



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

### CHAPTER III

#### FINANCE AND STAFF

#### *Miscellaneous and supplementary*

#### **48 New schools**

(1) Schedule 4 to this Act has effect for the purpose of applying the provisions of this Chapter and Schedule 3 to this Act in relation to new schools which have temporary governing bodies.

(2) In this section and in Schedule 4 to this Act—

“new school” and “relevant proposal” have the same meanings respectively as in Schedule 2 to the 1986 Act (where “new school” covers both a school proposed to be established which will on implementation of the relevant proposal be maintained by a local education authority and a school which will be so maintained on the implementation in relation to an existing school of the relevant proposal); and

“temporary governing body” means a temporary governing body constituted for a new school under an arrangement made under section 12 of that Act (excluding such a governing body who fall by virtue of paragraph 3(5) of that Schedule to be treated as if they were the governing body constituted under the provisions of that Act that apply following the implementation of the relevant proposal).

**49 Required financial delegation apart from schemes**

- (1) In respect of any period during which any county, voluntary or special school maintained by a local education authority does not have a delegated budget it shall be the duty of the authority to make available a sum of money which the governing body of the school are to be entitled to spend at their discretion during that period (but subject to subsection (2) below) on books, equipment, stationery and such other heads of expenditure (if any) as the authority may specify or as may be prescribed.
- (2) A governing body to whom any sum is made available under this section—
  - (a) shall comply in spending that sum with such reasonable conditions as the authority think fit to impose; and
  - (b) may delegate to the head teacher, to such extent as they may specify, their powers in relation to that sum.
- (3) Before making any regulations for the purposes of subsection (1) above, the Secretary of State shall consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.

**50 Financial statements in respect of schools not covered by statements under section 42**

- (1) Every local education authority shall prepare a statement under subsection (5) below in respect of any financial year before the first financial year in respect of which the authority are required to prepare a statement under section 42 of this Act (including the financial year current at the time when this section comes into force).
- (2) Subject to subsection (3) below, every local education authority who maintain one or more special schools during the whole or any part of any financial year after the last financial year to which subsection (1) above applies shall prepare a statement under subsection (5) below in respect of that financial year.
- (3) Subsection (2) above shall not apply in relation to such an authority in respect of any financial year in respect of which the authority are required to prepare a statement under section 42 of this Act which, by virtue of any provision made by regulations under section 43 of this Act, is required to include information with respect to the special school or (as the case may be) with respect to each of the special schools concerned.
- (4) The schools required to be covered by a statement prepared by a local education authority under subsection (5) below in respect of any financial year are—
  - (a) in the case of a statement required by subsection (1) above, any county, voluntary or special school maintained by the authority during the whole or any part of that year; and
  - (b) in the case of a statement required by subsection (2) above, any special school so maintained other than one in respect of which, by virtue of any provision so made, any information is required to be included in a statement prepared by the authority in respect of that year under section 42 of this Act.
- (5) The statement shall give the following particulars with respect to the financial provision initially planned by the authority in respect of the financial year to which the statement relates for the schools required to be covered by the statement—

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- (a) the initial amount appropriated for meeting expenditure in that year in respect of all such schools;
  - (b) the amount remaining (referred to below in this section as the general expenditure amount) after deducting from the amount specified in the statement by virtue of paragraph (a) above the aggregate amount of the initial amounts so appropriated in respect of—
    - (i) expenditure of a capital nature;
    - (ii) expenditure in respect of the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any loan raised to meet expenditure of a capital nature; and
    - (iii) expenditure of such other descriptions as may be prescribed;
  - (c) such particulars as may be prescribed of amounts so deducted;
  - (d) in the case of each such school, the share of—
    - (i) the general expenditure amount; and
    - (ii) such of the amounts so deducted by virtue of paragraph (b)(iii) above as may be prescribed;which is appropriated by the authority for meeting expenditure for the purposes of the school;
  - (e) in the case of each such school, the amount of any expenditure of a capital nature initially planned for the purposes of the school;
  - (f) such particulars of the basis on which the authority determine the share of each such school for the purposes of the information required to be included in the statement under paragraph (d) above as may be prescribed; and
  - (g) such further information with respect to the financial provision initially planned by the authority for the schools required to be covered by the statement as may be prescribed.
- (6) After the end of each financial year in respect of which a local education authority are required to prepare a statement under subsection (5) above the authority shall prepare a statement containing such information with respect to—
- (a) expenditure actually incurred in that year for the purposes of all schools required to be covered by the statement under subsection (5); and
  - (b) expenditure so incurred which was incurred, or is treated by the authority as having been incurred, for the purposes of each such school;
- as may be prescribed.
- (7) Each statement prepared under this section in respect of any financial year shall be prepared in such form, and published in such manner and at such times, as may be prescribed.
- (8) The authority shall furnish the governing body of any school required to be covered by a statement prepared under subsection (5) above in respect of any financial year with a copy of each statement prepared by the authority under this section in relation to that year.
- (9) A governing body to whom a copy of any such statement is furnished under subsection (8) above shall secure that a copy of the statement is available for inspection (at all reasonable times and free of charge) at the school.
- (10) Where only one school is required to be covered by a statement prepared under subsection (5) above—

