

## SCHEDULES

### SCHEDULE 1

Section 19.

#### PUPIL REFERRAL UNITS

##### *General adaptations of enactments*

- 1 References in any enactment to the proprietor or governing body of a school shall be read, in relation to a pupil referral unit, as references to the local education authority.
- 2 References in any enactment to the head teacher of a school shall be read, in relation to a pupil referral unit, as references to the teacher in charge of the unit (whether known as the head teacher or not).

##### *Modifications of enactments by regulations*

- 3 Regulations may provide for any enactments relating to schools maintained by local education authorities (or schools including such schools)—
  - (a) to apply in relation to pupil referral units,
  - (b) to apply in relation to such units with such modifications as may be prescribed, or
  - (c) not to apply in relation to such units.

##### *Registration*

- 4 (1) A person who is registered as a pupil at a school other than a pupil referral unit shall not, by reason only of being registered also as a pupil at such a unit, cease for the purposes of the Education Acts to be treated as a registered pupil at that school.  
(2) In this Schedule “registered” means shown in the register kept under section 434.

##### *Application of Local Government Act 1986*

- 5 A pupil referral unit is a maintained school for the purposes of section 2A(1)(b) of the Local Government Act 1986 (prohibition on promoting homosexuality).

##### *Curriculum*

- 6 (1) Section 370(1) (duty of LEA to state policy) applies in relation to pupil referral units as it applies in relation to county schools.  
(2) In relation to every pupil referral unit, the Secretary of State, the local education authority and the teacher in charge shall exercise their functions with a view to securing that the curriculum for the unit satisfies the requirements of section 351 (balanced and broadly based curriculum) and of any other enactment which applies to the curriculum for pupil referral units.

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- (3) Each local education authority shall, with the approval of the Secretary of State, make arrangements for the consideration and disposal of any complaint to the effect that the authority, or the teacher in charge of any pupil referral unit—
- (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 any enactment referred to in sub-paragraph (2) above, or
  - (b) have failed to discharge any such duty.
- (4) The Secretary of State shall not entertain under section 496 or 497 (power to prevent unreasonable exercise of functions; general default powers) any complaint in respect of any local education authority if it is a complaint—
- (a) for which arrangements are required to be made under sub-paragraph (3) above, or
  - (b) that a local education authority have failed to exercise their powers to secure compliance by the teacher in charge of a pupil referral unit with any such duty as is referred to in that sub-paragraph,
- unless a complaint in respect of the local education authority or, as the case may be, the teacher in charge of the unit has been made in respect of the same matter and disposed of in accordance with arrangements under that sub-paragraph.

#### *Discipline*

- 7 The teacher in charge of a pupil referral unit may exclude a pupil from the unit on disciplinary grounds .

#### *Sex education, political indoctrination and political issues*

- 8 Sections 403, 406 and 407 (sex education, political indoctrination, and treatment of political issues) apply in relation to pupil referral units as they apply in relation to county schools.

#### *Charges*

- 9 (1) Chapter III of Part VI applies in relation to pupil referral units as if the references to governing bodies were omitted.
- (2) Section 458(2)(b) (charges for board and lodging) shall have effect in relation to a pupil provided with board and lodging at a unit as if after “that” there were inserted “for the time being”.

#### *Application of Environmental Protection Act 1990*

- 10 A pupil referral unit is an educational institution for the purposes of Part IV of the Environmental Protection Act 1990 (litter).

#### *Information*

- 11 Each local education authority shall—
- (a) on such occasions, and
  - (b) in such form and manner,

as may be prescribed, make available to registered parents of registered pupils at any pupil referral unit such information about the unit as may be prescribed.

*Disapplication of Schedule 4*

- 12 Schedule 4 (distribution of functions where order made under section 27) does not apply in relation to pupil referral units or the provision for pupils at such units of board and lodging (whether at units or elsewhere).

*Children with special educational needs*

- 13 Sections 317(1) to (4), 318 and 324(5)(b), and paragraph 3(4) of Schedule 27, apply in relation to pupil referral units as they apply in relation to maintained schools.

