



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER I

THE CURRICULUM

Supplementary

20 Procedure for making certain orders: England.

- (1) This section applies where the Secretary of State proposes to make—
 - (a) an order under section 3(4) or 4(2)(a) or (b) of this Act which relates to maintained schools in England; or
 - (b) regulations under section 17 of this Act which relate to such schools or to pupils at such schools.
- (2) The Secretary of State shall refer the proposal to the [^{F1}School Curriculum and Assessment Authority] (in this section referred to as [^{F2}the Authority]) and give to it directions as to the time within which it is to report to him.
- (3) [^{F2}the Authority] shall give notice of the proposal—
 - (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to it to be concerned; and
 - (b) to any other persons with whom consultation appears to it to be desirable; and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (4) The report of [^{F2}the Authority] to the Secretary of State shall contain—

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- (a) a summary of the views expressed during the consultations;
 - (b) its recommendations as to the proposal; and
 - (c) such other advice relating to the proposal as it thinks fit;
- and [^{F2}the Authority] shall, after submitting its report to the Secretary of State, arrange for the report to be published.
- (5) Where [^{F2}the Authority] has reported to the Secretary of State, he shall—
- (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
 - (i) a draft of the proposed order or regulations and any associated document; and
 - (ii) a statement explaining his reasons for any failure to give effect to the recommendations of [^{F2}the Authority];
 - (b) send copies of the documents mentioned in paragraph (a) above to [^{F2}the Authority] and to each of the persons consulted by [^{F2}the Authority]; and
 - (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.
- (6) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

Textual Amendments

F1 Words in s. 20(2) substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 122(2); S.I. 1993/1975, art. 9, **Sch.1**

F2 Words in s. 20 substituted (1.10.1993) by 1993 c. 35, s. 307(1), **Sch. 19**, para. 122(3); S.I. 1993/1975, art. 9, **Sch.1**

Modifications etc. (not altering text)

C1 S. 20 restricted (1.9.1994) by 1993 c. 35, s. 241(4); S.I. 1994/2038, art. 3(1), **Sch.2**.

S. 20 excluded (1.10.1993) by 1993 c. 35, s. 242(1)(b), 308(3); S.I. 1993/1975, art. 9, **Sch. 1**

C2 Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9**.

21 Procedure for making certain orders: Wales.

- (1) This section applies where the Secretary of State proposes to make—
- (a) an order under section 3(4) or 4(2)(a) or (b) of this Act which relates to maintained schools in Wales; or
 - (b) regulations under section 17 of this Act which relate to such schools or to pupils at such schools.
- [^{F3}(2) The Secretary of State shall refer the proposal to the Curriculum Council for Wales (in this section referred to as “the Council”) and give to it directions as to the time within which it is to report to him.
- (3) The Council shall give notice of the proposal—
- (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to it to be concerned; and
 - (b) to any other persons with whom consultation appears to it to be desirable;

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and afford them a reasonable opportunity of submitting evidence and representations as to the issues arising.

(3A) The report of the Council to the Secretary of State shall contain—

- (a) a summary of the views expressed during the consultations;
- (b) its recommendations as to the proposal; and
- (c) such other advice relating to the proposal as it thinks fit;

and the Council shall, after submitting its report to the Secretary of State, arrange for the report to be published.

(3B) Where the Council has reported to the Secretary of State, he shall—

- (a) publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education—
 - (i) a draft of the proposed order or regulations and any associated document; and
 - (ii) a statement explaining his reasons for any failure to give effect to the recommendations of the Council;
- (b) send copies of the documents mentioned in paragraph (a) above to the Council and to each of the persons consulted by the Council; and
- (c) allow a period of not less than one month for the submission of evidence and representations with respect to the issues arising.]

