



Education Act 1993

1993 CHAPTER 35

PART II

GRANT-MAINTAINED SCHOOLS

CHAPTER IV

ESTABLISHING NEW GRANT-MAINTAINED SCHOOLS

Proposals for establishment of new grant-maintained school

48 Proposals by funding authority

- (1) This section has effect in respect of the area of a local education authority if an order under section 12(1) of this Act applies to the area.
- (2) The funding authority may establish grant-maintained schools for the purpose of providing relevant education.
- (3) Where the funding authority intend to establish a grant-maintained school, they shall—
 - (a) publish proposals for that purpose in such manner as may be prescribed, and
 - (b) submit a copy of the published proposals to the Secretary of State.
- (4) Before publishing any proposals under this section the funding authority shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection, the funding authority shall have regard to any guidance given to them from time to time by the Secretary of State.

49 Proposals by promoters

- (1) Where any persons (referred to in this Part of this Act as “promoters”) propose to establish a grant-maintained school, they shall—
 - (a) publish proposals for that purpose in such manner as may be prescribed, and

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- (b) submit a copy of the published proposals to the Secretary of State.
- (2) Before publishing any proposals under this section the promoters shall consult—
 - (a) the funding authority, and
 - (b) such other persons as appear to them to be appropriate;
 and in discharging their duty under this subsection, the promoters shall have regard to any guidance given from time to time by the Secretary of State.
- (3) A local education authority may not establish any grant-maintained school.
- (4) In relation to England this section has effect at any time after the funding authority have begun to exercise their functions.

50 Provisions supplementary to sections 48 and 49

- (1) Part II of Schedule 3 to this Act (which makes provision supplementing sections 48 and 49) shall have effect.
- (2) Subsection (3) below applies where promoters propose to establish a grant-maintained school in place of an existing independent school which it is proposed to discontinue on or before the date of implementation of the proposals.
- (3) Where this subsection applies, the proposals published by the promoters under section 49 of this Act shall, in addition to the matters required to be specified by virtue of paragraph 7 of Schedule 3 to this Act—
 - (a) specify any arrangements proposed to be made by the promoters for land and other property held for the purposes of the existing independent school to be held for the purposes of the grant-maintained school, and
 - (b) state whether there is a trust deed or other instrument relating to the existing independent school.
- (4) References in this Part of this Act to proposals published under section 48 or 49 of this Act, in any case where the Secretary of State has modified such proposals in pursuance of this Part of this Act, are to the proposals as so modified.
- (5) No proposals may be published under section 48 or 49 of this Act for a school which may provide any education which is neither primary nor secondary education unless it is—
 - (a) part-time education suitable to the requirements of persons of any age over compulsory school age, or full-time education suitable to the requirements of persons who have attained the age of nineteen years, or
 - (b) part-time education suitable to the requirements of junior pupils.

Approval and implementation of proposals

51 Approval, adoption or rejection of proposals

- (1) Proposals published under section 48 of this Act require the approval of the Secretary of State if—
 - (a) he gives notice to that effect to the funding authority within two months after the submission to him of the published proposals,

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- (b) objections have been made under paragraph 10 of Schedule 3 to this Act within the period allowed under that paragraph (unless all objections so made have been withdrawn in writing within that period), or
 - (c) the proposals name a sponsor of the school.
- (2) Proposals published under section 49 of this Act require the approval of the Secretary of State.
- (3) Where under subsection (1) or (2) above any proposals require the approval of the Secretary of State, he may reject them, approve them without modification or, after consulting the funding authority and, in the case of proposals under section 49 of this Act, the promoters, approve them with such modifications as he thinks desirable.
- (4) In relation to Wales, subsection (3) above shall have effect before the Schools Funding Council for Wales begin to exercise their functions with the omission of the reference to consulting the funding authority.
- (5) In the case of proposals published under section 48 of this Act, particulars in respect of the proposed premises of the school prepared under paragraph 12 of Schedule 3 to this Act must be adopted by the funding authority.
- (6) In the case of proposals published under section 49 of this Act, particulars in respect of the proposed premises of the school submitted under paragraph 12 of Schedule 3 to this Act require the approval of the funding authority.
- (7) Where proposals published under section 48 of this Act do not require the approval of the Secretary of State, the funding authority shall determine whether to adopt the proposals.
- (8) The funding authority shall—
 - (a) make any determination under subsection (7) above not later than four months after the publication of the proposals, and
 - (b) give notice in writing to the Secretary of State of their determination.

52 Implementation of proposals

- (1) Where any proposals are approved or adopted under section 51 of this Act, the persons who are appointed in accordance with regulations to be the initial first or (as the case may be) foundation governors shall on the incorporation date be incorporated as the governing body of the school under the name given in pursuance of paragraph 7(1) (f) of Schedule 3 to this Act.
- (2) Where any proposals published under section 48 of this Act are so approved or adopted, the funding authority shall implement the proposals or, if under this subsection the Secretary of State modifies the proposals at their request, the proposals as modified.
- (3) Where any proposals published under section 49 of this Act are so approved, the promoters shall implement the proposals or, if under this subsection the Secretary of State modifies the proposals at their request, the proposals as modified.
- (4) Proposals required to be implemented under this section shall be implemented in accordance with any particulars adopted or approved under section 51(5) or (6) of this Act.

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53 Exercise of powers before proposed date of implementation, and payment of grant

- (1) Where proposals have been approved or adopted under section 51 of this Act, the powers conferred on the governing body by or under this Part of this Act shall, until the date of implementation of the proposals, be exercised only for the purpose of or in connection with the conduct of the school on or after that date.
- (2) In the case of proposals under section 49 of this Act, the funding authority may at any time after the incorporation date make grants to the governing body in respect of the provision of premises for the school.
- (3) So far as the amount of any grant under subsection (2) above relates to the provision of a site for the school or of school buildings, it shall not exceed 85 per cent. of the sums expended by the governing body in respect of the provision of the site and buildings in question.
- (4) Where proposals have been approved or adopted under section 51 of this Act, then, in respect of the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals—
 - (a) Chapter VI shall not apply, but
 - (b) the funding authority may make grants to the governing body (other than grants in respect of the provision of premises for the school) in respect of expenditure incurred or to be incurred by that body.
- (5) The funding authority may impose on a governing body to whom a grant is made under subsection (2) or (4) above such requirements as they may from time to time determine (whether before, at or after the time when the grant is made).
- (6) Such requirements may, in particular, if any conditions specified in the requirements are satisfied, require the payment to the funding authority of the whole or any part of the following amount.
- (7) That amount is—
 - (a) the amount of the payments made in respect of the grant, or
 - (b) so much of the value of any premises or equipment in respect of which the grant was paid as is determined in accordance with the requirements to be properly attributable to the payment of such grant,
 whichever is the greater.
- (8) No such requirement as is referred to in subsection (6) above may be imposed where any grant is made under subsection (2) above in respect of the provision of premises for the school if any freehold interest in the premises in respect of which the grant is paid is, or is to be, held on trust for the purposes of the school.
- (9) In this section “site” does not include playing fields.

Supplementary

54 Chapter IV: interpretation

In relation to proposals for the establishment of a new grant-maintained school or to a school established in pursuance of such proposals—

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- (a) the date specified in the proposals as the proposed incorporation date is referred to in this Part of this Act as the “incorporation date”, and
- (b) the date specified in the proposals as the proposed date of implementation is referred to in this Part of this Act as the “date of implementation of the proposals”.