*School attendance orders*

- 14 (1) Where a pupil referral unit is named in a school attendance order—
- (a) the local education authority shall inform the teacher in charge of the unit, and
  - (b) if another local education authority are responsible for determining the arrangements for the admission of pupils to the unit, that authority shall admit the child to the unit;
- but paragraph (b) above does not affect any power to exclude from a unit a pupil who is already a registered pupil there.
- (2) Section 438(4) does not apply in relation to a pupil referral unit.
- (3) A local education authority—
- (a) shall, before deciding to specify a particular pupil referral unit in a notice under section 438(2) where another local education authority are responsible for determining the arrangements for the admission of pupils to the unit, consult that authority; and
  - (b) if they decide to specify the unit in the notice, shall serve notice in writing of their decision on that authority.
- (4) Section 439(7) and (8) apply where a notice is served on a local education authority under sub-paragraph (3) above as they apply where notice is served under section 439(6).
- (5) The parent of a child in respect of whom a school attendance order is in force may not under section 440 request the local education authority to amend the order by substituting a pupil referral unit for the school named in the order.
- (6) Where a child is a registered pupil at both a pupil referral unit and at a school other than a unit, the references in section 444 to the school at which he is a registered pupil shall be read as references to the unit.

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## SCHEDULE 2

Sections 20 and 21.

### THE FUNDING AUTHORITIES

#### *Status*

- 1           A funding authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the authority shall not be regarded as property of, or property held on behalf of, the Crown.

#### *Powers*

- 2           (1) Subject to sub-paragraph (2) below, a funding authority may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—
- (a) acquiring and disposing of land and other property,
  - (b) entering into contracts,
  - (c) investing sums not immediately required for the purpose of the discharge of their functions, and
  - (d) accepting gifts of money, land or other property.
- (2) A funding authority shall not borrow money.
- 3           (1) The Secretary of State may authorise a funding authority to purchase compulsorily any land required for the purpose of implementing any proposals under section 211, 212 or 260 (establishment or change in character of grant-maintained school) which are required to be implemented.
- (2) The Acquisition of Land Act 1981 shall apply to compulsory purchase under this paragraph.

#### *Tenure of members*

- 4           (1) A person shall hold and vacate office as a member of a funding authority in accordance with the terms of his appointment and, on ceasing to be a member, shall be eligible for re-appointment.
- (2) A member of a funding authority may at any time resign his office by notice in writing to the Secretary of State.
- 5           If the Secretary of State is satisfied that a member of a funding authority—
- (a) has been absent from meetings of the authority for a period longer than six consecutive months without the permission of the authority, or
  - (b) is unable or unfit to discharge the functions of a member,
- the Secretary of State may, by notice in writing to that member, remove him from office and thereupon the office shall become vacant.

#### *Salaries, allowances and pensions*

- 6           (1) A funding authority—
- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine, and

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- (b) shall, as regards any member in whose case the Secretary of State may so determine, pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (2) If a person ceases to be a member of a funding authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the authority to make to that person a payment of such amount as the Secretary of State may determine.
- (3) A funding authority shall pay to the members of any of their committees who are not members of the authority such travelling, subsistence and other allowances as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

#### *Staff*

- 7 (1) A funding authority may, with the approval of the Secretary of State as to numbers, appoint such employees as they think fit on such terms and conditions as to remuneration and other matters as the authority may determine.
- (2) A determination under sub-paragraph (1) above requires the approval of the Secretary of State given with the consent of the Treasury.
- (3) An employee of a funding authority may not be appointed as a member of the authority, and a member of a funding authority may not be appointed as an employee of the authority.

#### *Chief officer*

- 8 (1) One of the employees of a funding authority shall be the chief officer.
- (2) The first chief officer shall be appointed by the Secretary of State on such terms and conditions as to remuneration and other matters as the Secretary of State may with the consent of the Treasury determine.
- (3) Each subsequent chief officer shall be appointed by the authority with the approval of the Secretary of State.

#### *Superannuation of employees*

- 9 (1) Employment with a funding authority shall continue to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
- (2) A funding authority shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (3) Where an employee of a funding authority ceases to be such an employee and becomes a member of the authority and was by reference to his employment by the authority a participant in a scheme under section 1 of that Act, the Treasury may determine that his service as a member shall be treated for the purposes of the scheme

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as service as an employee of the authority (whether or not any benefits are payable to him by virtue of paragraph 6 above).

#### *Committees*

- 10 (1) A funding authority may establish a committee for any purpose.
- (2) The authority shall fix the number of the members which a committee established under this paragraph may have, and the terms on which they are to hold and vacate office.
- (3) A committee may include persons who are not members of the authority.
- (4) The authority shall keep under review the structure of committees established by them under this paragraph and the scope of each committee's activities.

#### *Delegation of functions*

- 11 A funding authority may authorise the chairman, the chief officer or any committee established by them under paragraph 10 above to exercise such of their functions as they may determine.

