



Education Act 1996

1996 CHAPTER 56

PART II

SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

CHAPTER II

ESTABLISHMENT, ALTERATION ETC. OF COUNTY AND VOLUNTARY SCHOOLS

County schools: establishment, alteration or change of site

35 County school: proposals for establishment, alteration or new site

- (1) Where a local education authority intend—
 - (a) to establish a new county school,
 - (b) to maintain as a county school a school which is not for the time being a county school,
 - (c) to make any significant change in the character, or any significant enlargement of the premises, of a county school, or
 - (d) to transfer a county school to a new site in the area,then (subject to subsections (2) and (8)) they shall publish their proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (2) The requirement to publish proposals under subsection (1)(d) does not apply in relation to the transfer of a county school to a new site if—
 - (a) the school is intended to return to its existing site within three years of the time of the transfer; or
 - (b) the local education authority are satisfied that it is expedient that the school should be transferred to the new site either—

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- (i) because it is not reasonably practicable to make to the existing premises of the school the alterations necessary for securing that they conform to the standards prescribed under section 542, or
 - (ii) in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning; or
 - (c) the transfer is authorised by an order made under section 16(1) of the Education Act 1944 (transfer of county schools etc. to new sites).
- (3) Proposals published under this section shall include particulars—
- (a) of the time or times at which it is intended to implement the proposals, and
 - (b) of the number of pupils intended to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and shall be accompanied by a statement of the effect of section 36.
- (4) For the purposes of subsection (3)(b) pupils intended to be admitted to the school for nursery education shall be disregarded, and pupils—
- (a) already admitted to the school for nursery education, and
 - (b) intended to be transferred to a reception class at the school,
- shall be treated as intended to be admitted to the school on their transfer.
- (5) Before publishing any proposals under this section a local education authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the authority shall have regard to any guidance given from time to time by the Secretary of State.
- (6) Before publishing any proposals under subsection (1)(c) which (if implemented) would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the local education authority shall consult the appropriate further education funding council.
- (7) Before formulating any proposals under subsection (1)(c) or (d) in respect of a school which is (within the meaning of Part III) eligible for grant-maintained status, the local education authority shall consult the school's governing body.
- (8) No proposals shall be published under this section in respect of any school in respect of which proposals for acquisition of grant-maintained status have been approved under section 194.

36 Objections to proposals under section 35

- (1) Objections to any proposals published by a local education authority under section 35 may be submitted to the authority by any of the following—
- (a) any ten or more local government electors for the authority's area,
 - (b) the governing body of any school affected by the proposals,
 - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies), and
 - (d) any other local education authority concerned.
- (2) Objections may be so submitted within the period of two months after the first publication of the proposals.

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- (3) Where—
 - (a) an order under section 27 (allocation of responsibility for providing sufficient school places) applies to the area of a local education authority, and
 - (b) the authority publish proposals under section 35 which affect the provision of relevant education in that area,the funding authority shall be included among the persons who may submit objections under subsection (1) to the proposals.
- (4) Within one month after the end of the period mentioned in subsection (2), the local education authority by whom the proposals were published shall transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) within that period, together with the authority's observations on them.
- (5) For the purposes of this section proposals under section 35 shall be taken to have been first published—
 - (a) on the day on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
 - (b) where different such requirements are satisfied on different days, on the last of those days.
- (6) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (5) be taken to be satisfied on the first day in respect of which it is satisfied.

37 Approval or rejection by Secretary of State of proposals under section 35

- (1) Proposals published by a local education authority under section 35 require the approval of the Secretary of State if subsection (2), (3) or (4) applies.
- (2) This subsection applies if the proposals are for the maintenance as a county school of a school which is for the time being a voluntary school.
- (3) This subsection applies if either—
 - (a) the Secretary of State, within two months after the submission to him of the published proposals, gives notice to the local education authority that the proposals require his approval, or
 - (b) objections have been made under section 36 and any of them have not been withdrawn in writing within the period specified in subsection (2) of that section.
- (4) This subsection applies if either—
 - (a) the proposals are first published after proposals for acquisition of grant-maintained status for the school have been published under section 193 but before those proposals are determined or withdrawn, or
 - (b) after the proposals have first been published but before they are determined or withdrawn, proposals for acquisition of grant-maintained status for the school are published under section 193;and references in this subsection to proposals being first published shall be construed in accordance with section 36(5) and (6).
- (5) Where any proposals require the approval of the Secretary of State under this section, he may (subject to subsections (6) to (8))—

