



# Education Act 1996

## 1996 CHAPTER 56

### PART II

#### SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

### CHAPTER VI

#### CONDUCT AND STAFFING OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

##### *Staffing of schools with delegated budgets*

#### **136 Staffing of county, controlled and special agreement schools with delegated budgets**

- (1) This section applies to a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) None of the following shall apply in relation to the school—
  - (a) section 133 and Schedule 13,
  - (b) section 135(1) to (6), and
  - (c) any provision made by the articles of government for the school in accordance with Schedule 13 or section 135(1) to (6).
- (3) Instead Schedule 14 has effect in relation to the staffing of the school, subject, however, to the provisions of sections 143 and 144 (appointment and dismissal of teachers of religious education).

#### **137 Staffing of aided schools with delegated budgets**

- (1) This section applies to an aided school at any time when it has a delegated budget.
- (2) None of the following shall apply in relation to the school—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) any provision of the articles of government for the school conferring any functions on a local education authority with respect to the number, appointment or dismissal of teachers or other staff to be employed at the school (including any such provision which is required by section 134), and
  - (b) section 134(5).
- (3) If, apart from any provision of the articles of government excluded by subsection (2) (a) they would not otherwise have power to do so, the governing body may appoint, suspend and dismiss staff as they think fit.
- (4) Subsection (3) has effect subject to any provision of the articles of government (other than one excluded by subsection (2)(a)).
- (5) The governing body shall, on dismissing any member of the staff of the school employed by them, notify the local education authority in writing of the reasons for the dismissal.
- (6) Paragraphs 23 to 28 of Schedule 14 apply in relation to the dismissal or withdrawal from the school of any member of the staff who is employed by the local education authority as they apply in relation to the dismissal or withdrawal from a county, controlled or special agreement school which has a delegated budget of a person employed to work at the school.

**138 Staffing of aided schools with delegated budgets: advisory rights of chief education officer**

- (1) Subsection (2) applies if, in the case of an aided school which has a delegated budget—
- (a) the governing body of the school have agreed with the local education authority to accord to the authority’s chief education officer advisory rights in relation to the appointment or dismissal of teachers at the school, or
  - (b) in default of such agreement, the Secretary of State has determined that it would be appropriate that such advisory rights should be accorded to the chief education officer.
- (2) During any period when the agreement or determination under subsection (1) is effective, the chief education officer, or an officer of the authority nominated by him, shall be entitled to attend all relevant proceedings of the governing body for the purpose of giving advice to the governing body.
- For this purpose “relevant proceedings” means proceedings (including interviews) relating to any action to which the advisory rights accorded to the chief education officer extend.
- (3) Advisory rights accorded by an agreement or determination under subsection (1) may relate to the appointment or dismissal, or both to the appointment and to the dismissal, either—
- (a) of head teachers and deputy head teachers alone, or
  - (b) of all teachers at the school.
- (4) The agreement of a governing body for the purposes of subsection (1)(a) must be given in writing and may only be withdrawn by notice in writing to the local education authority.

- (5) A determination by the Secretary of State for the purposes of subsection (1)(b) may be withdrawn at any time (without prejudice to a further determination for those purposes).

### **139 Staffing of schools with delegated budgets: payments in respect of dismissal, etc**

- (1) This section applies to a county or voluntary school at any time when it has a delegated budget.
- (2) It shall be for the governing body to determine—
- (a) whether any payment should be made by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school, and
  - (b) the amount of any such payment.
- (3) Subsection (2) does not, however, apply in relation to a payment which the authority are required to make—
- (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned, or
  - (b) under any statutory provision.
- (4) The local education authority—
- (a) shall take such steps as may be required for giving effect to any determination of the governing body under subsection (2), and
  - (b) shall not make, or agree to make, a payment in relation to which that subsection applies except in accordance with such a determination.
- (5) Costs incurred by the local education authority in respect of the dismissal or premature retirement, or for the purpose of securing the resignation, of any member of the staff of the school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.
- (6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5).
- (7) In subsection (6) the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996.

### **140 Staffing for non-school activities in community schools**

- (1) This section applies to a county or voluntary school which has a delegated budget and is a community school.
- (2) For the purposes of this section a school is a “community school” if—
- (a) activities other than school activities (“non-school activities”) are carried on on the school premises, and
  - (b) all non-school activities which are so carried on are carried on under the management or control of the school's governing body.
- (3) A scheme such as is mentioned in section 101(1) may provide for applying sections 136(2), 137(6) and 139 and Schedule 14 in relation to persons employed to work—

---

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

---

- (a) partly for the purposes of school activities and partly for the purposes of non-school activities carried on on the premises of a school to which this section applies, or
  - (b) solely for the purposes of non-school activities so carried on,
- as if all activities so carried on were school activities.

#### **141 Amendment of articles of government relating to staffing**

- (1) Within the period of five years beginning with the date on which begins the financial year in which a county or voluntary school first has a delegated budget under a scheme, the local education authority shall amend the school's articles of government in accordance with this section.
- (2) If the school is a county, controlled or special agreement school, the articles of government shall be amended so as to include a statement—
  - (a) specifying the provisions made by the articles in accordance with Schedule 13 or section 135(1) to (6), and
  - (b) indicating that those provisions are superseded by section 136 and Schedule 14 during any period when the school has a delegated budget.
- (3) If the school is an aided school the articles of government shall be amended so as to include a statement—
  - (a) specifying the provisions of the articles which are within section 137(2)(a), and
  - (b) indicating that those provisions are superseded by sections 137 and 138 during any period when the school has a delegated budget.
- (4) An amendment under this section shall be made by order under section 127; but section 128 shall not apply in relation to an order made under section 127 by virtue of this section.

#### **142 Application of provisions to maintained special schools**

Section 120(4) confers power on the Secretary of State to make in any of the following, namely—

- (a) sections 136 to 141,
- (b) Schedule 14, and
- (c) paragraphs 2 and 18 to 24 of Schedule 19,

amendments appearing to him to be required in consequence of any provision made in regulations under section 120(1) (application of schemes to maintained special schools).