) has been given to the governing body before the date specified in a notice under section 16A(1) or 18A(1) but has not yet taken effect, the notice shall cease to have effect on that date.
- (3) During the interim period, the local education authority may not exercise the power conferred by section 17 (power to suspend right to delegated budget).

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(4) Sub-paragraph (1) is to be construed in accordance with section 49(7).

Exclusion of certain statutory provisions

- 13 (1) Regulations made by virtue of subsection (2) or (3) of section 19 of the Education Act 2002 (governing bodies) shall not apply in relation to the interim executive board.
- (2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board.

Modifications etc. (not altering text)

- C3** Sch. 1A para. 13 modified (temp.) (2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), [regs. 1, 5\(c\)](#)

- 14 During the interim period—
- (a) the local education authority may not exercise any power conferred by section 16 (power to appoint additional governors), and
- (b) the [F²Assembly] may not exercise any power conferred by section 18 (power to appoint additional governors).

Textual Amendments

- F2** Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 17](#); [S.I. 2007/935](#), art. 5(cc)

Closure of school

- 15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the [F²Assembly] recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
- (a) publish under section 29(2) proposals to discontinue the school, or
- (b) serve notice under section 30(2).

Textual Amendments

- F2** Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 7 para. 17](#); [S.I. 2007/935](#), art. 5(cc)

- 16 (1) Where during the interim period—
- (a) the [F²Assembly] gives a direction under section 19(1) or 32(1) in relation to the school, or
- (b) the local education authority determine to discontinue the school,
- the interim period shall continue until the discontinuance date, even where it would otherwise end before that date.

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- (2) In this paragraph “the discontinuance date” means—
- (a) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6,
 - (b) the date on which the school is discontinued under section 30, or
 - (c) the date specified in the direction under section 19(1) or 32(1),
- as the case may be.

Textual Amendments

F2 Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\)](#), [Sch. 7 para. 17](#); [S.I. 2007/935, art. 5\(cc\)](#)

Notice of resumption of government by normally constituted governing body

- 17 (1) Where—
- (a) the notice under section 16A(1) or 18A(1) did not specify the duration of the interim period, and
 - (b) paragraph 16 does not apply,
- the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body.
- (2) The persons referred to in sub-paragraph (1) are—
- (a) every interim executive member,
 - (b) where the local education authority are the appropriate authority, the [^{F2}Assembly],
 - (c) where the [^{F2}Assembly] is the appropriate authority, the local education authority,
 - (d) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

Textual Amendments

F2 Word in [Sch. 1A](#) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\)](#), [Sch. 7 para. 17](#); [S.I. 2007/935, art. 5\(cc\)](#)

Time when interim executive members cease to hold office

- 18 (1) The interim executive members shall vacate office—
- (a) in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
 - (b) in a case where that paragraph does not apply and the notice under section 16A(1) or 18A(1) specified the duration of the interim period, at the end of the specified period, and
 - (c) in any other case, on the date specified under paragraph 17 (1).

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- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.

Establishment of normally constituted governing body

- 19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18(1)(b) or (c), the local education authority shall make arrangements providing for the constitution of the governing body on and after that date.
- (2) Regulations may make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- (a) modify any provision made under any of sections 19, 20 and 23 of the Education Act 2002 or by Schedule 1 to that Act,
 - (b) apply any such provision with or without modifications, and
 - (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.]

SCHEDULE 2

Section 20.

ALLOCATION OF EXISTING SCHOOLS TO NEW CATEGORIES

Modifications etc. (not altering text)

C4 Sch. 2 excluded (7.9.1998) (*temp.*) by [S.I. 1998/1969](#), [reg.18](#)

Allocation of LEA-maintained schools

- 1 A school which immediately before the appointed day is (within the meaning of the ^{M2}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.

<i>Existing school</i>	<i>Allocated new category</i>
A county school.	Community school.
A controlled school.	Voluntary controlled school.
(1) An aided school.	Voluntary aided school.
(2) A special agreement school.	
A maintained special school.	Community special school.

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Marginal Citations

M2 1996 c. 56.

Allocation of grant-maintained and grant-maintained special schools

- 2 A school which immediately before the appointed day is (within the meaning of the ^{M2}Education Act 1996)—
- (a) a grant-maintained school, or
 - (b) a grant-maintained special school,
- shall become on that day a school of the category to which it is to be allocated in accordance with the following paragraphs of this Schedule.

Marginal Citations

M3 1996 c. 56.

Indicative allocation of schools within paragraph 2

- 3 For the purposes of this Schedule the indicative allocation of a school within paragraph 2 is shown in the following table.
- Any reference in the first column to a school of a particular description is a reference to a school of that description within the meaning of the Education Act 1996.

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

Preliminary decision by governing body as to new category

- 4 (1) The governing body of a school within paragraph 2 shall in the first instance take a decision (their “preliminary decision”) on the question whether—
- (a) to accept the school’s allocation to a particular category in accordance with its indicative allocation, or
 - (b) to opt for it to be allocated to a different category.

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- (2) Regulations may make provision as to the procedure to be followed in connection with the taking by governing bodies of their preliminary decisions under sub-paragraph (1).
- (3) Regulations under sub-paragraph (2) may, in particular, make provision—
- (a) as to the consultation to be carried out by governing bodies before taking their preliminary decisions;
 - (b) as to the time by which governing bodies are to take such decisions;
 - (c) as to the notification of such decisions to prescribed persons;
 - (d) as to the provision of prescribed information to prescribed persons;
 - (e) authorising governing bodies to charge a fee (not exceeding the cost of supply) for prescribed documents supplied by them in pursuance of regulations made by virtue of paragraph (d);
 - (f) requiring the holding of ballots of registered parents in prescribed cases;
 - (g) enabling the Secretary of State, in any prescribed circumstances, to declare a previous ballot void and require the holding of a fresh ballot;
 - (h) as to the conduct of ballots held under the regulations;
 - (i) specifying criteria for determining, for the purposes of the regulations and this Schedule, the result of any such ballot.

Modifications etc. (not altering text)

C5 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

Final decision by governing body as to new category

- 5 (1) Where—
- (a) the governing body of a school within paragraph 2 have taken their preliminary decision under sub-paragraph (1) of paragraph 4, and
 - (b) the result of a ballot held by virtue of that paragraph does not accord with that decision,
- the governing body shall reconsider the question set out in that sub-paragraph, having regard to the result of the ballot, and shall then take a further decision on that question.
- (2) Where—
- (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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Modifications etc. (not altering text)

C6 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

Notification of final decision

- 6 (1) Once the governing body of a school within paragraph 2 have taken their final decision, they shall give written notification of that decision to the Secretary of State.
- (2) Regulations may make provision—
- (a) requiring governing bodies—
 - (i) when giving such notifications, to certify such matters as may be specified in the regulations, and
 - (ii) to provide such information to such persons as may be so specified;
 - (b) as to the time by which such notifications are to be given or such information is to be provided.

Modifications etc. (not altering text)

C7 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

Final determination of new category

- 7 (1) If—
- (a) the final decision of the governing body of a school within paragraph 2 accorded with the school's indicative allocation, and
 - (b) either—
 - (i) a ballot was held by virtue of paragraph 4 whose result (if any) was not to disagree with that allocation, or
 - (ii) no such ballot was required to be held,
- the school shall be allocated to the category provided for by its indicative allocation.
- (2) If in the case of a school within paragraph 2—
- (a) the final decision of the governing body, or
 - (b) the result of a ballot held by virtue of paragraph 4,
- did not accord with the school's indicative allocation, the school shall be allocated to such category (whether or not that provided for by its indicative allocation) as the Secretary of State may determine in conformity with regulations under paragraph 8.
- (3) The Secretary of State shall notify the governing body of each school within paragraph 2 of the category to which it is allocated in accordance with this paragraph.

Modifications etc. (not altering text)

C8 Sch. 2 paras. 4-7 excluded (7.9.1998) by S.I. 1998/1969, reg. 19(2)

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Restrictions on decisions as to categories

- 8 Regulations may make provision for prohibiting a school of any description specified in the regulations—
- (a) from being allocated under paragraph 7 to a category so specified; or
 - (b) from being so allocated unless such conditions are satisfied as are so specified.

Subordinate Legislation Made

P1 Power conferred by Sch. 2, para.8 exercised; 7.9.1998 appointed by [S.I. 1998/1969, reg. 1](#)

Transitional arrangements: schools within paragraph 2

- 9 (1) Where the category to which a school within paragraph 2 is to be allocated has not been finally determined, in accordance with the preceding paragraphs of this Schedule, by the appointed day, the school shall be taken to be allocated on that day to the category provided for by its indicative allocation.
- (2) Sub-paragraph (1) does not prevent such a school from being subsequently allocated to a different category in accordance with paragraph 7.
- (3) Where such a school is subsequently so allocated, section 20(2)(a) shall apply to it as if it had been allocated to the category in question on the appointed day.

Transitional arrangements: general

- 10 (1) Regulations may make such provision as the Secretary of State considers appropriate in connection with the allocation to the new categories of maintained schools of schools—
- (a) to which paragraph 9(1) applies; or
 - (b) whose school opening date falls on or after the date of the passing of this Act; or
 - (c) in relation to which a duty to implement proposals to discontinue the school has arisen, or a notice to discontinue the school has been given; or
 - (d) in relation to which a notice has been given under section 272 of the ^{M4}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

P2 Power conferred by Sch. 2, para. 10 exercised; 7.9.1998 appointed by [S.I. 1998/1969, reg. 1](#)

Marginal Citations

M4 [1996 c. 56.](#)

Status: Point in time view as at 25/05/2007.

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Effect of allocation

- 11 The allocation of a school to a particular category under this Schedule shall not be taken as authorising or requiring any change as from the appointed day in the character of the school conducted by its governing body (including, in particular, any religious character of the school).

SCHEDULE 3

Section 22.

FUNDING OF FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS

PART I

FOUNDATION, VOLUNTARY CONTROLLED AND FOUNDATION SPECIAL SCHOOLS

Obligations of governing bodies

- 1 (1) The governing body of a foundation, voluntary controlled or foundation special school are (in accordance with section 22(4)) not responsible for any of the expenses of maintaining the school.
- (2) Sub-paragraph (1) does not apply to the repayment of the principal of, or interest on, a loan made to the governing body.

Obligations of LEAs as regards provision of sites and buildings (otherwise than in connection with statutory proposals)

- 2 (1) In the case of a foundation, voluntary controlled or foundation special school, the local education authority shall provide—
- (a) any new site which is to be provided in addition to, or instead of, the school's existing site (or part of its existing site), and
 - (b) any buildings which are to form part of the school premises.
- (2) Sub-paragraph (1) does not—
- [^{F3}(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 or promoters are required to provide by virtue of Part 3 of Schedule 6 (provision of premises in connection with statutory proposals); or]
 - (b) require the local education authority to finance the acquisition by the governing body of any site or buildings provided otherwise than by the authority.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where a site is provided for a school under this paragraph, the local education authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school’s foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (4) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (5) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (6) Where—
- (a) a transfer is made under this paragraph, and
 - (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons shall notify the local education authority that paragraph (b) applies to them and they or their successors shall pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the Secretary of State.
- (7) In sub-paragraph (6)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent; and
 - (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (6) regard shall be had to any guidance given from time to time by the Secretary of State.
- (8) Any sum paid under sub-paragraph (6) shall be treated for the purposes of section 14 of the ^{M5}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 ^{M6}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 [^{F4}A1 to A16 or] 1 to 3 of Schedule 22 to that sum.
- (11) In this paragraph—

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“the relevant purposes” means—

- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, and
- (b) in relation to a transfer to a school’s governing body, the purposes of the school;

“site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

Textual Amendments

- F3** Sch. 3 para. 2(2)(a) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 31\(2\)](#); S.I. 2007/935, art. 7(o)
- F4** Words in Sch. 3 para. 2(10) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 22](#); S.I. 2007/935, art. 7(p)

Marginal Citations

- M5** 1841 c. 38.
- M6** 1987 c. 15.

PART II

VOLUNTARY AIDED SCHOOLS

[^{F5}Interpretation of Part

Textual Amendments

- F5** Sch. 3 para. 2A and cross-heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 31\(3\)](#); S.I. 2007/935, art. 7(o)

- 2A** In this Part of this Schedule “promoters”, in relation to a school in England, means persons who are for the purposes of Schedule 2 to the Education and Inspections Act 2006 the proposers in relation to proposals for the establishment of the school.]

Obligations of governing bodies

- [^{F63}** (1) In the case of a voluntary aided school, the governing body of the school are responsible for meeting all capital expenditure in relation to the school premises subject to sub-paragraph (2) below.
- (2) The duty in sub-paragraph (1) does not extend—
- (a) to capital expenditure in relation to playing fields or any building or other structure erected thereon in connection with the use of playing fields, but does extend to capital expenditure in relation to boundary walls and fences;
 - (b) to capital expenditure necessary in consequence of the use of the school premises, in pursuance of a direction or requirement of the local education authority, for purposes other than those of the school;
 - (c) to capital expenditure on the provision of any new site which the local education authority is to provide by virtue of paragraph 4 of this Schedule.

Status: Point in time view as at 25/05/2007.

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^{F7}(3)]

*Obligations of LEAs as regards provision of sites
(otherwise than in connection with statutory proposals)*

- 4 (1) In the case of a voluntary aided school, the local education authority shall provide any new site which is to be provided in addition to, or instead of, the school’s existing site (or part of its existing site).
- (2) Sub-paragraph (1) does not—
 - (a) apply in relation to the provision of any site which persons other than the authority are required to provide by virtue of [^{F8}any enactment]; or
 - (b) require the local education authority to finance the acquisition by the governing body of any site or buildings provided otherwise than by the authority.
- (3) Where a site is provided for a school under this paragraph, the local education authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises—
 - (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school’s foundation body to be held by that body for the relevant purposes.
- (4) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (5) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (6) Where—
 - (a) a site is provided for a school under this paragraph, and
 - (b) work is required to be done to the site for the purpose of clearing it or making it suitable for building purposes,
 the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as will secure that the cost of the work is borne by the authority.
- (7) Where—
 - (a) a site is provided for a school under this paragraph, and
 - (b) there are buildings on the site which are of value for the purposes of the school,
 the local education authority and the governing body of the school may make an agreement providing for the making of such payments, or of such other adjustments of their respective rights and liabilities, as appear to be desirable having regard to the governing body’s duties under paragraph 3 with respect to the [^{F9}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

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made, he may give directions providing for the making of such payment or other adjustment as he thinks proper.

(9) In this paragraph—

“the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts;

“site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

Grants by Secretary of State in respect of expenditure on premises or equipment

5 (1) The Secretary of State may make grants—

- (a) to the governing body of a voluntary aided school in respect of [^{F10}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 [^{F11}capital expenditure incurred or to be incurred] by that body on behalf of the governing body.

(2) ^{F12}

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

- [^{F13}(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.

[^{F14}(5) Without prejudice to any other duty of his, the Secretary of State shall, in performing functions relating to the exercise of the power under this paragraph to make grants in respect of expenditure on school premises, give priority to paying grants in respect of expenditure which is necessary to make such alterations as may be required by the local education authority for the purpose of securing that the school premises conform to the standards prescribed under section 542 of the Education Act 1996 ^{M7} 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;

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but such requirements may be imposed after the making of any such payment only if the Secretary of State is satisfied that in all the circumstances it is reasonable for them to be so imposed.

(8) Such requirements may, in particular, if any conditions specified in the requirements are satisfied—

- (a) require the application for purposes connected with the provision of education in appropriate schools of—
 - (i) any premises or equipment in respect of which the grant has been paid under this paragraph, or
 - (ii) an amount equal to so much of the value of any such premises or equipment as is determined in accordance with the requirements to be properly attributable to the payment of the grant; and
- (b) in the event that that requirement is not complied with, require the payment to the Secretary of State of the whole or any part of the following amount.

(9) That amount is—

- (a) the amount of the payments made in respect of the grant under this paragraph, or
 - (b) the amount mentioned in sub-paragraph (8)(a)(ii),
- whichever the Secretary of State determines to be just.

(10) When deciding whether to make any grant to a body under this paragraph in circumstances where he considers that it would be appropriate to impose requirements falling within sub-paragraph (8), the Secretary of State may have regard to whether, if such requirements were imposed, that body would have an enforceable right against some other person to be given by that person such financial assistance as would be necessary to enable them to pay to the Secretary of State the amount mentioned in sub-paragraph (9).

(11) No grant may be paid under this paragraph in respect of any expenses incurred in the provision of any premises which it is the duty of the local education authority to provide.

(12) In this paragraph—

“appropriate schools”—

- (a) in relation to a voluntary aided school having a religious character, means schools which are either foundation or voluntary schools and whose specified religion or religious denomination under section 69(4) is the same as that school’s, and
- (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;

^{F15}

Grants by Secretary of State in respect of preliminary expenditure

6 (1) The Secretary of State may pay grants—

- (a) to the governing body of a voluntary aided school in respect of preliminary expenditure incurred [^{F16}or to be incurred] by them for the purposes of any

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- 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 [^{F16}or to be incurred] by them, on behalf of the governing body, for the purposes of any such scheme.
- (2) Where any persons propose or are considering whether to propose the establishment of a voluntary aided school, the Secretary of State may pay grants to them in respect of any preliminary expenditure incurred [^{F17}or to be incurred] by them for the purposes of a scheme for the provision of a site for the school or of any buildings which would be [^{F18}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 [^{F19}used for the purposes of the school] , and
- (b) estimating the sums which would be expended if any such works were carried out,
- but does not include any sums expended in carrying out any such works.
- [^{F20}(5) A grant under sub-paragraph (1) or (2) shall not exceed 90 per cent of the expenditure or, if the Secretary of State considers that the circumstances are exceptional, shall not exceed 100 per cent of the expenditure, in respect of which it is paid.]
- (6) Where—
- (a) a grant is paid under sub-paragraph (1) in the case of any voluntary aided school, or
- (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.

Status: Point in time view as at 25/05/2007.

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Loans by Secretary of State in respect of initial [^{F21}expenses][^{F21}expenditure]

Textual Amendments

F21 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 [^{F22}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 [^{F23}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 [^{F24}"initial expenditure" is expenditure] to be incurred in providing—
- (a) a site or ^{F25} . . . 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 ^{F26} . . . buildings for a new voluntary aided school,
- being [^{F27}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 [^{F28}initial expenditure] shall be taken to be so much of the [^{F29}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 [^{F30}expenditure] incurred by that body on behalf of the governing body as it applies to [^{F30}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 LEAs in respect of maintenance and other obligations of governing bodies

- 8 A local education authority may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation under paragraph 3.

Status: Point in time view as at 25/05/2007.

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Duty to transfer interest in premises provided under paragraph 8

- 9 (1) Where assistance under paragraph 8 consists of the provision of any premises for use for the purposes of a school, the local education authority shall transfer their interest in the premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school’s foundation body, to be held by that body for the relevant purposes.
- (2) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the Secretary of State thinks proper.
- (3) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

[^{F31}Meaning of “capital expenditure”

Textual Amendments

F31 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,

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is to be treated for the purposes of this Schedule as being, or as not being, capital expenditure in relation to that body, or as the case may be, those promoters.

- (5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.
- (6) In this paragraph an “appropriate body”, in the case of a voluntary aided school, means—
- (a) the governing body of the school, or
 - (b) a relevant body in relation to the school (within the meaning of paragraph 5).
- 9B (1) For the purposes of paragraph 9A, “proper accounting practices”, in relation to an appropriate body or the promoters, in the case of a voluntary aided school, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the appropriate body, or as the case may be, the promoters, or
 - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.
- (2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.
- (3) In this paragraph an “appropriate body”, in the case of a voluntary aided school, has the same meaning as in paragraph 9A.]

PART III

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: COMMON PROVISIONS

Default powers of Secretary of State

- 10 (1) Where it appears to the Secretary of State that a local education authority have defaulted in the discharge of their duties relating to the maintenance of a foundation, voluntary or foundation special school, he may—
- (a) direct that any act done by or on behalf of the school’s governing body for the purpose of securing the proper maintenance of the school shall be taken to have been done by or on behalf of the authority, and
 - (b) reimburse to the governing body any sums which in his opinion they have properly expended for that purpose.
- (2) The amount of any sum reimbursed under sub-paragraph (1) shall be recoverable by the Secretary of State as a debt due to him from the authority; and without prejudice to any other method of recovery the whole or any part of any such sum may be deducted from any sums payable to the authority by the Secretary of State in pursuance of any regulations relating to the payment of grants.

Status: Point in time view as at 25/05/2007.

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Endowments

- 11 Where any sums accruing in respect of the income of an endowment are required by virtue of the provisions of a trust deed to be applied towards the maintenance of a foundation, voluntary or foundation special school, those sums shall not be payable to the local education authority but shall be applied by the governing body of the school—
- (a) (in the case of a voluntary aided school) towards the discharge of their obligations under paragraph 3, or
 - (b) (in the case of any school) in such manner, if any, as may be determined by a scheme for the administration of the endowment made after 1st April 1945.

Disapplication of restriction on local authority disposals

- 12 Subsection (2) of section 123 of the ^{M8}Local Government Act 1972 (local authority prohibited from making disposal of land under that section below market value without consent of the Secretary of State) shall not apply in the case of a disposal—
- (a) to the governing body of a foundation, voluntary or foundation special school, or
 - (b) to persons proposing to establish such a school.

Marginal Citations

M8 1972 c. 70.

^{F32}SCHEDULE 4

Section 24.

Textual Amendments

F32 Sch. 4 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), ss. 29, 188(3), Sch. 18 Pt. 3; S.I. 2007/935, art. 7(g)(q)

SCHEDULE 5

Section 25.

ADJUDICATORS

Interpretation

- 1 In this Schedule “adjudicator” means a person appointed under section 25.

Tenure of office

- 2 (1) Subject to sub-paragraphs (2) and (3), an adjudicator shall hold and vacate office in accordance with the terms of his appointment.

Status: Point in time view as at 25/05/2007.

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- (2) An adjudicator—
- (a) may at any time resign his office by notice in writing to the Secretary of State; and
 - (b) is eligible for re-appointment if he ceases to hold office.
- (3) An adjudicator may be removed from office by the Secretary of State on the ground of incapacity or misbehaviour.

Remuneration and pensions

- 3 (1) The Secretary of State may pay to an adjudicator such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines in the case of any adjudicator, the Secretary of State may pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.

Staff and accommodation etc.

- 4 The Secretary of State may—
- (a) provide an adjudicator with such administrative staff as the adjudicator may require; and
 - (b) provide, or defray the expenses of providing, an adjudicator with such accommodation and other facilities as the adjudicator may require.

Procedure

- 5 (1) Regulations may make provision as to the procedure to be followed in connection with the reference, under this Part or Part III of this Act [^{F33}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;

Status: Point in time view as at 25/05/2007.

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and any costs payable under any such order shall be subject to taxation in such manner as the Secretary of State may direct.

Textual Amendments

F33 Words in Sch. 5 para. 5(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 32; S.I. 2007/935, art. 7(o)

- 6 When taking any decision an adjudicator shall have regard (so far as relevant) to the obligations which, by virtue of—
- (a) Part III of the ^{M9}Sex Discrimination Act 1975, ^{F34} . . .
 - (b) Part III [^{F35}or section 71]of the ^{M10}Race Relations Act 1976, [^{F36}or
 - (c) Chapter 1 of Part 4 of the Disability Discrimination Act 1995,]
- are owed by any local education authority or governing body which will be affected by the decision.

Textual Amendments

F34 Word in Sch. 5 para. 6(a) repealed (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(3) (a), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

F35 Words in Sch. 5 para. 6(b) inserted (2.4.2001) by 2000 c. 34, s. 9(1), Sch. 2 para. 31 (with s. 10(5)); S.I. 2001/566, art. 2(1)

F36 Sch. 5 para. 6(c) and the preceding word "or" inserted (1.9.2002) by 2001 c. 10, ss. 42(1)(6), 43(3), Sch. 8 Pt. 2 para. 23(3)(b), Sch. 9 (with s. 43(13)); S.I. 2002/2217, art. 3, Sch. 1 Pt. 1

Marginal Citations

M9 1975 c. 65.

M10 1976 c. 74.

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 ^{M11}House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place there shall be inserted—
- “Adjudicator appointed under section 25 of the School Standards and Framework Act 1998.”

Marginal Citations

M11 1975 c. 24.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Parliamentary Commissioner

- 9 For the purposes of section 5 of the ^{M12}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 [^{F37}the Department for Education and Skills] .

Textual Amendments

F37 Words in Sch. 5 para. 9 substituted (27.6.2002) by [The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 \(S.I. 2002/1397\)](#), art. 12, **Sch. Pt. I para. 14**

Marginal Citations

M12 1967 c. 13.

Supervision of Council on Tribunals

- 10 (1) In section 7 of the ^{M13}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

M13 1992 c. 53.

SCHEDULE 6

Sections 28, 29 and 31.

[^{F38}STATUTORY PROPOSALS CONCERNING SCHOOLS IN WALES: PROCEDURE AND IMPLEMENTATION]

Textual Amendments

F38 [Sch. 6](#) heading substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 33(2)**; S.I. 2007/935, art. 7(o)

Modifications etc. (not altering text)

C12 [Sch. 6](#) modified (1.9.1999) by [S.I. 1999/704](#), regs. 21, 22, **Sch. 6** continued (1.9.2001) by [S.I. 2001/2678](#), **reg. 2(2)**

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- C13** Schs. 6, 7: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(2)(a), 216(4)** (with **ss. 210(8), 214(4)**); S.I. 2003/124, art. 4
- C14** Sch. 6 applied (1.9.2006) by 1996 c. 56, **s. 529(2)** (as amended by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 2**; S.I. 2006/2129, **art. 4**)

PART I

PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS: ENGLAND

Modifications etc. (not altering text)

- C15** Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, **regs. 5(1), 10, Sch. 1**.
Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, **regs. 5(2), 10, Sch. 1**.
Sch. 6 Pt. 1 (paras. 1-5) applied (with modifications) (E.) (1.9.2000) by S.I. 2000/2195, **reg. 4(1), Sch. 1** (as amended (15.9.2003) by The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2003 (S.I. 2003/2136), **regs. 1(1), 10**)
- C16** Sch. 6 Pt. I amendment to earlier affecting provision S.I. 2000/2195, Sch. 1 (E.) (15.9.2003) by The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2003 (S.I. 2003/2136), **regs. 1(1), 10**
- C17** Sch. 6 Pt. 1 applied (with modifications) by S.I. 2000/2195, **reg. 4(3), Schs. 2A, 2B** (as inserted (1.8.2005) by The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2005 (S.I. 2005/1731), **regs. 1(1), 5, 7**)

Application of Part I

F39₁

Textual Amendments

- F39** Sch. 6 paras. 1-5 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(3), **Sch. 18 Pt. 3** (with savings and transitional provisions in The School Organisation (Transitional Provisions) (England) Regulations 2007 (S.I. 2007/1355), **regs. 1(1), 4(1), 24(4), 25(2), 26(1)**); S.I. 2007/935, **art. 7(o)(q)** (with art. 8)

Objections

F39₂

Textual Amendments

- F39** Sch. 6 paras. 1-5 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(3), **Sch. 18 Pt. 3** (with savings and transitional provisions in The School Organisation (Transitional Provisions) (England) Regulations 2007 (S.I. 2007/1355), **regs. 1(1), 4(1), 24(4), 25(2), 26(1)**); S.I. 2007/935, **art. 7(o)(q)** (with art. 8)

Approval of proposals

F39₃

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F39** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

Determination by LEA whether to implement proposals

F39⁴

Textual Amendments

- F39** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

Requirement to implement proposals

F39⁵

Textual Amendments

- F39** Sch. 6 paras. 1-5 repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(3\)](#), [Sch. 18 Pt. 3](#) (with savings and transitional provisions in [The School Organisation \(Transitional Provisions\) \(England\) Regulations 2007 \(S.I. 2007/1355\)](#), regs. 1(1), [4\(1\)](#), 24(4), 25(2), 26(1)); S.I. 2007/935, [art. 7\(o\)\(q\)](#) (with art. 8)

PART II

[^{F40}PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS]

Textual Amendments

- F40** Sch. 6 Pt. 2 heading substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(4\)](#); S.I. 2007/935, [art. 7\(o\)](#)

Modifications etc. (not altering text)

- C18** Sch. 6 Pt. II applied (with modifications) (1.9.1999) (*temp.*) by S.I. 1999/2633, regs. 4, 5(1), [Sch. 1](#).
 Sch. 6 Pt. II modified (1.9.1999) by S.I. 1999/2633, reg. 5(2), [Sch. 2](#).

Application of Part II

6 This Part of this Schedule applies to proposals published under section 28, 29 or 31 ^{F41}

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F41 Words in [Sch. 6 para. 6](#) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(5\)](#), [Sch. 18 Pt. 3](#); [S.I. 2007/935](#), art. 7(o)(q)

Modifications etc. (not altering text)

C19 [Sch. 6 para. 6](#) applied (with modifications) (1.9.1999) by [S.I. 1999/1780](#), reg. 11, [Sch. 4](#).
[Sch. 6 para. 6](#) applied (with modifications) (1.9.1999) by [S.I. 1999/1671](#), reg. 10, [Sch. 5](#).
[Sch. 6 para. 6](#) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. 1](#) Tables 1, 2

Objections

- 7 (1) Any person may make objections to any proposals published under section 28, 29 or 31.
- (2) Where the proposals were published by a local education authority—
- any objections under this paragraph shall be sent to the authority within such period as may be prescribed (“the objection period”); and
 - within such period as may be prescribed the authority shall send to the [^{F42}Assembly] copies of all objections made (and not withdrawn in writing) within the objection period, together with the authority’s observations on them.
- (3) Where the proposals were published by a governing body or promoters, any objections under this paragraph shall be sent to the [^{F43}Assembly] within such period as may be prescribed.

Textual Amendments

F42 Word in [Sch. 6 para. 7\(2\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(6\)](#); [S.I. 2007/935](#), art. 7(o)

F43 Word in [Sch. 6 para. 7\(3\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(6\)](#); [S.I. 2007/935](#), art. 7(o)

Modifications etc. (not altering text)

C20 [Sch. 6 para. 7](#) applied (with modifications) (1.9.1999) by [S.I. 1999/1780](#), reg. 11, [Sch. 4](#).
[Sch. 6 para. 7](#) applied with modifications (1.9.1999) by [S.I. 1999/1671](#), reg. 10, [Sch. 5](#).
[Sch. 6 para. 7](#) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. 1](#) Table 2

C21 [Sch. 6 para. 7\(1\)](#) applied (with modifications) (W.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. 1](#) Table 1

C22 [Sch. 6 para. 7\(3\)](#) applied (with modifications) (w.) (1.9.2001) by [S.I. 2001/2678](#), reg. 7, [Sch. 1 Pt. 1](#) Table 3

Approval of proposals

- 8 (1) Proposals published under section 28, 29 or 31 require approval under this paragraph if—

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the [^{F44}Assembly], within two months after a copy of the published proposals is sent to [^{F45}it] under that section, gives notice to the body or promoters by whom the proposals were published that they require such approval; or
 - (b) objections to the proposals have been made in accordance with paragraph 7 and any of them have not been withdrawn in writing within the objection period.
- (2) Where any proposals require approval under this paragraph, the [^{F44}Assembly] may—
- (a) reject the proposals,
 - (b) approve them without modification, or
 - (c) approve them with such modifications as [^{F46}it] thinks desirable after consulting such persons or bodies as may be prescribed.
- (3) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified.
- ^{F47}(4)
- (5) Sub-paragraph (1) does not prevent the body or promoters by whom any proposals have been published under section 28, 29 or 31 from withdrawing those proposals by notice in writing given to the [^{F44}Assembly] at any time before the proposals are approved under this paragraph.

Textual Amendments

- F44** Word in Sch. 6 para. 8 substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(7)(a)**; S.I. 2007/935, art. 7(o)
- F45** Word in Sch. 6 para. 8(1)(a) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(7)(b)**; S.I. 2007/935, art. 7(o)
- F46** Word in Sch. 6 para. 8(2)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(7)(c)**; S.I. 2007/935, art. 7(o)
- F47** Sch. 6 para. 8(4) repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, **art. 2(1)(l)**; S.I. 2006/885, **art. 2(3)(b)**

Modifications etc. (not altering text)

- C23** Sch. 6 para. 8(1)(3)(5) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, **Sch. 1 Pt. 1** Table 3
- C24** Sch. 6 para. 8(2) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, **Sch. 1 Pt. 1** Table 1

Determination whether to implement proposals

- 9 (1) Where any proposals published under section 28, 29 or 31 do not require approval under paragraph 8, the body or promoters by whom the proposals were published shall determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within four months after a copy of the published proposals was sent to the [^{F48}Assembly] under section 28, 29 or 31.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The body or promoters in question shall notify the [^{F49}Assembly] of any determination made by them under sub-paragraph (1).

Textual Amendments

- F48** Word in Sch. 6 para. 9(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(8); S.I. 2007/935, art. 7(o)
- F49** Word in Sch. 6 para. 9(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(8); S.I. 2007/935, art. 7(o)

Requirement to implement proposals

- 10 (1) Where—
- (a) any proposals published under section 28, 29 or 31 have been approved under paragraph 8, or
 - (b) the body or promoters by whom such proposals were published have determined under paragraph 9 to implement the proposals,
- then (subject to the following provisions of this paragraph) the proposals shall be implemented, in the form in which they were so approved or determined, in accordance with Part III of this Schedule.
- (2) At the request of any prescribed body or persons, the [^{F50}Assembly]—
- (a) may modify the proposals after consulting such persons or bodies as may be prescribed; and
 - (b) where any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the event in question must occur.
- (3) If the [^{F50}Assembly] is satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
 - (b) that circumstances have so altered since approval was given under paragraph 8 that implementation of the proposals would be inappropriate,
- [^{F51}it] may determine that sub-paragraph (1) shall cease to apply to the proposals.
- (4) The [^{F50}Assembly] may only make a determination under sub-paragraph (3) where proposals that [^{F52}it] should do so have been published, in accordance with regulations, by the body or promoters who published the proposals referred to in that sub-paragraph; and regulations so made may provide for any of the provisions of sections 28, 29 and 31 and this Part of this Schedule to have effect in relation to any such further proposals with or without modifications.
- (5) Where—
- (a) any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, and
 - (b) the event specified under that sub-paragraph does not occur by the date in question (whether as specified under that sub-paragraph or as specified under sub-paragraph (2)(b) above),
- sub-paragraph (1) above shall cease to apply to the proposals.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) Where, by virtue of sub-paragraph (3)^{F53} ..., sub-paragraph (1) ceases to apply to any proposals, those proposals shall be treated for the purposes of this Schedule as if they had been rejected under paragraph 8.
- [^{F54}(7) Where, by virtue of sub-paragraph (5), sub-paragraph (1) ceases to apply to any proposals, those proposals [^{F55}fall to be considered afresh by the [^{F50}Assembly]] under paragraph 8.]

