



Education Act 1993

1993 CHAPTER 35

PART I

RESPONSIBILITY FOR EDUCATION

CHAPTER I

ADMINISTRATION

Secretary of State

1 General duty of Secretary of State

The Secretary of State shall promote the education of the people of England and Wales.

2 Duty in the case of primary, secondary and further education

(1) The Secretary of State shall exercise his powers in respect of those bodies in receipt of public funds which—

- (a) carry responsibility for securing that the required provision for primary, secondary or further education is made in schools, or institutions within the further education sector, in or in any area of England or Wales, or
- (b) conduct schools or institutions within the further education sector in England and Wales,

for the purpose of promoting primary, secondary and further education in England and Wales.

(2) He shall, in the case of his powers to regulate the provision made in schools and institutions within the further education sector in England and Wales, exercise his powers with a view, among other things, to improving standards, encouraging diversity and increasing opportunities for choice.

Status: This is the original version (as it was originally enacted).

Funding authorities for England and Wales

3 Funding Agency for Schools

- (1) There shall be established a body corporate to be known as the Funding Agency for Schools to exercise in relation to England the functions conferred on them.
- (2) The agency shall consist of not less than ten nor more than fifteen members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (3) In appointing the members of the agency the Secretary of State shall have regard to the desirability of including—
 - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of such education,
 - (b) persons who appear to him to have experience of, and to have shown capacity in, the provision of education in voluntary schools, or in grant-maintained schools having foundation governors,
 - (c) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession, and
 - (d) persons who appear to him to have experience of, and to have shown capacity in, providing for children with special educational needs.
- (4) Before appointing any member of the agency the Secretary of State shall consult—
 - (a) a body appearing to him to be representative of the Church of England, and
 - (b) a body appearing to him to be representative of the Roman Catholic Church,in matters relating to the provision of education in voluntary schools, or in grant-maintained schools having foundation governors.
- (5) Schedule 1 to this Act has effect in respect of the agency.

4 Schools Funding Council for Wales

- (1) The Secretary of State may by order make provision for the establishment of a body corporate to be known as the Schools Funding Council for Wales to exercise in relation to Wales, as from such date as may be specified in the order, the functions conferred on them.
- (2) The council shall consist of not less than eight nor more than twelve members appointed by the Secretary of State, one of whom shall be so appointed as chairman.
- (3) In appointing the members of the council the Secretary of State shall have regard to the desirability of including—
 - (a) persons who appear to him to have experience of, and to have shown capacity in, the provision of primary or secondary education or to have held, and to have shown capacity in, any position carrying responsibility for the provision of such education,
 - (b) persons who appear to him to have experience of, and to have shown capacity in, industrial, commercial or financial matters or the practice of any profession, and

- (c) persons who appear to him to have experience of, and to have shown capacity in, providing for children with special educational needs.

(4) Schedule 1 to this Act has effect in respect of the council.

5 Meaning of “funding authority” in the Education Acts

- (1) Any reference in the Education Acts to a funding authority—
 - (a) in relation to schools, or local education authority areas, in England is to the Funding Agency for Schools, and
 - (b) in relation to schools, or local education authority areas, in Wales is, subject to subsection (2) below, to the Schools Funding Council for Wales, and in any other context is to the agency or the council.
- (2) Before the Schools Funding Council for Wales begin to exercise their functions, any reference in the Education Acts (other than this Part of this Act) to a funding authority in relation to schools, or local education authority areas, in Wales is to be read as a reference to the Secretary of State.

6 Grants to funding authorities

The Secretary of State may make grants to any funding authority of such amounts and subject to such terms and conditions as he may determine.

Funding authorities: Supplementary

7 Provision of information

- (1) Each funding authority—
 - (a) shall provide the Secretary of State with such information or advice in connection with any function of his relating to the provision of education as he may from time to time require, and
 - (b) may provide the Secretary of State with such information or advice relating to such provision as they think fit.
- (2) The information and advice provided under subsection (1) above shall be provided in such manner as the Secretary of State may from time to time determine.
- (3) A local education authority shall make such reports and returns, and give such information, to the funding authority as the funding authority may require for the purpose of the exercise of their functions.
- (4) A funding authority shall make such reports and returns, and give such information, to any local education authority as the authority may require for the purpose of the exercise of their functions.

