



Education Act 1996

1996 CHAPTER 56

PART III

GRANT-MAINTAINED SCHOOLS

CHAPTER X

GENERAL AND MISCELLANEOUS

Middle schools

291 Grant-maintained middle schools

Proposals published under section 211, 212, 259 or 260 may, if the authority, persons or body 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 to which the proposals relate is to be a school for providing full-time education suitable to the requirements of pupils whose ages are between the ages so specified.

Nursery education

292 Nursery education in grant-maintained schools

(1) No proposals may be published—

- (a) under section 211 or 212 for the establishment of any nursery school, or
 - (b) under section 259 or 260 for a school to become a nursery school;
- and nothing in Chapter II applies to a nursery school.

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- (2) Subject to subsection (1) above, proposals under section 211, 212, 259 or 260 may, in particular, be made for the purpose of securing the provision of education for junior pupils who have not attained the age of five.

Further education

293 Provision of further education in grant-maintained schools

It shall be the duty of the governing body of any grant-maintained school which provides—

- (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,

to secure that, except in such circumstances as may be prescribed, it is not provided at any time in a room where pupils are at that time being taught.

Teacher training

294 Provision of courses of initial teacher training

- (1) Section 12 of the Education Act 1994 confers power on the governing body of a grant-maintained school—
- (a) to provide courses of initial training for school teachers, or
 - (b) to join in a partnership or association with other eligible institutions, or (whether alone or jointly with other eligible institutions) to establish a body, for the purpose of providing such courses.
- (2) In subsection (1) “eligible institution” has the meaning given by section 4(2) of that Act.

Provision of benefits and services by local education authority

295 Provision of benefits and services for pupils etc. by local education authority

- (1) Where—
- (a) a local education authority are under a duty, or have power, to provide any benefits or services for pupils, and
 - (b) the duty is to be performed, or the power may be exercised, both in relation to pupils at schools maintained by a local education authority and in relation to pupils at grant-maintained schools,
- the authority shall in performing the duty, or exercising the power, treat pupils at grant-maintained schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than pupils at schools maintained by a local education authority.

- (2) Where—

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- (a) a local education authority are under a duty, or have power, to provide any benefits or services for persons, other than pupils, receiving education at a school, and
- (b) the duty is to be performed, or the power may be exercised, both in relation to such persons at schools maintained by a local education authority and in relation to such persons at grant-maintained schools,

the authority shall in performing the duty, or in exercising the power, treat such persons at grant-maintained schools no less favourably (whether as to the benefits or services provided or as to the terms on which they are provided) than such persons at schools maintained by a local education authority.

Transfer and disposal of premises

296 Transfer of premises to trustees

- (1) Where grant under section 216(2) or capital grant is paid to the governing body of a grant-maintained school established in pursuance of proposals published under section 212 in respect of the provision of a site for the school or of school buildings, a requirement shall be imposed under section 216 or, as the case may be, Chapter VI for the purpose of securing that the site or buildings in question are held on trust by trustees of the school.
- (2) Where buildings are to be provided for any grant-maintained school which are—
 - (a) to form part of the school premises, and
 - (b) to be constructed partly on land held by the governing body and partly on land held on trust for the purposes of the school by persons other than the governing body,the governing body shall transfer to those persons the land held by the governing body on which the buildings are to be constructed; and section 231(7) does not apply to a transfer required by this subsection.
- (3) In this section “site” does not include playing fields.

297 Disposal of premises on transfer of school to new site

- (1) Where—
 - (a) the funding authority pay capital grant in respect of a transfer of a grant-maintained school to a new site authorised under Chapter VII, and
 - (b) the governing body or any trustees of the school possess, or are or may become entitled to, a sum representing the proceeds of disposal of other premises which have been used for the purposes of the school,the governing body or (as the case may be) the trustees or their successors shall pay to the Secretary of State the whole of that sum, if it is equal to or less than the amount of the capital grant, and otherwise so much of it as is required to repay that amount.
- (2) Any sum paid under subsection (1) shall, in a case where any interest in the new site has vested in any trustees of the school, be treated for the purposes of section 14 of the Schools Sites Act 1841 (which relates to the sale or exchange of land held on trust for the purposes of a school) as a sum applied in the purchase of a site for the school.