Textual Amendments

- F50** Word in Sch. 6 para. 10 substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(9\)\(a\)](#); S.I. 2007/935, art. 7(o)
- F51** Word in Sch. 6 para. 10(3) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(9\)\(b\)](#); S.I. 2007/935, art. 7(o)
- F52** Word in Sch. 6 para. 10(4) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(9\)\(b\)](#); S.I. 2007/935, art. 7(o)
- F53** Words in Sch. 6 para. 10(6) repealed (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), ss. 75, 216, [Sch. 10 para. 6\(2\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1
- F54** Sch. 6 para. 10(7) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 10 para. 6\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F55** Words in Sch. 6 para. 10(7) substituted (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 12 para. 13\(7\)](#); S.I. 2006/2129, art. 4

Modifications etc. (not altering text)

- C25** Sch. 6 para. 10 applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, [Sch. 1 Pt. I](#) Table 2
- C26** Sch. 6 para. 10(1)(2) applied (with modifications) (W.) (1.9.2001) by S.I. 2001/2678, reg. 7, [Sch. 1 Pt. I](#) Table 3

Commencement Information

- I1** Sch. 6 para. 10 wholly in force at 1.9.1999; Sch. 6 para. 10 not in force at Royal Assent see s. 145(3); Sch. 6 para. 10(4) in force for specified purposes at 1.2.1999 by S.I. 1999/3198, art. 2(2), [Sch.](#); Sch. 6 para. 10 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

PART III

MANNER OF IMPLEMENTATION OF STATUTORY PROPOSALS

Modifications etc. (not altering text)

- C27** Sch. 6 Pt. 3 excluded (19.12.2002) by [Education Act 2002 \(c. 32\)](#), ss. 193(6), 216 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1
- C28** Sch. 6 Pt. 3 excluded (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 11 para. 6\(4\)](#); S.I. 2006/2129, art. 4

Introductory

- 11 In this Part of this Schedule “proposals” means proposals falling to be implemented under paragraph ^{F56}... 10.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F56 Words in Sch. 6 para. 11 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(10), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

Proposals relating to community or maintained nursery schools

- 12 (1) This paragraph applies to proposals relating to a community or [^{F57}maintained nursery school or a proposed such school].
- (2) The proposals shall be implemented by the local education authority by whom they were published under section 28(1) ^{F58}... or 29(1) [^{F59}or, in the case of proposals published by the governing body of a community school under section 28(2)(b), by the local education authority who maintain the school].

Textual Amendments

F57 Words in Sch. 6 para. 12(1) substituted (1.6.2003 for E., 31.3.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(5)(a)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3; S.I. 2004/912, art. 4, Sch. Pt. 1

F58 Word in Sch. 6 para. 12(2) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(11), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

F59 Words in Sch. 6 para. 12(2) inserted (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(5)(b)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3

Modifications etc. (not altering text)

C29 Sch. 6 para. 12 applied (with modifications) (1.9.1999) by S.I. 1999/2103, **reg. 3**.

Proposals relating to foundation or voluntary controlled schools

- 13 (1) This paragraph applies to proposals relating to a foundation or voluntary controlled school or a proposed such school.
- (2) Where the proposals were published by a local education authority under section 28(1) ^{F60}... or 29(1), they shall be implemented by the authority.
- [^{F61}(3) Where the proposals were published—
- (a) under section 28(2) ^{F62}..., by promoters, or
 - (b) under section 28(2), by the governing body,
- they shall be implemented by the local education authority and by the promoters or (as the case may be) the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.]
- (4) Where the proposals were published by the governing body under section 29(2), they shall be implemented—
- (a) by the governing body; and
 - (b) by the local education authority as well.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F60** Word in Sch. 6 para. 13(2) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(12)(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F61** Sch. 6 para. 13(3) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 13(9)(b)**; S.I. 2006/2129, art. 4
- F62** Words in Sch. 6 para. 13(3)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(12)(b), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

Proposals relating to voluntary aided schools

- 14 (1) This paragraph applies to proposals relating to a voluntary aided school or a proposed such school.
- (2) Where the proposals were published by the governing body under section 28(2) or 29(2), they shall be implemented—
- (a) in the case of proposals published under section 28(2) so far as relating to the provision of any [^{F63}playing fields] for the school, by the local education authority;
 - (b) in the case of proposals published under section 29(2), by the governing body and the authority; and
 - (c) otherwise by the governing body.
- (3) Where the proposals were published under section 28(2) ^{F64}... by promoters, they shall be implemented—
- (a) so far as relating to the provision of any [^{F65}playing fields] for the school (but subject to sub-paragraph (5)), by the local education authority; and
 - (b) otherwise by the promoters.
- (4) ^{F66}.....
- (5) Nothing in sub-paragraph (3) requires a local education authority to provide any [^{F67}such playing fields] where—
- (a) the new voluntary aided school is to be established in place of one or more existing independent, foundation or voluntary schools falling to be discontinued on or before the date of implementation of the proposals; and
 - (b) [^{F68}those playing fields—]
 - (i) were part of the premises of any of the existing schools (whether it was an independent school or a foundation or voluntary school); and
 - (ii) (if it was a foundation or voluntary school) were not provided by the authority.
- (6) Where the proposals were published by a local education authority under section 29(1), they shall be implemented by the authority.

Proposals relating to community or foundation special schools

- 15 (1) This paragraph applies to proposals relating to—
- (a) a community or foundation special school; or
 - (b) a proposed such school.

Status: Point in time view as at 25/05/2007.

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- (2) Where the proposals were published by a local education authority under section 31(1), they shall be implemented by the authority.
- (3) Where the proposals were published by the governing body under section 31(2)(a), they shall be implemented by the local education authority and by the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (4) Where the proposals were published by the governing body under section 31(2)(b), they shall be implemented—
 - (a) by the governing body; and
 - (b) by the local education authority as well.

PART IV

PROVISION OF PREMISES AND OTHER ASSISTANCE

Provision of site and buildings for foundation, voluntary controlled or foundation special school

- 16 (1) This paragraph applies where a local education authority are required—
- (a) by virtue of paragraph 13(2) or (3) to provide a site for a foundation or voluntary controlled school or a proposed such school; or
 - (b) by virtue of paragraph 15(2) or (3) to provide a site for a foundation special school.
- (2) The authority shall transfer their interest in the site and in any buildings on the site which are to form part of the school premises—
- (a) to the school's trustees, to be held by them on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school's foundation body or (in the absence of such a body) to the governing body, to be held by that body for the relevant purposes.
- (3) If any doubt or dispute arises as to the persons to whom the authority are required to make the transfer, it shall be made to such persons as the [F69 Assembly] thinks proper.
- (4) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (5) Where—
- (a) a transfer is made under this paragraph, and
 - (b) the transfer is made to persons who possess, or are or may become entitled to, any sum representing proceeds of the sale of other premises which have been used for the purposes of the school,
- those persons shall notify the local education authority that paragraph (b) applies to them and they or their successors shall pay to the local education authority so much of that sum as, having regard to the value of the interest transferred, may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the [F69 Assembly].

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- (6) In sub-paragraph (5)(b) the reference to proceeds of the sale of other premises includes a reference to—
- (a) consideration for the creation or disposition of any kind of interest in other premises, including rent; and
 - (b) interest which has accrued in respect of any such consideration;
- and for the purposes of any agreed determination under sub-paragraph (5) regard shall be had to any guidance given from time to time by the [^{F69}Assembly].
- (7) Any sum paid under sub-paragraph (5) shall be treated for the purposes of section 14 of the ^{M14}Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.
- (8) A determination may be made under sub-paragraph (5) in respect of any property subject to a trust which has arisen under section 1 of the ^{M15}Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) if (and only if)—
- (a) the determination is made by the [^{F69}Assembly], and
 - (b) [^{F70}it] is satisfied that steps have been taken to protect the interests of the beneficiaries under the trust.
- (9) Sub-paragraph (5) shall apply for the purpose of compensating the authority notified under that sub-paragraph only in relation to such part of the sum mentioned in sub-paragraph (5)(b) (if any) as remains after the application of paragraphs 1 to 3 of Schedule 22 to that sum.
- (10) In this paragraph—
- “the relevant purposes” means—
- (a) in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts, or
 - (b) in relation to a transfer to a school’s governing body, the purposes of the school;
- “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question.

Textual Amendments

F69 Word in Sch. 6 para. 16 substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(14\)\(a\)](#); S.I. 2007/935, art. 7(o)

F70 Word in Sch. 6 para. 16(8)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 33\(14\)\(b\)](#); S.I. 2007/935, art. 7(o)

Modifications etc. (not altering text)

C30 Sch. 6 para. 16 applied (E.) (1.9.2000) by S.I. 1999/2213, [reg. 20\(1\)\(2\)](#) (as inserted by S.I. 2000/2198, [reg. 8](#))

C31 Sch. 6 para. 16 applied by 2000 c. 21, [Sch. 7A para. 5](#) (as inserted (1.4.2003 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 9](#) (with ss. 210(8), 214(4)); S.I. 2003/124, [art. 4](#)); S.I. 2004/1728, art. 4, [Sch. Pt. 1](#)

C32 Sch. 6 para. 16 applied (1.6.2003) by [Education Act 2002 \(c. 32\)](#), s. 216(2), [Sch. 8 para. 7\(4\)](#) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2

C33 Sch. 6 para. 16 applied (25.5.2007) by 2000 c. 21, [Sch. 7A para. 5\(2\)](#) (as substituted by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 46](#); S.I. 2007/935, [art. 7\(o\)](#))

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Marginal Citations

M14 1841 c. 38.

M15 1987 c. 15.

Grants in respect of certain expenditure relating to existing or proposed voluntary aided school

- 17 (1) This paragraph applies where—
- (a) the governing body of a voluntary aided school are required by virtue of paragraph 14(2) to implement proposals relating to a prescribed alteration to the school; or
 - (b) any promoters are required by virtue of paragraph 14(3) to implement proposals involving the establishment of a new voluntary aided school.
- (2) Paragraph 5 of Schedule 3—
- (a) shall apply in relation to the voluntary aided school mentioned in subparagraph (1)(a) above; and
 - (b) shall apply in relation to the new voluntary aided school mentioned in subparagraph (1)(b) above as it applies in relation to an existing voluntary aided school.
- (3) In the application of that paragraph in relation to a new voluntary aided school—
- (a) the references to the governing body, in relation to any time before the governing body are constituted, are to the promoters; and
 - (b) where requirements are imposed in relation to grant paid by virtue of this paragraph to the promoters, the requirements shall be complied with by the governing body, when they are constituted, as well as by the promoters.

Modifications etc. (not altering text)

- C34** Sch. 6 para. 17 applied by 2000 c. 21, **Sch. 7A para. 6** (as inserted (1.4.2003 for E., 1.8.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 9** (with ss. 210(8), 214(4)); S.I. 2003/124, **art. 4**); S.I. 2004/1728, **art. 4**, **Sch. Pt. 1**
- C35** Sch. 6 para. 17 applied (1.6.2003) by Education Act 2002 (c. 32), s. 216(2), **Sch. 8 para. 8(8)** (with ss. 210(8), 214(4)); S.I. 2003/1115, **art. 2**
- C36** Sch. 6 para. 17 applied (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 10 para. 14(8)**; S.I. 2006/2129, **art. 4**
- C37** Sch. 6 para. 17 applied (E.) (25.5.2007) by 2000 c. 21, **Sch. 7A para. 6(2)** (as substituted by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, **art. 7(o)**)

Assistance in respect of maintenance and other obligations relating to voluntary aided school

- 18 A local education authority may give to the governing body of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by the governing body of any obligation arising by virtue of paragraph 14(2) in relation to proposals published by them under section 28.

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Modifications etc. (not altering text)

- C38** Sch. 6 para. 18 applied by 2000 c. 21, Sch. 7A para. 7 (as inserted (1.4.2003 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 9** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4); S.I. 2004/1728, art. 4, Sch. Pt. 1
- C39** Sch. 6 para. 18 applied (E.) (25.5.2007) by 2000 c. 21, **Sch. 7A para. 7(3)** (as substituted by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 46**; S.I. 2007/935, **art. 7(o)**)

Assistance for promoters of new voluntary aided school

- 19 A local education authority may give to persons required by virtue of paragraph 14(3) to implement proposals involving the establishment of a voluntary aided school such assistance as the authority think fit in relation to the carrying out by those persons of any obligation arising by virtue of that provision.

Modifications etc. (not altering text)

- C40** Sch. 6 para. 19 applied (1.6.2003) by [Education Act 2002 \(c. 32\)](#), s. 216(2), **Sch. 8 para. 8(9)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2
- C41** Sch. 6 para. 19 applied (1.9.2006) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 10 para. 14(9)**; S.I. 2006/2129, art. 4

Duty to transfer interest in premises provided under paragraph 18 or 19

- 20 (1) Where assistance under paragraph 18 or 19 consists of the provision of any premises for use for the purposes of a school, the local education authority shall transfer their interest in the premises—
- (a) to the trustees of the school to be held on trust for the purposes of the school; or
 - (b) if the school has no trustees, to the school’s foundation body, to be held by that body for the relevant purposes.
- (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 [F71 Assembly] thinks proper.
- (3) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (4) In this paragraph “the relevant purposes” means, in relation to a transfer to a school’s foundation body, the purposes of the schools comprising the group for which that body acts.

Textual Amendments

- F71** Word in [Sch. 6 para. 20\(2\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 33(15)**; S.I. 2007/935, art. 7(o)

Modifications etc. (not altering text)

- C42** Sch. 6 para. 20 applied by 2000 c. 21, Sch. 7A para. 7 (as inserted (1.4.2003 for E., 1.8.2004 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 9** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4); S.I. 2004/1728, art. 4, Sch. Pt. 1

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- C43** Sch. 6 para. 20 applied (1.6.2003) by Education Act 2002 (c. 32), s. 216(2), **Sch. 8 para. 8(9)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2
- C44** Sch. 6 para. 20 applied (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 10 para. 14(9)**; S.I. 2006/2129, art. 4

PART V

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

F72 ...

Textual Amendments

- F72** Sch. 6 para. 21 heading repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(16), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

F73 21

Textual Amendments

- F73** Sch. 6 para. 21 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(16), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)

[^{F74}Single-sex schools]

Textual Amendments

- F74** Sch. 6 para. 22 heading substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 33(17)**; S.I. 2007/935, art. 7(o)

22 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.

(2) Sub-paragraph (3) applies where—

- (a) such proposals are made under section 28 and, in accordance with subsection (7) of that section, the relevant body send a copy of the published proposals to the [^{F75}Assembly]; or
- (b) such proposals are made under section 31 and, in accordance with subsection (6) of that section, the relevant body send a copy of the published proposals to the [^{F75}Assembly].

(3) The sending of the published proposals to the [^{F75}Assembly] shall be treated as an application by the responsible body for the making by the [^{F75}Assembly] of a transitional exemption order, and [^{F76}the Assembly] may make such an order accordingly.

[^{F77}(4) In this paragraph—

“the 1975 Act” means the Sex Discrimination Act 1975,

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“make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke,

“the responsible body” has the same meaning as in section 22 of the 1975 Act, and

“transitional exemption order” has the same meaning as in section 27 of the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school's admission arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).]

Textual Amendments

- F75** Word in Sch. 6 para. 22 substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(18)(a); S.I. 2007/935, art. 7(o)
- F76** Words in Sch. 6 para. 22(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(18)(b); S.I. 2007/935, art. 7(o)
- F77** Sch. 6 para. 22(4) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 33(18)(c); S.I. 2007/935, art. 7(o)

SCHEDULE 7

Section 34.

[^{F78}RATIONALISATION OF SCHOOL PLACES IN WALES]

Textual Amendments

- F78** Sch. 7 heading substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(2); S.I. 2006/2129, art. 4

Modifications etc. (not altering text)

- C45** Sch. 7 modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, Sch.

PART I

INTRODUCTORY

- 1 In this Schedule—
- (a) “powers to make proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority to publish proposals under section 28, 29 or 31; and
 - (b) “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a).

[^{F79}1A In this Schedule “the Assembly” means the National Assembly for Wales.]

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Textual Amendments

F79 Sch. 7 para. 1A inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(3); S.I. 2006/2129, art. 4

PART II

DIRECTIONS TO BRING FORWARD PROPOSALS

Directions to bring forward proposals to remedy excessive provision

- 2 (1) This paragraph applies where the [^{F80}Assembly] is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority [^{F81}in Wales], or
 - (b) in any part of such an area,
- is excessive.
- (2) For the purpose of remedying the excess, the [^{F80}Assembly] may—
- (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
 - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (3) An order under sub-paragraph (2) shall—
- (a) require the proposals to be published not later than such date as may be specified in the order, and
 - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- ^{F82}(5)

Textual Amendments

F80 Word in Sch. 7 para. 2 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(4)(a); S.I. 2006/2129, art. 4

F81 Words in Sch. 7 para. 2(1)(a) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(4)(b); S.I. 2006/2129, art. 4

F82 Sch. 7 para. 2(5) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(4)(c), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

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Directions to bring forward proposals to remedy insufficient provision

- 3 (1) This paragraph applies where the [^{F83}Assembly] is of the opinion that the provision for primary or secondary education in maintained schools—
 - (a) in the area of any local education authority [^{F84}in Wales], or
 - (b) in any part of such an area,
 is, or is likely to become, insufficient.
- (2) The [^{F83}Assembly] may—
 - (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
 - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school,
 with a view (in each case) to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the order.
- (3) An order under sub-paragraph (2) shall—
 - (a) require the proposals to be published not later than such date as may be specified in the order, and
 - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.

^{F85}(5)

Textual Amendments	
F83	Word in Sch. 7 para. 3 substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(5)(a); S.I. 2006/2129, art. 4
F84	Words in Sch. 7 para. 3(1)(a) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(5)(b); S.I. 2006/2129, art. 4
F85	Sch. 7 para. 3(5) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(5)(c), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

Supplementary provisions

- 4 ^{F86}(1)
- ^{F86}(2)
- ^{F86}(3)
- ^{F86}(4)
- ^{F86}(5)
- ^{F86}(6)

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- (7) Proposals made in pursuance of an order under paragraph 2(2) or 3(2)^{F87} ... may not be withdrawn without the consent of the [^{F88}Assembly] and such consent may be given on such conditions (if any) as the [^{F88}Assembly] considers appropriate.
- (8) Where the governing body of a foundation, voluntary or foundation special school make any proposals in pursuance of any such order under paragraph 2(2) or 3(2), the local education authority shall reimburse any expenditure reasonably incurred by the governing body in making the proposals.
- (9) Where—
- (a) proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of any such order under paragraph 2(2) or 3(2) are approved or, as the case may be, determined to be implemented, or
- [^{F89}(b) proposals adopted under paragraph 14 have effect as mentioned in paragraph 15(b),]
- then, despite anything in Part III of Schedule 6, the local education authority shall defray the cost of implementing the proposals.

Textual Amendments

- F86** Sch. 7 para. 4(1)–(6) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(6) (a), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4
- F87** Words in Sch. 7 para. 4(7) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(6)(b)(i), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4
- F88** Word in Sch. 7 para. 4(7) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(6)(b)(ii); S.I. 2006/2129, art. 4
- F89** Sch. 7 para. 4(9)(b) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(6) (c); S.I. 2006/2129, art. 4

Modifications etc. (not altering text)

- C46** Sch. 7 para. 4 applied (1.6.2003) by Education Act 2002 (c. 32), ss. 71(6), 216(2) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 2

PART III

[^{F90}PROPOSALS BY NATIONAL ASSEMBLY FOR WALES]

Textual Amendments

- F90** Sch. 7 Pt. 3 heading substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(7); S.I. 2006/2129, art. 4

Publication of proposals

- 5 (1) Where—
- (a) the [^{F91}Assembly] has, in relation to the area of any local education authority or any part of such an area, made an order under paragraph 2(2) or 3(2) directing the local education authority or the governing body of a

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foundation, voluntary or foundation special school to make proposals for the establishment, alteration or discontinuance of schools or (as the case may be) for the alteration of their school, and

- (b) either—
- (i) any proposals have been published in pursuance of the order, or
 - (ii) the time allowed under the order for the publication of the proposals has expired,

[^{F92}the Assembly may] make any such proposals as might have been made in accordance with the order relating to that area or that part of that area by the body to whom the directions were given.

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

^{F93}(3)

- (4) [^{F94}The Assembly shall] send a copy of the proposals—
- (a) to the local education authority for the area, and
 - (b) to the governing body of each school to which the proposals relate.

Textual Amendments

- F91** Word in Sch. 7 para. 5(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(8)(a)(i); S.I. 2006/2129, art. 4
- F92** Words in Sch. 7 para. 5(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(8)(a)(ii); S.I. 2006/2129, art. 4
- F93** Sch. 7 para. 5(3) repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(8)(b), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4
- F94** Words in Sch. 7 para. 5(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(8)(c); S.I. 2006/2129, art. 4

Modifications etc. (not altering text)

- C47** Sch. 7 para. 5 modified (1.6.2003 for E.) by Education Act 2002 (c. 32), ss. 74(1)(b), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3

^{F95}PART IV

PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: ENGLAND

.....

Textual Amendments

- F95** Sch. 7 Pt. 4 repealed (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(9), Sch. 19 Pt. 2; S.I. 2006/2129, art. 4

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PART V

PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: WALES

Application of Part V

- 11 This Part of this Schedule applies to proposals published under paragraph 5 which relate to an area in Wales.

Objections

- 12 (1) Any person may make objections to any proposals published under paragraph 5.
- (2) Objections under this paragraph—
- (a) shall be sent to the ^{F96}Assembly; and
 - (b) shall be so sent within such period as may be prescribed.

Textual Amendments

F96 Word in Sch. 7 para. 12(2)(a) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(10); S.I. 2006/2129, art. 4

Local inquiry into proposals

- 13 (1) This paragraph applies where in relation to the area of any local education authority ^{F97}the Assembly] has made proposals under paragraph 5 (otherwise than in pursuance of paragraph 14(1)) which ^{F97}the Assembly] has not withdrawn.
- (2) If objections have been made under paragraph 12(1) within the period prescribed in accordance with paragraph 12(2)(b), then, unless all objections so made have been withdrawn in writing within that period, ^{F98}the Assembly] shall cause a local inquiry to be held to consider ^{F98}the Assembly's] proposals, any proposals ^{F98}the Assembly] refers to the inquiry and any such objections.
- (3) Any proposals referred to a local inquiry under this paragraph require the approval of the ^{F99}Assembly] (if they would not require such approval apart from this subparagraph).
- (4) Where the ^{F100}Assembly] has a duty to cause a local inquiry to be held under this paragraph, ^{F101}the Assembly] shall refer] to the inquiry—
- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
 - (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), ^{F102}...
 - (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn), ^{F103}and
 - (d) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (and not withdrawn).]

Status: Point in time view as at 25/05/2007.

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where those proposals are not determined before [^{F104}the Assembly causes] the inquiry to be held and appear [^{F105}to the Assembly] to be related to the proposals made under paragraph 5 in respect of which [^{F106}it is required] under this paragraph to cause the inquiry to be held.

- (5) If, before the [^{F107}Assembly] causes the inquiry to be held, [^{F108}the Assembly forms] the opinion that any proposals ought to be implemented, sub-paragraph (4) does not require [^{F109}the Assembly] to refer those proposals to the inquiry unless—
- (a) before the proceedings on the inquiry are concluded, or
 - (b) (if earlier) the proposals are determined,
- [^{F110}the Assembly subsequently forms] a different opinion.
- (6) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).
- (7) References in this paragraph to the determination of any proposals are to—
- (a) any determination whether or not to approve or adopt the proposals under paragraph 8 of Schedule 6 or paragraph 14 below, ^{F111} . . .
 - (b) any determination whether or not to implement the proposals under paragraph 9 of Schedule 6 [^{F112}and
 - (c) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.]

Textual Amendments

- F97** Words in Sch. 7 para. 13(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(a)**; S.I. 2006/2129, art. 4
- F98** Words in Sch. 7 para. 13(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(b)**; S.I. 2006/2129, art. 4
- F99** Word in Sch. 7 para. 13(3) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(c)**; S.I. 2006/2129, art. 4
- F100** Word in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(i)**; S.I. 2006/2129, art. 4
- F101** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(ii)**; S.I. 2006/2129, art. 4
- F102** Word after Sch. 7 Pt. V para. 13(4)(b) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F103** Sch. 7 Pt. V para. 13(4)(d) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 149, **Sch. 9 para. 90(5)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F104** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(iii)**; S.I. 2006/2129, art. 4
- F105** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(iv)**; S.I. 2006/2129, art. 4
- F106** Words in Sch. 7 para. 13(4) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(d)(v)**; S.I. 2006/2129, art. 4
- F107** Word in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(i)**; S.I. 2006/2129, art. 4
- F108** Words in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(ii)**; S.I. 2006/2129, art. 4

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- F109** Words in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(iii)**; S.I. 2006/2129, art. 4
- F110** Words in Sch. 7 para. 13(5) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(11)(e)(iv)**; S.I. 2006/2129, art. 4
- F111** Word after Sch. 7 Pt. V para. 13(7)(a) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**
- F112** Sch. 7 Pt. V para. 13(7)(c) inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and 1.4.2002 for W.) by 2000 c. 21, s. 149, **Sch. 9 para. 90(6)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/2705, art. 2, **Sch. Pt. I**

Adoption of proposals

- 14 (1) Where the [^{F113}Assembly] has published proposals under paragraph 5 in respect of which [^{F114}it] is required to cause a local inquiry to be held, [^{F114}it] may when [^{F114}it] has considered the report of the person appointed to hold the inquiry do one or more of the following—
- adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by [^{F115}the Assembly] under that paragraph which [^{F114}it] referred to the inquiry;
 - approve, with or without modifications, or reject any other proposals which [^{F114}it] referred to the inquiry; and
 - make any such further proposals under paragraph 5 as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the body to whom the directions were given.
- (2) Where the [^{F116}Assembly] has published proposals under paragraph 5 in respect of which [^{F117}it] is not required to cause a local inquiry to be held and which [^{F117}it] is not required to refer to such an inquiry, [^{F117}it] may, after considering any objections made under paragraph 12(1) (and not withdrawn) within the period prescribed in accordance with paragraph 12(2)(b)—
- adopt the proposals with or without modifications; or
 - determine not to adopt the proposals.
- (3) Any adoption of proposals under this paragraph may be expressed to take effect only if an event specified in the adoption occurs by a date so specified.

Textual Amendments

- F113** Word in Sch. 7 para. 14(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(a)(i)**; S.I. 2006/2129, art. 4
- F114** Word in Sch. 7 para. 14(1) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(a)(ii)**; S.I. 2006/2129, art. 4
- F115** Words in Sch. 7 para. 14(1)(a) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(a)(iii)**; S.I. 2006/2129, art. 4
- F116** Word in Sch. 7 para. 14(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(b)(i)**; S.I. 2006/2129, art. 4
- F117** Word in Sch. 7 para. 14(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 14(12)(b)(ii)**; S.I. 2006/2129, art. 4

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Implementation of proposals

- 15 Proposals adopted by the [^{F118}Assembly] under paragraph 14 shall have effect as if they—
- (a) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or
 - (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school,
- and had been approved by the [^{F118}Assembly] under paragraph 8 of Schedule 6.

Textual Amendments

F118 Word in [Sch. 7 para. 15](#) substituted (1.9.2006) by [Education Act 2005 \(c. 18\), s. 125\(4\)](#), [Sch. 12 para. 14\(13\)](#); [S.I. 2006/2129, art. 4](#)

PART VI

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

Single-sex schools: England

- 16 [^{F119}(1)
- (2)
 - (3)
 - (4)
 - (5)
 - (6) In this paragraph and in paragraph 17—
 “the 1975 Act” means the Sex Discrimination Act 1975,
 and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).]

Textual Amendments

F119 [Sch. 7 para. 16](#) repealed (1.9.2006 except for para. 16(6)) by [Education Act 2005 \(c. 18\), s. 125\(4\)](#), [Sch. 12 para. 14\(14\)](#), [Sch. 19 Pt. 2](#); [S.I. 2006/2129, art. 4](#)

Single-sex schools: Wales

- 17 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.
- (2) Where such proposals are made under paragraph 5 of this Schedule, the responsible body shall be treated as having made an application to the [^{F120}Assembly] for the

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making of a transitional exemption order, and the [^{F120}Assembly] may make such an order accordingly.

Textual Amendments

F120 Word in Sch. 7 para. 17(2) substituted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), Sch. 12 para. 14(15); S.I. 2006/2129, art. 4

Modifications etc. (not altering text)

C48 Sch. 7 para. 17: Power to apply (with modifications) conferred (19.12.2002) by Education Act 2002 (c. 32), ss. 193(5), 216 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1

SCHEDULE 8

Section 35.

CHANGES OF CATEGORY OF SCHOOL

Permitted changes of category

- 1 (1) A community school may in accordance with this Schedule become a foundation school in pursuance of proposals published by the local education authority.
- (2) A school within one of the following categories, namely—
 - (a) a community school,
 - (b) a foundation school,
 - (c) a voluntary aided school, or
 - (d) a voluntary controlled school,may in accordance with this Schedule become a school within another of those categories in pursuance of proposals published by the governing body.
- (3) A community special school may in accordance with this Schedule become a foundation special school in pursuance of proposals published by the local education authority.
- (4) A community special school or a foundation special school may in accordance with this Schedule become a foundation special school or a community special school in pursuance of proposals published by the governing body.

Procedure for changing category of school

- 2 (1) Where, in the case of any maintained school, the local education authority or the governing body propose that the school should become a school of another category as permitted by paragraph 1, they shall publish their proposals under this paragraph.
- (2) Regulations may provide for any of the provisions of sections 28 and 31 and Part I or II of Schedule 6 to have effect in relation to any such proposals with or without modifications.

Status: Point in time view as at 25/05/2007.

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Mandatory publication of proposals for voluntary aided school to change category

- 3 (1) If at any time the governing body of a voluntary aided school are unable or unwilling to carry out their obligations under Schedule 3, they shall publish proposals under this paragraph.
- (2) If the proposals are published during the period mentioned in section 35(2), they shall be proposals for the school to become a voluntary controlled school.
- (3) If the proposals are published after the end of that period, they shall be proposals for the school to become either a voluntary controlled school or a foundation school, as the governing body may determine.
- (4) Sub-paragraph (2) of paragraph 2 shall apply in relation to proposals published under this paragraph as it applies in relation to proposals published under that paragraph.

Restrictions on changing category of school

- 4 (1) Regulations may make provision for preventing a school of any description specified in the regulations from changing its category under this Schedule unless such conditions are satisfied as are so specified.
- (2) The conditions which may be so specified include conditions requiring (according to the circumstances of the case) any of the following to be demonstrated to the satisfaction of any person so specified, namely—
- (a) that the school will join a group of schools for which a foundation body acts or proposes to act;
 - (b) where a foundation is proposed to be established for the school otherwise than under this Act, that the foundation would meet such requirements as may be so specified;
 - (c) that the governing body will be able to carry out their obligations under Schedule 3;
 - (d) that the school's governing or foundation body or trustees have agreed to sell or otherwise transfer to the local education authority any land of a description so specified.

Implementation of proposals

- 5 (1) Regulations may make such provision as the [^{F121}Assembly] considers necessary or expedient in connection with the implementation of proposals published under paragraph 2 or 3, including provision with respect to—
- (a) the revision or replacement of the school's instrument of government and the reconstitution of its governing body;
 - (b) the transfer of property, rights and liabilities (including such a transfer to or from a foundation body), and staff; and
 - (c) any transitional matters (whether relating to the implementation of proposals published under other provisions of this Act or otherwise).
- (2) Regulations under sub-paragraph (1) may, in particular, make provision with respect to—
- (a) restricting the disposal of land by a local authority which is used or held for the purposes of a school in relation to which proposals to change category are, or may be, published under paragraph 2, as from—

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- (i) the date of publication of such proposals; or
 - (ii) such other time as may be prescribed;
 - (b) restricting the taking of action by virtue of which any such land would cease to be so used or held to any extent;
 - (c) the consequences of any contravention of any such restriction;
 - (d) conferring on any prescribed body such functions as may be prescribed with respect to any such contravention.
- (3) Regulations under sub-paragraph (1) may, in connection with any matters falling within that sub-paragraph—
- (a) modify any provision made by or under this Part of this Act;
 - (b) apply any such provision with or without modifications;
 - (c) make provision corresponding or similar to any such provision.

Textual Amendments

F121 Word in [Sch. 8 para. 5\(1\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 3 para. 34](#); S.I. 2007/935, art. 7(o)

- 6 A school's change of category under this Schedule shall not be taken as authorising or requiring any change in the character of the school conducted by its governing body (including, in particular, any religious character of the school).

[^{F122}SCHEDULE 9

Section 36(1).

CONSTITUTION OF GOVERNING BODIES

Textual Amendments

F122 Schs. 9-13 repealed (1.10.2002 for E. for specified purposes, 1.9.2003 for E., 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#); S.I. 2003/1667, [art. 4](#); S.I. 2004/1728, art. 5, [Sch. Pt. 2](#); S.I. 2005/2910, art. 4, [Sch.](#); S.I. 2007/3611, art. 4(2), [Sch. Pt. 2](#)

Commencement Information

I2 Sch. 9 wholly in force at 1.9.1999; Sch. 9 in force for certain purposes at Royal Assent see s. 145(5); Sch. 9 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](#)).

Status: Point in time view as at 25/05/2007.

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PART I

CATEGORIES OF GOVERNOR

Co-opted governors

- 1 In this Schedule “co-opted governor” means a person who is appointed to be a member of the school’s governing body by being co-opted by governors who have not themselves been so appointed.

Foundation governors

- 2 In this Act “foundation governor” means a person appointed to be a member of the school’s governing body, otherwise than by a local education authority, who—
- (a) where the school has a particular religious character, is appointed for the purpose of securing that that character is preserved and developed, and
 - (b) where the school has a trust deed, is appointed for the purpose of securing that the school is conducted in accordance with that deed,
- or, where the school has neither a religious character nor a trust deed, is appointed as a foundation governor of the school.

LEA governors

- 3 In this Schedule “LEA governor” means a governor appointed to the school’s governing body by the local education authority.

Parent governors

- 4 In this Schedule “parent governor” means—
- (a) a person who is elected as a member of the school’s governing body by parents of registered pupils at the school and is himself such a parent at the time when he is elected, or
 - (b) a person who is appointed as a parent governor by the governing body in accordance with regulations.

Partnership governors

- 5 In this Schedule “partnership governor” means a person nominated as a partnership governor, and appointed as such, in accordance with regulations.

Staff governors

- 6 In this Schedule “staff governor” means a person—
- (a) who is elected as a member of the school’s governing body by persons employed to work at the school otherwise than as teachers, and
 - (b) who is himself a person so employed at the time when he is elected;
- and for this purpose “employed” means employed under a contract of employment or a contract for services.

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Teacher governors

- 7 In this Schedule “teacher governor” means a person—
- (a) who is elected as a member of the school’s governing body by teachers at the school, and
 - (b) who is himself such a teacher at the time when he is elected;
- and for this purpose “teacher” means a teacher employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher.

Head teacher

- 8 At any time when the head teacher is a governor, he shall be treated for all purposes as being an ex officio governor.

Modifications etc. (not altering text)

C49 Sch. 9 para. 8 modified (26.5.1999) by S.I. 1999/1287, reg. 6(2).

