

SCHEDULE 6

SAVING AND TRANSITIONAL PROVISIONS RELATING TO PUPIL EXCLUSIONS

Exclusion of pupils

1. Sections 64 to 68 of, and Schedule 18 to, the 1998 Act shall not apply in relation to the exclusion of a pupil from a school where the decision to exclude him was made before 1st September 1999.

2. However, the following provisions made by or (as the case may be) by virtue of the 1996 Act shall continue to apply in relation to such an exclusion, namely—

- (a) where the school is a county, voluntary or maintained special school—
 - (i) sections 156 to 160,
 - (ii) Schedules 15 and 16(1), and
 - (iii) Part I of Schedule 33 (to the extent necessary to give effect to paragraphs 4 and 5 of Schedule 16);
- (b) where the school is a grant-maintained school—
 - (i) sections 307, 307A and 308(2),
 - (ii) paragraph 6 of Schedule 23(3), and
 - (iii) Schedule 25A(4);
- (c) where the school is a grant-maintained special school, paragraphs 14 to 16 of Schedule 28(5);
- (d) regulations made under any provision of the 1996 Act referred to in sub-paragraphs (a) to (c) above (as such regulations had effect immediately before 1st September 1999) to the extent that they relate to the exclusion of pupils; and
- (e) the provisions of the school's instrument or (as the case may be) articles of government (as they had effect immediately before 1st September 1999) to the extent that they relate to the exclusion of pupils.

3. A reference to a county, voluntary, maintained special, grant-maintained or grant-maintained special school in—

- (a) paragraph 2, or
- (b) a provision of (or a provision made under) the 1996 Act which is to continue to have effect for transitional purposes on or after 1st September 1999 by virtue of that paragraph,

shall have effect for the purposes of this Schedule, in relation to any time on or after that date, as a reference to a community, foundation, voluntary, community special or foundation special school which was, immediately before that date, a county, voluntary, maintained special, grant-maintained or grant-maintained special school (as the case may be).

4.—(1) In this paragraph “relevant decision” means a decision, which a governing body of a school are required or permitted to make by virtue of any provision in paragraph 2, whether to direct the head teacher to reinstate an excluded pupil.

(1) Section 156 of, and Schedule 16 to, the 1996 Act were amended by sections 6 and 7 of, and Schedule 7 to, the Education Act 1997 (c. 44).

(2) Section 307 was amended, and section 307A inserted, by sections 6 and 8 of, and Schedule 7 to, the Education Act 1997.

(3) Paragraph 6 of Schedule 23 was amended by Schedule 7 to the Education Act 1997.

(4) Schedule 25A was inserted by section 8 of the Education Act 1997.

(5) Paragraph 14 of Schedule 28 was amended by Schedule 7 to the Education Act 1997, paragraph 15 was amended by section 3(2) of the 1997 Act, and paragraph 16 was added by section 8(3) of the 1997 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Where a governing body (or, as the case may be, a committee of the governing body) meet on or before 31st August 1999 to consider the case of an excluded pupil but do not make a relevant decision before 1st September 1999, they may proceed to do so on or after that date provided that no member of the governing body so concerned ceases to be (or is no longer eligible to be) a governor of the school by virtue of any provision of, or made under, the 1998 Act, but otherwise the exclusion shall be considered afresh by a committee of the governing body established (pursuant to regulations under Schedule 11 to the 1998 Act) for the purpose of discharging the functions of governing body under sections 65 to 68 of the 1998 Act.

(3) Any provision referred to in paragraph 2 which requires or permits the governing body of a school to consider whether to make a relevant decision shall, in relation to the case of an excluded pupil which has not been so considered before 1st September 1999, be construed on or after that date as a provision requiring or permitting that case to be considered by a committee of the governing body established (pursuant to regulations under Schedule 11 to the 1998 Act) for the purpose of discharging the functions of governing body under sections 65 to 68 of the 1998 Act.

5.—(1) In this paragraph “relevant appeal” means an appeal against a decision or direction relating to the permanent exclusion of a pupil from a school which—

(a) by virtue of paragraph 2 above is required to be considered by an appeal committee constituted—

(i) in accordance with Part I of Schedule 33 to the 1996 Act, or

(ii) for the purposes of Schedule 23 to the 1996 Act; and

(b) has not been determined by such a committee before 1st September 1999.

(2) Where a committee as so constituted have first met to consider a relevant appeal before 1st September 1999, the committee may proceed to determine the appeal on or after that date irrespective of whether the committee includes a person—

(a) who before that date was eligible for membership of the committee by virtue of being a governor of the school, but

(b) who, with effect from that date, ceases to be (or is no longer eligible to be) a governor of the school by virtue of any provision of, or made under, the 1998 Act.

(3) However such a person shall not be eligible for membership of a committee referred to in sub-paragraph (1) where the committee first meets to determine a relevant appeal on or after 1st September 1999.

6. This Schedule shall have effect notwithstanding—

(a) the commencement of—

(i) the provisions of the 1998 Act referred to in paragraph 1, and

(ii) section 140(4) of that Act; and

(b) the repeal of the provisions of (or made under) the 1996 Act referred to in paragraph 2.