8 Value-for-money studies of grant-maintained schools

- (1) Each funding authority shall make arrangements for carrying out such value-for-money studies of grant-maintained schools in England or, as the case may be, Wales as in their opinion are required or as the Secretary of State may direct.
- (2) The authority shall, in particular—

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- (a) in forming an opinion as to whether any value-for-money study is required to be carried out in pursuance of this section, have regard to the desirability of value-for-money studies being carried out at regular intervals, and
 - (b) in determining the scope of any value-for-money study to be carried out in pursuance of this section otherwise than on the direction of the Secretary of State, have regard to the scope of any value-for-money study which is being or has recently been carried out.
- (3) In this section “value-for-money study”, in relation to any grant-maintained school, means—
- (a) any examination into the economy, efficiency and effectiveness with which the governing body of the school have, in discharging their functions, used grant made by the authority, and
 - (b) any study designed to improve economy, efficiency and effectiveness in the management or operations of the school.

9 Supervision of funding authorities by the Secretary of State

- (1) In exercising their functions each funding authority shall comply with any directions contained in an order made by the Secretary of State.
- (2) In respect of the exercise by the funding authority of functions in respect of any grant-maintained school, such directions may relate to grant-maintained schools generally or to any class or description of such schools.
- (3) Before making an order under this section, the Secretary of State shall consult the funding authority unless, for reasons of urgency, it is not in his opinion reasonably practicable for him to do so.
- (4) Sections 68 and 99(1) of the Education Act 1944 (powers of Secretary of State where local education authority are acting unreasonably or are in default) shall apply in relation to a funding authority and the functions conferred on them by or under the Education Acts as they apply in relation to local education authorities and the functions conferred on them by or under that Act.
- (5) Subsection (4) above does not prejudice the generality of subsection (1) above.

10 Extension of functions of Audit Commission

- (1) Section 220 of the Education Reform Act 1988 (extension of functions of Audit Commission) is amended as follows.
- (2) At the beginning of subsection (1)(c) there is inserted “the Funding Agency for Schools, the Schools Funding Council for Wales or”.
- (3) After subsection (2)(bb) there is inserted—
 - “(bc) with respect to studies relating to the Funding Agency for Schools, the agency;
 - (bd) with respect to studies relating to the Schools Funding Council for Wales, the council”.
- (4) In subsection (2)(c) after “school,” there is inserted “the funding authority or”.

11 Compulsory purchase of land

In section 17(4) of the Acquisition of Land Act 1981 (statutory undertakers) after paragraph (a) of the definition of “statutory undertakers” there is inserted—

- “(aa) the Funding Agency for Schools,
- (ab) the Schools Funding Council for Wales”.

CHAPTER II

RESPONSIBILITY FOR EDUCATION AT SCHOOL

School places

12 Responsibility for providing sufficient school places

- (1) In respect of the area of any local education authority, the Secretary of State may—
- (a) where he wishes responsibility for providing sufficient school places to be held by the funding authority as well as the local education authority, make an order under this paragraph, and
 - (b) where he wishes that responsibility to be held by the funding authority alone, make an order under this paragraph,
- and such an order may relate to primary education, to secondary education or to both.
- (2) An order under subsection (1) above shall state—
- (a) the local education authority area to which the order applies,
 - (b) whether the order is made under paragraph (a) or (b) of that subsection,
 - (c) the kind (that is primary or secondary) or kinds of education to which the order relates, and
 - (d) the date as from which the order is to have effect.
- (3) No order may be made in respect of any area under subsection (1) above unless—
- (a) in the case of an order under subsection (1)(a) or (b) above, it appears to the Secretary of State that subsection (4) below is, or has at any time been, satisfied, or
 - (b) in the case of an order under subsection (1)(b) above, the local education authority have at any time requested the Secretary of State to make the order and subsection (4)(a) below is, or has at any time been, satisfied,
- in relation to the kind of education to which the order relates or, as the case may be, each of the kinds of education to which the order relates.
- (4) This subsection is satisfied if—
- (a) in the case of an order under subsection (1)(a) above, not less than 10 per cent. of the pupils for whom education is provided in county, voluntary and grant-maintained schools in the area are registered pupils at grant-maintained schools, and
 - (b) in the case of an order under subsection (1)(b) above, not less than 75 per cent. of the pupils for whom education is provided in county, voluntary and grant-maintained schools in the area are registered pupils at grant-maintained schools.

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- (5) For the purposes of subsection (3) above, the kind of education to which an order relates—
- (a) where an order is expressed to relate only to primary education, includes any secondary education provided in a primary school and excludes any primary education provided in a secondary school, and
 - (b) where an order is expressed to relate only to secondary education, includes any primary education provided in a secondary school and excludes any secondary education provided in a primary school.
- (6) Schedule 2 to this Act (which shows the effect of an order under this section) shall have effect.
- (7) The kind or kinds of education to which an order under subsection (1)(a) or (b) above relates are referred to in the Education Acts, in relation to such an order, as “relevant education”.