PART II

CONSTITUTION OF GOVERNING BODIES

Community schools

- 9 (1) The governing body of a community school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
 - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school, and
 - (c) any additional governors required by virtue of paragraph 15.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
 - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either all the first alternatives or all the second alternatives.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	6	5	4 or 5	3

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LEA governors	5	4	3 or 4	2
Teacher governors	2	2	1 or 2	1
Staff governors	1	1	1	1 or 0
Co-opted governors	5	4	3 or 4	2

Modifications etc. (not altering text)

- C50** Sch. 9 para. 9 applied (with modifications) (1.9.1999) by [S.I. 1999/2243, reg. 10\(1\)](#).
 Sch. 9 para. 9 excluded (1.9.1999) by [S.I. 1999/2243, regs. 14\(1\), 16](#).
 Sch. 9 para. 9 applied (with modifications) (1.9.1999) by [S.I. 1999/2262, regs. 10\(1\)\(2\), 17](#).

Community special schools

- 10 (1) The governing body of a community special school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
 - (b) governors of each of the categories specified in the first column of the table set out in paragraph 9, in the numbers specified in either the fourth or the fifth column, and
 - (c) any additional governors required by virtue of paragraph 15.
- (2) The option of having a smaller governing body constituted in accordance with the fifth column of the table is accordingly available whether or not the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a community special school to which that column is applicable must be constituted in such a way as to reflect either all the first alternatives or all the second alternatives.
- (4) Whichever set of numbers applies to the governing body of such a school under the fourth or fifth column—
- (a) the number of co-opted governors shall be reduced by one, and
 - (b) in place of that governor there shall be a representative governor appointed under sub-paragraph (5) or (6),
- except in a case where sub-paragraph (6) applies and no voluntary organisation is designated for the purposes of that sub-paragraph.
- (5) Where the school is established in a hospital, a representative governor shall be appointed—
- (a) (if the hospital is vested in the Secretary of State) by the [^{F123}Primary Care Trust or] Health Authority; or
 - (b) (if the hospital is vested in a National Health Service trust [^{F124}or a Primary Care Trust]) by that trust.
- (6) Where the school is not established in a hospital, then—

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- (a) if a voluntary organisation is designated by the local education authority, in relation to the school, as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised, a representative governor shall be appointed by that organisation; or
- (b) if two or more voluntary organisations are so designated as appropriate voluntary organisations concerned with such matters, a representative governor shall be appointed by those organisations acting jointly.

Textual Amendments

F123 Words in Sch. 9 para. 10(5)(a) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 2(5), 42(3), **Sch. 2 Pt. 2 para. 65**; S.I. 2002/2478, **art. 3(d)**

F124 Words in Sch. 9 Pt. II para. 10(5)(b) inserted (8.2.2000) by S.I. 2000/90, arts. 1, 3(1), **Sch. 1 para. 34**

Modifications etc. (not altering text)

C51 Sch. 9 para. 10 applied (with modifications) (1.9.1999) by S.I. 1999/2243, **reg. 10(1)**.

Sch. 9 para. 10 excluded (1.9.1999) by S.I. 1999/2243, **regs. 14(1), 16**.

Sch. 9 para. 10 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 10(1)(2), 17**

Sch. 9 para. 10 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **reg. 32(3)**

Foundation schools

- 11 (1) The governing body of a foundation school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
 - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school, and
 - (c) any additional governors required by virtue of paragraph 15.
- Where the school does not have a foundation, the reference to foundation governors in the first column shall be read as a reference to partnership governors.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
 - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	7	6	5 or 6	4

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

LEA governors	2	2	2	2
Teacher governors	2	2	1	1
Staff governors	1	1	1	1 or 0
Foundation governors	5	4	3 or 4	2
Co-opted governors	3	2	1	1

Modifications etc. (not altering text)

- C52** Sch. 9 para. 11 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 10(1).
Sch. 9 para. 11 excluded (1.9.1999) by S.I. 1999/2243, regs. 14(1), 16.
Sch. 9 para. 11 applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 10(1)(2), 17.

Foundation special schools

- 12 (1) The governing body of a foundation special school shall consist of the following—
- the head teacher, except at any time when he chooses not to be a governor,
 - governors of each of the categories specified in the first column of the table set out in paragraph 11, in the numbers specified in either the fourth or the fifth column, and
 - any additional governors required by virtue of paragraph 15.
- Where the school does not have a foundation, the reference to foundation governors in the first column shall be read as a reference to partnership governors.
- (2) The option of having a smaller governing body constituted in accordance with the fifth column of the table is accordingly available whether or not the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column of the table, the governing body of a foundation special school to which that column is applicable must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.

Modifications etc. (not altering text)

- C53** Sch. 9 para. 12 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 10(1).
Sch. 9 para. 12 excluded (1.9.1999) by S.I. 1999/2243, regs. 14(1), 16.
Sch. 9 para. 12 applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 10(1)(2), 17.

Voluntary controlled schools

- 13 (1) The governing body of a voluntary controlled school shall consist of the following—
- the head teacher, except at any time when he chooses not to be a governor,

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- (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school, and
 - (c) any additional governors required by virtue of paragraph 15.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
- (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
 - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	6	5	4 or 5	3
LEA governors	4	3	3	2
Teacher governors	2	2	1	1
Staff governors	1	1	1	1 or 0
Foundation governors	5	4	3 or 4	2
Co-opted governors	2	2	1	1

Modifications etc. (not altering text)

- C54** Sch. 9 para. 13 applied (with modifications) (1.9.1999) by [S.I. 1999/2243](#), **reg. 10(1)**.
 Sch. 9 para. 13 excluded (1.9.1999) by [S.I. 1999/2243](#), **regs. 14(1)**, 16.
 Sch. 9 para. 13 applied (with modifications) (1.9.1999) by [S.I. 1999/2262](#), **regs. 10(1)(2)**, 17.

Voluntary aided schools

- 14 (1) The governing body of a voluntary aided school shall consist of the following—
- (a) the head teacher, except at any time when he chooses not to be a governor,
 - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the school,
 - (c) any additional governors required by virtue of paragraph 15, and

Status: Point in time view as at 25/05/2007.

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- (d) such number of foundation governors as will lead to their outnumbering the other governors mentioned in paragraphs (a) to (c)—
 - (i) by three, in the case of a school to which the second column applies, or
 - (ii) by two, in the case of any other school.
- (2) The option of having a smaller governing body constituted in accordance with the third or fifth column is available—
 - (a) in the case of a secondary school, where the school has less than 600 registered pupils, and
 - (b) in the case of a primary school, where the school has less than 100 registered pupils.
- (3) As regards the alternatives specified in the fourth column, the governing body of a primary school to which that column applies must be constituted in such a way as to reflect either both of the first alternatives or both of the second alternatives.
- (4) The foundation governors required by sub-paragraph (1)(d) must include—
 - (a) at least three governors who at the time of their appointment are parents of registered pupils at the school, in the case of a school to which the second column applies, or
 - (b) at least two such governors in the case of any other school.

Category of governor	Secondary school-normal basis	Secondary school-option if less than 600 pupils	Primary school-normal basis	Primary school-option if less than 100 pupils
Parent governors	3	2	1 or 2	1
LEA governors	2	1	1 or 2	1
Teacher governors	2	2	1	1
Staff governors	1	1	1	1 or 0

Modifications etc. (not altering text)

- C55** Sch. 9 para. 14 applied (with modifications) (10.3.1999) by S.I. 1999/362, reg. 36(2).
- Sch. 9 para. 14 applied (with modifications) (1.9.1999) by S.I. 1999/2243, reg. 10(1).
- Sch. 9 para. 14 excluded (1.9.1999) by S.I. 1999/2243, regs. 14(1), 16.
- Sch. 9 para. 14 applied (with modifications) (1.9.1999) by S.I. 1999/2262, regs. 10(1)(2), 17.

Additional governors

- 15 (1) If the governing body of any maintained school so determine, or regulations so require, the instrument of government for the school shall provide for the governing body to include, in addition to the governors required by virtue of the preceding

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provisions of this Schedule, such number of co-opted governors as may be specified in or determined in accordance with regulations.

- (2) Regulations shall specify—
- (a) the circumstances in which provision for such appointments is authorised or required to be made under this paragraph; and
 - (b) the categories of person from whom or from amongst whose members nominations for such appointments are to be sought.
- (3) The instrument of government for any community or voluntary school which—
- (a) is a primary school, and
 - (b) serves an area for which there are one or more minor authorities,
- shall provide for the governing body to include (in addition to the governors required by virtue of paragraph 9, 13 or 14, as the case may be, and any required by virtue of sub-paragraph (1)) one co-opted governor nominated by the minor authority or (as the case may be) one of the minor authorities in question.
- (4) Where any such school serves an area for which there are two or more minor authorities, the relevant governors shall, for the purposes of the appointment of any such co-opted governor, seek nominations from such one or more of those authorities as the governors think fit.
- (5) In sub-paragraph (4) “the relevant governors” means those members of the school’s governing body who are not co-opted governors.

Modifications etc. (not altering text)

- C56** Sch. 9 para. 15 applied with modification (3.12.1998) by [S.I. 1998/2763, reg. 6\(2\)](#)
Sch. 9 para. 15(1) applied with modification (3.12.1998) by [S.I. 1998/2763, regs. 6\(3\), 7\(2\)](#)
Sch. 9 para. 15 modified (1.9.1999) by [S.I. 1999/2262, reg. 32\(2\)](#).

Substitutes for ex officio foundation governors

- 16 Regulations may make provision for, and in connection with, the appointment of foundation governors to act in the place of ex officio foundation governors in cases where—
- (a) any person holding a foundation governorship ex officio is unable or unwilling to act as a foundation governor, or
 - (b) there is a vacancy in the office by virtue of which such a governorship exists.

Adjustment in number of governors

- 17 (1) Where—
- (a) a maintained school has more governors of a particular category than are provided for by the instrument of government for the school in accordance with this Part of this Schedule, and
 - (b) the excess is not eliminated by the required number of governors of that category resigning,
- such number of governors of that category as is required to eliminate the excess shall cease to hold office.

Status: Point in time view as at 25/05/2007.

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- (2) If the excess has arisen in relation to foundation governors, the excess shall be eliminated in accordance with such procedure as is set out in the instrument of government for the school.
- (3) If the excess has arisen in relation to any other category of governor, the excess shall be eliminated in accordance with such procedure as may be prescribed.
- (4) Where the governing body of a maintained school includes any additional governors appointed in pursuance of paragraph 15, this paragraph shall apply to the school as if such of those governors as are nominated by a particular category of person constituted a separate category of governor.]

Modifications etc. (not altering text)

C57 SCh. 9 para. 17 excluded (10.3.1999) by S.I. 1999/362, reg. 34(6)

[^{F122}SCHEDULE 10

Section 36(2).

INCORPORATION AND POWERS OF GOVERNING BODIES

Introductory

- 1 (1) In the following paragraphs of this Schedule “the governing body” means the governing body of a maintained school incorporated under section 36(1).
- (2) Where an existing school (other than a grouped school) becomes a maintained school on the appointed day in accordance with Schedule 2, the governing body of the school—
 - (a) shall continue in existence as a body corporate; and
 - (b) shall so continue in existence as if incorporated under section 36(1);
 but as from that day the governing body shall (subject to regulations under sub-paragraph (3) or (4)) conform with Part II of Schedule 9.
- (3) For the purposes of sub-paragraph (2) the governing body of each such existing school shall (subject to regulations under sub-paragraph (4)) be reconstituted under the instrument of government required by paragraph 6 of Schedule 12 before the appointed day; and regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the reconstitution of a governing body in pursuance of this sub-paragraph.
- (4) Regulations may, in relation to cases where—
 - (a) the instrument of government required by paragraph 6 of Schedule 12 in the case of an existing school within sub-paragraph (2) above is not made before the appointed day, or
 - (b) the governing body of such a school are not reconstituted before that day, make such provision as the Secretary of State considers necessary or expedient in connection with any of the following matters, namely—
 - (i) the making of such instruments of government on or after that day,
 - (ii) the reconstitution of governing bodies on or after that day, and

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- (iii) the existence of such bodies on and after that day pending their reconstitution at some later date.
- (5) Regulations may, in relation to existing schools which are grouped schools, make such provision as the Secretary of State considers necessary or expedient in connection with the transition of such schools from being grouped under a single governing body to having their own governing bodies constituted under instruments of government made in accordance with Schedule 12.
- (6) If the instrument of government required by paragraph 6 of Schedule 12 is not made before the appointed day in the case of an existing school, the following requirements, namely—
- (a) the requirements of paragraph 2(1) below as to the name of the governing body, and
 - (b) the requirements of section 37(3) as to the name of the school,
- shall not apply until such time as that instrument of government is made.
- (7) In this paragraph “existing school” means (subject to sub-paragraph (8))—
- (a) a county, controlled, aided or special agreement school or a maintained special school, or
 - (b) a grant-maintained or grant-maintained special school,
- within the meaning of the ^{M16}Education Act 1996; and “grouped school” means a school grouped under section 89 or 280 of that Act.
- (8) A school is not an existing school for the purposes of this paragraph if immediately before the appointed day—
- (a) in the case of a school within paragraph (a) of sub-paragraph (7), it has a temporary governing body, or
 - (b) in the case of a school within paragraph (b) of that sub-paragraph, it has a governing body but it has not yet opened;
- and for this purpose a school “opens” on the date when it first admits pupils.
- (9) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the transition of—
- (a) any such school as is mentioned in sub-paragraph (8)(a) or (b), or
 - (b) any proposed school which would be a school within sub-paragraph (7)(a) and which has, or is required to have, a temporary governing body,
- to a school with a governing body constituted under an instrument of government made in accordance with Schedule 12.
- (10) Regulations under any provision of this paragraph may, in connection with any matters falling within that provision—
- (a) modify any provision made by or under this Part of this Act;
 - (b) apply any such provision with or without modifications;
 - (c) make provision corresponding or similar to any such provision;
 - (d) provide for the continued application of any provision made by or under any of the Education Acts with or without modifications.

Marginal Citations

M16 1996 c. 56.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Name and seal of governing body

- 2 (1) The governing body shall be known as “The governing body of . . .” with the addition of the name of the school as for the time being set out in the school’s instrument of government.
- (2) The application of the seal of the governing body must be authenticated by the signature—
- (a) of the chairman of the governing body, or
 - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (3) Every document purporting to be an instrument made or issued by or on behalf of the governing body and—
- (a) to be duly executed under the seal of the governing body, or
 - (b) to be signed or executed by a person authorised by the governing body 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.

Powers of governing body

- 3 (1) The governing body may do anything which appears to them to be necessary or expedient for the purposes of, or in connection with, the conduct of the school.
- (2) The governing body may in particular—
- (a) borrow such sums as the governing body think fit and, in connection with such borrowing, grant any mortgage, charge or other security over any land or other property of the governing body;
 - (b) acquire and dispose of land and other property;
 - (c) enter into contracts;
 - (d) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
 - (e) accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any of those purposes; and
 - (f) do anything incidental to the conduct of the school.
- (3) The power to borrow sums and grant security mentioned in sub-paragraph (2)(a) may only be exercised with the written consent—
- (a) of the Secretary of State, or
 - (b) if an order under sub-paragraph (4) so provides, of the local education authority;
- and any such consent may be given for particular borrowing or for borrowing of a particular class.
- (4) The Secretary of State may by order make provision for his function of giving consent under sub-paragraph (3) to be instead exercisable—
- (a) in the case of all maintained schools, or
 - (b) in the case of any class of such schools specified in the order,
- by the local education authorities by whom those schools are maintained.

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- (5) In exercising that function those authorities shall comply with any directions contained in an order made by the Secretary of State.
- (6) Where the school is a foundation, voluntary aided or foundation special school, the power to enter into contracts mentioned in sub-paragraph (2)(c) includes power to enter into contracts for the employment of teachers and other staff; but no such contracts may be entered into by the governing body of a community, voluntary controlled or community special school.
- (7) Sub-paragraphs (1) and (2) have effect subject to—
- any provisions of the school’s instrument of government; and
 - any provisions of a scheme under section 48 which relates to the school.

Modifications etc. (not altering text)

- C58** Sch. 10 para. 3 extended (1.9.1999) by [S.I. 1999/2243](#), [reg. 54](#).
Sch. 10 para. 3 applied (with modifications) (1.9.1999) by [S.I. 1999/2243](#), [reg. 55\(3\)](#).
Sch. 10 para. 3 applied (1.9.1999) by [S.I. 1999/2262](#), [reg. 54](#).
Sch. 10 para. 3 applied (with modifications) (1.9.1999) by [S.I. 1999/2262](#), [reg. 55\(3\)](#).

Dissolution of governing body

- 4 (1) If the school is discontinued, the governing body are dissolved by virtue of this paragraph—
- on the discontinuance date, or
 - on such later date as the Secretary of State may specify by order made before the discontinuance date.
- (2) In this paragraph “the discontinuance date” means—
- the date when proposals for discontinuing the school are implemented under Part III of Schedule 6,
 - the date when the school is discontinued under section 30, or
 - the date specified in a direction given under section 19(1) or 32(1),
- as the case may be.]

[^{F122}SCHEDULE 11

Section 36(3).

MEMBERSHIP AND PROCEEDINGS ETC. OF GOVERNING BODIES

Commencement Information

- I3** Sch. 11 wholly in force at 1.9.1999; Sch. 11 Pts. I and III in force at Royal Assent see s. 145(4); Sch. 11 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2262](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

Status: Point in time view as at 25/05/2007.

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PART I

MEMBERSHIP AND PROCEEDINGS

Modifications etc. (not altering text)

C59 Sch. 11 Pt. I (paras. 1-5) modified (20.11.1998) by [S.I. 1998/2670](#), **reg. 3(1)(3)**

Regulations about governing bodies

- 1 Regulations may make in relation to governing bodies of maintained schools such provision as is authorised by the following provisions of this Part of this Schedule.

Election or appointment of governors

- 2 (1) The regulations may make provision—
- (a) as to the procedures to be followed in connection with the election or appointment of persons as governors of such schools or in connection with the nomination of persons to be so appointed;
 - (b) imposing requirements which must be complied with in relation to the appointment or nomination of persons as governors of any prescribed category;
 - (c) as to the circumstances in which persons are qualified or disqualified—
 - (i) for being elected, appointed or nominated as governors of any such category, or
 - (ii) for voting in an election of such governors.
- (2) The regulations may make provision—
- (a) for enabling the local education authority or (as the case may be) the governing body to determine, for the purposes of any such election, whether any person is a person of such a description as is specified in the regulations;
 - (b) for requiring appointments falling to be made by persons acting jointly to be made, in any prescribed circumstances, by or in accordance with a direction given by the Secretary of State.

Qualifications and tenure of office

- 3 The regulations may make provision as to—
- (a) the circumstances in which persons are qualified or disqualified for holding office as governors;
 - (b) the term of office of governors (subject to any provision made by virtue of sub-paragraph (a));
 - (c) the resignation or removal of governors from office.

Meetings and proceedings

- 4 (1) The regulations may make provision as to the meetings and proceedings of governing bodies.
- (2) The provision authorised by sub-paragraph (1) includes, in particular, provision—

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- (a) for the election by the governors of a school of one of their number to be chairman, and one to be vice-chairman, of the governing body;
 - (b) for the period for which the chairman and vice-chairman are to be elected and for the removal from office of either of those persons;
 - (c) for the establishment by a governing body of committees (which may include persons who are not members of the governing body) and for the constitution, meetings and proceedings of committees so established;
 - (d) for the delegation of functions of a governing body, in such circumstances as may be specified, to committees established by that body, to any member of that body or to the head teacher;
 - (e) for the chairman, or such other member of a governing body as may be specified, to have power in specified circumstances to discharge any of the governing body's functions as a matter of urgency;
 - (f) as to the quorum required in any specified circumstances;
 - (g) for securing that proceedings of a governing body, or of any committee established by them, are not invalidated by any vacancy among the governors, or among the members of any such committee, or in any other specified circumstances;
 - (h) requiring decisions taken by a governing body in any specified circumstances to be confirmed at a second meeting of that body held within such period as may be specified.
- (3) In sub-paragraph (2) “specified” means specified in the regulations.
- (4) The regulations may authorise or require governing bodies to make provision with respect to any matters relating to their meetings or proceedings (including any of the matters mentioned in sub-paragraph (2)).
- (5) Subject to the regulations, a governing body may regulate their own procedure and that of any of their committees.

Information as to meetings and proceedings

- 5 (1) The regulations may make provision requiring a governing body—
- (a) to make minutes (including draft minutes) of their proceedings available for inspection by the local education authority;
 - (b) to make available—
 - (i) to such persons or classes of person as may be specified, and
 - (ii) in such form, and at such times, as may be specified,such documents and information relating to their meetings and proceedings as may be specified.
- (2) In sub-paragraph (1) “specified” means specified in the regulations.

Status: Point in time view as at 25/05/2007.

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PART II

OTHER PROVISIONS ABOUT GOVERNORS

Modifications etc. (not altering text)

C60 Sch. 11 Pt. II modified (3.12.1998) by [S.I. 1998/2670](#),

Governors' expenses

- 6 (1) A governor shall be entitled to receive such allowances, payable at such rates, as the governing body may determine in accordance with regulations.
- (2) Sub-paragraph (1) does not apply at any time when the school does not have a delegated budget, and the payment of allowances to a governor at any such time shall instead be in accordance with a scheme made by the local education authority for the purposes of section 519 of the ^{M17}Education Act 1996.

Modifications etc. (not altering text)

C61 Sch. 11 para. 6 modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 3\(1\)](#)

Marginal Citations

M17 1996 c. 56.

Training and support of governors

- 7 The local education authority shall—
- (a) (to the extent that they are not otherwise required to secure the provision of such information) secure that every governor is provided, free of charge, with such information as they consider appropriate in connection with the discharge of his functions as a governor; and
- (b) secure that there is made available to every governor, free of charge, such training as they consider necessary for the effective discharge of those functions.

PART III

CLERK TO THE GOVERNING BODY

Appointment etc. of clerk

- 8 Regulations may make provision—
- (a) requiring the appointment of a clerk to the governing body of a maintained school and authorising or requiring the appointment of clerks to committees of the governing body;
- (b) prescribing the body by whom any such appointment is to be made and any restrictions or other requirements relating to any such appointment;

Status: Point in time view as at 25/05/2007.

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- (c) as to the dismissal of any such clerk and the procedure to be followed in connection with his dismissal;
- (d) authorising the governing body or a committee of the governing body, where the clerk fails to attend a meeting of theirs, to appoint one of their number to act as clerk for the purposes of that meeting.]

[^{F122}SCHEDULE 12

Section 37.

INSTRUMENTS OF GOVERNMENT

Modifications etc. (not altering text)

C62 Sch. 12 savings for effects of 2002 c. 32, s. 215(2), Sch. 22 Pt. 3 (W.) (31.10.2005) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2005 \(S.I. 2005/2913\)](#), **reg. 5**

Commencement Information

I4 Sch. 12 wholly in force at 1.9.1999; Sch. 12 in force for certain purposes at Royal Assent see s. 145(5); Sch. 12 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](#)).

Contents and form of instrument of government

- 1 (1) The instrument of government for a maintained school shall set out—
- (a) the name of the school;
 - (b) the category of school (within section 20(1)) to which the school belongs;
 - (c) the name of the governing body of the school;
 - (d) the manner in which the governing body are to be constituted, specifying—
 - (i) the categories of governor and the number of governors in each category,
 - (ii) the categories of person from whom or from amongst whose members nominations for the appointment of any additional governors required by virtue of paragraph 15 of Schedule 9 are to be sought,
 - (iii) the number of such governors for whose appointment nominations are to be sought in the case of each such category of person,
 - (iv) where the school is a community special school, whether it has a representative governor by virtue of paragraph 10 of Schedule 9, and
 - (v) the total number of governors;
 - (e) where the school has foundation governors—
 - (i) the name of any foundation body or person who is entitled to appoint such governors and (if there is more than one such person) the basis on which such appointments are made,
 - (ii) details of any foundation governorship to be held ex officio by the holder of a named office and the name of any person entitled to make any appointment by virtue of paragraph 16 of Schedule 9, and

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- (iii) the procedure to be adopted for eliminating any excess in the number of foundation governors for the purposes of paragraph 17 of that Schedule;
 - (f) where the school is a community special school, the names of any body or bodies by whom any representative governor is appointed under paragraph 10 of that Schedule;
 - (g) where the school is a foundation or voluntary school which has a religious character, a description of the ethos of the school; and
 - (h) the date when the instrument takes effect.
- (2) The manner in which the governing body are to be constituted, as set out in the instrument in accordance with sub-paragraph (1)(d), must conform with the provisions of—
- (a) Part II of Schedule 9, and
 - (b) any regulations made under paragraph 15 of that Schedule, as they apply to a school of the category to which the school belongs.
- (3) Where, for the purposes of any provision of that Part of that Schedule, it is material to determine the number of registered pupils at the school, that number shall be determined as at the date when the instrument is made.
- (4) The instrument shall (subject to any other statutory provision) comply with any trust deed relating to the school.
- (5) The instrument shall be made in such form as may be prescribed.

Modifications etc. (not altering text)

C63 Sch. 12 para. 1 applied (with modifications) (3.12.1998) by [S.I. 1998/2763, regs. 6\(4\), 7\(3\)](#)
 Sch. 12 para. 1 applied (with modifications) (1.9.1999) by [S.I. 1999/2262, reg. 32\(5\)](#).

Making of instruments of government

- 2 (1) Paragraph 3 shall apply in connection with the making of an instrument of government for a maintained school subject to any relevant modifications.
- (2) In sub-paragraph (1) “relevant modifications” means—
- (a) where the instrument of government is to be made in pursuance of paragraph 6 for a school which is to become a maintained school on the appointed day in accordance with Schedule 2, modifications prescribed under that paragraph;
 - (b) where the instrument of government is to be made in pursuance of regulations under section 44 for a new maintained school, modifications prescribed under that section; and
 - (c) where the instrument of government is to be made in pursuance of regulations under paragraph 5 of Schedule 8 for a school changing its category in accordance with that Schedule, modifications prescribed by regulations under that paragraph.

Procedure for making instrument

- 3 (1) The governing body shall prepare a draft of the instrument and submit it to the local education authority.

Status: Point in time view as at 25/05/2007.

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- (2) Where the school has foundation governors, the governing body shall not submit the draft to the authority unless the following persons have agreed to the contents of the draft, namely—
- (a) the foundation governors;
 - (b) any trustees under a trust deed relating to the school; and
 - (c) in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority.
- (3) On receiving the draft the authority shall consider whether it complies with all applicable statutory provisions, and if—
- (a) the authority are content with the draft, or
 - (b) there is agreement between the authority, the governing body and (if the school has foundation governors) the persons mentioned in sub-paragraph (2) that the draft should be revised to any extent,
- the instrument shall be made by order of the authority in the form of the draft or (as the case may be) in the form of the revised draft.
- (4) If, in the case of a school which has foundation governors, there is at any time disagreement as to the contents of the draft among the bodies and persons mentioned in sub-paragraph (3)(b), any of those bodies or persons may refer the draft to the Secretary of State; and on such a reference the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the category of school to which the school belongs.
- (5) If neither of paragraphs (a) and (b) of sub-paragraph (3) applies in the case of a school which does not have foundation governors, the authority shall—
- (a) notify the governing body of the reasons why they are not content with the draft instrument, and
 - (b) give the governing body a reasonable opportunity to reach agreement with the authority on revising the draft;
- and the instrument shall be made by order of the authority either in the form of a revised draft agreed between the authority and the governing body or (in the absence of such agreement) in such form as the authority think fit having regard, in particular, to the category of school to which the school belongs.
- (6) When taking any decision as to the name of the school the governing body, the authority and (if the school has foundation governors) the persons mentioned in sub-paragraph (2), shall have regard to any guidance given from time to time by the Secretary of State.
- (7) Nothing in this paragraph requires the agreement of, or enables any objection to be made by, any body or person to any part of a draft instrument that reflects any decision taken by the governing body or any other person which the governing body or that person is required or authorised to take by virtue of any statutory provision.

Modifications etc. (not altering text)

C64 Sch. 12 para. 3 applied with modification (3.12.1998) by [S. I. 1998/2763](#), [reg. 6\(5\)](#)

C65 Sch. 12 para. 3(2)-(6) modified (W.) (1.9.2001) by [S.I. 2001/2678](#), [reg. 12](#)

Status: Point in time view as at 25/05/2007.

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Review of instruments of government

- 4 (1) The governing body or the local education authority may review the instrument at any time after it is made.
- (2) The governing body or the authority shall review the instrument on such occasions as may be prescribed; and regulations may require the instrument to be varied at the instance of the governing body in such circumstances as may be prescribed.
- (3) Where—
- (a) on any review the governing body or the authority decide that the instrument should be varied, or
 - (b) any regulations under sub-paragraph (2) require the instrument to be varied, the governing body or (as the case may be) the authority shall notify the other of their proposed variation.
- (4) Where the governing body have received a notification under sub-paragraph (3), they shall notify the authority as to whether or not they are content with it.
- (5) Where the school has foundation governors, the governing body shall not give the authority—
- (a) any notification under sub-paragraph (3), or
 - (b) any notification under sub-paragraph (4) to the effect that they are content with the authority's proposed variation,
- unless the persons mentioned in paragraph 3(2) have agreed to the proposed variation.
- (6) If—
- (a) both the governing body and the authority are content with a proposed variation as notified under sub-paragraph (3), or
 - (b) there is agreement between the authority, the governing body and (if the school has foundation governors) the persons mentioned in paragraph 3(2) that some other variation should be made instead,
- the instrument shall be varied accordingly by order of the authority.
- (7) If, in the case of a school which has foundation governors, there is at any time disagreement as to the proposed variation among the bodies and persons mentioned in sub-paragraph (6)(b), any of those bodies or persons may refer the proposed variation to the Secretary of State; and on such a reference the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the category of school to which the school belongs.
- (8) If neither of paragraphs (a) and (b) of sub-paragraph (6) applies in the case of a school which does not have foundation governors, the authority shall—
- (a) notify the governing body of the reasons—
 - (i) why they are not content with the governing body's proposed variation, or
 - (ii) why they wish to proceed with their own proposed variation,
 as the case may be, and
 - (b) give the governing body a reasonable opportunity to reach agreement with the authority on revising the variation;
- and the instrument shall be varied by order of the authority either in the manner agreed between the authority and the governing body or (in the absence of such

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agreement) in such manner as the authority think fit having regard, in particular, to the category of school to which the school belongs.

- (9) Where there is no such agreement (and no variation is required by regulations under sub-paragraph (2)), sub-paragraph (8) does not require the authority to vary the instrument if they consider it appropriate not to do so.
- (10) The following requirements under paragraph 3, namely—
- (a) the requirement under sub-paragraph (3) for the authority to consider compliance with all applicable statutory provisions, and
 - (b) the requirement under sub-paragraph (6) to have regard, in connection with the name of the school, to guidance given by the Secretary of State,
- shall apply in relation to a proposed variation of an instrument of government as they apply in relation to a draft of such an instrument.
- (11) Where an instrument of government is varied under this paragraph—
- (a) the instrument shall set out the date on which the variation takes effect, and
 - (b) paragraph 1(3) shall apply in relation to any variation relating to the manner in which the governing body are to be constituted as if it referred to the date when the variation is made rather than the date when the instrument is made.
- (12) Nothing in this paragraph requires the agreement of, or enables any objection to be made by, any body or person to any proposed variation that reflects any decision taken by the governing body or any other person which the governing body or that person is required or authorised to take by virtue of any statutory provision.

Other requirements relating to instruments of government

- 5 Regulations may make provision imposing on local education authorities requirements with respect to the provision of—
- (a) copies of instruments of government made or varied by them; or
 - (b) information relating to such instruments.

Duty to secure making of first instrument of government

- 6 (1) A local education authority shall secure that, by the end of such period as may be prescribed, an instrument of government has been made in accordance with this Schedule for each school which is to be, or is, maintained by them as from the appointed day in accordance with section 20(4) or (5).
- (2) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the making of instruments of government in pursuance of sub-paragraph (1), including provision modifying any provision of this Schedule or Schedule 9.]

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[^{F122}SCHEDULE 13

Section 40.

CONTROL OF SCHOOL PREMISES BY GOVERNING BODIES

Community and community special schools: general

- 1 (1) This paragraph applies to a community or community special school.
- (2) The occupation and use of the premises of the school, both during and outside school hours, shall be under the control of the governing body, subject to—
- (a) any directions given by the local education authority under sub-paragraph (3);
 - (b) any transfer of control agreement entered into by the governing body under paragraph 2; and
 - (c) any requirements of an enactment other than this Act or regulations made under it.
- (3) The local education authority may give such directions as to the occupation and use of the premises of a community or community special school as they think fit.
- (4) In exercising control of the occupation and use of the premises of the school outside school hours the governing body shall have regard to the desirability of those premises being made available for community use.

Transfer of control agreement in case of community or community special school

- 2 (1) Subject to sub-paragraph (2), the governing body of a community or community special school may enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the local education authority's consent to the agreement in so far as it makes such provision.
- (3) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the governing body shall notify the controlling body of any directions given to the governing body under paragraph 1(3);
 - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
 - (i) shall do so in accordance with any directions from time to time notified to that body in pursuance of paragraph (a); and
 - (ii) shall have regard to the desirability of the premises being made available for community use; and
 - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
 - (i) the use of the specified premises at those times shall be under the control of the governing body, and

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- (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (4) Sub-paragraph (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.
- (5) In such a case paragraph (c) of sub-paragraph (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
- (6) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions as are notified to that body in pursuance of sub-paragraph (3)(a).
- (7) In this paragraph—
“the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;
“transfer of control agreement” means an agreement which (subject to sub-paragraph (3)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Foundation and foundation special schools: general

- 3 (1) This paragraph applies to a foundation or foundation special school.
- (2) The occupation and use of the premises of the school, both during and outside school hours, shall be under the control of the governing body, subject to—
(a) any transfer of control agreement entered into by the governing body under paragraph 4; and
(b) any requirements of an enactment other than this Act or regulations made under it.
- (3) In exercising control of the occupation and use of the premises of the school outside school hours the governing body shall have regard to the desirability of those premises being made available for community use.
- (4) Where the school has a trust deed which provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under paragraph 4) the use of those premises is or would be under the control of such a person—
(a) this paragraph, and
(b) paragraph 4,

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shall have effect in relation to the school with the substitution of references to that person for references to the governing body.

Transfer of control agreement in case of foundation or foundation special school

- 4 (1) Subject to sub-paragraph (2), the governing body of any foundation or foundation special school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
- (a) they may do so even though the school has a trust deed that would, apart from this sub-paragraph, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
 - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by any such trust deed as would apply if control were being exercised by the governing body.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the Secretary of State's consent to the agreement in so far as it makes such provision.
- (3) A transfer of control agreement shall be taken to include the following terms, namely—
- (a) that the controlling body, in exercising control of the use of any premises subject to the agreement, shall have regard to the desirability of the premises being made available for community use; and
 - (b) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
 - (i) the use of the specified premises at those times shall be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
 even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
- (4) Sub-paragraph (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.
- (5) In such a case paragraph (b) of sub-paragraph (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.