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- (a) reject them,
 - (b) approve them without modification, or
 - (c) after consultation with the local education authority, approve them with such modifications as he thinks desirable.
- (6) In a case where subsection (2) applies, the Secretary of State shall not approve the proposals unless he has, in accordance with Schedule 6, approved an agreement under that Schedule between the local education authority and the school's governing body for the transfer to the authority of all necessary interests in the school premises.
- (7) In a case where subsection (4) applies, the Secretary of State—
- (a) shall consider both sets of proposals together, but
 - (b) shall not determine the proposals published under section 35 until he has made his determination with respect to the proposals published under section 193.
- (8) If the Secretary of State approves the proposals published under section 193, he shall approve the proposals published under section 35 if—
- (a) they are proposals under subsection (1)(c) or (d) of that section, and
 - (b) the governing body incorporated under section 195 give their consent,
- but otherwise he shall reject the proposals published under section 35.
- (9) Any proposals under section 35(1)(c) or (d) which are approved under subsection (8) shall be treated for the purposes of Part III (grant-maintained schools) as if they had been—
- (a) published under section 259 (change of character etc. of grant-maintained school), and
 - (b) approved under section 261,
- and section 262 (approval of school premises) shall apply accordingly.

38 Determination by LEA whether to implement proposals under section 35

- (1) Where any proposals published by a local education authority under section 35 do not require the approval of the Secretary of State under section 37, the authority shall determine whether the proposals should be implemented.
- (2) The determination must be made not later than four months after the submission of the proposals to the Secretary of State under section 35.
- (3) A local education authority shall notify the Secretary of State of any determination made by them under this section.

39 Approval of school premises

- (1) Where a local education authority publish proposals under section 35, they shall submit to the Secretary of State for his approval such particulars with respect to the premises or proposed premises of the school as he may require.
- (2) The particulars shall be so submitted at such time, and in such form and manner, as the Secretary of State may direct.
- (3) Schedule 6 has effect in relation to agreements for the transfer of premises in pursuance of proposals for a voluntary school to become a county school, and the approval of such agreements by the Secretary of State.

40 Implementation of proposals under section 35, etc

- (1) Subject to subsection (3), a local education authority shall implement any proposals of theirs—
 - (a) which have been approved by the Secretary of State under section 37, or
 - (b) which they have determined under section 38 to implement.
- (2) Where any particulars have been submitted under section 39 in connection with the proposals, the proposals shall be implemented in accordance with the particulars as approved by the Secretary of State.
- (3) The Secretary of State may, at the request of a local education authority, modify any proposals which the authority are required to implement by virtue of this section.
- (4) Subject to subsection (5), neither a local education authority nor any other person shall do or undertake to do anything for which proposals are required to be published and submitted under section 35 until the requirements of that section and section 39 have been complied with and any approval necessary under section 37 or 39 has been given.
- (5) The Secretary of State may in any case allow such steps to be taken pending compliance with any such requirements and the giving of any such approval as he considers reasonable in the circumstances.

Voluntary schools: establishment, alteration or change of site

41 Voluntary school: proposals for establishment, alteration or new site

- (1) Where any persons propose—
 - (a) that a school which they or persons whom they represent propose to establish should be maintained by a local education authority as a voluntary school, or
 - (b) that a school established by them or by persons whom they represent which is not a voluntary school should be so maintained as a voluntary school,then (subject to subsection (9)) they shall publish proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (2) Where the governing body of a school which is maintained by a local education authority as a voluntary school intend—
 - (a) to make a significant change in the character, or a significant enlargement of the premises, of the school, or
 - (b) to transfer the school to a new site,then (subject to subsections (3) and (9)) they shall publish proposals for that purpose in such manner as may be required by regulations and submit a copy of the published proposals to the Secretary of State.
- (3) The requirement to publish proposals under subsection (2)(b) does not apply in relation to the transfer of a voluntary school to a new site if—
 - (a) the transfer is authorised by an order made under section 47(1) of this Act (or under section 16(1) of the Education Act 1944); or
 - (b) the school is intended to return to its existing site within three years of the time of the transfer.