Power to direct admission of child to school

13 Direction to admit child to specified school

- (1) The appropriate authority may give a direction under this section if, in the case of any child in the area of a local education authority, one or both of the following conditions is satisfied in relation to each school which is a reasonable distance from his home and provides suitable education, that is—
- (a) he has been refused admission to the school, or
 - (b) he is permanently excluded from the school.
- (2) A direction under this section shall specify a school—
- (a) which is a reasonable distance from the child’s home, and
 - (b) from which the child is not permanently excluded.
- (3) A direction under this section shall, unless it is given on the determination of the Secretary of State under section 14(4) of this Act or by the funding authority, specify a school in the area referred to in subsection (1) above.
- (4) Where a school is specified in a direction under this section, the governing body (and, if the school is a maintained school and the local education authority are not the appropriate authority, the local education authority) shall admit the child to the school.
- (5) Subsection (4) above does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (6) In this section “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (7) In this section and section 14 of this Act references to the appropriate authority, subject to subsection (8) below, are to the local education authority and references to schools are to maintained schools (other than maintained special schools) and grant-maintained schools.
- (8) Where the education which is suitable education for the child is also education of a kind to which an order under section 12(1)(b) of this Act applies made in respect of

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the area referred to in subsection (1) above, references in this section and section 14 of this Act to the appropriate authority are to be read in relation to—

- (a) that child, and
- (b) any maintained school (other than a maintained special school) or grant-maintained school in that area, and any such school in any other area to which an order under section 12(1)(b) of this Act applies which provides education which is relevant education in relation to that order,

as references to the funding authority.

14 Procedure for giving direction

- (1) Before deciding to give a direction under section 13 of this Act, the appropriate authority shall consult—
 - (a) the parent of the child,
 - (b) the governing body of the school they propose to specify in the direction, and
 - (c) the authority (if different) which have a duty to maintain the school or to pay maintenance grant to the governing body (referred to in this section as the “maintaining authority”).
- (2) Where the appropriate authority decide to give such a direction specifying any school they shall, before doing so, serve a notice in writing of their decision on—
 - (a) the governing body and head teacher of the school, and
 - (b) the maintaining authority, if different,and shall not give the direction until the period for referring the matter to the Secretary of State has expired and, if it is so referred, the Secretary of State has made his determination.
- (3) Any body or authority on which a notice is served under subsection (2) above may, within the period of fifteen days beginning with the day on which the notice was served, refer the matter to the Secretary of State and, if they do so, shall inform the appropriate authority.
- (4) On a reference under subsection (3) above the Secretary of State may determine which school is to be required to admit the child and, if he does so, that school shall be specified in the direction.
- (5) Where the appropriate authority give such a direction specifying a school, they shall give notice in writing of that fact to—
 - (a) the governing body and head teacher of the school, and
 - (b) the maintaining authority, if different.

Religious education

15 Procedure for preparing agreed syllabus of religious education

- (1) This section has effect in respect of the area of a local education authority if an order under section 12(1)(b) of this Act applies to the area.
- (2) Within six months of the date of the first such order the local education authority shall reconvene any conference—

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- (a) which they have convened for the purpose set out in paragraph 1 or 12 of the Fifth Schedule to the Education Act 1944 (procedure for preparing and bringing into operation an agreed syllabus of religious education) or section 11(8) of the Education Reform Act 1988 (standing advisory councils on religious education), and
 - (b) to which subsection (3) below applies.
- (3) This subsection applies to any conference—
- (a) which has not made a recommendation under paragraph 9 or 13(2) of that Schedule, and
 - (b) in respect of which the authority have not made a report under paragraph 10 or 13(4) of that Schedule.
- (4) Where a conference is convened (or reconvened) after the date of the order—
- (a) paragraph 2 of that Schedule shall have effect as if it required the appointment of a committee, in addition to those listed in sub-paragraphs (a) to (d) of that paragraph, consisting of persons representing relevant grant-maintained schools, and
 - (b) section 146 of this Act shall have effect only in relation to grant-maintained schools, or pupils at such schools, at which the syllabus is in use in accordance with section 140(3) of this Act.
- (5) Before appointing a person to represent relevant grant-maintained schools in accordance with subsection (4)(a) above, the local education authority shall take all reasonable steps to assure themselves that he is acceptable as such to the governing bodies of the majority of such schools; but no proceedings under that Schedule shall be invalidated on the ground that the person was not so acceptable unless it is shown that the local education authority failed to take such steps.
- (6) A person so appointed may resign his membership of the committee or may, if in the opinion of the local education authority he ceases to be acceptable as a representative of relevant grant-maintained schools to the governing bodies of the majority of such schools, be withdrawn from the committee by the authority; and where a person resigns or is withdrawn from the committee the authority shall appoint someone in his place in the same manner as that in which they made the original appointment.
- (7) For the purposes of this section, “relevant grant-maintained schools” means those grant-maintained schools within the area of the local education authority to which section 138 or 139 of this Act applies.