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(6) In this paragraph—

“the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

“transfer of control agreement” means an agreement which (subject to sub-paragraph (3)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Voluntary schools: general

- 5 (1) This paragraph applies to a voluntary school.
- (2) The occupation and use of the premises of the school, both during and outside school hours, shall be under the control of the governing body, subject to—
- (a) any directions given by the local education authority—
 - (i) (in the case of a voluntary controlled school) under sub-paragraph (3), or
 - (ii) (in the case of a voluntary aided school) under paragraph 7(3);
 - (b) any transfer of control agreement entered into by the governing body under paragraph 6; and
 - (c) any requirements of an enactment other than this Act or regulations made under it.
- (3) The local education authority may give such directions as to the occupation and use of the premises of a voluntary controlled school as they think fit (subject to paragraph 7(1) and (2)).
- (4) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under paragraph 6) the use of those premises is or would be under the control of such a person—
- (a) this paragraph, and
 - (b) paragraphs 6 and 7,
- shall have effect in relation to the school with the substitution of references to that person for references to the governing body.

Transfer of control agreement in case of voluntary school

- 6 (1) Subject to sub-paragraph (2), the governing body of any voluntary school shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises; and—
- (a) they may do so even though the trust deed for the school would, apart from this sub-paragraph, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but
 - (b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed

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- by the trust deed as would apply if control were being exercised by the governing body.
- (2) The governing body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless they have first obtained the local education authority's consent to the agreement in so far as it makes such provision.
 - (3) A transfer of control agreement shall be taken to include the following terms, namely—
 - (a) that the governing body shall notify the controlling body of—
 - (i) any directions given to the governing body under paragraph 5(3) (in the case of a voluntary controlled school) or paragraph 7(3) (in the case of a voluntary aided school); and
 - (ii) any determination made by the foundation governors under paragraph 7(2) (in the case of a voluntary controlled school);
 - (b) that the controlling body, in exercising control of the use of any premises subject to the agreement—
 - (i) shall do so in accordance with any directions or determinations from time to time notified to that body in pursuance of paragraph (a); and
 - (ii) shall have regard to the desirability of the premises being made available for community use; and
 - (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then—
 - (i) the use of the specified premises at those times shall be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,
 even though their use at those times would, apart from this paragraph, be under the control of the controlling body.
 - (4) Sub-paragraph (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.
 - (5) In such a case paragraph (c) of sub-paragraph (3) shall not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body were of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that paragraph.
 - (6) Where the governing body enter into a transfer of control agreement, they shall so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of sub-paragraph (3)(a).
 - (7) In this paragraph—

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“the controlling body” means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question;

“transfer of control agreement” means an agreement which (subject to sub-paragraph (3)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Control of use of premises of voluntary school outside school hours

- 7 (1) The governing body may determine the use to which the premises of a voluntary controlled school (or any part of them) are put on Saturdays when not required—
- (a) for the purposes of the school, or
 - (b) for any purpose connected with education or with the welfare of the young for which the local education authority desire to provide accommodation on the premises (or on the part in question).
- (2) The foundation governors may determine the use to which the premises of a voluntary controlled school (or any part of them) are put on Sundays.
- (3) If the local education authority—
- (a) desire to provide accommodation for any purpose connected with education or with the welfare of the young, and
 - (b) are satisfied that there is no suitable alternative accommodation in their area for that purpose,
- they may direct the governing body of a voluntary aided school to provide accommodation free of charge for that purpose on the school premises (or any part of them) on any weekday when not needed for the purposes of the school.
- (4) The local education authority shall not exercise their power under sub-paragraph (3) so as to direct the governing body to provide accommodation on more than three days in any week.
- (5) In exercising control of the occupation and use of the premises of a voluntary school outside school hours the governing body shall have regard to the desirability of those premises being made available for community use.

Saving

- 8 The power of the governing body of a maintained school to control the occupation and use of the premises of the school shall be subject to any arrangements made under or by virtue of—
- (a) an agreement made under paragraph 1 or 2 of Schedule 10 to the ^{M18}Education Reform Act 1988 or a determination made in accordance with paragraph 62 or 63 of Schedule 8 to the ^{M19}Further and Higher Education Act 1992; or
 - (b) an agreement made under paragraph 1 or 2 of Schedule 5 to the ^{M20}Further and Higher Education Act 1992 or a determination made in accordance with paragraph 3 or 4 of that Schedule.

Status: Point in time view as at 25/05/2007.

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Marginal Citations

- M18** 1988 c. 40.
M19 1992 c. 13.
M20 1992 c. 13.

Interpretation

- 9 In this Schedule—
- “community use” means the use of school premises (when not required by or in connection with the school) by members of the local community;
- “school hours” means any time during a school session or during a break between sessions on the same day;
- “school session”, in relation to any school, means a school session beginning and ending at such times as may from time to time be determined for that school in accordance with section 41.]

SCHEDULE 14

Section 48.

[^{F125}LOCAL EDUCATION AUTHORITY SCHEMES: APPROVAL, IMPOSITION AND REVISION][^{F125}REVISION OF LOCAL EDUCATION AUTHORITY SCHEMES]

Textual Amendments

- F125** 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)

[^{F126}Approval or imposition of schemes by Secretary of State][^{F126}Publication of schemes]

Textual Amendments

- F126** Sch. 14 para. 1 heading substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(3\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, arts. 2(b), [3\(c\)](#) (with art. 4)

- 1 (1) [^{F127}A scheme prepared by a local education authority under section 48(1) shall be submitted to the Secretary of State on or before such date as he may by order direct, whether—
- (a) generally; or
- (b) in relation to that authority or to any class or description of local education authorities to which that authority belongs.]
- (2) [^{F127}In preparing such a scheme a local education authority shall take into account any guidance given by the Secretary of State, whether—
- (a) generally, or

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- (b) in relation to that authority or to any class or description of local education authorities to which that authority belongs,
as to the provisions he regards as appropriate for inclusion in the scheme.]
- (3) ^{F127}Before preparing such a scheme the local education authority shall consult—
- (a) where this sub-paragraph applies in relation to any time before the appointed day—
- (i) the governing body and the head teacher of every school maintained by the authority as a county, voluntary or maintained special school (within the meaning of the ^{M21}Education Act 1996), and
- (ii) the governing body and the head teacher of every grant-maintained or grant-maintained special school (within the meaning of that Act) in the area of the authority; and
- (b) where this sub-paragraph applies in relation to any time on or after the appointed day, the governing body and the head teacher of every school maintained by the authority (within the meaning of this Chapter);
and in paragraph (a)(i) “every school” includes any new school (within the meaning of Part II of the ^{M22}Education Act 1996).]
- (4) ^{F127}Such a scheme shall not come into force until it has been approved by the Secretary of State or until such date as he may, in giving his approval, specify; and the Secretary of State may approve such a scheme—
- (a) either without modifications or with such modifications as he thinks fit after consulting the authority concerned; and
- (b) subject to such conditions as he may specify in giving his approval.]
- (5) ^{F127}If in the case of any local education authority either—
- (a) the authority fail to submit a scheme as required by sub-paragraph (1), or
- (b) it appears to the Secretary of State that a scheme submitted by the authority as required by that sub-paragraph does not accord with any guidance given by him for the purposes of this paragraph and cannot be made to do so merely by modifying it,
- he may, after consulting the authority and such other persons as he thinks fit, impose a scheme making such provision of a description required to be made by a scheme under section 48 as he considers appropriate.]
- (6) ^{F127}A scheme imposed by the Secretary of State by virtue of sub-paragraph (5)—
- (a) shall be treated as if made under section 48 by the local education authority concerned; and
- (b) shall come into force on such date as may be specified in the scheme.]
- (7) ^{F128}A scheme maintained by a local education authority under section 48(1) shall be published in such manner as may be prescribed—
- (a) on its coming into force as revised under this Schedule, and
- (b) on such other occasions as may be prescribed.]

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F127** 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)
- F128** Sch. 14 para. 1(7) substituted (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(4\)\(b\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, arts. 2(b), [3\(c\)](#) (with art. 4)

Marginal Citations

- M21** 1996 c. 56.
M22 1996 c. 56.

Revision of schemes

- [^{F129}2 (1) A local education authority may, in accordance with this paragraph, revise the whole or any part of the scheme prepared by them under section 48(1).
- (2) Section 48(1) and paragraph 1(2) shall apply in relation to the preparation by the authority of any revision under this paragraph as they apply in relation to the preparation by the authority of a scheme.
- (3) As regards any proposed variation of the scheme, the authority—
- (a) shall first consult every governing body and head teacher whom they are obliged to consult under paragraph 1(3), and
 - (b) shall then submit a copy of their proposals to the Secretary of State for his approval.
- (4) Where the proposals are so submitted, paragraph 1(4) shall apply to the scheme as revised as it applies to a scheme prepared under section 48.
- (5) The Secretary of State may by a direction revise the whole or any part of any scheme as from such date as may be specified in the direction.
- (6) Before giving such a direction the Secretary of State shall consult the local education authority and such other persons as he thinks fit.]

Textual Amendments

- F129** 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)

- [^{F129}2A(1) A local education authority may, in accordance with this paragraph, revise the whole or part of the scheme maintained by them under section 48(1).
- (2) In revising the scheme, the local education authority shall take into account any guidance given by the Secretary of State, whether—
- (a) generally, or
 - (b) in relation to that authority or any class or description of local education authorities to which that authority belongs,

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as to the provisions the Secretary of State regards as appropriate for inclusion in the scheme.

- (3) As regards any proposed variation of the scheme, the authority—
- (a) shall first consult the governing body and head teacher of every school maintained by the authority (within the meaning of this Chapter), and
 - (b) shall then submit a copy of their proposals to the authority's schools forum for their approval.

Textual Amendments

F129 Sch. 14 paras. 2A, 2B substituted for Sch. 14 para. 2 (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(5\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, [arts. 2\(b\), 3\(c\)](#) (with [art. 4](#))

- 2B (1) Regulations may make provision preventing schemes as revised from coming into force unless they are approved in accordance with the regulations by the local education authority's schools forum or by the Secretary of State.
- (2) The regulations may in particular—
- (a) prescribe circumstances in which proposals which have been submitted to a local education authority's schools forum may be submitted to the Secretary of State,
 - (b) enable the schools forum or the Secretary of State to approve proposals with modifications, and
 - (c) enable the schools forum or the Secretary of State, in giving their or his approval, to specify the date on which the scheme as revised is to come into force.]

Textual Amendments

F129 Sch. 14 paras. 2A, 2B substituted for Sch. 14 para. 2 (8.2.2007 for E., 15.3.2010 for W. for specified purposes, 2.4.2010 for W. in so far as not already in force) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 5 para. 5\(5\)](#); S.I. 2006/3400, [art. 4\(c\)](#); S.I. 2010/736, [arts. 2\(b\), 3\(c\)](#) (with [art. 4](#))

SCHEDULE 15

Section 51.

SUSPENSION OF FINANCIAL DELEGATION

Modifications etc. (not altering text)

C66 Sch. 15: power to modify conferred (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), [ss. 25\(1\)\(b\), 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); S.I. 2003/124, [art. 4](#)

Suspension of financial delegation for mismanagement, etc.

- 1 (1) This paragraph applies where it appears to the local education authority that the governing body of a school which has a delegated budget—

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) have been guilty of a substantial or persistent failure to comply with any delegation requirement or restriction, ^{F130} ...
 - (b) are not managing in a satisfactory manner the expenditure or appropriation of the sum referred to in section 50(1) [^{F131}or
 - (c) are not managing in a satisfactory manner any expenditure, or sums received, in the exercise of the power conferred by section 27 of the Education Act 2002 (power to provide community facilities etc.).]
- (2) The authority may suspend the governing body’s right to a delegated budget by giving the governing body not less than one month’s notice of the suspension, unless by reason of any gross incompetence or mismanagement on the part of the governing body or other emergency it appears to the authority to be necessary—
- (a) to give the governing body a shorter period of notice, or
 - (b) to give the governing body a notice suspending their right to such a budget with immediate effect.
- (3) The notice must specify the grounds for the suspension, giving particulars—
- (a) of any alleged failure on the part of the governing body to comply with any delegation requirement or restriction;
 - (b) of any alleged mismanagement on their part; and
 - (c) if applicable, of the basis upon which a period of notice of less than one month was given under sub-paragraph (2).
- (4) [^{F132}The notice must also inform the governing body of their right to appeal against the suspension under paragraph 3 and of the time within which such an appeal may be brought.]
- (5) A copy of the notice must be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (6) [^{F133}The authority shall send a copy of the notice to the Secretary of State.]
- (7) In this paragraph “delegation requirement or restriction” means any requirement or restriction applicable, under or by virtue of the scheme or section 50(3), to the management by the governing body of the school’s budget share.
- (8) Any notice given under this paragraph must be in writing.

Textual Amendments

- F130** 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
- F131** 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
- F132** Sch. 15 para. 1(4) repealed (8.2.2007 for E.) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), Sch. 5 para. 6(a), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 4(c)(d)
- F133** Sch. 15 para. 1(6) repealed (8.2.2007 for E.) by [Education and Inspections Act 2006](#) (c. 40), s. 188(3), Sch. 5 para. 6(a), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 4(c)(d)

Status: Point in time view as at 25/05/2007.

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Modifications etc. (not altering text)

C67 Sch. 15 para. 1 modified (20.11.1998) by S.I. 1998/2670, reg. 6

Review of suspension

- 2 (1) The local education authority concerned—
- (a) shall review before the beginning of every [^{F134}financial year][^{F134}funding period] any suspension under paragraph 1 which is for the time being in force, unless the suspension took effect less than two months before the beginning of [^{F135}that year][^{F135}that period]; and
 - (b) may review at any time any suspension under paragraph 1 which is for the time being in force, if they consider it appropriate to do so.
- (2) For the purposes of any review under sub-paragraph (1), the authority shall give the governing body and the head teacher of the school an opportunity of making representations with respect to the suspension.
- (3) If on the review the authority consider it appropriate to do so, they shall revoke the suspension—
- (a) (in the case of a review under sub-paragraph (1)(a)) with effect from the beginning of the [^{F136}financial year][^{F136}funding period] next following the review; or
 - (b) (in the case of a review under sub-paragraph (1)(b)) with effect from such time before the beginning of the [^{F136}financial year][^{F136}funding period] next following the review as they may determine.
- (4) The authority shall give the governing body and the head teacher notice in writing of their decision on the review.
- (5) [^{F137}If—
- (a) the review was conducted under sub-paragraph (1)(a), and
 - (b) the authority's decision is to refuse to revoke the suspension,
- the notice must inform the governing body of their right to appeal against the refusal under paragraph 3 and of the time within which such an appeal may be brought.]

Textual Amendments

- F134** Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 11(2)(a)** (with s. 119); S.I. 2005/2034, art. 8
- F135** Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 11(2)(b)** (with s. 119); S.I. 2005/2034, art. 8
- F136** Words in Sch. 15 para. 2(3) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), **Sch. 18 para. 11(3)** (with s. 119); S.I. 2005/2034, art. 8
- F137** Sch. 15 para. 2(5) repealed (8.2.2007 for E.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 6(b), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 4(c)(d)

Appeal against suspension or refusal to revoke it

- 3 [^{F138}(1) A governing body may appeal to the Secretary of State against—

Status: Point in time view as at 25/05/2007.

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- (a) the imposition of any suspension under paragraph 1 of their right to a delegated budget; or
 - (b) any refusal of a local education authority to revoke any such suspension on a review under paragraph 2(1)(a).
- (2) An appeal under this paragraph must be brought within the period of two months beginning with the date on which the governing body receive the authority's notice under paragraph 1(2) or 2(4), as the case may be.
- (3) But if the authority's notice failed to comply with paragraph 1(4) or 2(5), such an appeal may be brought at any time before the end of the period of two months beginning with the date on which the governing body are informed by the authority in writing of their right of appeal under this paragraph.
- (4) On an appeal under this paragraph, the Secretary of State—
- (a) may allow or reject the appeal; and
 - (b) shall have regard, in making his determination, to the gravity of the default on the part of the governing body and the likelihood of its continuing or recurring.
- (5) Where the Secretary of State allows an appeal under this paragraph, the suspension of the governing body's right to a delegated budget shall be revoked from a date determined by the Secretary of State.]

Textual Amendments

F138 Sch. 15 para. 3 repealed (8.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 5 para. 6(c), **Sch. 18 Pt. 6**; S.I. 2006/3400, art. 4(c)(d)

Modifications etc. (not altering text)

C68 Sch. 15 para. 3(1)(a) excluded (20.11.1998) by [S.I. 1998/2670](#), **reg.6**

Effect of suspension of right to delegated budget

- 4 (1) During any period when a governing body's right to a delegated budget is suspended under paragraph 1—
- (a) the local education authority's duty under section 50(1) shall not apply in relation to the school; but
 - (b) the authority may permit the governing body to take such decisions as to the spending of sums to be met from the school's budget share as the authority consider appropriate.
- (2) Where in accordance with sub-paragraph (1)(b) the governing body have decided that a particular sum should be spent, they shall, in spending that sum, comply with such reasonable conditions as the authority think fit to impose.
- (3) The governing body may, to such extent as they may specify, delegate their powers in relation to that sum to the head teacher.

Status: Point in time view as at 25/05/2007.

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F139 SCHEDULE 16

Section 54.

Textual Amendments

F139 Sch. 16 repealed (1.9.2003 for E., 1.4.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2006/879, art. 4, Sch.

Staffing of community, voluntary controlled and community special schools

.....

F140 SCHEDULE 17

Section 55.

STAFFING OF FOUNDATION, VOLUNTARY AIDED AND FOUNDATION SPECIAL SCHOOLS

Textual Amendments

F140 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.

F141 SCHEDULE 18

Textual Amendments

F141 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

Section 69.

REQUIRED PROVISION FOR RELIGIOUS EDUCATION

Introductory

- 1 (1) In this Schedule “the required provision for religious education”, in relation to a school, means the provision for pupils at the school which is required by [F142section 80(1)(a) or 101(1)(a) 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 [F143the Education Act 1996].

Status: Point in time view as at 25/05/2007.

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Textual Amendments

F142 Words in Sch. 19 para. 1(1) substituted (1.10.2002 for E. for specified purposes and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(2\)\(a\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#) Sch. Pt. I; S.I. 2003/124, [art. 2](#)

F143 Words in Sch. 19 para. 1(2) substituted (1.10.2002 for E. and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(2\)\(b\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. I; S.I. 2003/124, [art. 2](#)

Community schools and foundation and voluntary schools without a religious character

- 2 (1) This paragraph applies to—
- (a) any community school; and
 - (b) any foundation or voluntary school which does not have a religious character.
- (2) Subject to sub-paragraph (4), the required provision for religious education in the case of pupils at the school is provision for religious education in accordance with an agreed syllabus adopted for the school or for those pupils.
- (3) If the school is a secondary school so situated that arrangements cannot conveniently be made for the withdrawal of pupils from it in accordance with section 71 to receive religious education elsewhere and the local education authority are satisfied—
- (a) that the parents of any pupils at the school desire them to receive religious education in the school in accordance with the tenets of a particular religion or religious denomination, and
 - (b) that satisfactory arrangements have been made for the provision of such education to those pupils in the school, and for securing that the cost of providing such education to those pupils in the school will not fall to be met from the school's budget share or otherwise by the authority,
- the authority shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) provide facilities for the carrying out of those arrangements.
- (4) If immediately before the appointed day the school was a grant-maintained school (within the meaning of the ^{M23}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).

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

- I5** Sch. 19 para. 2 wholly in force at 1.9.1999; Sch. 19 para. 2 not in force at Royal Assent see s. 145(3); Sch. 19 para. 2(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 19 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

Marginal Citations

- M23** 1996 c. 56.

Foundation and voluntary controlled schools with a religious character

- 3 (1) This paragraph applies to any foundation or voluntary controlled school which has a religious character.
- (2) Subject to sub-paragraph (4), the required provision for religious education in the case of pupils at the school is provision for religious education—
- (a) in accordance with any arrangements made under sub-paragraph (3), or
 - (b) subject to any such arrangements, in accordance with an agreed syllabus adopted for the school or for those pupils.
- (3) Where the parents of any pupils at the school request that they may receive religious education—
- (a) in accordance with any provisions of the trust deed relating to the school, or
 - (b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4),
- the foundation governors shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for securing that such religious education is given to those pupils in the school during not more than two periods in each week.
- (4) If immediately before the appointed day the school was a grant-maintained school (within the meaning of the ^{M24}Education Act 1996), and in relation to the school or any pupils at the school the appropriate agreed syllabus as defined by section 382 of that Act was a syllabus falling within subsection (1)(c) of that section, then until—
- (a) the end of such period as the Secretary of State may by order prescribe, or
 - (b) such earlier date as the governing body may determine,
- that syllabus shall be treated for the purposes of sub-paragraph (2)(b) as an agreed syllabus adopted for the school or (as the case may be) those pupils.

Commencement Information

- I6** Sch. 19 para. 3 wholly in force at 1.9.1999; Sch. 19 para. 3 not in force at Royal Assent see s. 145(3); Sch. 19 para. 3(4) in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 19 para. 3 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

Marginal Citations

- M24** 1996 c. 56.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Voluntary aided schools with a religious character

- 4 (1) This paragraph applies to any voluntary aided school which has a religious character.
- (2) The required provision for religious education in the case of pupils at the school is provision for religious education—
- (a) in accordance with any provisions of the trust deed relating to the school, or
 - (b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4), or
 - (c) in accordance with any arrangements made under sub-paragraph (3).
- (3) Where the parents of any pupils at the school—
- (a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local education authority, and
 - (b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,
- the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for religious education in accordance with that syllabus to be given to those pupils in the school.
- (4) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum by virtue of [F144section 80(1)(a) or 101(1)(a) of the Education Act 2002].
- (5) Any arrangements under sub-paragraph (3) shall be made by the governing body, unless the local education authority are satisfied that the governing body are unwilling to make them, in which case they shall be made by the authority.
- (6) Subject to sub-paragraph (3), the religious education given to pupils at the school shall be under the control of the governing body.

Textual Amendments

F144 Words in Sch. 19 para. 4(4) substituted (1.10.2002 for E. for specified purposes and 19.12.2002 for W., 1.3.2003 for E. so far as not already in force) by [Education Act 2002 \(c. 32\)](#), ss. 215(1), 216, [Sch. 21 para. 117\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 4](#), Sch. Pt. I; S.I. 2003/124, [art. 2](#)

SCHEDULE 20

Section 70.

COLLECTIVE WORSHIP

Introductory

- 1 In this Schedule “the required collective worship”, in relation to a school, means the collective worship in that school which is required by section 70.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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,

Status: Point in time view as at 25/05/2007.

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- (b) the extent to which any act of collective worship in the school which complies with sub-paragraph (2) reflects the broad traditions of Christian belief, and
- (c) the ways in which those traditions are reflected in any such act of collective worship,

shall be such as may be appropriate having regard to any relevant considerations relating to the pupils concerned which fall to be taken into account in accordance with sub-paragraph (6).

(6) Those considerations are—

- (a) any circumstances relating to the family backgrounds of the pupils which are relevant for determining the character of the collective worship which is appropriate in their case, and
- (b) their ages and aptitudes.

(7) In this paragraph references to acts of collective worship in the school include such acts which by virtue of paragraph 2(6) take place otherwise than on the school premises.

Disapplication of requirement under paragraph 3(2)

4 (1) This paragraph applies where a standing advisory council on religious education have determined (under section 394 of the ^{M25}Education Act 1996) that it is not appropriate for the requirement imposed by paragraph 3(2) to apply in the case of any school to which paragraph 3 applies or in the case of any class or description of pupils at any such school.

(2) While the determination has effect—

- (a) paragraph 3 shall not apply in relation to the school or (as the case may be) the pupils in question, and
- (b) the collective worship required by section 70 in the case of the school or pupils shall not be distinctive of any particular Christian or other religious denomination;

but paragraph (b) shall not be taken as preventing that worship from being distinctive of any particular faith.

Marginal Citations

M25 1996 c. 56.

*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,

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in accordance with the tenets and practices of the religion or religious denomination specified in relation to the school under section 69(4).

SCHEDULE 21

Section 74.

TRANSFERS OF LAND ON APPOINTED DAY

PART I

GENERAL PROVISIONS

Introductory

- 1 In this Schedule any reference to a grant-maintained or grant-maintained special school is a reference to such a school within the meaning of the ^{M26}Education Act 1996.

Marginal Citations

M26 1996 c. 56.

Effect of transfers under this Schedule

- 2 (1) Where any land is transferred to and vests in any body in accordance with this Schedule, any rights or liabilities—
- (a) enjoyed or incurred by the transferor in connection with the land, and
 - (b) subsisting immediately before the appointed day,
- shall also be transferred to, and by virtue of this Act vest in, that body.
- (2) Any reference in this Schedule, in relation to a school, to land being transferred to, and vesting in, a foundation body is a reference to its being transferred to, and vesting in, that body for the purposes of the schools comprising the group for which that body acts.
- (3) This Schedule is subject to section 198 of the ^{M27}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.

Marginal Citations

M27 1988 c. 40.

Status: Point in time view as at 25/05/2007.

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PART II

RULES RELATING TO TRANSFERS

Application of Part II

- 3 (1) This Part of this Schedule applies to schools which, in accordance with Schedule 2, become community, foundation, voluntary or community special schools on the appointed day.
- (2) This Part has effect subject to Part III of this Schedule.

Transfers for purposes of community schools

- 4 (1) This paragraph applies where a grant-maintained school (an “existing school”) becomes a community school.
- (2) In such a case—
- (a) any publicly funded land shall on the appointed day be transferred to, and by virtue of this Act vest in, the local education authority;
 - (b) any other land which, immediately before that day, is held by the governing body for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement; and
 - (c) any land which, immediately before that day, is held by any trustees for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement.
- (3) In this paragraph “publicly funded land” means land which—
- (a) immediately before the appointed day is held by the governing body for the purposes of the existing school, and
 - (b) was acquired from a local authority under a transfer under section 201(1) (a) of the ^{M28}Education Act 1996 or from the Funding Agency for Schools or was acquired wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of that Act).
- (4) In this paragraph “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the governing body or (as the case may be) trustees mentioned in that sub-paragraph, and
 - (b) providing for the land in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

Marginal Citations

M28 1996 c. 56.

Transfers for purposes of foundation schools

- 5 (1) This paragraph applies where—

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- (a) a grant-maintained school (an “existing school”) becomes a foundation school; and
 - (b) as from the appointed day the school (as a foundation school) is a member of the group for which a foundation body acts.
- (2) In such a case, any land which, immediately before the appointed day, was held by the governing body for the purposes of the existing school shall on that day be transferred to, and by virtue of this Act vest in, the foundation body.

Transfers for purposes of voluntary schools

- 6 (1) This paragraph applies where—
- (a) a grant-maintained school (an “existing school”) becomes a voluntary school; and
 - (b) as from the appointed day the school (as a voluntary school) is a member of the group for which a foundation body acts.
- (2) In such a case, any land which, immediately before the appointed day, was held by the governing body for the purposes of the existing school shall on that day be transferred to, and by virtue of this Act vest in, the foundation body.

Transfers for purposes of community special schools

- 7 (1) This paragraph applies where a grant-maintained special school (an “existing school”) becomes a community special school.
- (2) In such a case—
- (a) any publicly funded land shall on the appointed day be transferred to, and by virtue of this Act vest in, the local education authority;
 - (b) any other land which, immediately before that day, is held by the governing body for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement; and
 - (c) any land which, immediately before that day, is held by any trustees for the purposes of the existing school shall be transferred to, and vest in, the authority in accordance with a transfer agreement.
- (3) In this paragraph “publicly funded land” means land which—
- (a) immediately before the appointed day is held by the governing body for the purposes of the existing school, and
 - (b) was acquired from a local authority under a transfer under section 201(1) (a) of the ^{M29}Education Act 1996 or from the Funding Agency for Schools or was acquired wholly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of that Act).
- (4) In this paragraph “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the governing body or (as the case may be) 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.

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Marginal Citations

M29 1996 c. 56.

Outstanding transfers to existing school

- 8 Where immediately before the appointed day—
- (a) any land vested in a local authority is by virtue of any statutory provision required to be transferred to the governing body or any trustees of an existing school within the meaning of any of paragraphs 4 to 7, but
 - (b) the land has not yet been so transferred,
- that paragraph shall apply to the school as if it had been so transferred by that time.

Transfer of rights to use land

- 9 (1) Where paragraph 4, 5, 6 or 7 applies to an existing school and any land held by a person or body other than the governing body of the school was, immediately before the appointed day, used for the purposes of the school, any rights or liabilities—
- (a) enjoyed or incurred by the governing body in connection with the use of the land, and
 - (b) subsisting immediately before the appointed day,
- shall on that day be transferred to, and by virtue of this Act vest in, the local education authority (in a case to which paragraph 4 or 7 applies) or the foundation body (in a case to which paragraph 5 or 6 applies).
- (2) Where paragraph 4 or 7 applies to an existing school and any land held by a person or body other than any trustees who hold any land for the purposes of the school was, immediately before the appointed day, used for the purposes of the school, any rights or liabilities—
- (a) enjoyed or incurred by any such trustees in connection with the use of the land, and
 - (b) subsisting immediately before the appointed day,
- shall on that day be transferred to, and vest in, the local education authority in accordance with a transfer agreement.
- (3) Nothing in this paragraph applies in relation to land to which paragraph 4, 5, 6 or 7 applies.
- (4) In this paragraph—
- “existing school” has the meaning given by paragraph 4, 5, 6 or 7, as the case may be;
- “transfer agreement” means an agreement—
- (a) made for the purposes of sub-paragraph (2) between the local education authority and the trustees mentioned in that sub-paragraph, and
 - (b) providing for the rights or liabilities in question to be transferred to, and vest in, the authority on the appointed day, whether or not in consideration of the payment by the authority of such amount as may be agreed between the parties.

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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.

Status: Point in time view as at 25/05/2007.

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SCHEDULE 22

Section 76.

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

[^{F145}PART A1

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS IN ENGLAND: DISPOSALS OF LAND

Textual Amendments

F145 Sch. 22 Pt. A1 inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 2](#); [S.I. 2007/935](#), art. 7(p)

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

- A1 (1) This paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
 - (b) any land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8;
 - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
 - (c) any land acquired under any regulations made under—
 - section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
 - section 27 of that Act by virtue of subsection (2)(b) of that section,
 - (d) any land acquired from a foundation body,
 - (e) any land acquired from the Funding Agency for Schools,
 - (f) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
 - (g) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (h) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or
 - (i) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (h).

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- (2) But this paragraph does not apply to any disposal which—
- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
 - (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation established otherwise than under this Act.
- (3) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (4) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A2 (1) This paragraph applies to a disposal of land to which paragraph A1 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A3 to A5 and paragraph A19—
- (a) references to the disposal are to the disposal by the governing body of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.
- (4) The governing body must give the local education authority notice of their intention to dispose of the land.
- (5) That notification must specify—
- (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
- (6) For the purposes of this paragraph and paragraphs A3 and A4, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A1.
- (7) The authority may, within the requisite period, give the governing body any or all of the following—
- (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.

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- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the governing body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the governing body notice to that effect.
- (10) The governing body may not make the disposal within the requisite period unless within that period—
- (a) the authority give the governing body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the governing body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A3(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the governing body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A3(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A3(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).

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- A3 (1) Where the authority give the governing body notice of their objection to the disposal in accordance with paragraph A2(7)(a), the governing body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the governing body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the governing body and the authority, or
 - (b) by the adjudicator where—
 - (i) the governing body or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
- (3) Where the authority give the governing body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), the amount of those proceeds which it is appropriate for the governing body to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the governing body and the authority, or
 - (b) by the adjudicator where—
 - (i) the governing body or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the governing body and the authority.
- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the governing body or, as the case may be, the authority, must give the other notice of their intention to make the reference.
- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A4 (1) This paragraph applies where the disposal is made.
- (2) The governing body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
- (3) Where—
- (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(7)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A3(3) to be an amount greater than zero,
- the governing body must pay the “appropriate amount” to the authority.
- (4) The governing body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the governing body must ensure that the surplus amount is used on relevant capital expenditure.

Status: Point in time view as at 25/05/2007.