#### *Proceedings*

- 12 Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to a funding authority under section 25—
- (a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the authority or of any of their committees, and
- (b) the authority shall provide the Secretary of State with such copies of any documents distributed to members of the authority or of any of their committees as he may require.
- 13 The validity of any proceedings of a funding authority or of any of their committees shall not be affected by a vacancy amongst the members or by any defect in the appointment of a member.
- 14 Subject to the preceding provisions of this Schedule, a funding authority may regulate their own procedure and that of any of their committees.

#### *Accounts*

- 15 (1) A funding authority shall—
- (a) keep proper accounts and proper records in relation to the accounts;
- (b) prepare a statement of accounts in respect of each financial year of the authority; and
- (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it,

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- (b) the manner in which the information contained in it is to be presented, or
- (c) the methods and principles according to which the statement is to be prepared,

and shall contain such additional information as the Secretary of State may with the approval of the Treasury require to be provided for the information of Parliament.

- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the date on which the authority is established and ending with the next following 31st March, and each successive period of twelve months.

#### *Application of seal and proof of instruments*

- 16 The application of the seal of a funding authority shall be authenticated by the signature—
- (a) of the chairman or of some other person authorised either generally or specifically by the authority to act for that purpose, and
  - (b) of one other member.
- 17 Any document purporting to be an instrument made or issued by or on behalf of a funding authority and to be—
- (a) duly executed under their seal, or
  - (b) signed or executed by a person authorised by the authority to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

### SCHEDULE 3

Section 22.

#### TRANSFER TO FUNDING AUTHORITY OF FUNCTIONS OF SECRETARY OF STATE

##### *Functions relating to grant-maintained schools*

- 1 (1) The Secretary of State may by order provide for any of his functions under the provisions of this Act mentioned in sub-paragraph (2) to be exercisable instead by a funding authority, either generally or in such circumstances as may be specified in the order.
- (2) Those provisions are—
- (a) sections 220 and 221 (alterations to instruments and articles of government);
  - (b) section 231(6) (consent to borrowing);
  - (c) section 233 (making and varying joint schemes);
  - (d) section 302 (variation of trust deeds);
  - (e) paragraph 5 of Schedule 21 (transitional powers of governing bodies); and
  - (f) paragraph 15 of Schedule 22 (approval of schemes for payment of allowances to governors).

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- (3) An order under this paragraph may—
- (a) confer or impose such related functions on the funding authority, and
  - (b) provide for Part III of this Act to have effect with such modifications,
- as the Secretary of State considers necessary or desirable in connection with any transfer of any functions under the provisions of this Act mentioned in subparagraph (2).

*Functions under agreements relating to CTCs and CCTAs*

- 2 (1) The Secretary of State may by order provide—
- (a) for a funding authority to exercise the function of making and receiving payments under all or any of the agreements which he has entered into or may enter into under section 482 (CTCs and CCTAs); and
  - (b) for any such agreement to have effect accordingly.
- (2) Any sums received by a funding authority in the exercise of those functions shall be paid to the Secretary of State.

*Functions in respect of grants for certain expenditure due to ethnic minority population*

- 3 (1) The Secretary of State may by order impose on a funding authority the function of paying on his behalf grants under section 11 of the Local Government Act 1966 (grants in respect of ethnic minority population) so far as payable by him by virtue of section 490 (grants to grant-maintained schools, CTCs and CCTAs).
- (2) The payments shall be of such amounts and be paid to such persons as the Secretary of State may, in accordance with section 11 of the Local Government Act 1966, determine.

SCHEDULE 4

Section 27.

DISTRIBUTION OF FUNCTIONS WHERE ORDER MADE UNDER SECTION 27

**PART I**

INTRODUCTORY

- 1 (1) Where an order under section 27 is in force, the Education Acts shall have effect subject to—
- (a) this Schedule, and
  - (b) the provisions of this Act which modify the effect of any provision of those Acts, or confer new functions, in respect of any area to which such an order applies.
- (2) In particular, to the extent that this Schedule governs the payments to be made to any local education authority or the governing body of any grant-maintained school in respect of charges by that authority or body for the provision of board and lodging (at a boarding school or otherwise than at school), section 458(2) to (5) and section 514(5) (charges) shall not apply.



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(3) In this Schedule—

- (a) sections 458(1) and 514(4) are referred to as the “existing charging provisions”; and
- (b) “maintained school” means any county or voluntary school or any maintained special school not established in a hospital.