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- (4) No proposals under subsection (1) shall be approved by the Secretary of State under section 43 if the school or proposed school is to provide—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or
 - (b) full-time education suitable to the requirements of persons who have attained the age of 19 years;
- and the reference in subsection (2)(a) to a change in the character of a school does not include a change in character resulting only from persons beginning or ceasing to be provided with education falling within paragraph (a) or (b) above.
- (5) Proposals published under this section shall include particulars—
- (a) of the time or times at which it is intended to implement the proposals, and
 - (b) of the number of pupils intended to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented;
- and shall be accompanied by a statement of the effect of section 42.
- (6) For the purposes of subsection (5)(b) pupils intended to be admitted to the school for nursery education shall be disregarded, and pupils—
- (a) already admitted to the school for nursery education, and
 - (b) intended to be transferred to a reception class at the school,
- shall be treated as intended to be admitted to the school on their transfer.
- (7) Before publishing any proposals under this section, the persons concerned shall—
- (a) in the case of proposals under subsection (1), consult the local education authority, and
 - (b) in the case of proposals under either subsection (1) or subsection (2), consult such other persons as appear to them to be appropriate;
- and in discharging their duty under this subsection they shall have regard to any guidance given from time to time by the Secretary of State.
- (8) Before publishing any proposals under subsection (2)(a) which (if implemented) would affect the facilities for full-time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19, the governing body shall consult the appropriate further education funding council.
- (9) No proposals shall be published under this section in respect of any school in respect of which proposals for acquisition of grant-maintained status have been approved under section 194.

42 Objections to proposals under section 41

- (1) Objections to any proposals published under section 41 may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area of the local education authority referred to in subsection (1) or (as the case may be) subsection (2) of that section,
 - (b) the governing body of any school affected by the proposals,
 - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies), and

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- (d) any local education authority concerned.
- (2) Objections may be so submitted within the period of two months after the first publication of the proposals.
- (3) Where the proposals are to transfer a school to a site in a different area, objections under subsection (1) to the proposals may also be so submitted by any ten or more local government electors for that area.
- (4) Where—
 - (a) an order under section 27 applies to the area of a local education authority, and
 - (b) any persons publish proposals under section 41 which affect the provision of relevant education in the area,the funding authority shall be included among the persons who may submit objections under subsection (1) above to the proposals.
- (5) For the purposes of this section proposals under section 41 shall be taken to have been first published—
 - (a) on the day on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
 - (b) where different such requirements are satisfied on different days, on the last of those days.
- (6) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (5) be taken to be satisfied on the first day in respect of which it is satisfied.

43 Approval or rejection by Secretary of State of proposals under section 41

- (1) Proposals published under section 41 require the approval of the Secretary of State.
- (2) The Secretary of State may (subject to subsections (3) to (6))—
 - (a) reject such proposals,
 - (b) approve them without modification, or
 - (c) after consultation with the persons making the proposals and the local education authority by whom the school is, or is to be, maintained, approve them with such modifications as he thinks desirable.
- (3) This subsection applies if either—
 - (a) the proposals are first published after proposals for acquisition of grant-maintained status for the school have been published under section 193 but before those proposals are determined or withdrawn, or
 - (b) after the proposals have first been published but before they are determined or withdrawn, proposals for acquisition of grant-maintained status for the school are published under section 193;and references in this subsection to proposals being first published shall be construed in accordance with section 42(5) and (6).
- (4) In a case where subsection (3) applies, the Secretary of State—
 - (a) shall consider both sets of proposals together, but
 - (b) shall not determine the proposals published under section 41 until he has made his determination with respect to the proposals published under section 193.

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- (5) If the Secretary of State approves the proposals published under section 193, he—
 - (a) shall approve the proposals published under section 41 if they were made for the purpose of ensuring consistency in the provision of education made in the area of the local education authority, but
 - (b) shall otherwise reject the proposals published under that section.
- (6) Any proposals under section 41 which are approved under subsection (5) shall be treated for the purposes of Part III as if they had been—
 - (a) published under section 259 (change of character etc. of grant-maintained school), and
 - (b) approved under section 261, and section 262 (approval of school premises) shall apply accordingly.
- (7) Where the proposals published under section 41 are to transfer the school to a site in a different area, subsection (2)(c) above requires consultation with the local education authority by whom the school is maintained as well as with the authority by whom it is to be maintained.