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- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A2(7)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A2(9),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A2(4), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A3(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A3(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A2(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A2(7) (b) or (c)).
- A5 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A2(7)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The governing body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the governing body must give the local education authority notice of their intention to make the application.
- A6 (1) For the purposes of paragraphs A2 to A4, “relevant capital expenditure”, in relation to a disposal of land by the governing body of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- (a) the school,
 - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Disposal of land by foundation body

- A7 (1) This paragraph applies to any disposal by a foundation body in England of—
- (a) any land acquired under any of the following—
 paragraph 2, 4 or 9 of Schedule 3;

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- paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
- paragraph 5 or 6 of Schedule 21;
- paragraph 5(4B)(d) of this Schedule;
- any regulations made under paragraph 5 of Schedule 8,
- (b) any land acquired under any of the following—
- paragraph 8(5) of Schedule 8 to the Education Act 2002;
- paragraph 14(5) of Schedule 10 to the Education Act 2005;
- paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
- any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
- any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,
- (c) any land acquired from the governing body of a maintained school,
- (d) any land acquired from another foundation body,
- (e) any land acquired, or enhanced in value, wholly or partly by means of any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment),
- (f) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
- (g) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or
- (h) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (g).
- (2) A “foundation body in England” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in England.
- (3) But this paragraph does not apply to any disposal which—
- (a) is made by a foundation body after the commencement of this sub-paragraph, and
- (b) is a disposal to the trustees of a foundation or foundation special school made on the school leaving the group for which the foundation body acts and becoming a school with a foundation established otherwise than under this Act.
- (4) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and

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- (b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (5) An “appropriate statement” in relation to expenditure is a statement in writing which—
 - (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A8 (1) This paragraph applies to a disposal of land to which paragraph A7 applies if, or to the extent that, it comprises a disposal of non-playing field land.
- (2) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (3) Accordingly, in this paragraph, paragraphs A9 to A11 and paragraph A19—
 - (a) references to the disposal are to the disposal by the foundation body of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.
- (4) The foundation body must give the local education authority notice of its intention to dispose of the land.
- (5) That notification must specify—
 - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
- (6) For the purposes of this paragraph and paragraphs A9 and A10, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A7.
- (7) The authority may, within the requisite period, give the foundation body any or all of the following—
 - (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
- (8) The “requisite period” means the period of 6 weeks beginning with the date upon which the foundation body gave notification of the disposal to the authority under sub-paragraph (4).
- (9) A notice given under sub-paragraph (7) may be withdrawn at any time by the authority giving the foundation body notice to that effect.
- (10) The foundation body may not make the disposal within the requisite period unless within that period—
 - (a) the authority give the foundation body notice that they relinquish any right to give notice under sub-paragraph (7)(a) in relation to the disposal, or

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- (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the relevant requirements in relation to such a notice are met.
- (11) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (7)(a), the foundation body may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (a) are met if—
- (a) the adjudicator has approved the disposal on a reference made under paragraph A9(1), or
 - (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (9).
- (13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (7)—
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (7)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (7)(c),
- the foundation body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A9(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (9).
- (15) The “relevant requirements” in relation to a notice given under sub-paragraph (7) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A9(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (9).
- A9 (1) Where the authority give the foundation body notice of their objection to the disposal in accordance with paragraph A8(7)(a), the foundation body or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.
- (2) Where the authority give the foundation body notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
- (a) by agreement between the foundation body and the authority, or
 - (b) by the adjudicator where—

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- (i) the foundation body refers or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (3) Where the authority give the foundation body notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), the amount of those proceeds which it is appropriate for the foundation body to pay to the authority (the “appropriate amount”) is to be determined—
- (a) by agreement between the foundation body and the authority, or
 - (b) by the adjudicator where—
 - (i) the foundation body refers or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the foundation body and the authority.
- (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3)(b), the foundation body or, as the case may be, the authority, must give the other notice of its or their intention to make the reference.
- (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
- A10 (1) This paragraph applies where the disposal is made.
- (2) The foundation body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
- (3) Where—
- (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A8(7)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A9(3) to be an amount greater than zero,
- the foundation body must pay the “appropriate amount” to the authority.
- (4) The foundation body must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.
- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the foundation body must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A8(7)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A8(9),
 the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A8(4), and

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- (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A9(2).
 - (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A9(3).
 - (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A8(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A8(7)(b) or (c)).
- A11 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A8(7)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The foundation body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the foundation body must give the local education authority notice of its intention to make the application.
- A12 (1) For the purposes of paragraphs A8 to A10, “relevant capital expenditure”, in relation to a disposal of land by a foundation body, means capital expenditure in relation to the premises of—
- (a) any of the schools comprising the group for which the body acts,
 - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Disposal of land by trustees of foundation, voluntary or foundation special school

- A13 (1) This sub-paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school in England of—
- (a) any land acquired under section 60, 61 or 70 of the Education Act 1996,
 - (b) any land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (c) any land acquired under any of the following—
 - paragraph 4 or 9 of Schedule 3;

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- paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
- (d) any land acquired under any of the following—
 paragraph 8(5) of Schedule 8 to the Education Act 2002;
 paragraph 14(5) of Schedule 10 to the Education Act 2005;
 paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
- (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
- (f) any land acquired from the Funding Agency for Schools,
- (g) any land acquired, or enhanced in value, wholly or partly by means of—
 (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
 (ii) any grant paid under section 216(2) of that Act,
- (h) any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (f) or (g),
- (i) any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996),
- (j) any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27, or
- (k) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph (j).
- (2) This sub-paragraph applies to any disposal by the trustees of a foundation or foundation special school in England of—
 (a) any land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
 (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,
 (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or
 (iii) acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
 (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) This sub-paragraph applies to any disposal by the trustees of a voluntary school in England of—

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- (a) any land acquired by the trustees from the governing body of the school which was land acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) wholly or partly with the proceeds of disposal of any land so acquired,
 and transferred by the governing body to be held on trust by the trustees, or
 - (b) in the case of a school to which sub-paragraph (4) applies, any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
- (5) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (6) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- (7) Where the trustees of a foundation, voluntary or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools the preceding provisions of this paragraph and paragraphs A14 to A16 apply (subject to the modifications specified in paragraphs A14(18), A15(5) and A16(9)) as if any such change of use of the land were a disposal of the land.
- A14 (1) This paragraph applies to a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies.
- (2) But this paragraph only applies to a disposal if, or to the extent that, it comprises a disposal of non-playing field land which does not fall within sub-paragraph (5).
- (3) “Non-playing field land” means land which does not include playing fields within the meaning of section 77.
- (4) Accordingly, in this paragraph, paragraphs A15 to A17 and paragraph A19—
- (a) references to the disposal are to the disposal by the trustees of the non-playing field land, and
 - (b) references to the land are to that non-playing field land.
- (5) A disposal of non-playing field land falls within this sub-paragraph if it is a disposal of—
- (a) land acquired under section 60 or 61 of the Education Act 1996, or
 - (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,

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- by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).
- (6) The trustees must give the local education authority notice of their intention to dispose of the land.
 - (7) That notification must specify—
 - (a) the relevant capital expenditure upon which it is proposed the publicly funded proceeds of disposal are to be used, and
 - (b) the estimated amount of the proceeds of disposal.
 - (8) For the purposes of this paragraph and paragraphs A15 and A16, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1), (2) or (3) of paragraph A13.
 - (9) The authority may, within the requisite period, give the trustees any or all of the following—
 - (a) notice of their objection to the disposal, giving reasons for their objection;
 - (b) notice of their objection to the proposed use of the publicly funded proceeds of disposal, giving reasons for their objection;
 - (c) notice of their claim to the whole or a part of the publicly funded proceeds of disposal.
 - (10) The “requisite period” means the period of 6 weeks beginning with the date upon which the trustees gave notification of the disposal to the authority under sub-paragraph (6).
 - (11) A notice given under sub-paragraph (9) may be withdrawn at any time by the authority giving the trustees notice to that effect.
 - (12) The trustees may not make the disposal within the requisite period unless within that period—
 - (a) the authority give the trustees notice that they relinquish any right to give notice under sub-paragraph (9)(a) in relation to the disposal, or
 - (b) in a case where the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the relevant requirements in relation to such a notice are met.
 - (13) If the authority give notice of their objection to the disposal in accordance with sub-paragraph (9)(a), the trustees may not make the disposal on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.
 - (14) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (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)—

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- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (9)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (9)(c),
- the trustees may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (16) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (b) are met if—
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A15(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (11).
- (17) The “relevant requirements” in relation to a notice given under sub-paragraph (9) (c) are met if—
- (a) the “appropriate amount” has been determined in accordance with paragraph A15(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (11).
- (18) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (7) for paragraphs (a) and (b) substitute “the purposes for which it is proposed the land is to be used”,
 - (b) in sub-paragraph (9)—
 - (i) omit paragraphs (a) and (c), and
 - (ii) in paragraph (b), for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
 - (c) in sub-paragraph (15)—
 - (i) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (ii) for “use the publicly funded proceeds of disposal” substitute “use the land for purposes not connected with the provision of education in maintained schools”, and
 - (d) in sub-paragraph (16)—
 - (i) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has” substitute “purposes for which the land is to be used have”, and
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”.
- A15 (1) Where the authority give the trustees notice of their objection to the disposal in accordance with paragraph A14(9)(a), the trustees or the authority may refer the matter to the adjudicator for a determination by him as to whether he approves the disposal.

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- (2) Where the authority give the trustees notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(b), the relevant capital expenditure upon which those proceeds are to be used is to be determined—
 - (a) by agreement between the trustees and the authority, or
 - (b) by the adjudicator where—
 - (i) the trustees or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
 - (3) Where the authority give the trustees notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), the amount of those proceeds which it is appropriate for the trustees or their successors to pay to the authority (the “appropriate amount”) is to be determined—
 - (a) by agreement between the trustees and the authority, or
 - (b) by the adjudicator where—
 - (i) the trustees or the authority refer the matter to him for determination, and
 - (ii) by the time of his determination the matter has not been determined by agreement between the trustees and the authority.
 - (4) Before making a reference to the adjudicator under sub-paragraph (1), (2)(b) or (3) (b), the trustees or, as the case may be, the authority, must give the other notice of their intention to make the reference.
 - (5) On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.
 - (6) In the application of this paragraph in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, sub-paragraph (2) is modified as follows—
 - (a) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (b) for “relevant capital expenditure upon which those proceeds are to be used is” substitute “purposes for which the land is to be used are”.
- A16 (1) This paragraph applies where the disposal is made.
- (2) The trustees must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
 - (3) Where—
 - (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A14(9)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A15(3) to be an amount greater than zero,
 the trustees or their successors must pay the “appropriate amount” to the authority.
 - (4) The trustees and their successors must ensure that the remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure.

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- (5) If the amount of the remaining publicly funded proceeds of disposal exceeds the amount of the agreed relevant capital expenditure, then the trustees and their successors must ensure that the surplus amount is used on relevant capital expenditure.
- (6) The “agreed relevant capital expenditure” means—
- (a) in a case where—
 - (i) no notice of objection to the proposed use of the publicly funded proceeds of disposal was given by the authority in accordance with paragraph A14(9)(b), or
 - (ii) such a notice was so given and was then withdrawn in accordance with paragraph A14(11),the relevant capital expenditure specified in the notification of the disposal given to the authority under paragraph A14(6), and
 - (b) in a case where such notice of objection was so given and was not withdrawn, the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used as determined in accordance with paragraph A15(2).
- (7) The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded proceeds of disposal which remains after deducting the “appropriate amount” (if any) determined in accordance with paragraph A15(3).
- (8) Sub-paragraphs (3), (4) and (5) are subject to paragraph A14(15) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A14(9) (b) or (c)).
- (9) In its application in the case of a disposal of land to which sub-paragraph (1), (2) or (3) of paragraph A13 applies by virtue of sub-paragraph (7) of that paragraph, this paragraph is modified as follows—
- (a) in sub-paragraph (2) omit the words from “and of the amount” to the end,
 - (b) in sub-paragraph (4) for “remaining publicly funded proceeds of disposal are used on the agreed relevant capital expenditure” substitute “land is used for the agreed purposes”,
 - (c) omit sub-paragraph (5), and
 - (d) in sub-paragraph (6)—
 - (i) for “agreed relevant capital expenditure” substitute “agreed purposes”,
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”,
 - (iii) for “relevant capital expenditure” substitute “proposed purposes”, and
 - (iv) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used” substitute “purposes for which the land is to be used”.
- A17 (1) This paragraph applies where—
- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A14(9)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The trustees may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may

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specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.

- (3) Before making an application under sub-paragraph (2), the trustees must give the local education authority notice of their intention to make the application.
- A18 (1) For the purposes of paragraphs A14 to A16, “relevant capital expenditure”, in relation to a disposal of land by the trustees of a foundation, voluntary or foundation special school, means capital expenditure in relation to the premises of—
- (a) the school,
 - (b) any existing foundation, voluntary or foundation special school, city technology college, city college for the technology of the arts, or Academy, or
 - (c) any proposed foundation, voluntary or foundation special school, or Academy.
- (2) For the purposes of sub-paragraph (1)(c) it is irrelevant whether proposals have yet been published under any enactment in respect of the proposed school or Academy in question.

Duty to have regard to guidance etc

- A19 (1) A local education authority, a governing body, a foundation body and trustees must have regard, in particular, to any guidance given from time to time by the Secretary of State—
- (a) in determining whether to give a notice, or make a reference or application to the adjudicator, under any of paragraphs A2 to A17, or
 - (b) in determining the publicly funded proceeds of disposal or the “appropriate amount” for the purposes of any of those paragraphs.
- (2) In determining any matter for the purposes of any of the provisions mentioned in sub-paragraph (1), the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (3) In addition to having regard to guidance as required under sub-paragraph (1)(b) or (2), a local education authority, a governing body, a foundation body, trustees and the adjudicator, must also have regard, in particular, to the factors mentioned in sub-paragraph (4) in determining any of the following for the purposes of any of paragraphs A2 to A17—
- (a) the publicly funded proceeds of disposal;
 - (b) the “appropriate amount”;
 - (c) the amount of the consideration (if any) to be paid under paragraph A5, A11 or A17.
- (4) The factors referred to in sub-paragraph (3) are—
- (a) in the case of any disposal, the value of the land as at the date of the determination,
 - (b) in the case of any disposal, any enhancement in value of the land attributable to expenditure on the land by the local education authority or a relevant person,
 - (c) in the case of any disposal, any expenditure on the land by a relevant person,
 - (d) in the case of any disposal, any relevant payments made by a relevant person to the local education authority or the Secretary of State,

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- (e) in the case of any disposal, to the extent that they do not fall within paragraph (c) or (d), any payments in respect of the acquisition of the land, and
 - (f) in the case of a disposal falling within paragraph A1(1)(i), paragraph A7(1)(h) or paragraph A13(1)(h) or (k), (2)(a)(iii) or (b), or (3)(a)(ii), the extent to which the proceeds of disposal mentioned in the provision in question were publicly funded proceeds of disposal as defined for the purposes of paragraph A2, A8 or A14, as the case may be.
- (5) A “relevant person” means—
- (a) in the case of a disposal to which paragraph A2 or A14 applies, the governing body or the trustees of the school in question, and
 - (b) in the case of a disposal to which paragraph A8 applies, the foundation body in question.
- (6) A “relevant payment” means—
- (a) in the case of any disposal, a payment in respect of the current school site or sites to which the land relates,
 - (b) in the case of any disposal, a payment under any of the following provisions—
 - paragraph 2(6) of Schedule 3;
 - paragraph 16(5) of Schedule 6 (including that provision as applied by any enactment);
 - section 60(4) of the Education Act 1996;
 - paragraph 28(5) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment), and
 - (c) in the case of a disposal of land falling within any of the following provisions—
 - paragraph A1(1)(f) or (g);
 - paragraph A7(1)(e) or (f);
 - paragraph A13(1)(g), (i) or (j),a payment in respect of the grant mentioned in the provision in question.
- (7) The reference in sub-paragraph (5)(a) to the governing body or the trustees of the school in question includes—
- (a) where the school was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
 - (b) where the school was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
 - (c) where the school was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.
- (8) The reference in sub-paragraph (5)(b) to the foundation body in question includes—
- (a) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,

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- (b) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
- (c) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.

Power to vary or revoke determinations or orders

- A20 (1) A determination made by the adjudicator on a reference made to him under any of paragraphs A3 to A15 may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by a relevant person in relation to the determination, and
 - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (2) A “relevant person” in relation to a determination means—
- (a) the local education authority, governing body, foundation body or trustees who made the reference to the adjudicator in relation to which the determination was made, or
 - (b) any other of those persons who could have made that reference.
- (3) In determining whether to make a reference to the adjudicator under sub-paragraph (1)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4) An order made by the adjudicator on an application under paragraph A5, A11 or A17 may be varied or revoked by a further order made by him if—
- (a) an application for its variation or revocation is made to him by an appropriate person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (5) An “appropriate person” in relation to an order made under paragraph A5, A11 or A17 means—
- (a) the governing body, the foundation body or the trustees, as the case may be, who applied for the order,
 - (b) the local education authority, or
 - (c) if different from that authority, the local authority to whom land is required to be transferred under the order.
- (6) In determining whether to make an application to the adjudicator under sub-paragraph (4)(a), an appropriate person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (7) Paragraph A19 applies in relation to the further determination by the adjudicator, by virtue of sub-paragraph (1) or (4), of any matter for the purposes of any of paragraphs A2 to A17 as it applies in relation to the original determination of the matter.

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Meaning of “capital expenditure”

- A21 (1) This paragraph applies to the references to capital expenditure in the definition of “relevant capital expenditure” in paragraphs A6, A12 and A18.
- (2) Subject to sub-paragraphs (3) and (4), such references are references to—
- (a) in the case of paragraph A6, expenditure which, if it were to be incurred by the governing body, would fall to be capitalised in accordance with proper accounting practices;
 - (b) in the case of paragraph A12, expenditure which, if it were to be incurred by the foundation body, would fall to be capitalised in accordance with proper accounting practices;
 - (c) in the case of paragraph A18, expenditure which, if it were to be incurred by the trustees, would fall to be capitalised in accordance with proper accounting practices.
- (3) The Secretary of State may by regulations prescribe classes or descriptions of expenditure which are to be treated—
- (a) for the purposes of paragraph A6 as being, or as not being, capital expenditure of any governing body, or any prescribed class or description of governing body;
 - (b) for the purposes of paragraph A12 as being, or as not being, capital expenditure of any foundation body, or any prescribed class or description of foundation body;
 - (c) for the purposes of paragraph A18 as being, or as not being, capital expenditure of any trustees, or any prescribed class or description of trustee.
- (4) The Secretary of State may by direction provide that—
- (a) expenditure of a particular governing body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A6 as being, or as not being, capital expenditure of that body;
 - (b) expenditure of a particular foundation body, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A12 as being, or as not being, capital expenditure of that body;
 - (c) expenditure of particular trustees, which is expenditure of a particular class or description, is to be treated for the purposes of paragraph A18 as being, or as not being, capital expenditure of those persons.
- (5) Directions under sub-paragraph (4) may be expressed to have effect in specified circumstances or subject to specified conditions.
- A22 (1) For the purposes of paragraph A21, “proper accounting practices”, in relation to a governing or foundation body, or to trustees, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by that body, or as the case may be, those persons, or
 - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the relevant local education authority.

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- (2) The “relevant local education authority” means the local education authority to whom notice of the disposal in question is required to be given under paragraph A2, A8 or A14.
- (3) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph, only those falling within paragraph (a) are to be regarded as proper accounting practices.

Land required by local education authority for certain purposes

- A23 (1) A local education authority in England may apply to the adjudicator for a transfer order under this paragraph in relation to publicly funded land which—
- (a) is held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school,
 - (b) is held by a foundation body for the purposes of the group of schools for which it acts, or
 - (c) is held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school.
- (2) A transfer order is an order requiring the land in relation to which it is made to be transferred by the body or trustees holding it to the authority, subject to the payment by the authority of such sum by way of consideration (if any) as the adjudicator determines to be appropriate.
 - (3) In determining whether to make an application under sub-paragraph (1) for a transfer order, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.
 - (4) Before making an application under sub-paragraph (1) for a transfer order in relation to publicly funded land, the authority must give the body or trustees holding the land notice of the authority’s intention to make the application.
 - (5) An application under sub-paragraph (1) must state the purpose for which the land to which it relates is required by the authority (“the stated purpose”).
 - (6) In relation to the content of such an application, a local education authority must have regard, in particular, to any guidance given from time to time by the Secretary of State.
 - (7) Where an application is made under sub-paragraph (1) for a transfer order in relation to publicly funded land, the adjudicator may make a transfer order if he is satisfied that—
 - (a) the land is not required for the purposes of the school or, as the case may be, the schools in the group,
 - (b) the land is required by the authority for the stated purpose,
 - (c) the stated purpose is a qualifying purpose, and
 - (d) it is appropriate for the land to be used for that purpose.
 - (8) For the purposes of sub-paragraph (7)(c) the stated purpose is a qualifying purpose if it falls within one or more of the following descriptions of purpose—
 - (a) the land is required for the purposes of any school or institution which is, or is to be, maintained by the authority, or which they have power to assist;

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- (b) the land is otherwise required for the purposes of the exercise of any of the functions of the authority;
 - (c) the land is required for the provision of children’s services by or on behalf of the local authority who are that authority in the exercise of any of the relevant functions of that local authority.
- (9) For the purposes of sub-paragraph (8)(c)—
- “children’s services” are services provided for or in relation to any of the following persons (whether or not they are also provided for or in relation to any other persons)—
- (a) children;
 - (b) persons aged 18 or 19;
 - (c) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989;
 - (d) persons over the age of 19 but under the age of 25 who have a learning difficulty, within the meaning of section 13 of the Learning and Skills Act 2000, and are receiving services under that Act;
- “relevant functions” means the functions described in any of paragraphs (a), (c), (d) or (e) of subsection (1) of section 135 of the Education and Inspections Act 2006.
- (10) Before making a transfer order the adjudicator must consult the body or trustees holding the land in relation to which the application for the transfer order is made.
- (11) In determining whether to make a transfer order, the adjudicator must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (12) Where a transfer order is made, the authority must use the land to which it relates for the stated purpose.
- (13) A transfer order made by the adjudicator may be varied or revoked by a further order made by the adjudicator if—
- (a) an application for its variation or revocation is made to him by a relevant person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (14) A “relevant person” in relation to a transfer order means—
- (a) the local education authority who applied for the transfer order, or
 - (b) the body or trustees who held the land to which the order relates.
- (15) In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (16) Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.
- A24 (1) For the purposes of paragraph A23, land held for the purposes of a foundation, voluntary or foundation special school by the governing body of the school is “publicly funded land” if it is—
- (a) land acquired under a transfer under section 201(1)(a) of the Education Act 1996,
 - (b) land acquired under any of the following—

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- paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4)(c), 5(4B)(d) or 8A of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8;
 - paragraph 28(2) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment),
- (c) land acquired under any regulations made under—
- section 24 of the Education and Inspections Act 2006 by virtue of subsection (3)(b) of that section, or
 - section 27 of that Act by virtue of subsection (2)(b) of that section,
- (d) land acquired from a foundation body,
- (e) land acquired from the Funding Agency for Schools,
- (f) land acquired wholly by means of—
- (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
 - (ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
- (g) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
- (h) land acquired wholly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature, or
- (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (h).
- (2) Sub-paragraph (1)(h) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A25 (1) For the purposes of paragraph A23, land held by a foundation body for the purposes of the group of schools for which it acts is “publicly funded land” if it is—
- (a) land acquired under any of the following—
 - paragraph 2, 4 or 9 of Schedule 3;
 - paragraph 16 or 20 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5 or 6 of Schedule 21;

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- paragraph 5(4B)(d) of this Schedule;
any regulations made under paragraph 5 of Schedule 8,
- (b) land acquired under any of the following—
paragraph 8(5) of Schedule 8 to the Education Act 2002;
paragraph 14(5) of Schedule 10 to the Education Act 2005;
paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section;
any regulations made under section 27 of that Act by virtue of subsection (2)(b) of that section,
- (c) land acquired from the governing body of a maintained school,
- (d) land acquired from another foundation body,
- (e) land acquired wholly by means of—
(i) any grant provided by the Secretary of State on or after the appointed day other than a grant made on or after 1st April 2007 under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), or
(ii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
- (f) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
- (g) land acquired wholly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature, or
- (h) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (a) to (g).
- (2) Sub-paragraph (1)(g) does not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
(a) prepared an appropriate statement in relation to the expenditure, and
(b) sent a copy of the statement to the foundation body either before, or no later than 12 months after, the expenditure was incurred.
- (3) An “appropriate statement” in relation to expenditure is a statement in writing which—
(a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
(b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.
- A26 (1) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is “publicly funded land” if it is—
(a) land acquired under section 60, 61 or 70 of the Education Act 1996,

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- (b) land acquired under any of the following—
 - paragraph 2 of Schedule 3;
 - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
 - paragraph 5(4B)(d) of this Schedule;
 - any regulations made under paragraph 5 of Schedule 8,
 - (c) land acquired under any of the following—
 - paragraph 4 or 9 of Schedule 3;
 - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
 - (d) land acquired under any of the following—
 - paragraph 8(5) of Schedule 8 to the Education Act 2002;
 - paragraph 14(5) of Schedule 10 to the Education Act 2005;
 - paragraph 28(2) or 31(1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
 - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
 - (e) land acquired wholly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
 - (f) land acquired from the Funding Agency for Schools,
 - (g) land acquired wholly by means of—
 - (i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996),
 - (ii) any grant paid under section 216(2) of that Act, or
 - (iii) any grant paid under any regulations made under paragraph 4 of Schedule 32 to this Act other than a grant paid under such regulations to the governing body of a voluntary aided school,
 - (h) land acquired wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27,
 - (i) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in any of paragraphs (f) to (h), or
 - (j) land acquired wholly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996).
- (2) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a foundation or foundation special school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land—
 - (i) acquired by the governing body under a transfer under section 201(1)(a) of the Education Act 1996,
 - (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of this Schedule, or

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- (iii) acquired by the governing body wholly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
 - (b) land acquired wholly with the proceeds of disposal of any land acquired as mentioned in sub-paragraph (1)(b).
- (3) For the purposes of paragraph A23, land held, or held on trust, for the purposes of a voluntary school by the trustees of the school is also “publicly funded land” if it is—
- (a) land acquired by the governing body of the school—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) wholly with the proceeds of disposal of any land so acquired, and transferred by the governing body to be held on trust by the trustees, or
 - (b) in the case of a school to which sub-paragraph (4) applies, land acquired wholly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.
- (4) This sub-paragraph applies to a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996.
- (5) Land held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the trustees of the school is not “publicly funded land” for the purposes of paragraph A23 if it is—
- (a) land acquired under section 60 or 61 of the Education Act 1996, or
 - (b) land acquired under paragraph 2 or 4 of Schedule 3 to this Act,
- by the trustees of an institution which is, or has at any time been, within the further education sector (as defined by section 4(3) of the Education Act 1996).
- (6) Sub-paragraph (1)(e) does not apply in the case of any expenditure unless the authority—
- (a) prepared an appropriate statement in relation to the expenditure, and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) An “appropriate statement” in relation to expenditure is a statement in writing which—
- (a) contains details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (b) indicates that the expenditure was being treated by the authority as expenditure of a capital nature.

Notice in relation to grants under paragraph 5 of Schedule 3

- A27 (1) Where a grant is made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment), the Secretary of State may within the relevant period give the body or other persons to whom the grant is made notice that—
- (a) any land acquired, or enhanced in value, wholly or partly by means of the grant is land falling within paragraph A1(1)(g), A7(1)(f) and A13(1)(j), and
 - (b) any land acquired wholly or partly by means of the grant is land falling within paragraph A24(1)(g), A25(1)(f) and A26(1)(h).

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(2) The “relevant period” means the period of 6 months beginning with the date upon which the grant is made.]

PART I

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL
 SCHOOLS ^{F146}[IN WALES]: DISPOSALS OF LAND

Textual Amendments
F146 Words in Sch. 22 Pt. 1 heading inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\), s. 188\(3\), Sch. 4 para. 3; S.I. 2007/935, art. 7\(p\)](#) (with art. 8(5))

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

1 (1) ^{F147}Subject to sub-paragraph (1A),] this paragraph applies to any disposal by the governing body of a foundation, voluntary or foundation special school ^{F148}[in Wales] of—

- ^{F149}(a) any land acquired under a transfer under section 201(1)(a) of the ^{M30}Education Act 1996, or acquired under paragraph 2 of Schedule 3 or paragraph 16 of Schedule 6 ^{F150}(including that provision as applied by any enactment)] or paragraph 5(4)(c) ^{F151}[or 5(4B)(d)] of this Schedule or under any regulations made under paragraph 5 of Schedule 8;
- (b) any land acquired from a foundation body;
- ^{F152}(c)
- (d) any land acquired, or enhanced in value, wholly or partly by means of any maintenance, special purpose or capital grant (within the meaning of Chapter VI of Part III of the ^{M31}Education Act 1996);
- (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of the school and treated by the local education authority as expenditure of a capital nature; or
- (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).

^{F153}(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 ^{F154}[established otherwise than under this Act].]

(2) The governing body shall not make ^{F155}any disposal to which this paragraph applies] without the written consent of the ^{F156}[Assembly].

(3) Where the governing body apply to the ^{F157}[Assembly] for ^{F158}[its] consent to any such disposal ^{F159}[and ^{F160}the Assembly] decides to give that consent], ^{F160}[the Assembly] may do one or more of the following, namely—

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- (a) require the land or any part of the land to be transferred to such local authority as [^{F160}the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [^{F160}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 [^{F161}the Assembly] or to such local authority as [^{F160}the Assembly] may specify, the whole or any part of the proceeds of disposal; and
 - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (4) More than one direction may be given under sub-paragraph (3)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (5) Sub-paragraph (1)(e) shall not apply in the case of any expenditure incurred on or after the appointed day unless the authority—
- (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the governing body either before, or no later than 12 months after, the expenditure was incurred.

Textual Amendments

- F147** Words in Sch. 22 para. 1(1) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(2)(a)** (with s. 119)
- F148** Words in [Sch. 22 para. 1\(1\)](#) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 4(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F149** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F150** Words in Sch. 22 para. 1(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 21 para. 118(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F151** Words in Sch. 22 para. 1(1)(a) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(2)(b)** (with s. 119)
- F152** [Sch. 22 para. 1\(1\)\(c\)](#) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 4\(2\)\(b\)](#), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F153** [Sch. 22 para. 1\(1A\)](#) inserted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(3)** (with s. 119)
- F154** Words in [Sch. 22 para. 1\(1A\)\(b\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 4(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F155** Words in Sch. 22 para. 1(2) substituted (7.6.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(2), **Sch. 17 para. 2(4)** (with s. 119)
- F156** Word in [Sch. 22 para. 1\(2\)](#) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Status: Point in time view as at 25/05/2007.

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- F157** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F158** Word in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F159** Words in Sch. 22 para. 1(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 2(5)** (with s. 119)
- F160** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F161** Words in Sch. 22 para. 1(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 4(5)(c)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Marginal Citations

- M30** 1996 c. 56.
M31 1996 c. 56.

Disposal of land by foundation body

- 2 (1) This paragraph applies to any disposal by a foundation body [^{F162}in Wales] of—
- (a) any land acquired under paragraph 2, 4 or 9 of Schedule 3, paragraph 16 or 20 of Schedule 6 [^{F163}(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 [^{F164}...];
 - (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 [^{F165}Assembly] on or after the appointed day;
 - (e) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred for the purposes of any of the schools comprising the group for which the body acts and treated by the local education authority as expenditure of a capital nature; or
 - (f) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in any of paragraphs (a) to (e).

[^{F166}(1A) A “foundation body in Wales” means a foundation body where each of the schools comprising the group of schools for which the foundation body acts is maintained by a local education authority in Wales.]

- (2) The foundation body shall not make any such disposal without the written consent of the [^{F167}Assembly].
- (3) Where the foundation body apply to the [^{F168}Assembly] for [^{F169}its] consent to any such disposal [^{F170}and [^{F171}the Assembly] decides to give that consent], [^{F171}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 [^{F171}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.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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

- F162** 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))
- F163** Words in Sch. 22 para. 2(1)(a) inserted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 118(3)(a) (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F164** Words in Sch. 22 para. 2(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(b), Sch. 18 Pt. 6; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F165** Word in Sch. 22 para. 2(1)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(2)(c); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F166** Sch. 22 para. 2(1A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(3); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F167** Word in Sch. 22 para. 2(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(4); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F168** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(4); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F169** Word in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(5)(a); S.I. 2007/935, art. 7(p) (with art. 8(5))
- F170** Words in Sch. 22 para. 2(3) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), Sch. 17 para. 3 (with s. 119)
- F171** Words in Sch. 22 para. 2(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 5(5)(b); S.I. 2007/935, art. 7(p) (with art. 8(5))

^{F172}Disposal of land by trustees of foundation school or foundation special school

Textual Amendments

- F172** Sch. 22 para. 2A and cross-heading inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), Sch. 17 para. 4 (with s. 119)

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation or foundation special school [^{F173}in Wales] of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,

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- (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a), or
 - (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation or foundation special school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) under any of the provisions mentioned in sub-paragraph (1)(a), or
 - (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a).
- (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the [^{F174}Assembly].
- (4) Where the trustees apply to the [^{F175}Assembly] for [^{F176}its] consent to any such disposal and [^{F177}the Assembly] decides to give that consent, [^{F177}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 [^{F177}the Assembly] may specify, subject to the payment by that authority of such sum by way of consideration (if any) as [^{F177}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 [^{F177}the Assembly] may specify the whole or any part of the proceeds of the disposal; and
 - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.
- (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Where the trustees of a foundation or foundation special school [^{F178}in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
 - (b) the value of the land as at the date of any direction under sub-paragraph (4)(b)(i) or (ii) shall be treated as proceeds of the disposal of the land.]

Textual Amendments

F173 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))

F174 Word in Sch. 22 para. 2A(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(3); S.I. 2007/935, art. 7(p) (with art. 8(5))

F175 Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 6(3); S.I. 2007/935, art. 7(p) (with art. 8(5))

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- F176** Word in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F177** Words in Sch. 22 para. 2A(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(4)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F178** Words in Sch. 22 para. 2A(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 6(5)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Disposal of land by trustees of foundation, voluntary or foundation special school

- 3 (1) [^{F179}Subject to sub-paragraph (2A),] this paragraph applies to any disposal by the trustees of a foundation, voluntary or foundation special school [^{F180}in Wales] of—
- (a) any land acquired under section 60, 61 or 70 of the ^{M32}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)[^{F181}, under paragraph 5(4B)(d) of this Schedule] or under any regulations made under paragraph 5 of Schedule 8 ^{F182} ...;
 - (b) any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature;
 - (c) any land acquired by the governing body of the school—
 - (i) under a transfer under section 201(1)(a) of the ^{M33}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;
 - ^{F183}(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 ^{M34}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 ^{F184} ... (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 ^{M35}Education Act 1996).
- (2) If a voluntary aided school [^{F185}in Wales] was, immediately before the appointed day, a controlled school within the meaning of the ^{M36}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.
- [^{F186}(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.]
- (3) Where paragraph (a), (b) or (c) of sub-paragraph (1) or sub-paragraph (2) applies, the trustees shall notify the local education authority that that provision applies to them and they or their successors shall pay to the authority so much of the proceeds

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of disposal as may be determined to be just, either by agreement between them and the authority or, in default of agreement, by the [^{F187}Assembly].

- (4) In making any determination under sub-paragraph (3), the trustees and the authority, or the [^{F188}Assembly], as the case may be, shall have regard in particular to—
- (a) the value, as at the date of the determination, of the land acquired from the authority;
 - (b) any enhancement in value of the land attributable to expenditure by the local education authority, the trustees or the governing body of the school on school buildings on the land; and
 - (c) any payments already made by the trustees to the authority—
 - (i) in respect of the current school site; or
 - (ii) under section 60(4) of the ^{M37}Education Act 1996 or under paragraph 2(6) of Schedule 3 or paragraph 16(5) of Schedule 6 to this Act.
- (5) More than one determination may be made under sub-paragraph (3) in relation to a disposal of land within sub-paragraph (1) or (2) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (6) Sub-paragraph (1)(b) shall not apply in the case of any expenditure unless the authority—
- (a) prepared a statement in writing—
 - (i) containing details of the amount of the expenditure, the acquisition or works funded (or to be funded) by such expenditure, and the total cost (or estimated total cost) of that acquisition or those works, and
 - (ii) indicating that the expenditure was being treated by them as expenditure of a capital nature; and
 - (b) sent a copy of the statement to the trustees either before, or no later than 12 months after, the expenditure was incurred.
- (7) Sub-paragraph (3) does not apply in the case of land acquired under section 60 or 61 of the ^{M38}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 ^{M39}Education Act 1996).
- (8) Where paragraph ^{F189}... (e) or (f) of sub-paragraph (1) applies, the trustees shall notify the local education authority that that paragraph applies to them and they and their successors shall (subject to sub-paragraph (9)) undertake to the authority to use the proceeds of disposal—
- (a) for the purposes of the school, or
 - (b) for the purposes—
 - (i) of any other existing foundation, voluntary or foundation special school, or
 - ^{F190}(ii) of any other proposed foundation, voluntary or foundation special school, whether or not proposals have yet been published under [^{F191}any enactment] in respect of that proposed school.
- (9) Where it appears to the [^{F192}Assembly] that the trustees have not given a suitable undertaking under sub-paragraph (8), the [^{F192}Assembly] may direct the trustees to pay to the authority either the whole or any part of the proceeds of disposal as [^{F193}the Assembly] determines to be just.

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- (10) More than one direction may be given under sub-paragraph (9) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
- (11) Where paragraph (g) of sub-paragraph (1) applies, the governing body of the school shall repay the grant referred to in that paragraph to the local education authority by whom the school is maintained, unless the governing body and the authority otherwise agree.
- (12) Where the trustees of a foundation, voluntary or foundation special school [^{F194}in Wales] wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
- (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
 - (b) the value of the land as at the date of any determination under sub-paragraph (3) or of any direction under sub-paragraph (9) shall be treated as proceeds of the disposal of the land.