(4) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

Textual Amendments

F3 S. 21(2)(3)(3A)(3B) substituted for s. 21(2)(3) (1.10.1993) by 1993 c. 35, s.243; S.I. 1993/1975, art.9, sch. 1

Modifications etc. (not altering text)

C3 S. 21 excluded (1.10.1993) by 1993 c. 35, s. 242(1)(b); S.I. 1993/1975, art.9, Sch. 1

22 Provision of information.

(1) The Secretary of State may make regulations requiring, in relation to every maintained 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 relevant for the purposes of this Chapter (including information as to the matters mentioned in subsection (2) below); and
- (b) such copies of the documents mentioned in subsection (3) below; as may be prescribed.

(2) The matters referred to in subsection (1) above are as follows—

- (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; ^{F4} . . .

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- (c) the educational achievements of pupils at the school (including the results of any assessments of those pupils, whether under this Chapter or otherwise, for the purpose of ascertaining those achievements).
- [^{F5}; and
^{F5}(d) the educational achievements of pupils at such categories of school as may be prescribed (including results of the kind mentioned in paragraph (c)).]
- (3) The documents referred to in subsection (1) above are as follows—
- (a) any written statement made by the local education authority under section 17 of the 1986 Act (statement of policy in relation to school curriculum);
 - (b) any written statement made by the governing body in pursuance of provision made under section 18 of that Act (statement of conclusions as to how (if at all) the local education authority’s policy should be modified);
 - (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 30 of that Act (annual reports) or [^{F6}paragraph 8 of Schedule 6 to the Education Act 1993].
- (4) Before making regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.
- (5) Regulations under this section shall not require information as to the results of an individual pupil’s assessment (whether under this Chapter or otherwise) to be made available to any persons other than—
- (a) the parents of the pupil concerned;
 - [^{F7}(aa) the pupil concerned;
 - ^{F7}(ab) in the case of a pupil who has transferred to a different school, the head teacher of that school;]
 - (b) the governing body of the school; or
 - (c) the local education authority;
- and shall not require such information to be made available to the governing body [^{F8}the head teacher] or the local education authority except where relevant for the purposes of the performance ^{F9}. . . of any of their functions.
- (6) 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.
- (7) In relation to any maintained school, it shall be the duty of the local education authority and the governing body to exercise their functions with a view to securing that the head teacher complies with any regulations made under this section.

Textual Amendments

- F4** Word in s. 22(2) repealed (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(8), **Sch. 5**; S.I. 1992/1157, art. 2, **Sch.**
- F5** S. 22(2): word and s. 22(2)(d) added (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 6(1)(2)**; S.I. 1992/1157, art. 2, **Sch.**
- F6** Words in s. 22(3) substituted (1.1.1994) by 1993 c. 35, s. 307(1), **sch. 19**, para.123; S.I. 1993/3106, art. 4, **Sch.1** (as amended by S.I. 1994/436, **art.2**).

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- F7** S. 22(5)(aa)(ab) inserted (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 6(1)(3)**; S.I. 1992/1157, art. 2, **Sch.**
- F8** Words in s. 22(5) inserted (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7), **Sch. 4 para. 6(1)(4)(a)**; S.I. 1992/1157, art. 2, **Sch.**
- F9** Words in s. 22(5) repealed (16. 5. 1992) by Education (Schools) Act 1992 (c. 38), s. 21(7)(8), Sch. 4 para. 6(1)(4)(b), **Sch. 5**; S.I. 1992/1157, art. 2, **Sch.**

Modifications etc. (not altering text)

- C4** S. 22 applied (with modifications) (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt.I.**
- C5** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9.**

23 Complaints and enforcement.

- (1) Every local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies of aided schools and of special agreement schools, make arrangements for the consideration and disposal of any complaint made on or after 1st September 1989 which is to the effect that the authority, or the governing body of any county or voluntary school maintained by the authority or of any special school so maintained which is not established in a hospital—
- (a) have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed on them by or under—
- (i) any provision of this Chapter; or
- (ii) any other enactment relating to the curriculum for, or religious worship in, maintained schools other than grant-maintained schools; or
- (b) have failed to discharge any such duty.
- (2) The Secretary of State shall not entertain under section 68 or 99 of the 1944 Act any complaint falling within subsection (1) above, unless a complaint concerning the same matter has been made and disposed of in accordance with arrangements made under that subsection.