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- (3) Where trustees of a grant-maintained school are required to pay any sum to the Secretary of State under subsection (1) in a case where any interest in the new site is or is to be held by the governing body, then—
- (a) if the interest or, as the case may be, all the interests held by any persons for the purposes of the school in the previous site were freehold interests held by the trustees, the governing body shall transfer their interest in the new site to the trustees, and
 - (b) if in any other case the trustees held any interest in the previous site, the governing body shall, if directed to do so by the Secretary of State, transfer to the trustees their interest in the whole of the new site or such part of it as may be specified in the direction.
- (4) Where trustees of a grant-maintained school are required to pay any sum to the Secretary of State under subsection (1) in a case in which they may also be required to pay any sum to a local education authority under section 62(2) in respect of the disposal of the same premises, section 62(2) shall have effect as if—
- (a) in relation to that disposal, the reference to the purchase money paid in respect of the acquisition of the premises were a reference to so much of the amount of that purchase money as remains after deducting the amount of the payment under subsection (1) above, and
 - (b) any premises transferred to the trustees in pursuance of subsection (3) above were premises conveyed by the authority as mentioned in section 62(2).
- (5) In subsection (3)(a) “site” does not include playing fields.

298 Disposal of premises transferred under section 201

- (1) This section applies where the governing body of a grant-maintained school apply to the Secretary of State for his consent to the disposal of—
- (a) any premises transferred to the governing body under section 201(1)(a), or
 - (b) any premises acquired wholly or partly with the proceeds of the disposal of any premises so transferred or of any premises so acquired.
- (2) Subject to subsection (3), the Secretary of State may—
- (a) require the premises or any part of the premises to be transferred to such local authority as the Secretary of State may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate, or
 - (b) where he does not impose a requirement under paragraph (a), require the governing body, when the premises are disposed of, to pay to such local authority as the Secretary of State may specify the whole or any part of the proceeds of disposal.
- (3) Where the occasion of the disposal is a transfer of the school to a new site in respect of which the funding authority have paid capital grant—
- (a) no requirement shall be imposed under subsection (2)(a), and
 - (b) the reference in subsection (2)(b) to the proceeds of disposal shall be read as a reference to such part (if any) of those proceeds as remains after repayment of the amount of that capital grant in accordance with section 297.

299 Disposal of premises held by trustees

- (1) This section applies where any premises—
 - (a) transferred to the governing body of a grant-maintained school under section 201(1)(a), or
 - (b) acquired by such a governing body wholly or partly with the proceeds of the disposal of any premises so transferred or of any premises so acquired,have been transferred by them to be held on trust by the trustees of the school.
- (2) If at any time the trustees dispose of the premises the Secretary of State may require them to pay to such local authority as he may specify the whole or any part of the proceeds of the disposal.

300 Disposal of premises provided, etc. by the funding authority

- (1) Where the governing body of a grant-maintained school apply to the Secretary of State for his consent to the disposal of—
 - (a) any premises provided by the funding authority, or
 - (b) any premises acquired wholly or partly with the proceeds of the disposal of any premises so provided or of any premises so acquired,the Secretary of State may require the governing body, when the premises are disposed of, to pay to him or to the funding authority the whole or any part of the proceeds of disposal.
- (2) Where—
 - (a) any premises falling within subsection (1)(a) or (b) are transferred by the governing body to be held on trust by the trustees of the school, or
 - (b) any premises in respect of which capital grant was paid are transferred by the governing body (otherwise than in pursuance of a requirement imposed in accordance with section 296 or in pursuance of section 297(3)) to be held on trust by the trustees of the school,then, if at any time the trustees dispose of the premises, the Secretary of State may require them to pay to him or to the funding authority the whole or any part of the proceeds of the disposal.

301 Interpretation of sections 296 to 300

- (1) For the purposes of sections 297 and 298, the funding authority are to be regarded as paying capital grant in respect of the transfer of a school to a new site if they pay capital grant in respect of the acquisition of the new site or the provision on that site of the school buildings or of any other buildings forming part of the new school premises.
- (2) In sections 296 to 300 “trustees of the school” means any person (other than the governing body) holding property on trust for the purposes of the school.
- (3) For the purposes of sections 297 to 300—
 - (a) a governing body or trustees are to be regarded as disposing of any premises if those premises are acquired from them, whether compulsorily or otherwise, and
 - (b) “proceeds of disposal”, in relation to a disposal of premises by a governing body or trustees, means the compensation or purchase money paid in respect of the acquisition from them of those premises.

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- (4) In subsection (3)—
- (a) references to the acquisition of premises from a governing body or trustees include, in the case of any premises held under a tenancy to which Part II of the Landlord and Tenant Act 1954 (“the 1954 Act”) applies, the termination of that tenancy under that Part of that Act, and
 - (b) the reference to the purchase money paid in respect of such an acquisition includes any compensation paid by the landlord on the quitting of any such premises by the governing body or trustees (whether or not the compensation is required to be paid by section 37 of that Act (compensation where order for new tenancy precluded on certain grounds)).
- (5) In subsection (4) expressions to which a meaning is given for the purposes of the 1954 Act have the same meaning as in that Act.

