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STATUTORY INSTRUMENTS

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**1999 No. 2164**

**EDUCATION, ENGLAND**

**The Education (Transfer of Functions Concerning School Lunches etc.) (England) (No. 2) Order 1999**

<i>Made</i>	- - - -	<i>28th July 1999</i>
<i>Laid before Parliament</i>		<i>30th July 1999</i>
<i>Coming into force</i>	- -	<i>1st September 1999</i>

In exercise of the powers conferred on the Secretary of State by section 512A and 568(5) and (6) of the Education Act 1996<sup>(1)</sup> the Secretary of State for Education and Employment hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Education (Transfer of Functions Concerning School Lunches etc.) (England) (No. 2) Order 1999 and shall come into force on 1st September 1999.

(2) In this Order “the 1996 Act” means the Education Act 1996.

**Duties imposed on governing bodies; school lunches**

2.—(1) Subject to paragraph (3) duties corresponding to the duties of the local education authority specified in paragraph (2) are hereby imposed on the governing body of each maintained school in England whose budget share within the meaning of section 47(1) of the School Standards and Framework Act 1998 includes an amount in respect of meals and other refreshment.

(2) The duties referred to in paragraph (1) are—

- (a) the duty to provide school lunches in accordance with section 512(1A) and (1B) of the 1996 Act<sup>(2)</sup>; and
- (b) the duty to provide school lunches free of charge in accordance with section 512(3)(3) of the 1996 Act.

(3) The duty referred to in paragraph (2)(a) shall not however be imposed on the governing body of any school until section 512(1A) and (1B) of the 1996 Act is in force.

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(1) 1996 c. 56; section 512A was inserted by section 116 of the School Standards and Framework Act 1998 (c. 31).  
(2) Section 512(1A) and (1B) were inserted by section 115 of the School Standards and Framework Act 1998.  
(3) Section 512(3) is amended by section 115 of the School Standards and Framework Act 1998.

### **Duties imposed on governing bodies; milk**

3.—(1) A duty corresponding to the duty of the local education authority to provide milk free of charge in accordance with section 512(3)(b) of the 1996 Act is hereby imposed on the governing body of each former grant-maintained school and grant-maintained special school in England.

(2) In this article “former grant-maintained school” means a school which was a grant-maintained school immediately before 1st September 1999 other than a school which first admits pupils on or after that date, and “former grant-maintained special school” means a school which was a grant-maintained special school immediately before that date.

### **Modification of section 512(2)(b) of the 1996 Act where school does not have a delegated budget**

4.—(1) In relation to any local education authority which maintains a school falling within the class specified in article 2 which does not have a delegated budget by reason of it having been suspended under section 17 of, or Schedule 15 to, the School Standards and Framework Act 1998, section 512(2)(b) of the 1996 Act shall have effect during the period of a year from the date on which the suspension of the delegated budget in question took effect with the modifications specified in paragraph (2).

(2) The modifications referred to in paragraph (1) are that the duty imposed on the local education authority under section 512(2)(b) of the Act shall be a duty—

- (a) to charge every pupil registered at any school maintained by the authority other than the school which does not have a delegated budget the same price for the same quantity of the same item; and
- (b) to charge every pupil registered at the school which does not have a delegated budget the same price for the same quantity of the same item.

### **Revocation**

5. The Education (Transfer of Functions Concerning School Lunches) (England) Order 1999(4) is hereby revoked.

28th July 1999

*Estelle Morris*  
Minister of State,  
Department for Education and Employment

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This order—

- (a) imposes duties with respect to the provision of free school lunches and paid school lunches (when in force) on the governing bodies of maintained schools in England whose budget share includes an amount in respect of meals and other refreshment; and
- (b) imposes duties with respect to the provision of free milk on the governing bodies of former grant-maintained and grant-maintained special schools in England.

The effect of section 512A(4) of the Education Act 1996 is that where such duties are imposed on the governing body of a maintained school the local education authority is not subject to a corresponding duty in relation to the school. The order also modifies section 512(2)(b) of the Education Act 1996 where a school's delegated budget has been suspended.

This order revokes the Education (Transfer of Functions Concerning School Lunches) (England) Order 1999 which made similar provision for schools of certain types in a limited number of named local education authorities.