



# Education Act 1996

## 1996 CHAPTER 56

### PART V

#### THE CURRICULUM

#### CHAPTER IV

##### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

##### *Courses leading to external qualifications*

#### **400 Courses leading to external qualifications.**

- (1) No course of study leading to a qualification authenticated by an outside person shall be provided for pupils of compulsory school age by or on behalf of a maintained school unless—
  - (a) the qualification is for the time being approved by the Secretary of State or by a designated body, and
  - (b) subsection (2) is satisfied.
- (2) This subsection is satisfied if either—
  - (a) a syllabus provided by the outside person for the purposes of the course is for the time being approved by a designated body, or
  - (b) criteria provided by the outside person for determining a syllabus for the purposes of the course are for the time being so approved.
- (3) An approval under this section may be given either generally or in relation to particular cases.
- (4) In relation to any maintained school—
  - (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
  - (b) the head teacher shall secure,

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that subsection (1) is not contravened.

(5) In this section—

“designated” means designated by the Secretary of State, and

“outside person”, in relation to a school, means a person other than a member of staff of the school.

#### **401 Power to extend section 400 to senior pupils and FE students.**

(1) The Secretary of State may by order direct that the provisions of section 400 shall have effect as if—

- (a) any reference to pupils of compulsory school age included a reference to—
  - (i) senior pupils who are of or over that age, and
  - (ii) persons in full-time further education who are of or over that age but have not attained the age of 19 (referred to in this section as “FE students”);
- (b) any reference to a maintained school (except in relation to a local education authority) included a reference to—
  - (i) any institution (other than a university or an institution within the higher education sector) which provides further education and is a grant-aided institution, and
  - (ii) any institution within the further education sector; and
- (c) any reference to the head teacher of such a school included a reference to the principal or other head of such an institution.

(2) An order under this section may make such consequential modifications of section 359(1) as appear to the Secretary of State to be necessary or expedient.

(3) In relation to FE students in relation to whom section 400 has effect by virtue of an order under this section, section 408 shall have effect—

- (a) with the modifications mentioned in subsection (1)(b) and (c) above;
- (b) as if the information referred to in subsection (1)(a) of that section were information with respect to the following matters—
  - (i) the qualifications authenticated by outside persons (within the meaning of section 400) for which courses of study are to be provided by or on behalf of the institution concerned for such students;
  - (ii) the courses of study leading to such qualifications which are to be so provided;
  - (iii) the syllabuses which have been provided or determined for the purposes of those courses, and
  - (iv) the results of the assessments of such students for the purposes of those qualifications;
- (c) as if in subsection (6)—
  - (i) the reference to the results of an individual pupil’s assessment (whether under this Part or otherwise) included a reference to the results of an individual student’s assessment for the purposes of any such qualification, and
  - (ii) any reference to the pupil concerned included a reference to the student concerned; and
- (d) with the omission of subsections (1)(b), (2) and (3).

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- (4) Before making an order under this section the Secretary of State shall consult any persons with whom consultation appears to him to be desirable.
- (5) For the purposes of this section an institution is at any time a grant-aided institution if it is maintained by persons who have received any grants under regulations made under section 485 in respect of expenditure incurred or to be incurred for the academic year of the institution current at that time.

#### *Obligation to enter pupils for public examinations*

### **402 Obligation to enter pupils for public examinations.**

- (1) Subject to subsections (2) and (3), the governing body of a maintained school shall secure that each registered pupil at the school is entered, at such time as they consider appropriate, for each prescribed public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.
- (2) The governing body are not required to secure that a pupil is entered for any examination, or for an examination in any syllabus for that examination, if either—
  - (a) they consider that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus, or
  - (b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus;but this subsection does not apply to an examination which is part of the assessment arrangements for the fourth key stage and applies in the case of that pupil.
- (3) The governing body are not required to secure that a pupil is entered for any examination in any syllabus for that examination if they have secured his entry for another prescribed public examination in a corresponding syllabus.
- (4) For the purposes of subsection (3) a syllabus for a prescribed public examination shall be regarded as corresponding to a syllabus for another prescribed public examination if the same course of study is provided at the school in preparation for both syllabuses.
- (5) As soon as practicable after determining whether or not to secure the entry of any pupil for a prescribed public examination in any syllabus for which he is being prepared at the school, the governing body shall notify the pupil's parent in writing of their determination in relation to each such syllabus.
- (6) In this section—
  - (a) “maintained school” includes [<sup>F1</sup>a community or foundation special school] established in a hospital; and
  - (b) references to a prescribed public examination shall be construed in accordance with section 462.