Textual Amendments

- F179** Words in Sch. 22 para. 3(1) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(a)** (with s. 119)
- F180** Words in Sch. 22 para. 3(1) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(2)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F181** Words in Sch. 22 para. 3(1)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(2)(b)** (with s. 119)
- F182** Words in Sch. 22 para. 3(1)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(b), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F183** Sch. 22 para. 3(1)(d) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(c), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F184** Words in Sch. 22 para. 3(1)(f) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(2)(d), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F185** Words in Sch. 22 para. 3(2) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(3)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F186** Sch. 22 para. 3(2A) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 5(3)** (with s. 119)
- F187** Word in Sch. 22 para. 3(3) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F188** Word in Sch. 22 para. 3(4) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(4)**; S.I. 2007/935, art. 7(p) (with art. 8(5))
- F189** Word in Sch. 22 para. 3(8) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 7(5), **Sch. 18 Pt. 6**; S.I. 2007/935, art. 7(p)(q) (with art. 8(5))
- F190** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F191** Words in Sch. 22 para. 3(8)(b)(ii) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(4)(b)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F192** Word in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(a)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

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F193 Words in Sch. 22 para. 3(9) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(6)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

F194 Words in Sch. 22 para. 3(12) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 7(7)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

Marginal Citations

M32 1996 c. 56.

M33 1996 c. 56.

M34 1996 c. 56.

M35 1996 c. 56.

M36 1996 c. 56.

M37 1996 c. 56.

M38 1996 c. 56.

M39 1996 c. 56.

Land required by local education authority for new school

- 4 (1) This paragraph applies where, on an application made by a local education authority [^{F195}in Wales], the [^{F196}Assembly] is satisfied—
- (a) that any relevant land—
 - (i) held, or held on trust, for the purposes of a foundation, voluntary or foundation special school by the governing body or the trustees of the school, or
 - (ii) held by a foundation body for the purposes of the group of schools for which it acts,
 is not required for the purposes of the school or (as the case may be) those schools; and
 - (b) that that land is required by the authority as the site for a new maintained school or as the site to which a maintained school is to be transferred.
- (2) In such a case the [^{F197}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 [^{F198}the Assembly] determines to be appropriate.
- (3) In this paragraph “relevant land” means land which was acquired by the governing body of the school, or (as the case may be) one of the schools, mentioned in subparagraph (1)(a) under a transfer under section 201(1)(a) of the ^{M40}Education Act 1996.

Textual Amendments

F195 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))

F196 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))

F197 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))

F198 Words in Sch. 22 para. 4(2) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 8(3)(b)**; S.I. 2007/935, art. 7(p) (with art. 8(5))

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Marginal Citations

M40 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—
- ^[F199](a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted ^[F200], confirmed] or determined to be implemented under any enactment, or]
 - (b) the ^[F201]appropriate authority] has given a direction—
 - ^[F202](i) under section 19(1) requiring a foundation, voluntary or foundation special school in Wales to be discontinued,
 - (ii) under section 32(1) requiring a foundation special school in Wales to be discontinued,
 - (iii) under section 68(1) of the Education and Inspections Act 2006 requiring a foundation, voluntary or foundation special school in England to be discontinued, or
 - (iv) under section 17(1) of that Act requiring a foundation special school in England to be discontinued.]
- (2) The governing body of the school shall apply to the ^[F203]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.]
- ^[F204](2A) Land falls within this sub-paragraph if it is—
- (a) land falling within paragraph (g) of paragraph A1(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
 - (b) land falling within paragraph (i) of paragraph A1(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.
- (2B) If the school is in England and the governing body dispose of any land falling within sub-paragraph (2A) which is held by them for the purposes of the school, paragraph A1 shall apply to them.]
- (3) Where the school is a member of the group for which a foundation body acts, the body shall apply to the ^[F205]appropriate authority for it to exercise its powers under sub-paragraph (4) below in relation to—
- (a) if the school is in England, any land falling within paragraphs (a) to (h) of paragraph A7(1) other than land falling within sub-paragraph (3A), or

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- (b) if the school is in Wales, any land falling within paragraphs (a) to (f) of paragraph 2(1),

which is held by the body for the purposes of the schools comprising the group.]

[^{F206}(3A) Land falls within this sub-paragraph if it is—

- (a) land falling within paragraph (f) of paragraph A7(1) by virtue of being land enhanced in value as mentioned in that paragraph, or
- (b) land falling within paragraph (h) of paragraph A7(1) by virtue of being land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land falling within paragraph (a) above.

(3B) If the school is in England and the foundation body disposes of any land falling within sub-paragraph (3A) which is held by it for the purposes of the schools comprising the group, paragraph A7 shall apply to it.]

(4) On an application under sub-paragraph (2) or (3), the [^{F207}appropriate authority] may do one or more of the following, namely—

- [^{F208}(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
- (b) direct the governing body or the foundation body, as the case may be, to pay, either to [^{F209}the appropriate authority] or to such local authority as [^{F209}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 [^{F210}any enactment] to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred to the governing body of such maintained school or the temporary governing body of such new school as [^{F211}the appropriate authority] may specify.

[^{F212}(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.]

[^{F213}(4A) Where the school [^{F214}is in Wales and] is a foundation or foundation special school which has a foundation, the trustees of the school shall apply to the [^{F215}appropriate authority for it to exercise its] powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), (b) or (c) which is held by the trustees for the purposes of the school.

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- (4B) On an application under sub-paragraph [^{F216}(4ZA) or] (4A), the [^{F217}appropriate authority] may do one or more of the following, namely—
- [^{F218}(a) require the land or any part of the land to be transferred to such local authority as the appropriate authority may specify, subject to the payment by that local authority of such sum by way of consideration (if any) as the appropriate authority determines to be appropriate;]
 - (b) where the trustees have power to use the land [^{F219}—
 - (i) in the case of a school in England, for the purposes of another foundation, voluntary or foundation special school, or
 - (ii) in the case of a school in Wales, for the purposes of another foundation or foundation special school or for the purposes of a voluntary school,
 direct the trustees to exercise that power in such manner as the appropriate authority may specify;]
 - (c) direct the trustees to pay to such local authority as [^{F220}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 [^{F221}(4ZA) or, as the case may be,] (4A); and
 - (d) in a case where the discontinuance of the school is connected with proposals under any enactment to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred—
 - (i) to the trustees, foundation body or governing body of such maintained school as [^{F222}the appropriate authority] may specify, or
 - (ii) to the trustees, foundation body or temporary governing body of such new school as [^{F222}the appropriate authority] may specify.]
- (5) Where the governing body [^{F223}, foundation body or trustees] fail to make an application as required by sub-paragraph [^{F224}(2), (3) [^{F225}, (4ZA)] or (4A)], as the case may be, the [^{F226}appropriate authority] may nevertheless make any such requirement or give any such direction as is mentioned in sub-paragraph [^{F227}(4) or (4B), as the case may be].
- [^{F228}(5A) Where the school is in England and the trustees of the school—
- (a) dispose of any land falling within sub-paragraph (4ZB), or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph A13 shall apply to them.]
- (6) Where [^{F229}the school is in Wales and] the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2) [^{F230}but not within paragraph 2A(1)(a), (b) or (c)], or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

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Textual Amendments

- F199** Sch. 22 para. 5(1)(a) substituted (19.12.2002 for W., 1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 118(5)(a)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 4, Sch. Pt. 1; S.I. 2003/124, art. 4
- F200** Words in Sch. 22 para. 5(1)(a) inserted (1.4.2006) by The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 40** (with art. 7)
- F201** 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)
- F202** 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)
- F203** 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)
- F204** 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)
- F205** 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)
- F206** 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)
- F207** 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)
- F208** 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)
- F209** 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)
- F210** 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
- F211** 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)
- F212** Sch. 22 para. 5(4ZA)(4ZB) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(8)**; S.I. 2007/935, art. 7(p)
- F213** 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)
- F214** 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)
- F215** 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)
- F216** 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)
- F217** 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)
- F218** 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)
- F219** Words in Sch. 22 para. 5(4B)(b) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(d)**; S.I. 2007/935, art. 7(p)
- F220** Words in Sch. 22 para. 5(4B)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F221** Words in Sch. 22 para. 5(4B)(c) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(e)**; S.I. 2007/935, art. 7(p)

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- F222** Words in Sch. 22 para. 5(4B)(d) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(10)(f)**; S.I. 2007/935, art. 7(p)
- F223** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(a)** (with s. 119)
- F224** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(b)** (with s. 119)
- F225** Word in Sch. 22 para. 5(5) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(a)**; S.I. 2007/935, art. 7(p)
- F226** Words in Sch. 22 para. 5(5) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(11)(b)**; S.I. 2007/935, art. 7(p)
- F227** Words in Sch. 22 para. 5(5) substituted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(3)(c)** (with s. 119)
- F228** Sch. 22 para. 5(5A) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(12)**; S.I. 2007/935, art. 7(p)
- F229** Words in Sch. 22 para. 5(6) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 9(13)**; S.I. 2007/935, art. 7(p)
- F230** Words in Sch. 22 para. 5(6)(a) inserted (7.6.2005) by Education Act 2005 (c. 18), s. 125(2), **Sch. 17 para. 6(4)** (with s. 119)

Discontinuance of foundation or voluntary school by notice given by its governing body: land and premises

- 6 (1) This paragraph applies where the governing body of a foundation or voluntary school apply for the [^{F231}appropriate authority's] consent to serve a notice under section 30(1).
- (2) If the [^{F232}appropriate authority] gives such consent, [^{F233}the appropriate authority] may impose any requirements in relation to the governing body or, where the school is a member of the group for which a foundation body acts, the foundation body that [^{F233}the appropriate authority] thinks just—
- in respect of the repayment of all or part of any expenditure incurred by [^{F234}the appropriate authority] as mentioned in section 30(2);
 - in respect of the transfer to the local education authority of any premises used for the purposes of the school which [^{F233}the appropriate authority] is satisfied [^{F235}the local education authority] will need for any purpose connected with education;
 - (where any premises are to be so transferred) in respect of the payment by [^{F235}the local education authority] of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
 - (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 [^{F235}the local education authority] of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- the Funding Agency for Schools, or
 - any local education authority or an authority within section 30(2)(d).

[^{F236}(3A) Where the school is in England and the trustees of the school—

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- (a) dispose of any land falling within paragraph A13(1), (2) or (3), or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph A13 shall apply to them.]
- (4) Where [^{F237}the school is in Wales and] the trustees of the school—
- (a) dispose of any land falling within paragraph 3(1) or (2), or
 - (b) wish to use any such land for purposes not connected with the provision of education in maintained schools,
- paragraph 3 shall apply to them.

Textual Amendments

- F231** 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)
- F232** 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)
- F233** 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)
- F234** 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)
- F235** 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)
- F236** 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)
- F237** Words in Sch. 22 para. 6(4) inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 10(5)**; S.I. 2007/935, art. 7(p)

Disposal of property held by governing body of maintained school on their dissolution

- 7 (1) This paragraph applies in connection with the dissolution of the governing body of a maintained school by virtue of [^{F238}paragraph 5 of Schedule 1 to the Education Act 2002].
- (2) Where a governing body are so dissolved—
- (a) all land or other property of the governing body which is used or held for the purposes of the school, and
 - (b) all rights and liabilities (including rights and liabilities in relation to staff) of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school,
- shall on the date of dissolution be transferred to, and by virtue of this Act vest in—
- (i) the local education authority, or
 - (ii) one or more of the following, namely the governing body of a maintained school and the temporary governing body of a new school, if the [^{F239}appropriate authority] so directs before the date of dissolution.
- (3) Sub-paragraph (2) does not apply to—
- (a) any land or other property for which provision has been made for transfer or payment under paragraph 5(4) or 6(2),

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- (b) any property of whatever nature which is held by the governing body on trust for the purposes of the school, or
 - (c) unless the [^{F240}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 [^{F241}appropriate authority] thinks proper.

Textual Amendments

- F238** 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.
- F239** 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)
- F240** 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)
- F241** Words in Sch. 22 para. 7(6) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 11](#); S.I. 2007/935, art. 7(p)

Notice by trustees terminating foundation or voluntary school's occupation of existing site

- 8 (1) This paragraph applies where trustees have given a notice falling within section 30(10) which is effective to terminate a foundation or voluntary school's occupation of any land ("the relevant premises").
- (2) If any expenditure has been incurred on the relevant premises as mentioned in section 30(2)(a) to (d), the [^{F242}appropriate authority] may impose any requirements that [^{F243}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 [^{F244}the appropriate authority];
 - (b) in respect of the transfer by the trustees to the local education authority of the whole or part of the relevant premises where [^{F243}the appropriate authority] is satisfied [^{F245}the local education authority] will need them for any purpose connected with education;

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- (c) (to the extent that the relevant premises are to be so transferred) in respect of the payment by [^{F245}the local education authority] to the trustees of so much of the value of those premises as is just having regard to the extent to which the premises were provided otherwise than at public expense;
 - (d) (to the extent that the relevant premises are not to be so transferred) in respect of the payment by the trustees to [^{F245}the local education authority] of so much of the value of those premises as is just having regard to the extent to which they were provided at public expense.
- (3) In sub-paragraph (2) “at public expense” means at the expense of—
- (a) the Funding Agency for Schools, or
 - (b) any local education authority or an authority within section 30(2)(d).

Textual Amendments

- F242** 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)
- F243** 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)
- F244** 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)
- F245** 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)

[^{F246}PART 2A

MAINTAINED SCHOOL: TRANSFER OF LAND FROM TRUSTEE TO GOVERNING BODY

Textual Amendments

- F246** [Sch. 22 Pt. 2A](#) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 13](#); S.I. 2007/935, art. 7(p)

- 8A (1) This paragraph applies where the trustee of one or more foundation or foundation special schools to which section 23A (requirements as to foundations) applies is a body corporate.
- (2) Where—
- (a) the body corporate has under any enactment passed a resolution for its winding up,
 - (b) a court has made an order for the winding up of the body corporate,
 - (c) the body corporate has been removed under subsection (4) of section 3 of the Charities Act 1993 from the register of charities kept under that section, or
 - (d) prescribed conditions relating to the ability of the body corporate to pay its debts or to its continued existence as a body corporate or as a charity are met,
- the Secretary of State may make an order under this paragraph.
- (3) Conditions may be prescribed under sub-paragraph (2)(d) by reference to the opinion of the Secretary of State as to any prescribed matter.

Status: Point in time view as at 25/05/2007.

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- (4) An order under this paragraph is an order directing that any land falling within paragraph A13(1)(b) or (2) held by the body corporate on trust for one or more foundation or foundation special schools to which section 23A applies is to be transferred to, and by virtue of the order vest in—
- (a) the governing body of the school, or
 - (b) where the land is held on trust for two or more schools, such of the governing bodies of the schools as the Secretary of State thinks proper.

- (5) In a case where—
- (a) proposals to establish a new foundation or foundation special school fall to be implemented under Schedule 2 to the Education and Inspections Act 2006, and
 - (b) the local education authority have before the school opening date transferred land to be held on trust for the school,

references in this paragraph to a foundation or foundation special school include references to a proposed such school, references to a governing body include references to a proposed governing body and for the purpose of sub-paragraph (1) section 23A is to be taken to apply to the proposed school if it would apply to the school when it is established.

- (6) In this paragraph—
- “charity” has the same meaning as in the Charities Act 1993;
- “foundation” means a foundation established otherwise than under this Act.]

PART III

GENERAL

- 9 (1) Where a transfer under paragraph [F247 A5, A11, A17, A23,] 1(3)(a), 2(3)(a), 4(2), 5(4)(a) or (c), 6(2)(b) [F248, 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 [F249 Land Registration Act 2002],
 - (b) to deliver any such certificate under [F250 that Act], and
 - (c) to do such other things under [F250 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 M41 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

F247 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)

F248 Words in Sch. 22 para. 9(1) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 4 para. 14(b); S.I. 2007/935, art. 7(p)

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F249 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)

F250 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

M41 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 ^{M42}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).
 - ^{F251}(e) “the appropriate authority” means—
 - (i) in relation to a school in England, the Secretary of State, and
 - (ii) in relation to a school in Wales, the Assembly.]
- (2) In paragraphs (b)(ii) and (c)(ii) of sub-paragraph (1) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.
- (3) In paragraphs [^{F252}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 ^{M43}Education Act 1996.
- (4) In paragraphs [^{F253}A1(1), A13(1),] 1(1) and 3(1) references, in relation to the governing body or trustees of a foundation, voluntary or foundation special school and in relation to a time before the appointed day, to any expenditure being incurred for the purposes of the school are references to such expenditure being incurred for

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the purposes of that school at a time when it was a voluntary, grant-maintained or grant-maintained special school within the meaning of the ^{M44}Education Act 1996.

- (5) In [^{F254}paragraphs A1(1) and 1(1)] references, in relation to the governing body of a foundation, voluntary or foundation special school, to any land being acquired in a particular way include references to the land being acquired in that way by the temporary governing body for the school.

Textual Amendments

- F251** Sch. 22 para. 10(1)(e) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 15\(2\)](#); S.I. 2007/935, art. 7(p)
- F252** 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)
- F253** 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)
- F254** 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

- M42** 1954 c. 56.
- M43** 1996 c. 56.
- M44** 1996 c. 56.

[^{F255}PART IV

DISPOSAL OF LAND OF A VOLUNTARY AIDED SCHOOL BY THE LOCAL EDUCATION AUTHORITY

Textual Amendments

- F255** Sch. 22 Pt. IV inserted (E.) (1.4.2002) by [The Regulatory Reform \(Voluntary Aided Schools Liabilities and Funding\) \(England\) Order 2002 \(S.I. 2002/906\)](#), [art. 12](#) (with [art. 13](#))

- 11 (1) In this paragraph—
- [^{F256}(a) subject to sub-paragraph (7), “capital expenditure” means expenditure of the governing body in question which falls to be capitalised in accordance with proper accounting practices;]
- (b) “commencement date” means the date on which [^{F257}the Regulatory Reform (Voluntary Aided Schools Liabilities and Funding) (England) Order 2002] comes into force;
- (c) “relevant body” means—
- (i) the governing body of a voluntary aided school; or
 - (ii) if the school has been discontinued and the governing body dissolved, the trustees;
- (d) “relevant land” means—
- (i) any caretaker’s dwelling; or
 - (ii) other buildings which are not school buildings;
- which form part of the premises of a voluntary aided school.

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- (2) This paragraph applies to any disposal by the local education authority of relevant land enhanced in value wholly or partly by means of capital expenditure incurred by the governing body after the commencement date.
- (3) But this paragraph shall not apply unless the relevant body gives to the local education authority no later than 12 months after the expenditure is incurred a statement—
- (a) setting out the amount of expenditure; and
 - (b) stating that it is capital expenditure.
- (4) Where this paragraph applies, the local education authority shall notify the relevant body that the provision applies to them and they shall pay to the relevant body so much of the proceeds of disposal as may be determined to be just ^{F258}—
- (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.]
- [In determining whether to make a reference to the adjudicator under sub-^{F259}(4A) paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference.]
- (5) In making the determination under sub-paragraph (4), the relevant body and the local education authority, or the ^{F260}adjudicator], as the case may be, shall have regard in particular ^{F261}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.
- [A determination made by the adjudicator on a reference made to him under sub-^{F262}(5A) paragraph (4)(b) may be varied or revoked by a further determination made by him if—
- (a) the matter is referred to him by the local education authority or the relevant body, and
 - (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.
- (5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the local education authority or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter.]

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- (6) If the local education authority permit relevant land to be used for purposes not connected with the school—
- (a) they shall be treated for the purposes of this paragraph as having disposed of the land; and
 - (b) sub-paragraph (4) shall have effect as if the reference to proceeds of disposal were a reference to the value of the land.
- [The Secretary of State may—
- ^{F263}(7) (a) by regulations prescribe classes or descriptions of expenditure which are to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of any governing body or of any prescribed class or description of governing body;
- (b) by direction provide that expenditure of a particular governing body which is expenditure of a particular class or description is to be treated for the purposes of this paragraph as being, or as not being, capital expenditure of that body.
- (8) Directions under sub-paragraph (7)(b) may be expressed to have effect in specified circumstances or subject to specified conditions.]]

Textual Amendments

- F256** 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)
- F257** 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)
- F258** 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)
- F259** Sch. 22 para. 11(4A)(4B) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 16\(5\)](#); S.I. 2007/935, art. 7(p)
- F260** 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)
- F261** 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)
- F262** 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)
- F263** 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)

- ^{F264}12(1) For the purposes of paragraph 11(1)(a), “proper accounting practices”, in relation to a governing body, means those accounting practices—
- (a) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the governing body, or
 - (b) which, whether by virtue of any enactment or by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts by the local education authority.
- (2) In the event of conflict between the accounting practices falling within paragraph (a) of sub-paragraph (1) and those falling within paragraph (b) of that sub-paragraph,

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only those falling within paragraph (a) are to be regarded as proper accounting practices.]

Textual Amendments

F264 Sch. 22 para. 12 inserted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 4 para. 17**; S.I. 2007/935, art. 7(p)

F265 SCHEDULE 23

Section 93.

Textual Amendments

F265 Sch. 23 repealed (1.10.2002 for E., 1.2.2006 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4) and S.I. 2006/173, reg. 5); S.I. 2002/2439, art. 3 (with art. 4, Sch. paras. 3, 5); S.I. 2006/172, art. 4, Sch.

F266 SCHEDULE 24

Textual Amendments

F266 Sch. 24 repealed (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

F267 SCHEDULE 25

Textual Amendments

F267 Sch. 25 repealed (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2 (with art. 3, Sch. para. 3); S.I. 2005/1395, art. 4, Sch. (with art. 5(3))

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SCHEDULE 26

Section 122.

INSPECTION OF NURSERY EDUCATION

Introductory

- 1 (1) In this Schedule “relevant nursery education” means—
- [^{F268}(za) nursery education provided in a maintained school or a maintained nursery school;]
 - (a) nursery education [^{F269}not falling within paragraph (za)] which is provided by a local education authority;
 - [^{F270}(b) nursery education which is provided by any other person under arrangements made with that person by a local education authority 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.]
 - [^{F271}(c) nursery education in respect of which grants are (or are to be) made under arrangements under section 1 of the ^{M45}Nursery Education and Grant-Maintained Schools Act 1996.]
- (2) In this Schedule “nursery education under consideration for funding” means nursery education provided by a person [^{F272}to whom a local education authority 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).][^{F272}with whom a local education authority 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.]
- [^{F273}(3) Where—
- (a) any education is for the time being provided at any premises for children who have not attained the age prescribed for the purposes of section 118(1)
 - (b) (“the prescribed age”), and
 - (b) that education is provided by a person—
 - (i) who proposes to provide nursery education at those premises for children who have attained the prescribed age, and
 - (ii) with whom a local education authority 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

- F268** 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
- F269** Words in Sch. 26 para. 1(1)(a) inserted (1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), **Sch. 7 para. 9(2)(b)** (with s. 119); S.I. 2006/1338, art. 3, Sch. 1
- F270** 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
- F271** 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

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F272 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

F273 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

Marginal Citations

M45 1996 c. 50.

2 ^{F274}(1) In this Schedule—

- (a) “the Chief Inspector for England” means [^{F275}Her Majesty's Chief Inspector of Education, Children's Services and Skills],
- (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—
 - (i) as respects nursery education provided in England, the Chief Inspector for England, and
 - (ii) as respects nursery education provided in Wales, the Chief Inspector for Wales.]

(2) In this Schedule references to registered [^{F276}Welsh] nursery education inspectors are to persons registered under paragraph 8.

^{F277}(3) In this Schedule “members of the Welsh Inspectorate” means—

- (a) the Chief Inspector for Wales,
- (b) Her Majesty's Inspectors of Education and Training in Wales, and
- (c) additional inspectors with whom the Chief Inspector for Wales has made arrangements to give him assistance under paragraph 2 of Schedule 2 to the Education Act 2005.]

^{F278}(4)

^{F279}(5) In this Schedule “well-being”—

- (a) in relation to children for whom nursery education is provided in England, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004, and
- (b) in relation to children for whom such education is provided in Wales, is a reference to their well-being having regard to the matters mentioned in section 25(2) of that Act.]

Textual Amendments

F274 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

F275 Words in Sch. 26 para. 2(1)(a) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 14 para. 35(2); S.I. 2007/935, art. 5(gg)

F276 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

F277 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

F278 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

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F279 Sch. 26 para. 2(5) inserted (3.10.2005 for E. for specified purposes) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 10\(6\)](#) (with s. 119); [S.I. 2005/2034](#), art. 6

General functions of the Chief Inspector

- 3 The Chief Inspector has the general duty of keeping the Secretary of State informed about—
- (a) the quality and standards of relevant nursery education,
 - [^{F280}(aa) how far relevant nursery education meets the needs of the range of children for whom it is provided,
 - (ab) the quality of leadership and management in connection with the provision of relevant nursery education,
 - (ac) the contribution of relevant nursery education to the well-being of the children for whom it is provided,] and
 - (b) the spiritual, moral, social and cultural development of children for whom relevant nursery education is provided.

Textual Amendments

F280 Sch. 26 para. 3(aa)-(ac) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 11](#) (with s. 119); [S.I. 2005/2034](#), art. 6

- 4 When asked to do so by the Secretary of State, the Chief Inspector shall give advice to the Secretary of State on such matters relating to relevant nursery education as may be specified in the Secretary of State's request.
- 5 The Chief Inspector may at any time give advice to the Secretary of State 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.

F281 ...

Textual Amendments

F281 Sch. 26 paras. 6A, 6B, 7 and cross-headings substituted for Sch. 26 paras. 6, 7 (1.8.2005 for E. for specified purposes, 3.10.2005 for E. so far as not already in force, 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 12](#) (with s. 119); [S.I. 2005/2034](#), arts. 2, 6; [S.I. 2006/1338](#), art. 3, [Sch. 1](#)

F281₆

[^{F281}Inspections in England

- 6A (1) The Chief Inspector for England—
- (a) shall at such intervals as may be prescribed inspect relevant nursery education provided in England,
 - (b) shall inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any time when the

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Secretary of State requires the Chief Inspector for England to secure its inspection, and

- (c) may inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any other time when the Chief Inspector for England 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 5 of the Education Act 2005 (inspections of certain schools) applies.
 - (3) A requirement such as is mentioned in sub-paragraph (1)(b) may be imposed in relation to nursery education provided at particular premises or a class of premises.
 - (4) Regulations may make provision requiring the responsible person to notify prescribed persons of the fact that relevant nursery education or nursery education under consideration for funding provided by the responsible person is to be inspected under this paragraph.
 - (5) In sub-paragraph (4) “the responsible person”, in relation to any relevant nursery education or nursery education under consideration for funding, means such person as may be prescribed.

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.

Reports of inspections under paragraph 6A or 6B

- 7 A person conducting an inspection under paragraph 6A or 6B shall report on—
- (a) the quality and standards of the nursery education provided,

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- (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.]

Registration of nursery education inspectors [F282 for Wales]

Textual Amendments

F282 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) ^{F283} ... [^{F284}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 [^{F285}for Wales]—
- (a) shall give guidance to registered [^{F286}Welsh] nursery education inspectors and such other persons as he considers appropriate in connection with inspections under paragraph [^{F287}6B] and the making of reports of such inspections, and
 - (b) shall keep under review the system of inspections under paragraph [^{F287}6B] and, in particular, the standard of such inspections and of the reports made of them.
- (3) The Chief Inspector [^{F285}for Wales] shall not register a person under this paragraph unless, having regard to any conditions that he proposes to impose under sub-paragraph [^{F288}(5B)], it appears to him that the person—
- (a) is a fit and proper person for discharging the functions of a registered [^{F289}Welsh] nursery education inspector, and
 - (b) will be capable of conducting inspections under paragraph [^{F290}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.
- ^{F291}(4) Subject to that, the Chief Inspector [^{F285}for Wales] shall register such persons as he considers appropriate.
- (5) The factors which the Chief Inspector [^{F285}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 ^{F292}... Wales.
- (5A) The Chief Inspector [^{F285}for Wales] may require payment of a fee before registering a person under sub-paragraph (4).

Status: Point in time view as at 25/05/2007.

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- (5B) Registration under sub-paragraph (4) may be subject to such conditions as the Chief Inspector [^{F285}for Wales] considers it appropriate to impose.]
- (6) Conditions imposed under sub-paragraph [^{F293}(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 [^{F293}(5B)], he shall be taken to be authorised to act as a [^{F294}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 [^{F285}for Wales] and shall be entered in the register kept by him.
- ^{F295}(9)

Textual Amendments

- F283** 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
- F284** 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.](#)
- F285** 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
- F286** Word in Sch. 26 para. 8(2)(a) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(4\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F287** Word in Sch. 26 para. 8(2) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(4\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F288** 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](#)
- F289** Word in Sch. 26 para. 8(3)(a) inserted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(5\)\(a\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F290** Word in Sch. 26 para. 8(3)(b) substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 14\(5\)\(b\)](#) (with s. 119); S.I. 2005/2034, art. 6
- F291** Sch. 26 para. 8(4)-(5B) substituted (2.9.2002 for E., 1.9.2004 for W.) for Sch. 26 para. 8(4)(5) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 14 para. 2\(3\)](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2004/1728, art. 5, [Sch. Pt. 2](#)
- F292** 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
- F293** 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](#)
- F294** 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
- F295** Sch. 26 para. 8(9) repealed (1.10.2002 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/1395, art. 4, [Sch.](#)

Modifications etc. (not altering text)

- C69** Sch. 26 para. 8(2)-(9) applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by [1989 c. 41](#), s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001

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for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

- 9 (1) If the Chief Inspector [^{F296}for Wales] is satisfied that any of the conditions mentioned in sub-paragraph (2) is satisfied with respect to a nursery education inspector registered in his register, he may remove the name of that inspector from that register.
- (2) The conditions are that—
- (a) he is no longer a fit and proper person for discharging the functions of a registered [^{F297}Welsh] nursery education inspector under paragraph [^{F298}6B],
 - (b) he is no longer capable of conducting inspections under that paragraph competently and effectively,
 - (c) there has been a significant failure on his part to comply with any condition imposed under [^{F299}paragraph 8(5B)] subject to which his registration has effect,
 - (d) he has, without reasonable explanation, produced a report of an inspection under paragraph [^{F300}6B] which is, in whole or in part, seriously misleading.
- (3) The Chief Inspector [^{F301}for Wales] may vary any condition subject to which the registration of an inspector has effect, or vary the registration of an inspector by imposing a condition subject to which it will have effect, if he is satisfied—
- (a) that he is authorised by sub-paragraph (1) to remove the name of the inspector from his register, or
 - (b) that it would otherwise be in the public interest for him to do so.
- (4) References in this Schedule to a condition imposed under [^{F302}paragraph 8(5B)] include a condition imposed under sub-paragraph (3).

^{F303}(5)

Textual Amendments

- F296** 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
- F297** 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
- F298** 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
- F299** 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
- F300** 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
- F301** 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
- F302** 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
- F303** 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

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Modifications etc. (not altering text)

C70 Sch. 26 para. 9(1)-(4) applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

- 10 (1) Any person who is aggrieved by—
- (a) the refusal of the Chief Inspector [^{F304}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.

^{F305}(1A)

[^{F306}(2) 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.]

- (3) No decision against which an appeal may be made under sub-paragraph (1) shall have effect until—
- (a) any appeal against it which is duly made is disposed of, or
 - (b) the period within which an appeal may be made expires without an appeal being made.
- (4) Sub-paragraph (3) shall not apply where the Chief Inspector [^{F307}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 [^{F307}for Wales] with directions as to the action to be taken by him.

Textual Amendments

- F304** 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
- F305** 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
- F306** 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
- F307** 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

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Modifications etc. (not altering text)

C71 Sch. 26 para. 10 applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. 2, 3

[^{F308}Training of registered Welsh nursery education inspectors]

Textual Amendments

F308 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 [^{F309}Welsh] nursery education inspector shall not conduct an inspection under paragraph 6 unless he has, in the opinion of the Chief Inspector [^{F310}for Wales], satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector [^{F310}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 [^{F311}for Wales].
- (3) Where the Chief Inspector [^{F312}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

- F309** 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
- F310** 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
- F311** 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
- F312** 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)

C72 Sch. 26 para. 11 applied (with modifications) (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 1989 c. 41, s. 79P(3) (as inserted (in force at 16.3.2001 for specified purposes and otherwise 2.9.2002 for E., 1.7.2001 for specified purposes and otherwise 1.4.2002 for W.) by 2000 c. 14, ss. 79(1), 122); S.I. 2001/1210, art. 2(a); S.I. 2001/2190, art. 2(1), Sch.; S.I. 2002/920, arts. 2, 3 (subject to Schs. 1-3); S.I. 2002/2215, arts. {2}, 3

Impartiality

- 12 A person shall not undertake an inspection under paragraph [^{F313}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—

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- (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

F313 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

^{F314}Reports of inspections: England

- 13A (1) After an inspection under paragraph 6A, the Chief Inspector for England shall—
- (a) make a report in writing, and
 - (b) ensure that a copy of the report is sent without delay—
 - (i) to the responsible person, and
 - (ii) to such other authorities and persons as may be prescribed.
- (2) Regulations may make provision—
- (a) requiring the responsible person to make a copy of any report sent to him under sub-paragraph (1)(b)(i) available for inspection by prescribed persons,
 - (b) requiring the responsible person to provide a copy of the report to prescribed persons, and
 - (c) authorising the responsible person in prescribed cases to charge a fee for providing a copy of the report.
- (3) In sub-paragraph (2) “responsible person” has the meaning given by paragraph 6A(5).

^{F315}(4)

Textual Amendments

F315 [Sch. 26 para. 13A\(4\)](#) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 35\(3\)](#), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), art. 5(gg)(ii)

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.

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- (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

[^{F316}14(1)

- (2) The annual report of the Chief Inspector for Wales required by subsection (1)(a) of section 21 of the Education Act 2005 to be made to the National Assembly for Wales shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by subsection (1)(b) of that section to make other reports to the Assembly includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.]

Textual Amendments

- F316** Sch. 26 para. 14 substituted (3.10.2005 for E. for specified purposes) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 21](#) (with s. 119); S.I. 2005/2034, art. 6
- F317** Sch. 26 para. 14(1) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 14 para. 35\(4\)](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(gg\)\(ii\)](#)

Reserve powers of the Chief Inspector

^{F318}15

Textual Amendments

- F318** Sch. 26 para. 15 repealed (1.10.2002 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2005/1395, art. 4, Sch.

- 16 If the Chief Inspector elects in the case of an inspection within paragraph (b) or (c) of sub-paragraph (1) of paragraph [^{F319}6A or 6B] that the inspection shall be treated as if it were an inspection within paragraph (a) of that sub-paragraph, the inspection shall be so treated.

Textual Amendments

- F319** Words in Sch. 26 para. 16 substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 22](#) (with s. 119); S.I. 2005/2034, art. 6

- [^{F320}17 Where an inspection in Wales is being conducted by a registered Welsh nursery education inspector under paragraph 6B, the Chief Inspector for Wales may arrange for the inspection to be monitored by one or more members of the Welsh Inspectorate.]

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Textual Amendments

F320 Sch. 26 para. 17 substituted (3.10.2005 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 23](#) (with s. 119); [S.I. 2005/2034](#), art. 6

Rights of entry

- 18 (1) ^{F321}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) ^{F322}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) ^{F322}It shall be an offence—
- (a) intentionally to obstruct the Chief Inspector for England in the exercise of his functions in relation to an inspection under paragraph 6A, or
 - (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

F321 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

F322 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

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F323}SCHEDULE 27

Section 125.