Modification of instruments

302 Variation of trust deeds etc. by order

- (1) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to a school as, after consultation with the governing body of the school and the trustees (if any), appear to him to be requisite—
- (a) in consequence of the approval of proposals for acquisition of grant-maintained status for the school,
 - (b) for removing any inconsistency between the provisions of that trust deed or other instrument and any provisions included or proposed to be included in any instrument or articles of government made for the school under Chapter V, or in any scheme under section 232, which it appears to him to be expedient to remove in the interests of the school, or
 - (c) in consequence of any proposals as to a change in the character or an enlargement of the premises of the school or a transfer of the school to a new site which fall to be implemented under section 263.
- (2) The Secretary of State may by order make such modifications of any trust deed or other instrument relating to an independent school where proposals have been approved for the establishment of a grant-maintained school in its place as, after consultation with the promoters and the trustees (if any), appear to him to be requisite—
- (a) in consequence of the approval of the proposals, or
 - (b) for removing any inconsistency between the provisions of that trust deed or other instrument and any provisions included or proposed to be included in any instrument or articles of government made for the grant-maintained school under Chapter V which it appears to him to be expedient to remove in the interests of the school.
- (3) Any modification made by an order under this section may be made to have permanent effect or to have effect for such period as may be specified in the order.

303 Modification of instruments relating to land held for purposes of voluntary schools

Any provision of an instrument relating to any land held for the purposes of a voluntary school which—

- (a) confers on any person an option to acquire an interest in that land, or
- (b) provides (in whatever terms) for the determination or forfeiture of any such interest,

in the event of the school's ceasing to be a voluntary school or (as the case may be) ceasing to be maintained by a specified local education authority shall, if the school becomes a grant-maintained school, have effect as if the event referred to were the school's ceasing to be a school which is either a grant-maintained school or a voluntary school.

Religious opinions etc. of staff

304 Former county schools and certain schools established as grant-maintained schools

- (1) Subject to section 306, subsections (2) to (4) apply in relation to a grant-maintained school if—
 - (a) it was a county school immediately before it became grant-maintained,
 - (b) it was established in pursuance of proposals published under section 211, or
 - (c) it was established in pursuance of proposals published under section 212 and neither any trust deed relating to the school nor the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship—
 - (a) for being a teacher at the school, or
 - (b) for being employed (otherwise than as a teacher) for the purposes of the school.
- (3) No teacher at the school shall be required to give religious education.
- (4) No teacher at the school shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
 - (a) by reason of the fact that he does or does not give religious education, or
 - (b) by reason of his religious opinions or of his attending or omitting to attend religious worship.

305 Former voluntary schools and certain schools established as grant-maintained schools

- (1) Subject to section 306, subsections (2) and (3) apply in relation to a grant-maintained school if—
 - (a) it was a voluntary school immediately before it became grant-maintained, or
 - (b) it was established in pursuance of proposals published under section 212 and either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 20 makes provision as to the religious education for pupils at the school.
- (2) No person shall be disqualified by reason of his religious opinions, or of his attending or omitting to attend religious worship, for being employed (otherwise than as a teacher) for the purposes of the school.

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- (3) No teacher at the school shall receive any less emolument or be deprived of, or disqualified for, any promotion or other advantage—
 - (a) by reason of the fact that he gives religious education, or
 - (b) by reason of his religious opinions or of his attending religious worship.
- (4) Without prejudice to subsections (2) and (3), in the case of a school which was a voluntary school immediately before it became grant-maintained, any of the provisions of section 146 (saving as to position of teachers) which, immediately before the school became grant-maintained, applied in relation to a teacher in the school shall continue to apply in relation to him until he ceases to be employed as a teacher in the school.

306 Changes in religious character of schools

- (1) Where, in the case of a school in relation to which section 304(2) to (4) for the time being applies, proposals that the required provision for religious education should be provision for religious education in accordance with the tenets of a particular religion or religious denomination are approved under section 261—
 - (a) section 305(2) and (3) shall apply in relation to the school from the time at which the proposals fall to be implemented, and
 - (b) subject to subsection (2), section 304(2) to (4) shall cease to apply in relation to the school from that time.
- (2) Without prejudice to section 305(2) and (3), section 304(2) to (4) shall continue to apply in relation to any teacher who was employed at the school immediately before the proposals referred to in subsection (1) above fell to be implemented until he ceases to be employed as a teacher at the school.
- (3) Where, in the case of any grant-maintained school, proposals that the required provision for religious education should be provision for religious education otherwise than in accordance with the tenets of a particular religion or religious denomination are approved under section 261—
 - (a) section 304(2) to (4) shall apply in relation to the school from the time at which the proposals fall to be implemented, and
 - (b) section 305(2) and (3) shall cease to apply in relation to the school from that time.
- (4) In this section “the required provision for religious education”, in relation to a school, means the provision for religious education for pupils at the school which is required by section 352(1)(a) to be included in the school’s basic curriculum.