44 Approval of school premises

- (1) Where any proposals are published under section 41, the persons making the proposals shall submit to the Secretary of State for his approval such particulars in respect of the premises or proposed premises of the school as he may require.
- (2) The particulars shall be so submitted at such time, and in such form and manner, as the Secretary of State may direct.
- (3) Before submitting any particulars under this section, the persons making the proposals shall consult the local education authority by whom the school is, or is to be, maintained.
- (4) Where the proposals published under section 41 are to transfer the school to a site in a different area, subsection (3) requires consultation with the local education authority by whom the school is to be maintained.

45 Implementation of proposals under section 41, etc

- (1) Subject to subsections (2) and (4), where any proposals are approved under section 43, they shall be implemented—
 - (a) in the case of proposals published under section 41(1), by the persons making them or the persons whom they represent (as the case may require) and by the local education authority referred to in that subsection, or
 - (b) in the case of proposals published under section 41(2), by the school's governing body.
- (2) Subject to subsection (4), it shall be the duty of the local education authority—
 - (a) in the case of any proposals so approved for the transfer of a controlled school to a new site, to implement the proposals (and any associated proposals for a change in the character of the school) so far as they involve the provision of premises or the removal or provision of equipment; and
 - (b) in any other case, to implement so much of any proposals so approved as relates to the provision of—

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- (i) playing fields, or
 - (ii) buildings which are to form part of the school premises but are not to be school buildings.
- (3) Where any particulars have been submitted under section 44 in connection with the proposals, the proposals shall be implemented in accordance with the particulars as approved by the Secretary of State.
- (4) The Secretary of State may modify any proposals required to be implemented by virtue of this section, but shall do so—
 - (a) in the case of proposals published under section 41(1), only at the request of the local education authority referred to in that subsection, and
 - (b) in the case of proposals published under section 41(2), only at the request of the governing body of the school.
- (5) Subject to subsection (6), no person shall do or undertake to do anything for which proposals are required to be published and submitted under section 41 until the requirements of that section and section 44 have been complied with and any approval necessary under section 43 or 44 has been given.
- (6) The Secretary of State may in any case allow such steps to be taken pending compliance with any such requirements and the giving of any such approval as he considers reasonable in the circumstances.
- (7) Where proposals for the transfer of a school to a site in a different area are approved under section 43, then—
 - (a) in the case of any voluntary school—
 - (i) the reference in subsection (2) above to the local education authority is to be read as referring to the authority for the new area, and
 - (ii) upon the transfer the duty to maintain the school shall transfer to that authority; and
 - (b) in the case of any controlled school, section 60 (together with section 62) shall apply as if the duty to maintain the school had been transferred to the local education authority for the new area.

46 Establishment of a new voluntary school in substitution for an old one

- (1) This section applies where—
 - (a) proposals for the establishment of any school or schools are submitted to the Secretary of State under section 41(1); and
 - (b) in connection with those proposals it is claimed that the school or schools should be maintained by the local education authority as a voluntary school or voluntary schools in substitution for any other voluntary school or schools (whether maintained by that or another local education authority) which is or are to be discontinued.
- (2) If the Secretary of State—
 - (a) approves the proposals under section 43, and
 - (b) is satisfied that the new school or schools will be maintained as mentioned in subsection (1)(b) above,he may by order direct that the new school or schools shall be established in substitution for the school or schools which is or are to be discontinued.

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- (3) Where an order is made under this section, section 173 shall not apply with respect to the discontinuance of that school or those schools.
- (4) Before making an order under this section, the Secretary of State shall consult—
 - (a) any local education authority who in his opinion will be affected by the making of the order; and
 - (b) the governing body of any voluntary school which in his opinion will be so affected.
- (5) An order under this section may—
 - (a) impose such conditions on any such local education authority or governing body, and
 - (b) contain such incidental and consequential provisions,
 as the Secretary of State thinks fit.