#### **Textual Amendments**

- F1** Words in s. 402(6) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.101** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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### *Sex education*

#### **403 Sex education: manner of provision.**

- (1) The local education authority, governing body and head teacher shall take such steps as are reasonably practicable to secure that where sex education is given to any registered pupils at a maintained school, it is given in such a manner as to encourage those pupils to have due regard to moral considerations and the value of family life.
- (2) In subsection (1) “maintained school” includes [<sup>F2</sup>a community or foundation special school] established in a hospital.

#### **Textual Amendments**

- F2** Words in s. 403(2) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.102** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

#### **404 Sex education: statements of policy.**

- (1) The governing body of a maintained school shall—
  - (a) make, and keep up to date, a separate written statement of their policy with regard to the provision of sex education, and
  - (b) make copies of the statement available for inspection (at all reasonable times) by parents of registered pupils at the school and provide a copy of the statement free of charge to any such parent who asks for one.
- (2) In subsection (1) “maintained school” includes, in relation to pupils who are provided with secondary education, [<sup>F3</sup>a community or foundation special school] established in a hospital.

<sup>F4</sup>(3) .....

#### **Textual Amendments**

- F3** Words in s. 404(2) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 103(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F4** S. 404(3) repealed (1.10.1998) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 103(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**

#### **405 Exemption from sex education.**

If the parent of any pupil in attendance at a maintained school requests that he may be wholly or partly excused from receiving sex education at the school, the pupil shall, except so far as such education is comprised in the National Curriculum, be so excused accordingly until the request is withdrawn.

### *Politics*

#### **406 Political indoctrination.**

- (1) The local education authority, governing body and head teacher shall forbid—

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- (a) the pursuit of partisan political activities by any of those registered pupils at a maintained school who are junior pupils, and
  - (b) the promotion of partisan political views in the teaching of any subject in the school.
- (2) In the case of activities which take place otherwise than on the school premises, subsection (1)(a) applies only where arrangements for junior pupils to take part in the activities are made by—
- (a) any member of the school’s staff (in his capacity as such), or
  - (b) anyone acting on behalf of the school or of a member of the school’s staff (in his capacity as such).
- (3) In this section “maintained school” includes [<sup>F5</sup>a community or foundation special school] established in a hospital.

#### Textual Amendments

**F5** Words in s. 406(3) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.104** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

#### **407 Duty to secure balanced treatment of political issues.**

- (1) The local education authority, governing body and head teacher shall take such steps as are reasonably practicable to secure that where political issues are brought to the attention of pupils while they are—
- (a) in attendance at a maintained school, or
  - (b) taking part in extra-curricular activities which are provided or organised for registered pupils at the school by or on behalf of the school,
- they are offered a balanced presentation of opposing views.
- (2) In this section “maintained school” includes [<sup>F6</sup>a community or foundation special school] established in a hospital.

#### Textual Amendments

**F6** Words in s. 407(2) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.105** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

### *Information*

#### **408 Provision of information.**

- (1) Regulations may require, in relation to every main|tained school, the local education authority, the governing body or the head teacher to make available either generally or to prescribed persons, in such form and manner and at such times as may be prescribed—
- (a) such information (including information as to the matters mentioned in subsection (2)) relevant for the purposes of any of the relevant provisions of this Part [<sup>F7</sup>or Part V of the Education Act 1997][<sup>F8</sup>or section 96 of the Learning and Skills Act 2000], and