16 Standing advisory councils on religious education

- (1) This section has effect in respect of the area of a local education authority if an order under section 12(1)(b) of this Act applies to the area.
- (2) Within six months of the date of the first such order the local education authority shall constitute a new council under section 11 of the Education Reform Act 1988 (standing advisory councils on religious education).
- (3) For the purposes of the constitution required by subsection (2) above (and of any subsequent constitution) that section shall have effect as if—
 - (a) subsection (3)(b) were omitted,

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- (b) subsection (4) required the appointment of a representative group, in addition to those listed in paragraphs (a) to (d) of that subsection, comprising persons representing relevant grant-maintained schools, and
 - (c) in subsection (7)—
 - (i) for “that” there were substituted “those”, and
 - (ii) after “to represent the authority” there were inserted “or relevant grant-maintained schools”.
- (4) For the purposes of subsection (3) above, “relevant grant-maintained schools” means those grant-maintained schools within the area of the local education authority to which section 138 or 139 of this Act applies.
- (5) Before appointing a person to represent relevant grant-maintained schools in accordance with subsection (3) above the local education authority shall take all reasonable steps to assure themselves that he is acceptable as such to the governing bodies of the majority of such schools; but the validity of proceedings shall not be affected because the person was not so acceptable unless it is shown that the local education authority failed to take such steps.
- (6) A person appointed to represent relevant grant-maintained schools in accordance with subsection (3) above may be removed from membership of the council if in the opinion of the local education authority he ceases to be acceptable as such to the governing bodies of the majority of such schools.

Other functions

17 Miscellaneous functions relating to grant-maintained schools

- (1) The Secretary of State may by order provide for any of his functions under the provisions of this Act mentioned in subsection (2) below to be exercisable instead, either generally or in such circumstances as may be specified in the order, by a funding authority.
- (2) Those provisions are—
- (a) sections 57 and 58 (alterations to instruments and articles of government),
 - (b) section 70 (making and varying joint schemes),
 - (c) section 136 (variation of trust deeds),
 - (d) paragraph 5 of Schedule 4 (transitional powers of governing bodies), and
 - (e) paragraph 14 of Schedule 5 (approval of schemes for payment of allowances to governors).
- (3) An order under this section may—
- (a) confer or impose such related functions on the funding authority, and
 - (b) provide for Part II of this Act to have effect with such modifications,
- as the Secretary of State considers necessary or desirable in connection with any transfer of any functions under the provisions of this Act mentioned in subsection (2) above.

18 Functions under agreements relating to CTCs and CCTAs

- (1) The Secretary of State may by order provide—

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- (a) for the funding authority to exercise the function of making and receiving payments under all or any of the agreements which he has entered into or may enter into under section 105 of the Education Reform Act 1988 (city technology colleges and city colleges for the technology of the arts), and
 - (b) for any such agreement to have effect accordingly.
- (2) Any sums received by a funding authority in the exercise of those functions shall be paid to the Secretary of State.

19 Functions in respect of grants for certain expenditure due to immigrant population

- (1) The Secretary of State may by order impose on a funding authority the function of paying on his behalf grant under section 11 of the Local Government Act 1966 (grants in respect of special provision for immigrants) payable by him by virtue of section 211(1)(a) or (b) of the Education Reform Act 1988 (grant-maintained schools, CTCs and CCTAs).
- (2) The payments shall be of such amounts and be paid to such persons as the Secretary of State may, in accordance with section 11 of the Local Government Act 1966, determine.

Supplementary

20 Resolution of disputes

Any dispute as to whether any functions are exercisable by a funding authority or a local education authority shall be determined by the Secretary of State.

21 Duty to compile information and conduct research about provision of education

- (1) Each funding authority shall—
- (a) compile such information, and
 - (b) make such provision for conducting, or assisting the conduct of, research,
- as may be required for the purpose of providing the Secretary of State and local education authorities, in such form and at such times as may be prescribed, with such information relating to the provision of education in any area to which an order under section 12 of this Act applies as may be prescribed.
- (2) Each local education authority shall—
- (a) compile such information, and
 - (b) make such provision for conducting, or assisting the conduct of, research,
- as may be required for the purpose of providing the Secretary of State and the funding authority, in such form and at such times as may be prescribed, with such information relating to the provision of primary or secondary education in the area of the local education authority as may be prescribed.
- (3) The Secretary of State shall exercise his powers under this section so as to secure, in particular, the provision of information relating to the provision of education for children with special educational needs.