47 Order authorising transfer of voluntary school to new site

- (1) Where the Secretary of State is satisfied that the transfer of a voluntary school to a new site is expedient—
 - (a) because it is not reasonably practicable to make to the existing premises of the school any alterations necessary to secure that they conform to the standards prescribed under section 542, or
 - (b) in consequence of any movement of population or of any action taken or proposed to be taken under the enactments relating to housing or to town and country planning,
 he may by order authorise the transfer of the school to the new site.
- (2) The Secretary of State shall not, however, make any such order in the case of an aided or special agreement school unless he is satisfied that the school's governing body will be able and willing, with the assistance of any grant made under section 65, to defray the expenses mentioned in section 59(5).
- (3) Before making an order under this section the Secretary of State shall consult—
 - (a) any local education authority who in his opinion will be affected by the making of the order; and
 - (b) the governing body of any voluntary school which in his opinion will be so affected.
- (4) An order under this section may—
 - (a) impose such conditions on any such local education authority or governing body, and
 - (b) contain such incidental and consequential provisions,
 as the Secretary of State thinks fit.

Status of new voluntary school

48 Order that school is to be controlled or aided school

- (1) Where, at or before the time when any proposals are submitted to the Secretary of State under section 41(1), an application is duly made to the Secretary of State with

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respect to the school to which the proposals relate, he may (subject to the following provisions of this section) by order direct—

- (a) that the school shall be a controlled school; or
- (b) that the school shall be an aided school.

(2) Where on an application for an order under subsection (1)(b) the Secretary of State is satisfied that the governing body of the school will be able and willing, with the assistance of grants under section 65, to defray the expenses that would fall to be borne by them by virtue of section 59(2) and (3) as the governing body of an aided school, he shall make an order directing that the school shall be an aided school.

(3) Where on an application for an order under subsection (1)(b)—

- (a) the Secretary of State is not satisfied that the governing body will be able to defray those expenses without the assistance of both—
 - (i) grants under section 65, and
 - (ii) a loan under section 67, and
- (b) it appears to him that the area to be served by the school will not be also served by a county or controlled school,

he shall comply with subsection (4) before determining the application.

(4) The Secretary of State—

- (a) shall consult such persons or bodies of persons as appear to him to be representative of any religion or religious denomination which, in his opinion having regard to the circumstances of the area, is likely to be concerned, and
- (b) unless he is satisfied after that consultation that the holding of a local inquiry is unnecessary, cause such an inquiry to be held.

Proposals for a middle school

49 Proposals under section 35 or 41 for a middle school

Proposals published under section 35 or 41 with respect to a school maintained or to be maintained by a local education authority may, if the authority or persons making them think fit—

- (a) specify an age below 10 years and six months and an age above 12 years, and
- (b) provide that the school is to be a school for providing full-time education suitable to the requirements of pupils whose ages are between the ages so specified.

Division of a single school into two or more schools

50 Division of a county school

(1) Where—

- (a) a county school is organised in two or more departments, and
- (b) the local education authority submit to the Secretary of State proposals that the school should be divided into two or more separate schools,

the Secretary of State may by order direct that the school shall be divided into two or more separate county schools.

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- (2) Any such order shall come into operation on such date as may be specified in the order; and as from that date the local education authority shall maintain as a county school each of the separate schools constituted in pursuance of the order.
- (3) An order under this section may contain such incidental, consequential and supplemental provisions as the Secretary of State thinks fit, and may, in particular, include provision for defining the premises of each of the separate schools to be constituted in pursuance of the order.
- (4) The constitution of a separate school in pursuance of an order under this section does not amount to the establishment of a new school for the purposes of section 35(1).
- (5) In this section “department”, in relation to a school, means a part of the school organised under a separate head teacher.