FURTHER PROVISION ABOUT PARTNERSHIP ARRANGEMENTS IN WALES

Textual Amendments

F323 Sch. 27 repealed (28.7.2000 in so far as consequential on ss. 130, 131, Sch. 8, 1.1.2001 (W.) otherwise) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/3230, art. 2, **Sch.**

Commencement Information

I7 Sch. 27 wholly in force at 1.9.1999; Sch. 27 not in force at Royal Assent see s. 145(3); Sch. 27 in force at 1.4.1999 for specified purposes by S.I. 1998/2212, art. 2, **Sch. 1 Pt. IV**; Sch. 27 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, **Schs. 5-7**).

“SCHEDULE 5A

FURTHER PROVISION ABOUT PARTNERSHIP ARRANGEMENTS IN WALES

Interpretation

- 1 In this Schedule—
- “the participating bodies”, in relation to an arrangement, means—
- (i) the parties to the arrangement,
 - (ii) the Further Education Funding Council for Wales, and
 - (iii) each governing body of a school which has consented to the arrangement;
- and
- “the parties”, in relation to an arrangement, means—
- (i) each local education authority, and
 - (ii) each governing body of an institution (or institutions) within the further education sector,
- which is a party to the arrangement.

Approval by the Secretary of State

- 2 (1) An application for approval of an arrangement by the Secretary of State for the purposes of section 60A of this Act (“an application”) shall be made jointly by the parties to the arrangement.
- (2) An application shall be in such form and contain such information as may be prescribed by regulations.
- (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.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The Secretary of State may withdraw approval of a partnership arrangement to which section 60A of this Act applies.
- (3) The Secretary of State shall exercise his powers under sub-paragraph (2) in accordance with the provisions of the arrangement.

Variation of arrangement

- 4 (1) The parties to a partnership arrangement to which section 60A of this Act applies shall not make any change to the arrangement except—
 - (a) with the consent of the other participating bodies, and
 - (b) if the change amounts to a significant change to the arrangement, with the consent of the Secretary of State.
- (2) If a question arises whether a change to an arrangement would be a significant change, that question shall be determined by the Secretary of State.

Interpretation of existing enactments

- 5 (1) Regulations may provide—
 - (a) for any reference in an enactment to secondary education to be construed as including further education provided under a partnership arrangement to which section 60A of this Act applies, and
 - (b) for any enactment containing such a reference to apply in relation to such further education with such modifications (if any) as may be specified in the regulations.
- (2) In sub-paragraph (1), enactment includes an enactment comprised in subordinate legislation (within the meaning of the ^{M47}Interpretation Act 1978).”]

Marginal Citations
M47 1978 c. 30.

SCHEDULE 28

Section 135.

AMENDMENTS RELATING TO SCHOOL AND NURSERY INSPECTIONS

PART I

SCHOOL INSPECTIONS

Introductory

F324¹

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F324 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Persons who may be registered inspectors

F324₂

Textual Amendments

F324 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Decisions of Chief Inspector having immediate effect

F324₃

Textual Amendments

F324 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Enrolment of persons to act as team members

F324₄

Textual Amendments

F324 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

PROSPECTIVE

Replacement of inspectors

F324₅

Textual Amendments

F324 Sch. 28 Pt. 1 repealed (1.9.2005 for E., 1.9.2006 for W.) by Education Act 2005 (c. 18), s. 125(4), Sch. 19 Pt. 1; S.I. 2005/2034, art. 4; S.I. 2006/1338, art. 3, Sch. 1 (with Sch. 4 para. 6)

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F325 PART II

Textual Amendments

F325 Sch. 28 Pt. II repealed (1.4.2003 for E., 31.5.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2005/1395, art. 4, Sch.

SCHEDULE 29

Section 137.

AMENDMENTS RELATING TO FUNCTIONS OF EDUCATION TRANSFER COUNCIL

Introductory

1 In this Schedule “the 1988 Act” means the ^{M48}Education Reform Act 1988.

Marginal Citations

M48 1988 c. 40.

General provisions as to transfers

2 (1) Section 198 of the 1988 Act (transfers under Parts I and II of that Act) shall be amended as follows.

(2) For subsections (1) to (4) substitute—

“(1) This section applies to any transfer under any of the following provisions, namely—

- (a) section 126 or 130 of this Act,
- (b) Schedule 21 to the School Standards and Framework Act 1998 (“the 1998 Act”), or
- (c) any regulations made—
 - (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—

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) dividing and apportioning property, rights and liabilities which fall to be transferred under any transfer to which this section applies by a transferor authority or body where that property has been used or held, or the rights or liabilities have been acquired or incurred, for the purposes of more than one school or other educational institution;
 - (b) excluding from transfer in certain circumstances property, rights and liabilities which would otherwise fall to be transferred under any such transfer;
 - (c) providing for identifying and defining the property, rights and liabilities which fall to be transferred under a transfer to which this section applies; and
 - (d) making supplementary and consequential provisions in relation to such transfers.
- (3) In carrying out the functions conferred or imposed on them by that Schedule—
- (a) the Education Transfer Council—
 - (i) shall, subject to subsection (4) below, not act on behalf of the transferor, the transferee or any other interested person, but
 - (ii) shall seek to ensure that all such persons' interests are protected; and
 - (b) it shall be the duty of the Council, so far as it is reasonably practicable for them to do so, to secure that each transfer to which this section applies is, so far as possible, fully effective on the date on which it takes effect under this Act or under or by virtue of the 1998 Act.
- (4) Where the transferor under any such transfer is a local authority and in accordance with that Schedule anything falls to be or may be done by the Council for the purposes of or in connection with that transfer—
- (a) it may not be done by the transferee; and
 - (b) in doing it the Council shall be regarded as acting on behalf and in the name of the transferee;
- and in a case where the transferee is a body corporate established under this Act or the 1998 Act paragraph (b) above applies both in relation to things done before and in relation to things done after that body is established under this Act or the 1998 Act.”
- (3) For “the Board”, wherever occurring in subsections (5) and (6) of section 198, there is substituted (in accordance with section 136(2) of this Act) “the Council”.

Division and apportionment of property etc.

- 3 For paragraph 1 of Schedule 10 to the 1988 Act (supplementary provisions with respect to transfers) substitute—

“ Division and apportionment of property etc.

- 1 (1) Any property, rights and liabilities of a transferor authority held or used or subsisting—

Status: Point in time view as at 25/05/2007.

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- (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;

Status: Point in time view as at 25/05/2007.

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- (b) “the relevant person” means—
 - (i) in a case where the transferor is a transferor authority, the Education Transfer Council;
 - (ii) in a case where the transferor is a transferor body, the transferee;
- (c) references to a transferor authority are references to a local authority who are the transferor for the purposes of any transfer to which this Schedule applies;
- (d) references to a transferor body are references to any foundation body who are the transferor for the purposes of any transfer to which this Schedule applies;

and for the purposes of this sub-paragraph references to a maintained school or a foundation body have the same meaning as in the School Standards and Framework Act 1998.”

Identification of property, rights and liabilities

4 For paragraph 2 of Schedule 10 to the 1988 Act substitute—

“ Identification of property, rights and liabilities

- 2 (1) It shall be the duty of the transferor and the relevant person, whether before or after the transfer date, so far as practicable to arrive at such written agreements, and to execute such other instruments, as are necessary or expedient to identify or define the property, rights and liabilities transferred to the transferee or retained by the transferor or for making any such arrangements as are mentioned in paragraph 1(4) above and as will—
 - (a) afford to the transferor and the transferee as against one another such rights and safeguards as they may require for the proper discharge of their respective functions; and
 - (b) make as from such date, not being earlier than the transfer date, as may be specified in the agreement or instrument such clarifications and modifications of the effect of the provision of this Act or of the 1998 Act (or any regulations made under it) under which the transfer is required on the property, rights and 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—

Status: Point in time view as at 25/05/2007.

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- (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

5 For paragraph 3 of Schedule 10 to the 1988 Act substitute—

“ Resolution of disputes

- 3 (1) The Education Transfer Council shall notify the Secretary of State if it appears to them that it is unlikely in the case of any matter on which agreement is required to be reached under paragraph 2(1) above that such an agreement will be reached.
- (2) Where the Secretary of State has received a notification from the Council under sub-paragraph (1) above, he may, whether before or after the transfer date, give a direction determining that matter, and may include in the direction any provision which might have been included in an agreement under paragraph 2(1) above.

Status: Point in time view as at 25/05/2007.

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- (3) Any property, rights or liabilities required by a direction under this paragraph to be transferred to the transferee shall be regarded as having been transferred to, and by virtue of this Act vested in, the transferee on the transfer date.
- (4) The Secretary of State shall consult the transferor, the transferee and any other interested person before giving a direction under this paragraph.
- (5) The Education Transfer Council shall give the Secretary of State such assistance and advice as he may require for the purpose of determining any matter under this paragraph.”

Proof of title by certificate

- 6 In paragraph 5 of Schedule 10 to the 1988 Act, for “or of the Education Act 1996” substitute “ or of the School Standards and Framework Act 1998 ”.

Construction of agreements etc.

- 7 In paragraph 7 of Schedule 10 to the 1988 Act, for “or of the Education Act 1996”, in both places, substitute “ or of the School Standards and Framework Act 1998 ”.

Third parties affected by vesting provisions

- 8 In paragraph 9 of Schedule 10 to the 1988 Act—
- (a) in sub-paragraph (6)(a), after “Board” insert “ or (as the case may be) the transferee ”;
 - (b) in sub-paragraph (6)(b), for “or of the Education Act 1996” substitute “ or of the School Standards and Framework Act 1998 (or any regulations made under it) ”; and
 - (c) in sub-paragraph (9), after “Board” insert “ or (as the case may be) the transferee ”.

Delivery of documents to transferee

- 9 In paragraph 10 of Schedule 10 to the 1988 Act, after “transfer” insert “ under which the transferor is a local authority ”.

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.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 30

Section 140(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Children and Young Persons Act 1933 (c.12)

- 1 In section 1(7) of the ^{M49}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
M49 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),”.
- ^{F326}(3)

Textual Amendments
F326 Sch. 30 para. 3(3) repealed (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2005/1395, art. 4, Sch.

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—

Status: Point in time view as at 25/05/2007.

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- (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

- 18** Sch. 30 para. 4 wholly in force at 1.9.1999; Sch. 30 para. 4 not in force at Royal Assent see s. 145(3); Sch. 30 para. 4 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); Sch. 30 para. 4 in force at 1.4.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

Sex Discrimination Act 1975 (c.65)

- 5 In section 22 of the Sex Discrimination Act 1975 (discrimination by bodies in charge of educational establishments), in the Table, in paragraph 1, for “governors” substitute “governing body”.
- 6 In section 27 of that Act (exception for single-sex establishments turning co-educational), after subsection (1) insert—
- “(1A) Without prejudice to subsection (1), a transitional exemption order may be made in accordance with paragraph 21 or 22 of Schedule 6 or paragraph 16 or 17 of Schedule 7 to the ^{M50}School Standards and Framework Act 1998 (transitional exemption orders for purposes of the Sex Discrimination Act 1975: England and Wales).”

Marginal Citations

- M50** [1975 c. 65](#).

Race Relations Act 1976 (c.74)

- 7 In section 17 of the Race Relations Act 1976 (discrimination by bodies in charge of educational establishments), in the Table, in paragraph 1, for “governors” substitute “governing body”.

National Health Service Act 1977 (c.49)

F327g

Status: Point in time view as at 25/05/2007.

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Textual Amendments

F327 Sch. 30 para. 8 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

Representation of the People Act 1983 (c.2)

- 9 The Representation of the People Act 1983 shall be amended as follows.
- 10 In section 95(2)(a) (schools and rooms for parliamentary election meetings), for “county schools voluntary schools and grant-maintained schools” substitute “community, foundation and voluntary schools”.
- 11 In section 96(2)(a) (schools and rooms for local election meetings), for “county voluntary or grant-maintained school” substitute “community, foundation or voluntary school”.
- 12 In Schedule 5 (use for parliamentary election meetings of rooms in school premises and meeting rooms), in paragraph 1(1), for “a grant-maintained school” substitute “a foundation or voluntary aided school”.

Local Government Act 1986 (c.10)

^{F328}13

Textual Amendments

F328 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)

- 14 [^{F329}In section 49(3) of the Education (No. 2) Act 1986 (appraisal of performance of teachers)—
- (a) for paragraph (b) substitute—
- “(b) at any special school which is not so maintained but is for the time being approved by the Secretary of State under section 342 of the ^{M51}Education Act 1996 (approval of special schools);”, and
- (b) omit paragraph (ba).]

Textual Amendments

F329 Sch. 30 para. 14 repealed (1.10.2002 for E. otherwise prosp.) 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.](#))

Marginal Citations

M51 1996 c. 56.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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.
- 17 ^{F330}In section 218 (school and further and higher education regulations), for subsection (12) substitute—
- “(12) In this section (except in subsection (6)(d) or (6A) above) “school” means any school maintained by a local education authority or any special school not so maintained.”]

Textual Amendments

F330 Sch. 30 para. 17 repealed (1.10.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 5

- 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 ^{M52}Education Act 1996;
- “maintained” has the same meaning as in the School Standards and Framework Act 1998; and”.

Marginal Citations

M52 1996 c. 56.

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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)

F331 24

Textual Amendments
F331 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

F331 25

Textual Amendments
F331 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

F331 26

Textual Amendments
F331 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

F331 27

Textual Amendments
F331 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

F331 28

Status: Point in time view as at 25/05/2007.

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Textual Amendments

F331 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

Diocesan Boards of Education Measure 1991 (1991 No.2)

- 29 The Diocesan Boards of Education Measure 1991 shall be amended as follows.
- 30 In section 3 (transactions for which advice or consent of Board is required)—
- (a) in subsection (1), for the words from “before making” to the end substitute “before—
 - (a) publishing proposals for any prescribed alteration to the school under section 28(2)(b) of the School Standards and Framework Act 1998;
 - (b) publishing proposals for the discontinuance of the school under section 29(2) of that Act;
 - (c) serving notice of an intention to discontinue the school under section 30(1) of that Act;
 - (d) publishing proposals for changing the category of the school under paragraph 2 or 3 of Schedule 8 to that Act; or
 - (e) making any application to, or entering into any agreement with, any body or person for or in connection with any disposal (whether by sale or otherwise) of the premises of the school or any part of them.”;
 - (b) in subsection (2), for “an aided or special agreement school” substitute “a voluntary aided school”;
 - (c) omit subsections (4) and (5); and
 - (d) in subsection (6)—
 - (i) omit “or (5)”, and
 - (ii) for “the secretary of the governing body” substitute “the clerk to the governing body”.
- 31 In section 7 (powers of Board to give directions to governing bodies)—
- (a) for subsection (1) substitute—

“(1) Where the Board is satisfied that the governing body of a voluntary aided church school in the diocese in discharging, or failing to discharge, its functions so far as relating to—

 - (a) the making of any prescribed alteration to the school under Chapter II of Part II of the School Standards and Framework Act 1998, or
 - (b) the discontinuance of the school under that Chapter, or
 - (c) changing the school’s category in accordance with paragraph 2 or 3 of Schedule 8 to that Act,

is acting in a manner which is not in the interests of that school or of church schools generally, the Board may, subject to subsection (1A) below, give directions to the governing body as to the discharge of those functions.

Status: Point in time view as at 25/05/2007.

Changes to legislation: *School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (1A) The Board may not, under subsection (1) above, give directions as to the publication of proposals under paragraph 2 or 3 of Schedule 8 to that Act which would prevent the publication of proposals for the school to become a foundation school.”;
- (b) in subsection (2), for “the secretary of the governing body” substitute “ the clerk to the governing body ”;
- (c) in subsection (3), for the words from the beginning of paragraph (a) onwards substitute—
- “ (a) publication of proposals for any prescribed alteration to the school under section 28(2)(b) of the School Standards and Framework Act 1998; or
- (b) publication of proposals under paragraph 2 or 3 of Schedule 8 to that Act,
- the Board may itself publish those proposals, and the provisions of that Act shall apply to anything done by the Board by virtue of this subsection as if it had been done by the governing body of the school. ”;
- (d) omit subsection (5); and
- (e) for the sidenote substitute “ Powers of Board to give directions to governing bodies of voluntary aided church schools. ”
- 32 (1) Section 10 (interpretation) shall be amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “Church of England voluntary school”, and
- (b) for the definition of “church school” substitute—
- “ “church school” means a foundation or voluntary school which is a Church of England school as defined by section 142(1) of the School Standards and Framework Act 1998; ”.
- (3) Omit subsection (2).
- (4) For subsection (3) substitute—
- “ (3) Expressions used in this Measure which are also used in the School Standards and Framework Act 1998 shall, unless the context otherwise requires, have the same meaning as in that Act. ”

Further and Higher Education Act 1992 (c.13)

- 33 The Further and Higher Education Act 1992 shall be amended as follows.
- 34 In section 5(4) (administration of funds by councils), for “grant-maintained school” substitute “ maintained school ”.
- 35 In section 21 (initial instruments and articles)—
- (a) in subsection (1), omit—
- (i) paragraph (a), and
- (ii) “(b) in any other case;”;
- (b) in subsection (2), omit—
- (i) “orders and”,
- (ii) in paragraph (a), “grant-maintained school or other”, and

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Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (iii) in paragraph (b), “grant-maintained schools or other”; and
- (c) in subsection (3), for the words from “a grant-maintained” to “earlier enactment” substitute “ a maintained school, the governing body incorporated under Chapter III of Part II of the School Standards and Framework Act 1998 ”.

36 For section 25 substitute—

“25 Transfer of property, etc. from foundation bodies.

- (1) This section applies where a further education corporation is established to conduct an institution which, on the date the corporation is established, is a foundation or voluntary school belonging to the group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998.
- (2) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the transfer, in any such case, of property, rights and liabilities from the foundation body to the further education corporation.
- (3) Regulations under subsection (2) may, in relation to any such transfer of property, rights or liabilities—
 - (a) modify any provision made by or under any of sections 23, 24, 36 and 38 of this Act and Schedule 5 to this Act;
 - (b) apply any such provision with or without modifications;
 - (c) make provision corresponding or similar to any such provision.
- (4) In this section “foundation body” and “group of schools” have the same meaning as in the School Standards and Framework Act 1998.”

37 In section 26 (transfer of staff to further education corporation)—

- (a) in subsection (1), omit “or was a grant-maintained school”; and
- (b) in subsection (6)—
 - (i) for “that authority” substitute “ references to that authority, and ”, and
 - (ii) for paragraphs (b) and (c) substitute—
 - “(b) in relation to a corporation established to conduct an institution which, on that date, was a foundation or voluntary aided school, references to the governing body of that school.”

38 In section 28(2)(a) (designation of institutions as eligible for funds) after “school” insert “ (other than one belonging to a group of schools for which a foundation body acts under section 21 of the School Standards and Framework Act 1998) ”.

39 In section 32 (transfer of property, etc., to designated institutions), after subsection (2) insert—

- “(2A) In the case of an institution which when designated was a voluntary aided school, on the designation date—
 - (a) all land and other property which, immediately before that date, was property of the governing body of the school incorporated under

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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)”;
- (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”.

F332⁴¹

Textual Amendments
F332 Sch. 30 para. 41 repealed (28.7.2000 for specified purposes, 1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

F333⁴²

Textual Amendments
F333 Sch. 30 para. 42 repealed (28.7.2000 for specified purposes and 1.10.2000 for E. and 1.4.2001 for W.) by 2000 c. 21, s. 153, **Sch. 11**; S.I. 2000/2559, art. 2(1), **Sch. Pt. I**; S.I. 2001/1274, art. 2, **Sch. Pt. I**

43 In section 47(2) (transfer of higher education institutions to further education sector) for the words from “any provision” to the end substitute “provision as to the initial name of the corporation as a further education corporation.”

44 F334

Textual Amendments
F334 Sch. 30 para. 44 repealed (1.10.2002) by Education Act 2002 (c. 32), ss. 215(2), 216, **Sch. 22 Pt. 1** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 2** (with Sch.)

F335⁴⁵

Textual Amendments
F335 Sch. 30 para. 45 repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(q)

46 In section 90 (interpretation)—

- (a) after subsection (3) insert—

“(3A) In this Act references to a voluntary aided school are—

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- (a) in relation to any time before the appointed day within the meaning of the ^{M53}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. ”

Marginal Citations

M53 1996 c. 56.

Tribunals and Inquiries Act 1992 (c.53)

47 In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under general supervision of Council on Tribunals)—

- ^{F336}(a)
- (b) in paragraph (d), for “(c. 38)” substitute “ (c. 57) ”.

Textual Amendments

F336 Sch. 30 para. 47(a) repealed (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2005/1395, art. 4, Sch.

Commencement Information

I9 Sch. 30 para. 47 wholly in force at 1.9.1999; Sch. 30 para. 47 not in force at Royal Assent see s. 145(3); Sch. 30 para. 47 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 47 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

Charities Act 1993 (c.10)

48 In section 3 of the ^{M54}Charities Act 1993 (the register of charities), after subsection (5A) (inserted by Schedule 3 to the Teaching and Higher Education Act 1998) insert—

“(5B) In addition, in subsection (5) above—

- (a) paragraph (a) shall be read as referring also to—
 - (i) any body to which section 23(1)(a) or (b) of the School Standards and Framework Act 1998 applies, and
 - (ii) any Education Action Forum established by virtue of section 10(1) of that Act; and
- (b) paragraph (b) shall be read as referring also to any foundation to which section 23(3) of that Act applies;

but an order of the Commissioners, or regulations made by the Secretary of State, may provide that section 23(3) of that Act shall cease to apply to any

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such foundation as is mentioned in that provision or to any such foundation of a description specified in the order or regulations.”

Marginal Citations

M54 1998 c. 30.

- 49 In section 79(9) of that Act (parochial charities), for the words from “voluntary or” to the end substitute “ foundation or voluntary school within the meaning of the School Standards and Framework Act 1998. ”

Welsh Language Act 1993 (c.38)

- 50 In section 6(1) of the Welsh Language Act 1993 (meaning of “public body”), for paragraph (l) substitute—

“(l) the governing body of a community, foundation or voluntary school or a community or foundation special school (within the meaning of the School Standards and Framework Act 1998);”.

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 ^{M55}words from “a county” to “Education Act 1996” substitute “ a community, foundation or voluntary school within the meaning of the ^{M56}School Standards and Framework Act 1998, a special school within the meaning of section 337 of the Education Act 1996 ”; and
- (b) omit sub-paragraphs (v) and (vii).

Marginal Citations

M55 1996 c. 56.

M56 1996 c. 56.

Education Act 1994 (c.30)

- 52 The Education Act 1994 shall be amended as follows.

Commencement Information

I10 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,”.

^{F337}54

Status: Point in time view as at 25/05/2007.

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Textual Amendments

F337 Sch. 30 para. 54 repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(3)(b), [Sch. 19 Pt. 3](#)

Employment Rights Act 1996 (c.18)

55 In section 134(1) of the Employment Rights Act 1996 (teachers in aided schools), for the words from “an aided school” to “1996” substitute “ a foundation, voluntary aided or foundation special school is dismissed by the governing body of the school in pursuance of a requirement of the local education authority under section 55(5) of the School Standards and Framework Act 1998 ”.

Nursery Education and Grant-Maintained Schools Act 1996 (c.50)

56 [^{F338}In section 4(1) of the ^{M57}Nursery Education and Grant-Maintained Schools Act 1996 (children with special educational needs), for the words from “(except where” to the end substitute “ (except where a duty is already imposed under section 313(2) of the ^{M58}Education Act 1996 or section 123(1) of the School Standards and Framework Act 1998) to have regard to the provisions of the code of practice issued under section 313 (practical guidance in respect of the discharge of functions under Part IV of the Education Act 1996). ”]

Textual Amendments

F338 Sch. 30 para. 56 repealed (1.9.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4

Marginal Citations

M57 1996 c. 56.

M58 1996 c. 56.

Education Act 1996 (c.56)

57 The Education Act 1996 shall be amended as follows.

58 In section 1(2) (the stages of education), omit paragraph (b) and the “and” preceding it.

^{F339}59

Textual Amendments

F339 Sch. 30 para. 59 repealed (1.9.2005) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 19 Pt. 2](#); S.I. 2006/2129, art. 4

60 In section 6(2) (nursery schools and special schools), for the words from “and” onwards substitute “ and (in the case of a school which is not maintained by a local education authority) is for the time being approved, as mentioned in section 337. ”

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- 61 In section 9 (pupils to be educated in accordance with parents' wishes), for the words from "State," to "funding authorities" substitute " State and local education authorities ".
- 62 In section 14 (functions of local education authorities in respect of provision of primary and secondary schools), omit subsection (5).
- 63 After section 15 insert—

“15A Functions in respect of full-time education for 16 to 18 year olds.

- (1) A local education authority may secure the provision for their area of full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, including provision for persons from other areas.
- (2) Subsections (6) and (7) of section 14 shall apply in relation to functions under this section as they apply in relation to functions under that section.”

VALID FROM 12/01/2010

- 64 (1) Section 16 (power to establish, maintain and assist primary and secondary schools) is amended as follows.
- (2) In subsection (1)—
- (a) at the end of paragraph (a) insert “ and ”, and
- (b) omit paragraph (c) and the “and” preceding it.
- (3) In subsection (2), for “, maintain and assist” substitute “ and maintain ”.
- (4) For the sidenote substitute “ Power to establish and maintain primary and secondary schools. ”

PROSPECTIVE

- 65 In section 17(2) (powers in respect of nursery education), for “establish, maintain and assist” substitute “ establish and maintain ”.
- 66 Omit sections 20 to 28 (the funding authorities).

Commencement Information

III Sch. 30 para. 66 wholly in force at 1.11.1999; Sch. 30 para. 66 not in force at Royal Assent see s. 145(3); Sch. 30 para. 66 in force for specified purposes at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); Sch. 30 para. 66 in force at 1.11.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(2\)](#), [Sch. 2](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

- 67 In section 29 (provision of information by local education authorities)—
- (a) omit subsection (2), and
- (b) in subsection (3), omit the words “and the funding authority”.
- 68 Omit section 30 (provision of information by funding authorities).

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69 Part II (schools maintained by local education authorities) shall be omitted.

Commencement Information

I12 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

I13 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 local education authority in relation to pupils with special educational needs) shall be amended as follows.

(2) [^{F340}In subsection (1), for “a county, voluntary or grant-maintained school,” substitute “a community, foundation or voluntary school, ”.]

(3) [^{F340}In subsection (2), for “a county, voluntary or grant-maintained school,” substitute “a community, foundation or voluntary school, ”.]

(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”; [^{F341}and]

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- (b) [^{F341}in paragraph (b), for the words from “the funding” onwards substitute “the governing bodies of community, foundation and voluntary schools.”]
- (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

F340 Sch. 30 para. 74(2)(3) repealed (1.9.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4

F341 Sch. 30 para. 74(4)(b) and preceding word repealed (1.9.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4

- 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”.
 - (4) For subsection (3) substitute—
 - “(3) A local education authority may supply goods and services to any authority or other person (other than a governing body within subsection (1)) for the purpose only of assisting them in making for any child to whom subsection (3A) applies any special educational provision which any learning difficulty of the child calls for.
 - (3A) This subsection applies to any child—
 - (a) who is receiving relevant nursery education within the meaning of section 123 of the School Standards and Framework Act 1998, or
 - (b) in respect of whose education grants are (or are to be) made under section 1 of the ^{M59}Nursery Education and Grant-Maintained Schools Act 1996.”

Status: Point in time view as at 25/05/2007.

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Commencement Information

I14 Sch. 30 para. 75 wholly in force at 1.9.1999; Sch. 30 para. 75 not in force at Royal Assent see s. 145(3); Sch. 30 para. 75(4) in force at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; Sch. 30 para. 75 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

Marginal Citations

M59 1996 c. 50.

- 76 In section 321(3) (general duty of local education authority towards children for whom they are responsible)—
- (a) in paragraph (a), for the words from “maintained” onwards substitute “maintained school”, and
 - (b) for paragraph (b) substitute—
 - “(b) education is provided for him at a school which is not a maintained school but is so provided at the expense of the authority.”.
- 77 In section 324 (statement of special educational needs)—
- (a) in subsection (5)(b), for “maintained, grant-maintained or grant-maintained special school” substitute “maintained school”; and
 - (b) after subsection (5) insert—
 - “(5A) Subsection (5)(b) has effect regardless of any duty imposed on the governing body of a school by section 1(6) of the School Standards and Framework Act 1998.”

Commencement Information

I15 Sch. 30 para. 77 wholly in force at 1.9.1999; Sch. 30 para. 77 not in force at Royal Assent see s. 145(3); Sch. 30 para. 77(b) in force at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; Sch. 30 para. 77(a) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

- 78 In section 327 (access for local education authority to certain schools), for subsection (b) substitute—
 - “(b) in pursuance of the statement education is provided for the child at a school maintained by another local education authority.”
- 79 Omit section 330 (assessment of education needs at request of governing body of grant-maintained school).
- 80 For section 337 substitute—

“337 Special schools.

- (1) A school is a special school if it is specially organised to make special educational provision for pupils with special educational needs.
- (2) There are the following categories of special school—
 - (a) special schools maintained by local education authorities, comprising—
 - (i) community special schools, and

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- (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

I16 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

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- (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

I17 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.”

85 [^{F342}In section 350 (definitions for purposes of Part V), for subsection (1) substitute—

“(1) In this Part “maintained school” means—

- (a) any community, foundation or voluntary school; or
- (b) except where otherwise stated, any community or foundation special school not established in a hospital.”]

Textual Amendments

F342 Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) 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.](#))

86 [^{F343}In section 352(1)(a) (basic curriculum for maintained schools), for “sections 376 to 381” substitute “ Schedule 19 to the School Standards and Framework Act 1998 ”.]

Textual Amendments

F343 Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) 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.](#))

87 [^{F344}In section 356 (establishment of the National Curriculum by order)—

- (a) in each of subsections (4) and (8), for “by Her Majesty’s Stationery Office” substitute “ as specified in the order ”; and
- (b) in subsection (5)(a)(ii), omit the words “(except in the case of grant-maintained schools)”.]

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Textual Amendments

F344 Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) 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.)

Commencement Information

I18 Sch. 30 para. 87 wholly in force at 1.4.1999; Sch. 30 para. 87 not in force at Royal Assent see s. 145(3); Sch. 30 para. 87(a) in force at 1.10.1998 by S.I. 1998/2212, [art. 2](#), [Sch. 1 Pt. 1](#); Sch. 30 para. 87(b) in force at 1.4.1999 by S.I. 1999/1016, [art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-6, Sch. 4).

88

[^{F345}In section 357 (implementation of National Curriculum in schools), omit subsection (2).]

Textual Amendments

F345 Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) 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.)

89

[^{F346}In section 362 (National Curriculum: development work and experiments)—

- (a) in subsection (3), for “a county, controlled or maintained special school” substitute “ a community, voluntary controlled or community special school ”, and
- (b) in subsection (4), for “a grant-maintained, aided or special agreement school” substitute “ a foundation, voluntary aided or foundation special school ”.]

Textual Amendments

F346 Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) 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.)

90

[^{F347}In section 366 (information concerning directions under section 365)—

- (a) in subsection (1)(b), omit the words from “where” to “special school,”;
- (b) in subsection (4), for “a county, voluntary or maintained special school” substitute “ a maintained school ”;
- (c) omit subsection (5); and
- (d) in subsection (6), for “subsection (1), (4) or (5)” substitute “ subsection (1) or (4) ”.]

Textual Amendments

F347 Sch. 30 para. 85-90 repealed (1.10.2002 for E. otherwise prosp.) 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.)

91

Omit sections 370 to 374 (functions of local education authority etc. in relation to curriculum).

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Commencement Information

II9 Sch. 30 para. 91 wholly in force at 1.9.1999; Sch. 30 para. 91 not in force at Royal Assent see s. 145(3); Sch. 30 para. 91 in force for certain purposes at 1.10.1998 by S.I. 1998/2212, art. 2, Sch. 1 Pt. I; Sch. 30 para. 91 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

- 92 Omit sections 376 to 389 (religious education and worship).
- 93 In section 390 (constitution of advisory councils), for subsection (2) substitute—
- “(2) The council shall consist of such groups of persons appointed by the authority as representative members (“representative groups”) as are required by subsection (4).”
- 94 (1) Section 391 (functions of advisory councils) shall be amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) to advise the local education authority on such matters connected with—
- (i) religious worship in community schools or in foundation schools which (within the meaning of Part II of the School Standards and Framework Act 1998) do not have a religious character, and
- (ii) the religious education to be given in accordance with an agreed or other syllabus in accordance with Schedule 19 to that Act,
- as the authority may refer to the council or as the council may see fit, and”.
- (3) Omit subsections (8) and (9).
- 95 In section 392 (advisory councils: supplementary provisions), omit subsection (4).
- 96 Omit section 393 (duty to constitute new standing advisory council).
- 97 (1) Section 394 (determination of cases in which requirement for Christian worship is not to apply) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “county school” substitute “community school”;
- (b) for paragraph (b) substitute—
- “(b) any foundation school which has not been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character.”; and
- (c) for “section 386(2)” substitute “paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 (requirement for Christian collective worship)”.
- (3) In subsection (4), for “section 387” substitute “paragraph 4 of Schedule 20 to the School Standards and Framework Act 1998 (disapplication of requirement for Christian collective worship)”.

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- (4) In subsection (8), for “a school which becomes a grant-maintained school” substitute “ a community school which becomes a foundation school (by virtue of section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998) ”.
- 98 In section 395(1) (review of determinations under section 394), for “section 386(2)” substitute “ paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 ”.
- 99 In section 396(1) (power of Secretary of State to direct council to revoke determination or discharge duty), for “section 386(2)” substitute “ paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 ”.
- 100 In section 399 (determination of question whether religious education in accordance with trust deed), for “a voluntary or grant-maintained school” substitute “ a foundation or voluntary school ”.
- 101 In section 402(6) (obligation to enter pupils for public examinations), for “a maintained special school” substitute “ a community or foundation special school ”.
- 102 In section 403(2) (sex education: manner of provision), for “a maintained special school” substitute “ a community or foundation special school ”.
- 103 In section 404 (sex education: statements of policy)—
- (a) in subsection (2), for “a maintained special school” substitute “ a community or foundation special school ”; and
 - (b) omit subsection (3).

Commencement Information

I20 Sch. 30 para. 103 wholly in force at 1.9.1999; Sch. 30 para. 103 not in force at Royal Assent see s. 145(3); Sch. 30 para. 103(b) in force at 1.10.1998 by [S.I.1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 30 para. 103(a) in force at 1.9.1999 by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

- 104 In section 406(3) (political indoctrination), for “a maintained special school” substitute “ a community or foundation special school ”.
- 105 In section 407(2) (duty to secure balanced treatment of political issues), for “a maintained special school” substitute “ a community or foundation special school ”.
- 106 In section 408 (provision of information)—
- (a) omit subsection (1)(b);
 - (b) in subsection (2)(d), for “pupils at such categories of school” substitute “ such classes or descriptions of pupils ”;
 - (c) omit subsection (3); and
 - (d) in subsection (4)—
 - (i) omit paragraphs (b) and (c); and
 - (ii) in paragraph (d), for “389” substitute “ 390 ”.