Modifications etc. (not altering text)

- C6** Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by S.I. 1994/1084, **reg.9.**
- C7** S. 23(1) modified by S.I. 1989/46, **art. 3(2)**
- C8** S. 23(1) restricted by S.I. 1989/46, **art. 3(4)**

24 Extension of certain provisions.

- (1) The Secretary of State may by order direct that the provisions of sections 5 and 10(2) (b) of this Act 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 nineteen (referred to below in this section as “FE students”);
- (b) any reference to a maintained school included [F10 except in relation to a local education authority, a reference to]

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- (ii) any institution (other than a university [^{F11}or an institution within the higher education sector]) which provides further education and is a grant-aided institution;
- [^{F12} and
- (iii) ^{F12}any institution within the further education sector]
- (c) any reference to the head teacher of such a school included a reference to the principal or other head of such an institution; and
- (d) any reference to a school year included a reference to an academic year.
- (2) An order under this section may make such consequential modifications of section [^{F13}245(1) of the Education Act 1993] as appear to the Secretary of State to be necessary or expedient.
- (3) In relation to FE students in relation to whom sections 5 and 10(2)(b) of this Act have effect by virtue of an order under this section, section 22 of this Act shall have effect—
- (a) with the modifications mentioned in subsection (1)(b) and (c) above;
- (b) as if the information referred to in paragraph (a) of subsection (1) were information with respect to the following matters—
- (i) the qualifications authenticated by outside persons (within the meaning of section 5 of this Act) 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 (5)—
- (i) the reference to the results of an individual pupil's assessment (whether under this Chapter or otherwise) included a reference to the results of an individual student's assessment for the purposes of any such qualification; and
- (ii) the reference to the pupil concerned included a reference to the student concerned; and
- (d) with the omission of subsections (1)(b), (2) and (3).
- (4) Before making an order under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.

Textual Amendments

F10 Words in s. 24(1)(b) substituted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. 1 para. 28(a); S.I. 1992/831, art. 2, Sch. 3.

F11 Words in s. 24(1)(b)(ii) inserted (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. 1 para. 28(b); S.I. 1992/831, art. 2, Sch. 3.

F12 Word "and", and s. 24(1)(b)(iii), added (1. 4. 1993) by Further and Higher Education Act 1992 (c. 13), s. 93(1), Sch. 8 Pt. 1 para. 28(c); S.I. 1992/831, art. 2, Sch. 3.

F13 Words in s. 24(2) substituted (1.10.1993) by 1993 c. 35, s. 307(1), Sch. 19, para.124; S.I. 1993/1975, art.9, Sch. 1

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Modifications etc. (not altering text)

C9 Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084](#), [reg.9](#).

25 Interpretation of Chapter I.

(1) In this Chapter, except in so far as the context otherwise requires—

“assess ” includes examine and test, and cognate expressions shall be construed accordingly;

“assessment arrangements ”, “attainment targets ” and “programmes of study ” have the meanings given by section 2 of this Act;

“core subjects ”, “foundation subjects ” and “key stages ” have the meanings given by section 3 of this Act and “foundation subjects ” includes “core subjects ”;

F14
...

“maintained school ” means—

- (a) any county or voluntary school;
- (b) any maintained special school which is not established in a hospital; and
- (c) except in relation to a local education authority, any grant-maintained school.

(2) Nothing in this Chapter shall apply in relation to a nursery school or a nursery class in a primary school.

Textual Amendments

F14 Definition of “Curriculum Council ” in s. 25(1) repealed (1.10.1993) by [1993 c. 35, s. 307\(3\)](#), [Sch. 21](#), Pt. II; [S.I. 1993/1975](#), [art.9](#), [Sch. 1](#)

Modifications etc. (not altering text)

C10 S. 25 applied (with modifications) (1.4.1994) by [S.I. 1994/653](#), [reg. 42\(1\)](#), [Sch. Pt.I](#).

C11 Ss. 1-25 (Pt. I) except ss. 2(1)(a), 6, 9(3)-(10), 10(1) applied (9.5.1994) by [S.I. 1994/1084](#), [reg.9](#).

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