51 Division of a voluntary school

- (1) Where—
 - (a) a controlled or aided school is organised in two or more separate departments, and
 - (b) the governing body, after consulting the local education authority, submit to the Secretary of State proposals that the school should be divided into two or more separate schools,the Secretary of State may by order direct that the school shall be divided into two or more separate voluntary schools.
- (2) Where the school is a controlled school, the order shall direct that each of the schools into which it is to be divided shall be a controlled school.
- (3) Where the school is an aided school, the order shall direct that each of the schools into which it is to be divided shall be an aided school; except that, if the governing body request the Secretary of State to direct that all or any of those schools shall be controlled schools, the order shall direct accordingly.
- (4) An order under this section shall come into operation on such date as may be specified in the order; and as from that date the local education authority shall maintain as a voluntary school each of the separate schools constituted in pursuance of the order.
- (5) An order under this section may contain such incidental, consequential and supplemental provisions as the Secretary of State thinks fit, and may, in particular, include provision for defining the premises of each of the separate schools to be constituted in pursuance of the order.
- (6) The constitution of a separate school in pursuance of an order under this section does not amount to the establishment of a new school for the purposes of section 41(1).
- (7) No order shall be made under this section for the division of a school in respect of which a special agreement is in force.
- (8) In this section “department”, in relation to a school, means a part of the school organised under a separate head teacher.

Change of status from controlled school to aided school

52 Proposals for changing a controlled school to an aided school

- (1) Where the governing body of a controlled school propose to apply for an order under section 54 directing that the school should become an aided school, they shall, after consultation with the local education authority—
 - (a) publish their proposals in such manner as may be required by regulations, and
 - (b) submit a copy of the published proposals to the Secretary of State.
- (2) Proposals published under this section shall be accompanied by a statement which—
 - (a) explains the effect of section 53; and
 - (b) specifies the date on which the proposals are intended to be implemented.
- (3) A governing body who submit proposals to the Secretary of State under this section shall provide him with such information as he may reasonably require in order to be able to give proper consideration to them.

53 Objections to proposals

- (1) Objections to any proposals published under section 52 may be submitted to the Secretary of State by any of the following—
 - (a) any ten or more local government electors for the area of the local education authority by whom the school is maintained;
 - (b) the governing body of any voluntary school affected by the proposals; and
 - (c) any local education authority concerned.
- (2) Objections may be so submitted within the period of two months beginning with the date on which the proposals are first published.
- (3) For the purposes of this section proposals under section 52 shall be taken to have been first published—
 - (a) on the day on which the requirements of regulations under that section with respect to the publication of the proposals are satisfied; or
 - (b) where different such requirements are satisfied on different days, on the last of those days.
- (4) Where any such requirement imposes a continuing obligation with respect to the publication of any proposals, the requirement shall for the purposes of subsection (3) be taken to be satisfied on the first day in respect of which it is satisfied.

54 Order by Secretary of State

- (1) On an application duly made to him by the governing body of any controlled school the Secretary of State may by order direct that, as from such date as is specified in the order, the school shall be an aided school.
- (2) The Secretary of State shall not make an order under this section unless he is satisfied that the governing body will be able and willing—
 - (a) with the assistance of grants under section 65, to defray the expenses mentioned in section 59(2) and (3), and

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- (b) to pay to the local education authority any compensation payable by the governing body under section 56.
- (3) Where the Secretary of State proposes, in making an order under this section, to specify under subsection (1) a date which is different from that specified in pursuance of section 52(2)(b), he shall first consult the governing body and the local education authority as to the date which it would be appropriate to specify in the order.
- (4) Where, in consequence of an order made under this section, an amount will be payable by a governing body by way of compensation under section 56, the order—
 - (a) shall specify the amount of the compensation so payable and the date by which it must be paid; and
 - (b) may impose such conditions in relation to its payment as the Secretary of State thinks fit.
- (5) An order under this section may make such provision (including provision modifying any provision made by or under this Act) as the Secretary of State considers appropriate in connection with the transition of the school in question from controlled to aided status.
- (6) In particular, an order under this section may make provision—
 - (a) as to the circumstances in which, and purposes for which, the school is to be treated before the date specified under subsection (1) as if it were an aided school;
 - (b) as to the time by which the new instrument of government and articles of government (appropriate for an aided school) are to be made for the school, and the consent and consultation required before they are made;
 - (c) where the local education authority propose to pass a resolution under section 89 to group the school when it becomes an aided school, as to the consent required before that resolution is passed;
 - (d) as to the appointment and dismissal of staff for the school;
 - (e) as to the arrangements to be made in relation to the admission of pupils to the school; and
 - (f) as to functions exercisable by, or in relation to, the governing body or the governors of any category specified in the order.