Commencement Information

I21 Sch. 30 para. 106 wholly in force at 1.9.1999; Sch. 30 para. 106 not in force at Royal Assent see s. 145(3); Sch. 30 para. 106(b) in force at 1.10.1998 by [S.I. 1998/2212](#), [art. 2](#), [Sch. 1 Pt. I](#); Sch. 30 para. 106 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

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- 107 In section 409 (complaints and enforcement: maintained schools)—
- (a) in subsection (1), for “of aided schools and of special agreement schools,” substitute “ of foundation and voluntary aided schools, ”;
 - (b) in subsection (2), for the words from “any county” to “special school” substitute “ any community, foundation or voluntary school maintained by the authority or any community or foundation special school ”;
 - (c) in subsection (3)(b), omit “other than grant-maintained schools”; and
 - (d) for the sidenote substitute “ Complaints and enforcement: maintained schools. ”
- 108 For the cross-heading “SCHOOL ADMISSIONS” preceding section 411 substitute — “ ADMISSION, REGISTRATION AND WITHDRAWAL OF PUPILS ”.
- 109 Omit sections 411 to 432 (admission of pupils: general).

Commencement Information

I22 Sch. 30 para. 109 partly in force; Sch. 30 para. 109 not in force at Royal Assent see s. 145(3); Sch. 30 para. 109 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 109 in force for certain purposes at 1.9.1999 by [S.I. 1999/1016, art. 2\(3\)](#), [Sch. 3](#) (with [arts. 3-6, Sch. 4](#)).

- 110 Omit section 433(4) (time for admission of pupils: admission for nursery education).
- 111 In section 434(4)(c) (registration of pupils: returns)—
- (a) at the end of sub-paragraph (i) insert “ and ”; and
 - (b) omit sub-paragraph (ii).
- 112 Omit section 436 (effect of admission for nursery education).
- 113 In section 437 (school attendance orders)—
- (a) in each of subsections (5) and (6), omit “or grant-maintained”; and
 - (b) in subsection (8), for the definition of “maintained school” substitute—
““maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital; and”.
- 114 In section 438 (choice of school: child without statement of special educational needs)—
- (a) for subsection (4)(a) substitute—
“(a) within the period mentioned in subsection (3) the parent applies for the child to be admitted to a school maintained by a local education authority and, where that authority are not the authority by whom the notice was served, notifies the latter authority of the application, and”;
 - (b) for subsection (5) substitute—
“(5) If—
(a) within the period mentioned in subsection (3), the parent applies to the local education authority by whom the notice was served for education to be provided at a school which

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- 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

I23 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”;
- (c) in subsection (4)(a), omit “and is not a grant-maintained school”.

Commencement Information

I24 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](#)).

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- 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”.
- 123 In section 458 (charges for board and lodging at boarding schools)—
- (a) in subsection (1)—
 - (i) for the words from “pupil concerned” to “charges” substitute “ pupil concerned, to the local education authority, charges ”, and
 - (ii) omit “or governing body”;
 - (b) in subsection (2)—
 - (i) omit paragraph (a), and
 - (ii) in paragraph (b), for “for his area” substitute “ for that pupil’s area ”;
 - (c) omit subsection (3); and
 - (d) in subsection (4)(b), omit “or to the governing body of a grant-maintained school”.
- 124 In section 463 (meaning of “independent school”)—
- (a) at the end of paragraph (b) insert “ or ”; and
 - (b) omit paragraph (c) and the “or” preceding it.
- 125 In section 484 (grants for education support and training)—

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- (a) in subsection (1), for “grants for education support and training,” substitute “ education standards grants, ”;
 - (b) in subsections (3) and (4), for “any grant for education support and training” substitute “ any education standards grant ”; and
 - (c) for the sidenote substitute “ Education standards grants. ”
- 126 In section 489 (conditions as to payment of grants under sections 484 to 488), in subsection (2)(a) for “grant for education support and training,” substitute “ education standards grant, ”.
- 127 In section 490(1) (grants in respect of special provision for ethnic minorities), omit paragraph (a).
- 128 For section 494 substitute—

“494 Recoupment: excluded pupils.

- (1) Subsection (2) applies where a pupil is permanently excluded from any school maintained by a local education authority (“the old authority”) and, in the financial year in which the exclusion first takes effect, he is subsequently provided with education by another local education authority (“the new authority”), whether at a school maintained by that authority or otherwise than at school.
 - (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—

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- “(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

I25 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](#)).

- 133 In section 509 (provision of transport etc.)—
- (a) omit subsection (5)(a); and
 - ^{F348}(b)

Textual Amendments

F348 Sch. 30 para. 133(b) repealed (20.1.2003 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\), s. 216\(4\)](#), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2952, art. 2](#); [S.I. 2003/1718, art. 5](#), [Sch. Pt. II](#)

Commencement Information

I26 Sch. 30 para. 133 wholly in force at 1.9.1999; Sch. 30 para. 133 not in force at Royal Assent see s. 145(3); Sch. 30 para. 133(b) in force at 1.4.1999 by [S.I. 1998/2212, art. 2](#), [Sch. 1 Pt. IV](#); Sch. 30 para. 133(a) in force at 1.9.1999 by [S.I. 1999/2323, art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

- 134 In section 510 (provision of clothing)—
- (a) in subsection (1)(a) and (c), omit “or at a grant-maintained school” wherever occurring;
 - (b) in subsection (3)(a), omit “or a grant-maintained school”;
 - (c) in subsection (4)(a), omit “, at a grant-maintained school”; and
 - (d) in subsection (5)(a), omit “grant-maintained school or”.
- 135 In section 514 (provision of board and lodging otherwise than at school), in subsection (1)(a), for the words from “particular” onwards substitute “ particular community, foundation or voluntary or community or foundation special school, but ”.

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- 136 In section 515(2) (provision of teaching services for day nurseries), for “voluntary school” substitute “ foundation or voluntary school ”.
- 137 Omit section 516 (supply by LEA of goods and services to grant-maintained schools).

PROSPECTIVE

- 138 Omit section 517 (payment of fees at schools not maintained by a [^{F349}local authority]).

Textual Amendments

F349 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

I27 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”.

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F350 144

Textual Amendments

F350 Sch. 30 para. 144 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); [S.I. 2005/394](#), [art. 2\(1\)\(I\)](#); [S.I. 2006/885](#), [art. 2\(3\)\(b\)](#)

145 In section 529 (power to accept gifts on trust for educational purposes)—
F351 (a)
(b) in subsection (3) for “a county school” substitute “ a community school ”.

Textual Amendments

F351 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
F352 (b)

Textual Amendments

F352 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

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- (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

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- (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—

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“(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).

Commencement Information

I28 Sch. 30 para. 160 wholly in force at 1.9.1999; Sch. 30 para. 160 not in force at Royal Assent see s. 145(3); Sch. 30 para. 160(a) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, Sch. 4); Sch. 30 para. 160(b) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, Schs. 5-7).

- 161 In section 545(2) (exemption from building byelaws of approved buildings), omit paragraph (b) and the “or” preceding it.
- 162 In section 546(2) (control of potentially harmful materials and apparatus in schools)—
- (a) at the end of paragraph (a) insert “ and ”; and
 - (b) omit paragraph (b).
- 163 In section 547 (nuisance or disturbance on school premises)—
- (a) in subsection (2), omit paragraph (b) and the “or” preceding it;
 - (b) in each of subsections (4) and (7), for “an aided, special agreement or grant-maintained school” substitute “a foundation, voluntary aided or foundation special school ”; and
 - (c) in each of subsections (5) and (8), for “a voluntary or grant-maintained school” substitute “a foundation, voluntary or foundation special school ”.
- 164 Omit sections 549 and 550 (provisions about corporal punishment).
- 165 In section 550B(2) (detention), as inserted by section 5 of the ^{M60}Education Act 1997, omit “(b) a grant-maintained or grant-maintained special school;”.

Marginal Citations

M60 1997 c. 44.

- 166 In section 551(2) (regulations as to duration of school day etc.)—
- (a) at the end of paragraph (a) insert “ and ”; and
 - (b) omit paragraph (b).

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167 Omit section 552 (transitional exemption orders for purposes of Sex Discrimination Act 1975).

Commencement Information

I29 Sch. 30 para. 167 wholly in force at 1.9.1999; Sch. 30 para. 167 not in force at Royal Assent see s. 145(3); Sch. 30 para. 167 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 30 para. 167 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

168 (1) Section 554 (power to make new provision as to use of endowments) shall be amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies where—

- (a) in relation to any time before the appointed day, the premises of a voluntary or grant-maintained school (within the meaning of this 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 ^{M61}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),

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the religious education shall be taken to have been given to them at the request of their parents, unless the contrary is shown.”

Marginal Citations

M61 1944 c. 31.

- 169 In section 556(2) (content of orders under section 554)—
- (a) in paragraph (a), for “voluntary schools or grant-maintained schools” substitute “ foundation schools or voluntary schools ”; and
 - (b) in paragraph (b), for “voluntary” onwards substitute “ school at the premises referred to in section 554(1). ”
- 170 In section 557(9) (adoption of statutory trusts), in the definition of “relevant school” for “a voluntary school or a grant-maintained school” substitute “ a foundation or voluntary school ”.
- 171 In section 559 (power of local education authorities to prohibit or restrict employment of children)—
- (a) in subsection (1), for “county” substitute “ community, foundation ”; and
 - (b) in subsection (2), for “county” substitute “ community, foundation ”.
- 172 In section 563(3) (educational records)—
- (a) at the end of paragraph (a) insert “ and ”; and
 - (b) omit paragraph (b).
- 173 In section 566(1)(b) (evidence: documents), for “a county or voluntary school” substitute “ a maintained school ”.
- 174 Omit section 567 (stamp duty).
- 175 In section 568 (orders)—
- (a) for subsection (2) substitute—
 - “(2) For the purposes of subsection (1) “the excepted provisions” are—
 - section 349;
 - sections 468, 471(1) and 474;
 - section 489(3);
 - section 497; and
 - section 545.”;
 - (b) in subsection (3), omit “section 517(6).”; and
 - (c) omit subsection (5)(b) and the “or” preceding it.
- 176 In section 569 (regulations)—
- (a) in subsection (2), for “section 480 or 492 or paragraph 1(4) of Schedule 20,” substitute “ section 492, ”; and
 - (b) in subsection (3), for “section 480 or 492 or paragraph 1(4) of Schedule 20” substitute “ section 492 ”.
- 177 In section 570 (revocation and variation of certain orders and directions)—
- (a) in subsection (1)—
 - (i) at the end of paragraph (a) insert “ or ”, and
 - (ii) omit paragraph (b); and

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- (b) in subsection (2), omit “, the funding authority”.
- 178 In section 573 (meaning of expressions relating to alteration etc. of premises or character of schools)—
- (a) in subsection (2), omit the words from “and “alterations”” onwards; and
- (b) omit subsections (4) to (6).
- 179 Omit section 575 (meaning of expressions relating to employment).
- 180 In section 576 (meaning of “parent”)—
- (a) in subsection (1), for “the provisions mentioned in subsection (2)” substitute “ section 499(8) ”; and
- (b) omit subsection (2).
- 181 Omit section 577 (minor authorities).
- 182 In section 578 (meaning of “the Education Acts”), insert at the appropriate place—
- “ the School Standards and Framework Act 1998 ”.
- 183 In section 579 (general interpretation)—
- (a) in subsection (1)—
- (i) at the appropriate place insert—
- ““assist”, in relation to any school, institution or university, shall be construed in accordance with subsections (5) to (7) below;”,
- (ii) omit the definitions of “the appropriate further education funding council”, “exclude”, “governing body” (and “governors”), “the local education authority”, “reception class” and “relevant age group”,
- (iii) in the definition of “proprietor”, for “a county, voluntary or grant-maintained school,” substitute “ a community, foundation or voluntary or community or foundation special school, ”, and
- (iv) for the definition of “trust deed” substitute—
- ““trust deed” includes any instrument (other than an instrument of government) regulating the constitution of the school’s governing body or the maintenance, management or conduct of the school;”,
- and
- (b) omit subsection (3).
- 184 In Schedule 1 (pupil referral units)—
- (a) in paragraph 6—
- (i) for sub-paragraphs (1) and (2) substitute—
- “(1) In relation to every pupil referral unit, the local education authority, the management committee (where applicable) and the teacher in charge shall exercise their functions with a view to securing that the curriculum for the unit satisfies the requirements of section 351(1) (balanced and broadly based curriculum).
- (2) Regulations may make provision for the determination and organisation of the curriculum in relation to every pupil referral unit, including provision as to making, and keeping up to date, a written statement of the policy

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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

I30 Sch. 30 para. 184 wholly in force at 1.9.1999; Sch. 30 para. 184 not in force at Royal Assent see s. 145(3); Sch. 30 para. 184(a) in force at 1.10.1998 by [S.I. 1998/2212, art. 2, Sch. 1 Pt. I](#); Sch. 30 para. 184 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)).

185 Schedules 2 to 25A shall be omitted.

Commencement Information

I31 Sch. 30 para. 185 partly in force; Sch. 30 para. 185 not in force at Royal Assent see s. 145(3); Sch. 30 para. 185 in force for certain purposes at 1.10.1998 and 1.4.1999 by [S.I. 1998/2212, art. 2, Sch. 1 Pts. I and IV](#); Sch. 30 para. 185 in force for certain purposes at 1.4.1999 by [S.I. 1999/1016, art. 2\(1\), Sch. 1](#) (with [arts. 3-6, Sch. 4](#)); Sch. 30 para. 185 in force for certain purposes at 1.9.1999 by [S.I. 1999/2323, art. 2\(1\), Sch. 1](#) (with [arts. 3-5, Schs. 5-7](#)); Sch. 30 para. 185 in force for certain purposes at 1.11.1999 by [S.I. 1999/2323, art. 2\(2\), Sch. 2](#) (with [arts. 3-5, Schs. 5-7](#)).

186 (1) Schedule 27 (making and maintenance of statements under section 324) shall be amended as follows.

- (2) In paragraph 3—
 - (a) in sub-paragraph (1), for “the maintained, grant-maintained or grant-maintained special school” substitute “ the maintained school ”; and

^{F353}(b)

(3) In paragraph 8(1)(a), for “a maintained, grant-maintained or grant-maintained special school” substitute “ a maintained school ”.

Textual Amendments

F353 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.

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- 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

- I32** Sch. 30 para. 189 wholly in force at 1.9.1999; Sch. 30 para. 189 not in force at Royal Assent see s. 145(3); Sch. 30 para. 189(g) in force at 1.10.1998 by S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**; Sch. 30 para. 189(a)-(d) in force at 1.9.1999 by S.I. 1999/1016, art. 2(3), **Sch. 3** (with arts. 3-6, **Sch. 4**); Sch. 30 para. 189(e) (f) in force at 1.9.1999 by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, **Schs. 5-7**).

School Inspections Act 1996 (c.57)

F354 190

Textual Amendments

- F354** 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)

F354 191

Textual Amendments

- F354** 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)

F354 192

Textual Amendments

- F354** 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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Textual Amendments

F354 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)

F354 194

Textual Amendments

F354 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)

F354 195

Textual Amendments

F354 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)

F354 196

Textual Amendments

F354 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)

F354 197

Textual Amendments

F354 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)

F354 198

Textual Amendments

F354 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)

F354 199

Textual Amendments

F354 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)

F354 200

Status: Point in time view as at 25/05/2007.

Changes to legislation: School Standards and Framework Act 1998 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F354 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)

^{F354}201

Textual Amendments

F354 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)

^{F354}202

Textual Amendments

F354 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)

^{F354}203

Textual Amendments

F354 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)

^{F354}204

Textual Amendments

F354 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)

^{F354}205

Textual Amendments

F354 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)

^{F354}206

Textual Amendments

F354 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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Education Act 1997 (c.44)

207 The Education Act 1997 shall be amended as follows.

208 Omit the following provisions—

- (a) sections 2 and 3 (school discipline);
- (b) sections 6 to 8 (exclusion of pupils);
- (c) Part III (school admissions).

Commencement Information

I33 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](#)).

209 In section 15 (baseline assessments: interpretation), in the definition of “maintained primary school”, for paragraphs (a) to (c) substitute—

- “(a) a community, foundation or voluntary school, or
- (b) a community or foundation special school (other than one established in a hospital).”

210 In section 16(5) (adoption of baseline assessment schemes), for “a school which is maintained by a local education authority,” substitute “ a maintained primary school, ”.

211 In section 17 (assessment of pupils)—

- (a) in subsection (5), for paragraph (b) substitute—
 - “(b) the local education authority by whom the school is maintained,”; and
- (b) in subsection (7)(a), omit the words from “(except” to “school”).

212 In section 18 (regulations for Chapter I of Part IV)—

- (a) in subsection (1)(b), omit the words from “(except” to “school”); and
- (b) in subsection (2)(a), omit the words from “(in” to “school”).

213 In section 19 (school performance targets), for subsection (3) substitute—

- “(3) In this section “maintained school” means—
- (a) a community, foundation or voluntary school, or
 - (b) a community or foundation special school (other than one established in a hospital).”

214 In section 23 (functions of Qualifications and Curriculum Authority)—

- (a) ^{F355}
- (b) in subsection (5), in the definition of “maintained school”, for paragraphs (a) to (c) substitute—
 - “(a) any community, foundation or voluntary school, and
 - (b) any community or foundation special school.”

Status: Point in time view as at 25/05/2007.

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Textual Amendments

F355 Sch. 30 para. 214(a) repealed (1.10.2002) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 2](#) (with Sch.)

- 215 In section 29(3) (functions of Qualifications, Curriculum and Assessment Authority for Wales), for the words from “receiving nursery” onwards substitute “ under compulsory school age. ”
- 216 In section 42 (miscellaneous amendments relating to school inspections), omit the words “and the Nursery Education and Grant-Maintained Schools Act 1996”.
- 217 In section 43(2) (provision of careers education)—
- (a) for paragraph (a) substitute—
“(a) community, foundation and voluntary schools;”;
 - (b) omit paragraph (b); and
 - (c) for paragraph (c) substitute—
“(c) community or foundation special schools (other than those established in hospitals);”.
- 218 Omit section 50 (recoupment by local education authority of costs of teachers’ premature retirement).
- 219 In section 52 (commencement of compulsory school age), omit subsections (4) and (5).
- 220 In section 57 (minor and consequential amendments, repeals etc), omit subsections (2) and (3).
- 221 In section 58(4) (commencement) omit “section 50,”.
- 222 Omit the following provisions—
- (a) Schedules 1 to 3;
 - (b) in Schedule 6, paragraph 5.

Commencement Information

I34 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. 1](#) and Sch. 30 para. 222(a) in force for certain purposes at 1.2.1999 by Sch. 1 Pt. III of the same S.I.; Sch. 30 para. 222(a) in force for certain purposes at 1.9.1999 by [S.I. 1999/1016](#), [art. 2\(3\)](#), [Sch. 3](#) (with arts. 3-6, Sch. 4); Sch. 30 para. 222 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

- 223 In Schedule 7 (minor and consequential amendments), omit paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.

Commencement Information

I35 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).

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Education (Schools) Act 1997 (c.59)

224 In section 2 of the Education (Schools) Act 1997 (transitional arrangements for existing assisted pupils), after subsection (6) add—

“(7) Nothing in subsection (1) shall be taken as prejudicing the operation of any regulations under section 3 by virtue of which assisted places authorised to be provided under that subsection by a former participating school may instead be so provided by another such school or a new school created on the merger of such a school with another school.”

Audit Commission Act 1998 (c.18)

225 In section 36(3) of the Audit Commission Act 1998 (studies at request of educational bodies)—

- (a) for the words from “corporation, a” to “school” substitute “ corporation or further education corporation ”, and
- (b) in paragraph (b), omit “or governing body”.

SCHEDULE 31

Section 140(3).

REPEALS

Extent Information

E7 Sch. 31: the entry relating to the Education (Scotland) Act 1998 extends to Scotland only see s. 145(9).

Commencement Information

I36 Sch. 31 partly in force; Sch. 31 not in force at Royal Assent see s. 145(3); Sch. 31 in force for certain purposes at 1.10.1998, 1.2.1999 and 1.4.1999 by S.I. 1998/2212, art. 2, Sch. 1 Pts. I, III and IV; Sch. 31 in force for certain purposes at 10.3.1999 by S.I. 1999/120, art. 2(2), Sch. 2; Sch. 31 in force for certain purposes at 1.4.1999 by S.I. 1999/1016, art. 2(1), Sch. 1 (with arts. 3-6, Sch. 4); Sch. 31 in force for certain purposes at 1.9.1999 by S.I. 1999/1016, art. 2(3), Sch. 3 (with arts. 3-6, Sch. 4); Sch. 31 in force for certain purposes at 1.9.1999 by S.I. 1999/2323, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7); Sch. 31 in force for certain purposes at 1.11.1999 by S.I. 1999/2323, art. 2(2), Sch. 2 (with arts. 3-5, Schs. 5-7).

Chapter or number	Short title	Extent of repeal
1958 c. 51.	Public Records Act 1958.	In Schedule 1, in Part II of the Table at the end of paragraph 3, the entry relating to the Schools Funding Council for Wales.
1963 c. 33.	London Government Act 1963.	Section 31.
1972 c. 11.	Superannuation Act 1972.	In Schedule 1, the entries relating to the Funding Agency for Schools and the

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		Schools Funding Council for Wales.
1972 c. 70.	Local Government Act 1972.	In section 134(1) and (2), the words “or of a grant-maintained school”.
		In section 177(1), the words from the beginning to “committees),”.
1974 c. 7.	Local Government Act 1974.	In Schedule 5, paragraph 5(1).
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part III of Schedule 1, the entries “Any member of an education association in receipt of remuneration”, “Any member of the Funding Agency for Schools in receipt of remuneration”, and “Any member of the Funding Council for Wales in receipt of remuneration”.
1975 c. 65.	Sex Discrimination Act 1975.	In sections 22, in the Table, paragraph 3A. Section 23C. In section 25, in subsections (2) and (4), “, 23C”; and in subsection (6), in paragraph (c)(i) “3A” and paragraph (e).
		In Schedule 2, paragraph 1.
1976 c. 74.	Race Relations Act 1976.	In section 17, in the Table, paragraph 3A. Section 18C. In section 19, in subsections (2) and (4) “, 18C” wherever occurring and in subsection (6), in paragraph (c)(i) “3A” and paragraph (e).
1977 c. 49.	National Health Service Act 1977.	In section 5, in subsections (1)(a) and (1A)(a) the words “or at grant-maintained schools”.
1980 c. 44.	Education (Scotland) Act 1980.	In section 75A(9A), the word “and” immediately preceding paragraph (b).

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1981 c. 67.	Acquisition of Land Act 1981.	In section 17(4), paragraphs (ab) and (ac).
1983 c. 2.	Representation of the People Act 1983.	In Schedule 1, in paragraph 22(1)(i) the words “a grant-maintained school”.
1984 c. 55.	Building Act 1984.	In section 4(1)(a), in paragraph (ii) the words “under section 39 or 44 of the Education Act 1996 or” and paragraphs (iii) and (iv).
1986 c. 61.	Education (No. 2) Act 1986.	Section 49(3)(ba).
1988 c. 40.	Education Reform Act 1988.	Sections 166 and 167. In section 197(7), the words “or grant-maintained”. In section 236(1), the entry relating to section 219. In Schedule 8, paragraph 6(3) and in paragraph 8(4) the words “given with the consent of the Treasury”. In Schedule 12, paragraphs 11, 13, 15, 16, 18 to 22, 30, 31 and 36.
1989 c. 41.	Children Act 1989.	In Schedule 9, in paragraph 3, sub-paragraph (1)(f), and in sub-paragraph (3) the definition of “grant maintained”.
1991 c. 49.	School Teachers’ Pay and Conditions Act 1991.	In section 1, in subsection (5) the words from “and, where” to “that subsection” and subsection (6). In section 2, subsection (2), in subsection (4), in paragraph (a) the words “, in the case of a grant-maintained school,” and the words from “and provide” to the end and paragraph (h), in subsection (5) the words from “and, where” to “(2) above” and in subsection (6)(a) the words from “or, in” to “such schools,”.

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1991 No. 2.	Diocesan Boards of Education Measure 1991.	In section 3, subsections (4) and (5) and in subsection (6), the words “or (5)”. Section 5. Section 6(2). Section 7(5). Section 9. In section 10, in subsection (1) the definition of “Church of England voluntary school” and subsection (2).
1992 c. 13.	Further and Higher Education Act 1992.	In section 2(6), the words “grant-maintained schools,”. In section 16, in subsection (2), the words “or any grant-maintained school” wherever occurring, and in subsection (3)(a) the words “or is a grant-maintained school”. In section 21, in subsection (1) paragraph (a) and the words “(b) in any other case,” and in subsection (2) the words “orders and”, “grant-maintained school or other” and “grant-maintained schools or other”. In section 26(1), the words “or was a grant-maintained school”. In section 54(1)(b), the words “grant-maintained school,”. In Schedule 8, paragraphs 61 to 64.
1993 c. 10.	Charities Act 1993.	In Schedule 2, paragraph (d).
1994 c. 23.	Value Added Tax Act 1994.	In Schedule 9, Group 6, Note (1), paragraph (a)(v) and (vii).
1994 c. 30.	Education Act 1994.	In section 11A, the words “grant-maintained schools,”.

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		Section 12(4) and (5).
		Section 18(1)(a).
1995 c. 50.	Disability Discrimination Act 1995.	Section 19(6)(c) and (d).
1996 c. 18.	Employment Rights Act 1996.	In section 50(9)(b) the words “grant-maintained school,”.
1996 c. 50.	Nursery Education and Grant-Maintained Schools Act 1996.	Section 5.
		Schedule 1.
1996 c. 56.	Education Act 1996.	In section 1(2), paragraph (b) and the word “and” preceding it.
		Section 14(5).
		In section 16(1), paragraph (c) and the “and” preceding it.
		Sections 20 to 28.
		In section 29, subsection (2) and in subsection (3) the 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.

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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

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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) (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.

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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.

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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(c) and (d).

In Schedule 39, paragraphs 2(3) and 15.

Schedule 40.

1996 c. 57.

School Inspections Act 1996. 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).

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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”.

1997 c. 44.

Education Act 1997.

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		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 5.
		In Schedule 7, paragraphs 15 to 22, 25, 31 to 35, 40 and 45 to 51.
1997 c. 59.	Education (Schools) Act 1997.	Section 6(1).
		In section 7, in subsection (3) (a) “section 6(1)”, and in subsection (4)(a) “(1) and”.
1998 c. 18.	Audit Commission Act 1998.	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 school, and in subsection (3) (b) the words “or governing body”.
		In Schedule 3, paragraphs 25 and 32.

SCHEDULE 32

Section 144.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

FUNDING

Interpretation

- 1 In this Part of this Schedule—
“the 1996 Act” means the ^{M62}Education Act 1996;

Status: Point in time view as at 25/05/2007.

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“the appointed day”, in relation to any provision of this Schedule, means such day as may be appointed for the purposes of that provision by an order made by the Secretary of State.

Marginal Citations

M62 1996 c. 56.

Continued operation of GMS grants provisions

- 2 (1) Subject to the provisions of this paragraph, the GMS grants provisions shall continue to have effect on and after the appointed day in relation to—
- (a) any payments of maintenance grant under section 244 or 250 of the 1996 Act in respect of any financial year (or part of such a year) beginning before that day; and
 - (b) any payments of capital or special purpose grants under section 245, 246, 251 or 252 of that Act made before that day.
- (2) Regulations may provide—
- (a) for any functions of the funding authority under the GMS grants provisions—
 - (i) to be discharged instead by the Secretary of State as from a date specified in the regulations, or
 - (ii) to be discharged instead by local education authorities as from the appointed day (either subject to obtaining the Secretary of State’s consent or otherwise); and
 - (b) for any of those provisions to have effect, for any purposes specified in the regulations, with such modifications as are so specified.
- (3) Regulations under sub-paragraph (2) shall not authorise a local education authority to impose any requirement under section 247(1) of that Act (as it has effect by virtue of sub-paragraph (1)); but the Secretary of State may by order—
- (a) impose such a requirement; or
 - (b) waive or remove such a requirement even though a local education authority is by such regulations also authorised to do so.
- (4) In this paragraph “the GMS grants provisions” means sections 244 to 254 and 256 to 258 of the 1996 Act and any regulations in force under any of those provisions immediately before the appointed day.

Commencement Information

I37 Sch. 32 in force at Royal Assent see. s. 145(4); by S.I. 1999/531, art. 2 it is provided that the appointed day for the purpose of Sch. 32 para. 2(1) and (4) shall be 1.4.1999

Existing loans

- 3 (1) Any loan made under section 255 of the 1996 Act (loans to governing bodies) shall not be affected by the repeal of that section by this Act.

Status: Point in time view as at 25/05/2007.

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- (2) Where such a loan was made by the funding authority, any rights or liabilities of the authority in respect of the loan shall become rights or liabilities of the Secretary of State on the appointed day.

Commencement Information

I38 Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, art. 2(2) it is provided that the appointed day for the purpose of Sch. 32 para. 3 shall be 1.4.1999

Grants by Secretary of State in respect of planned expenditure

- 4 (1) Regulations may provide for the payment by the Secretary of State of grants to—
- (a) the governing bodies of schools to which this paragraph applies, or
 - (b) local education authorities,
- in respect of relevant expenditure incurred or to be incurred by them.
- (2) Regulations under this paragraph may—
- (a) in relation to grants made to the governing bodies of any such schools, make provision corresponding to sub-paragraphs (6) and (7) of paragraph 5 of Schedule 3; and
 - (b) in relation to grants made to the governing bodies of voluntary aided schools, make in addition provision corresponding to sub-paragraphs (8) to (10) of paragraph 5 of that Schedule.
- (3) This paragraph applies to a school if immediately before the appointed day—
- (a) the school was a grant-maintained or grant-maintained special school within the meaning of the 1996 Act, or
 - (b) proposals for the establishment of the school fell to be implemented in accordance with section 215 of that Act.
- (4) Each of the following provisions of Schedule 22, namely—
- (a) [F356 paragraphs A1(1)(f) and 1(1)(d)],
 - (b) [F357 paragraphs A7(1)(e) and 2(1)(d)], and
 - (c) [F358 paragraphs A13(1)(g) and 3(1)(e)],
- shall (subject to sub-paragraph (5) below) apply in relation to any grant made by virtue of this paragraph as if it were such a grant as is mentioned in that provision.
- (5) Sub-paragraph (4) does not apply to any grant made by virtue of this paragraph to the governing body of a voluntary aided school.
- (6) In this paragraph “relevant expenditure” means such expenditure (being expenditure arising out of an obligation incurred or decision made before the appointed day) as may be prescribed.

Textual Amendments

F356 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)

F357 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)

Status: Point in time view as at 25/05/2007.

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F358 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

I39 Sch. 32 in force at Royal Assent see s. 145(4); by S.I. 1999/531, art. 2(3) and by S.I. 1999/1498, art. 2 it is provided that the appointed days for Sch. 32, para. 4(3) and (6) for certain purposes shall be 1.4.1999 and 1.9.1999 respectively
by S.I. 1999/2221, art. 2 it is provided that the appointed day for Sch. 32 para. 4(3) and (6) for certain purposes shall be 1.9.1999

Deferment of governing body's right to delegated budget

- 5 (1) A maintained school falling within section 49(1) shall not have a delegated budget as from the day on which section 49 comes into force if—
- (a) the governing body's right to a delegated budget has been suspended under section 117 of the ^{M63}Education Act 1996 (suspension of financial delegation for mismanagement etc.) or section 28 of the ^{M64}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 education authority under paragraph 1 of Schedule 15 on the day on which section 49 comes into force;
 - (b) paragraphs 2 to 4 (but not 3(1)(a)) of that Schedule shall apply to any such suspension; and
 - (c) the school shall have a delegated budget as from the day with effect from which that suspension is revoked.
- (5) Any reference in any of sections 54 to 57 to any suspension of a school's delegated budget under Schedule 15 includes a reference to—
- (a) any suspension of a school's delegated budget by virtue of sub-paragraph (1); and
 - (b) (in accordance with sub-paragraph (4)), any such suspension by virtue of sub-paragraph (3).

Status: Point in time view as at 25/05/2007.

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- (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 ^{M65}Education Act 1996)—
- (a) a school maintained by a local education authority, or
 - (b) a grant-maintained or grant-maintained special school,
- and to which section 49 applies in accordance with regulations under section 144(1).
- (7) In this paragraph—
- (a) “relevant school” means a maintained school which immediately before the day on which section 49 comes into force was a grant-maintained or grant-maintained special school within the meaning of the ^{M66}Education Act 1996; and
 - (b) references to a school having a delegated budget or to a governing body’s right to such a budget shall be construed in accordance with section 49(7).

Modifications etc. (not altering text)

C73 Sch. 32 para. 5(5)(a) modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 5\(2\)](#)

Marginal Citations

M63 1996 c. 56.

M64 1996 c. 57.

M65 1996 c. 56.

M66 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 ^{M67}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

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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 ^{M68}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

M67 1996 c. 56.

M68 1996 c. 56.

School Teachers’ Pay and Conditions Act 1991

F359⁷

Textual Amendments

F359 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)

C74 Sch. 32 para. 7 applied with modification (from 1.9.1998 to 1.9.1999) by [S.I. 1998/2115](#), [regs.2,3](#) and 4

Orders for purposes of section 20(5)

8 The Secretary of State may only make an order under section 20(5) where he considers it appropriate to do so on an application made for the purpose by—
(a) the former maintaining authority (within the meaning of that provision), or
(b) the local education authority in whose area the school in question will be situated immediately before the appointed day,
and received by him not later than 30th November 1998.

Notice by trustees to terminate former voluntary school’s occupation of land

9 (1) This paragraph applies where—

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- (a) at any time before the appointed day, whether before or after the date on which this Act is passed, any trustees (being entitled to do so) have given to the governing body of a former voluntary school a notice which is effective to terminate, on or after that day, the school's occupation of any land held by the trustees for the purposes of the school; and
 - (b) the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site.
- (2) Paragraph 8(2) of Schedule 22 shall apply in relation to the land to which such a notice relates as it applies in relation to the land to which a notice falling within section 30(10) relates.
- (3) Section 30(12) and (13) shall apply, with any necessary modifications, for the purposes of sub-paragraph (1)(b) as they apply for the purposes of section 30(10)(b).
- (4) In this paragraph "former voluntary school" means—
- (a) any voluntary school, or
 - (b) any grant-maintained school which was a voluntary school immediately before becoming grant-maintained or was established by promoters,
- within the meaning of the ^{M69}Education Act 1996, which on the appointed day becomes a foundation or voluntary school within the meaning of this Act.

Marginal Citations

M69 1996 c. 56.

Transfer of sites provided under sections 60 and 61 of the Education Act 1996

- 10 (1) This paragraph applies where—
- (a) before the appointed day a site was provided for a school by a local education authority under section 60 or 61 of the ^{M70}Education Act 1996 (obligation of LEAs to provide new sites and buildings for voluntary schools); but
 - (b) no conveyance was made in respect of that site under section 60(2) or (as the case may be) section 61(2) of that Act before that day.
- (2) Where the site was provided under section 60 of that Act, sub-paragraphs (3) to (11) (but not (7)(b)) of paragraph 2 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.
- (3) Where the site was provided under section 61 of that Act, sub-paragraphs (3) to (9) of paragraph 4 of Schedule 3 to this Act shall apply in relation to the provision of that site as if it had been provided under sub-paragraph (1) of that paragraph.

Marginal Citations

M70 1996 c. 56.

Status:

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