Exclusion of pupils

307 Restrictions on power to exclude pupils

- (1) The head teacher of any grant-maintained school may not—
 - (a) so exercise the power to exclude a pupil from the school for one or more fixed periods that the pupil is so excluded for more than 15 school days in any one term, or
 - (b) exclude a pupil from the school for an indefinite period;

but this subsection is without prejudice to the power to exclude a pupil from the school permanently.

- (2) Subsection (1) has effect, in the case of a school having articles of government, despite anything in the articles.

Appeal committees

308 Duties of governing body in relation to appeal committees

- (1) This section applies to any governing body of a grant-maintained school who are required by the articles of government for the school to make arrangements for appeals to such an appeal committee as is mentioned in paragraph 6(1) of Schedule 23 (appeals against decisions on admissions or exclusions).
- (2) The Secretary of State may by regulations require any governing body to which this section applies—
- (a) to advertise, in such manner and at such times as may be prescribed, for persons eligible to be lay members of any appeal committee required to be constituted for the purposes of arrangements made by that body to apply to the body for appointment as such members; and
 - (b) in appointing persons as such members, to consider any persons eligible to be so appointed who have applied to the body in response to an advertisement placed in pursuance of paragraph (a).
- (3) A governing body to which this section applies shall indemnify the members of any appeal committee required to be constituted for the purposes of arrangements made by that body against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that committee.

Supplementary

309 Manner of giving notification to governing body

Any notification to the governing body of a school for the purposes of any provision of this Part may be given, and withdrawn, in such manner as the governing body may require.

310 Inspection of accounts and reports to Parliament

- (1) The accounts of the governing body of any grant-maintained school shall be open to the inspection of the Comptroller and Auditor General.
- (2) The Comptroller and Auditor General shall, in each session of Parliament, report to the House of Commons—
- (a) whether he has carried out under section 6 of the National Audit Act 1983 any examinations in respect of grant-maintained schools, and
 - (b) if he has, the results of such examinations.
- (3) Each report under subsection (2) shall cover a period beginning at the end of the period covered by the preceding report under that subsection.

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- (4) In determining whether to carry out any examination under that section in respect of grant-maintained schools and, if he determines to do so, the nature of the examination, the Comptroller and Auditor General shall have regard to any relevant published report of any study promoted or undertaken by the Audit Commission for Local Authorities and the National Health Service in England and Wales under section 220 of the Education Reform Act 1988.

Interpretation

311 Interpretation of Part III

- (1) In this Part—

“Church in Wales school” means a school in the Province of Wales in which the religious education provided is provided in accordance with the faith and practice of the Church in Wales and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Finance for the diocese of the Church in Wales in which the school is situated or such other person as the Secretary of State may by order designate in respect of that diocese;

“Church of England school” means a school in the Province of Canterbury or York in which the religious education provided is provided in accordance with the faith and practice of the Church of England and “appropriate diocesan authority”, in relation to such a school, means the Diocesan Board of Education for the diocese of the Church of England in which the school is situated;

“premises” includes any interest in or easement, right or charge in, to or over premises;

“Roman Catholic Church school” means a school in which the religious education provided is provided in accordance with the faith and practice of the Roman Catholic Church and “appropriate diocesan authority”, in relation to such a school, means the bishop of the Roman Catholic diocese in which the school is situated.

- (2) Before making an order in respect of any diocese in Wales in exercise of the power conferred by the definition of “appropriate diocesan authority” the Secretary of State shall consult the bishop for the diocese.
- (3) The following provisions apply for the purposes of this Part.
- (4) References to the character of a school are to the kind of school it is, determined by any matter relating to—
- (a) the provision of education at the school, or
 - (b) the arrangements for admission of pupils to the school,
- the alteration of which would amount to a change in the character of the school.
- (5) The transfer to a reception class of pupils who have been admitted to a school for nursery education shall be treated as admission to the school.
- (6) References, in relation to proposals under this Part, to the date of publication of the proposals are—
- (a) to the date on which the requirements of this Part, or of regulations made by virtue of this Part, with respect to the publication of the proposals (or of any notice relating to the proposals) are satisfied, or

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- (b) where different requirements are satisfied on different dates, to the last of those dates,
and references to the time at which such proposals are published shall be construed accordingly.
- (7) In this Part references to “local government electors for the area” are references to such electors for the local education authority area in which the school in question is, or is to be, situated.
- (8) Nothing in this Part, or in any order made under it, relating to the trusts subject to which any land or other property or rights transferred under this Part are to be held by the transferee shall be taken as prejudicing any modification of those trusts after that transfer under any provision of this Part or otherwise.