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- (a) references in this section to all schools required to be so covered shall be read as references to the school in question;
- (b) that subsection shall apply with the omission of paragraphs (d) to (f); and
- (c) subsection (6) above shall apply with the omission of paragraph (b).

## **51 Interpretation of Chapter III and supplementary and consequential provisions**

### (1) In this Chapter—

“expenditure of a capital nature” means, in relation to a local education authority, expenditure treated by that authority as expenditure of a capital nature; and

“governors' report” means, in relation to the governing body of any school to which section 30 of the 1986 Act applies, the report they are required to prepare by virtue of that section.

### (2) In this Chapter—

- (a) references to a scheme are references—
  - (i) to a scheme made by a local education authority under section 33 of this Act; and
  - (ii) in a context referring to a particular local education authority, to a scheme so made by that authority;
- (b) references to a school's budget share for any financial year—
  - (i) shall be read in accordance with subsection (2)(a) of that section; and
  - (ii) include references to that share as from time to time revised in accordance with the scheme under which it is determined;
- (c) references to the general schools budget of a local education authority shall be read in accordance with subsection (4)(a) of that section;
- (d) references to the aggregated budget of a local education authority shall be read in accordance with subsection (4)(b) of that section;
- (e) references to excepted heads or items of expenditure shall be read in accordance with subsection (4)(b)(i) of that section;
- (f) references to a school in respect of which financial delegation is required for any financial year shall be read in accordance with subsection (6)(a) of that section;
- (g) references to a school which has a delegated budget shall be read in accordance with subsection (6)(b) of that section;
- (h) references, in relation to a scheme, to excluded expenditure under the scheme shall be read in accordance with subsection (6)(c) of that section; and
- (i) references to the delegation requirement under a scheme shall be read in accordance with section 39(4).

### (3) During any period when a school has a delegated budget under any scheme any provisions of the articles of government of the school which are inconsistent with the operation during that period of any provisions of this Chapter or of the scheme shall be of no effect to the extent of that inconsistency.

This subsection does not apply to any provision of the articles of government such as is referred to in section 44(2)(b) or 45(2)(b) of this Act (in relation to which provision corresponding to that made by subsections (4) and (5) below is made by sections 44(4) and 45(11) respectively).

- (4) Within the period of five years beginning with the date on which the financial year begins in which any school first has a delegated budget under a scheme, it shall be the duty of the local education authority concerned, if the articles of government of the school contain any provision to which subsection (3) above applies, to amend the articles so as to include in relation to that provision or (as the case may be) in relation to each such provision contained in the articles the statement required by subsection (5) below.
- (5) The statement shall specify—
- (a) the provision or provisions of the articles in question;
  - (b) the provision of this Chapter or of the scheme (the “W”) with the operation of which any provision of the articles specified under paragraph (a) above is inconsistent; and
  - (c) the extent of the inconsistency;
- and shall indicate that, during any period when the school has a delegated budget, any provision of the articles so specified is superseded by the overriding provision to the extent that it is inconsistent with it.
- (6) Any amendment of the articles of government of a school required by section 44(4) or 45(11) of this Act or by subsection (4) above shall be made by order under section 1 of the 1986 Act; but section 2 of that Act shall not apply in relation to any order made under section 1 by virtue of this subsection.
- (7) It shall be for the Secretary of State to determine any question arising under a scheme as to whether a primary school required to be covered by the scheme is within the delegation requirement under the scheme.
- (8) Section 29 of the 1986 Act (which requires provisions to be contained in articles of government of schools with respect to financial statements and financial delegation and is superseded by the provisions of this Chapter), and any provision included in the articles of government of any school by virtue of that section, shall cease to have effect.
- (9) In section 30(2)(h) of that Act (financial statement to be included in governors' annual report to parents), for sub-paragraphs (i) and (ii) there shall be substituted the following sub-paragraphs—
- “(i) reproducing or summarising any financial statement of which a copy has been furnished to the governing body by the authority under section 42 or 50 of the Education Reform Act 1988 since the last governors' report was prepared;
  - (ii) indicating, in general terms, how any sum made available to the governing body by the authority in respect of the school's budget share within the meaning of Chapter III of Part I of that Act or under section 49 of that Act in the period covered by the report was used;”.