55 Variation of order under section 54

- (1) Where the Secretary of State has made an order under section 54, he may, on the application of the local education authority or the foundation governors of the school, by order vary the order under that section so as to specify—
 - (a) a different date from that specified under subsection (1) of that section, or
 - (b) a different amount from that specified under subsection (4) of that section.
- (2) The foundation governors of a school shall consult the other governors before applying to the Secretary of State under this section.
- (3) Before making an order under this section the Secretary of State shall consult—
 - (a) the local education authority, where the application is by the foundation governors, and
 - (b) the foundation governors, where the application is by the local education authority.

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

- (4) Where foundation governors are consulted by the Secretary of State under subsection (3), they shall, before giving him their views, consult the other governors of the school.

56 Compensation payable by governing body to local education authority

- (1) Where a controlled school becomes an aided school by virtue of an order under section 54, the governing body shall pay to the local education authority, in accordance with the order, an amount by way of compensation for relevant capital expenditure incurred in respect of the school by the authority or a predecessor of theirs.
- (2) In subsection (1) “relevant capital expenditure” means—
- (a) expenditure incurred under section 60 (or under paragraph 1 of Schedule 1 to the Education Act 1946) in providing buildings which form part of the school premises;
 - (b) expenditure incurred under section 63 (or under section 2 of the Education (Miscellaneous Provisions) Act 1953) in defraying expenses of establishing the school; or
 - (c) expenditure incurred under section 64 (or under section 1 of the Education Act 1946) in defraying expenses of enlarging the school.
- (3) The amount payable by way of compensation under this section shall be—
- (a) such as may be agreed by the governing body and the local education authority, or
 - (b) failing such agreement, such as the Secretary of State thinks fit, having regard to the current value of the property in question.
- (4) The Secretary of State may, for the purpose of assisting him in any determination which he is required to make under subsection (3), appoint such person as he thinks competent to advise him on the valuation of property.
- (5) No contribution, grant or loan shall be paid, or other payment made, by the Secretary of State to the governing body of a controlled school in respect of any compensation payable by them under this section.

Change of status from aided or special agreement school to controlled or aided school

57 Change to controlled school where governing body unable or unwilling to carry out financial obligations

- (1) If at any time the governing body of an aided school are unable or unwilling to carry out all their obligations under section 59, they shall apply to the Secretary of State for an order revoking—
- (a) the order made under section 48, 54 or 58 (or under section 15 of the Education Act 1944 or section 54 of the Education (No. 2) Act 1986), or
 - (b) the direction in an order made under section 51 (or under section 2 of the Education Act 1946),
- by virtue of which the school is an aided school.
- (2) If at any time the governing body of a special agreement school are unable or unwilling to carry out all their obligations under section 59, they shall apply to the Secretary of

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

State for an order revoking the order made under section 15 of the Education Act 1944 by virtue of which the school is a special agreement school.

- (3) For the purposes of this section the governing body of an aided school or a special agreement school shall not be regarded as unable to carry out any of their obligations under section 59 if they are able to carry them out with the benefit of assistance under section 68 of this Act.
- (4) Where an application is made to him under this section, the Secretary of State shall by order revoke the order or direction in question, and the school in question shall thereupon become a controlled school in accordance with section 32(2).

58 Change to controlled or aided school on repayment of grant under special agreement

- (1) Where the Secretary of State is satisfied that the grant made in respect of a school in pursuance of a special agreement has been repaid as mentioned in paragraph 5 of Schedule 5, he shall, on an application made for the purpose by the school's governing body, by order revoke the order under section 15 of the Education Act 1944 by virtue of which the school is a special agreement school.
- (2) Where the Secretary of State—
 - (a) makes an order under this section, and
 - (b) is satisfied that the governing body of the school will be able and willing, with the assistance of grants under section 65, to defray the expenses that would fall to be borne by them by virtue of section 59(2) and (3) as the governing body of an aided school,he shall by order direct that the school shall be an aided school.
- (3) Where in any other case the Secretary of State makes an order under this section, the school in question shall thereupon become a controlled school in accordance with section 32(2).