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- [<sup>F9</sup>(b) such copies of the documents mentioned in subsection (3), as may be prescribed.]
- (2) The matters referred to in subsection (1)(a) are—
- (a) the curriculum for maintained schools,
  - (b) the educational provision made by the school for pupils at the school and any syllabuses to be followed by those pupils,
  - (c) the educational achievements of pupils at the school (including the results of any assessments of those pupils, whether under this Part or otherwise, for the purpose of ascertaining those achievements), and
  - (d) the educational achievements of [<sup>F10</sup>such classes or descriptions of pupils] as may be prescribed (including results of the kind mentioned in paragraph (c)). [<sup>F11</sup>, and
  - <sup>F11</sup>(e) arrangements relating to external qualifications (within the meaning given by section 96(5) of the Learning and Skills Act 2000) and to courses leading to such qualifications.]
- [<sup>F12</sup>(3) The documents referred to in subsection (1)(b) are—
- (a) any written statement made by the local education authority under section 370,
  - (b) any written statement made by the governing body in pursuance of provision made under section 371,
  - (c) any written statement made by the governing body of their policy as to the curriculum for the school, and
  - (d) any report prepared by the governing body under section 161 or paragraph 7 of Schedule 23 (governors' annual reports).]
- (4) For the purposes of subsection (1) the relevant provisions of this Part are—
- (a) sections 350 to 368;
  - [<sup>F13</sup>(b) sections 375(3) and 384;]
  - [(c) sections 385 and 388 and, so far as relating to county schools, sections 386 and 387;]
  - (d) sections [<sup>F14</sup>390] to 392;
  - (e) sections 394 to 396;
  - (f) sections 398, 400, 401 and 405; and
  - (g) section 409.
- (5) Before making any regulations under this section, the Secretary of State shall consult any persons with whom consultation appears to him to be desirable.
- (6) Regulations under this section shall not require information as to the results of an individual pupil's assessment (whether under this Part or otherwise) to be made available to any persons other than—
- (a) the parents of the pupil concerned,
  - (b) the pupil concerned,
  - (c) in the case of a pupil who has transferred to a different school, the head teacher of that school,
  - (d) the governing body of the school, or
  - (e) the local education authority;

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and shall not require such information to be made available to the governing body, the head teacher or the local education authority except where relevant for the purposes of the performance of any of their functions.

- (7) Regulations under this section may authorise local education authorities, governing bodies and head teachers to make a charge (not exceeding the cost of supply) for any documents supplied by them in pursuance of the regulations.
- (8) In relation to any maintained school, the local education authority and the governing body shall exercise their functions with a view to securing that the head teacher complies with any regulations made under this section.

#### Textual Amendments

- F7** Words in s. 408(1)(a) inserted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 30(a)**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. III**
- F8** Words in s. 408(1)(a) inserted (28.7.2000 for certain purposes, otherwise prosp.) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 57(2)** (with s. 150)
- F9** S. 408(1)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 106(a), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F10** Words in s. 408(2)(d) substituted (1.10.1998) by 1998 c. 31, s. 140(1), **Sch. 30 para. 106(b)** (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2, **Sch. 1 Pt. I**
- F11** S. 408(2)(e) and preceding ", and" inserted (28.7.2000 for certain purposes, otherwise prosp.) by 2000 c. 21, ss. 149, 154, **Sch. 9 para. 57(3)** (with s. 150)
- F12** S. 408(3) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 106(c), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F13** S. 408(4)(b)(c) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 106(d)(i), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F14** Word in s. 408(4)(d) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 106(d)(ii)** (with ss. 138(9), 144(6))

#### *Complaints and enforcement*

#### **409** [<sup>F15</sup>**Complaints and enforcement: maintained schools.** ]

- (1) A local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies [<sup>F16</sup>of foundation and voluntary aided schools,] make arrangements for the consideration and disposal of any complaint to which subsection (2) applies.
- (2) This subsection applies to any complaint which is to the effect that the authority, or the governing body of [<sup>F17</sup>any community, foundation or voluntary school maintained by the authority or any community or foundation special school]so maintained which is not established in a hospital—
  - (a) have acted or are proposing to act unreasonably in relation to the exercise of a power conferred on them by or under a relevant enactment, or
  - (b) have acted or are proposing to act unreasonably in relation to the performance of, or have failed to discharge, a duty imposed on them by or under a relevant enactment.
- (3) In subsection (2) “relevant enactment” means—

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- (a) any provision which by virtue of section 408(4) is a relevant provision of this Part for the purposes of section 408(1), and
- (b) any other enactment (whether contained in this Part or otherwise) so far as relating to the curriculum for, or religious worship in, maintained schools
- F18 . . . .
- (4) The Secretary of State shall not entertain under section 496 (power to prevent unreasonable exercise of functions) or 497 (powers where a local education authority or governing body fail to discharge their duties) any complaint to which subsection (2) applies, unless a complaint concerning the same matter has been made and disposed of in accordance with arrangements made under subsection (1).

#### **Textual Amendments**

- F15** S. 409 sidenote substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 107(d)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F16** Words in s. 409(1) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 107(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F17** Words in s. 409(2) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 107(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F18** Words in s. 409(3)(b) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), **Sch. 30 para. 107(c)**, **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

### *Nursery education*

#### **410 Application of Part V in relation to nursery education.**

Nothing in this Part applies in relation to a nursery school or in relation to a nursery class in a primary school.



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