## PART II

FUNCTIONS WHERE RESPONSIBILITY FOR PROVIDING SUFFICIENT SCHOOL PLACES IS SHARED

### *Introductory*

- 2 If an order under section 27(1)(a) applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

### *Responsibility for providing sufficient school places*

- 3 (1) If the schools providing relevant education which are available for the area are not sufficient, the funding authority shall, for the purpose of securing the availability of sufficient schools providing such education for the area, exercise their powers to make proposals for the establishment, alteration and discontinuance of schools.
- (2) In performing that duty, the funding authority shall have regard to the need for securing that special educational provision is made for pupils who have special educational needs.
- (3) The schools available for any area shall not be treated as sufficient for the purposes of this paragraph unless they are sufficient for the purposes of section 14(1) (duty of local education authority to secure availability of schools).
- (4) Nothing in this paragraph requires a funding authority to take any action where to do so would not be an effective use of their resources.
- (5) In this paragraph “powers to make proposals for the establishment, alteration and discontinuance of schools” means all or any of the powers to publish proposals under sections 211, 260 or 268 or give notice of proposals under section 339.

## PART III

FUNCTIONS WHERE RESPONSIBILITY FOR PROVIDING  
SUFFICIENT SCHOOL PLACES IS TRANSFERRED

### *Introductory*

- 4 If an order under section 27(1)(b) applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

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*Responsibility for providing sufficient school places*

- 5 (1) The duty under section 14(1) shall be discharged by the funding authority instead of the local education authority.
- (2) In discharging that duty the funding authority shall, in particular, have regard to the matters referred to in section 14(6)(b) (provision for pupils who have special educational needs).
- (3) The funding authority may provide board and lodging otherwise than at school for pupils at maintained or grant-maintained schools; and, where the authority do so, the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the authority not exceeding the cost to the authority of the provision.
- (4) Where the governing body of a grant-maintained school provide board and lodging at the school for pupils there, the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the governing body not exceeding the cost to the governing body of the provision.
- 6 (1) The local education authority may continue to secure the provision of relevant education falling within section 14(1) and (subject to paragraph 7) to secure the provision of schools for that purpose.
- (2) In exercising those powers the local education authority shall, in particular, have regard to the matters referred to in section 14(6) (which include the separation of primary and secondary education, and the provision of boarding accommodation for those for whom boarding is desirable).
- (3) Where the local education authority—
- (a) provide board and lodging at a maintained school for pupils there, or
  - (b) provide board and lodging otherwise than at school for pupils at maintained or grant-maintained schools,
- the parents of the pupils concerned shall, subject to the following provisions of this Schedule, pay charges to the authority not exceeding the cost to the authority of the provision.

*Powers to establish, maintain and alter schools*

- 7 (1) The local education authority may not exercise the power under section 16 to establish any school, or to begin to maintain as a county school any school which is not such a school, (in both cases referred to in this paragraph as “the school in question”) unless—
- (a) under sections 167 to 171 or section 173 their duty to maintain one or more other schools ceases; and
  - (b) the school in question is intended to provide education for pupils in the area which was served by the other school or (as the case may be) the other schools.
- (2) This paragraph does not apply—
- (a) to special schools;
  - (b) to nursery schools;
  - (c) where relevant education is only primary education, if the school in question is or will be a secondary school which also provides primary education; or

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- (d) where relevant education is only secondary education, if the school in question is or will be a primary school which also provides secondary education.
- 8 (1) No proposals in respect of any school (referred to in this paragraph as “the school in question”) published under section 41(1) (proposal that existing or proposed school should be maintained as a voluntary school) may be implemented unless—
- (a) under sections 167 to 171 or section 173 the duty of the local education authority to maintain one or more other schools ceases; and
  - (b) the school in question is intended to provide education for pupils in the area which was served by the other school or (as the case may be) the other schools.
- (2) This paragraph does not apply—
- (a) where relevant education is only primary education, if the school in question is or will be a secondary school which also provides primary education; or
  - (b) where relevant education is only secondary education, if the school in question is or will be a primary school which also provides secondary education.

*Charges for board and lodging or independent education*

- 9 (1) Sub-paragraph (3) below applies where—
- (a) any pupil of compulsory school age ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school;
  - (b) the funding authority are of the opinion that it is not practicable for the pupil to obtain admission to any maintained or grant-maintained school which is a reasonable distance from his home and provides efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have; and
  - (c) the authority are of the opinion that it is appropriate for the pupil to be provided with the particular board and lodging or, as the case may be, education.
- (2) Sub-paragraph (3) below also applies where—
- (a) any pupil ordinarily resident in the area is being provided with board and lodging (at a boarding school or otherwise than at school) or with education at a school which is not a maintained or grant-maintained school; and
  - (b) the funding authority are of the opinion that—
    - (i) the conditions in sub-paragraph (1) above have been, but are no longer, met by reason only of the pupil having ceased to be of compulsory school age or sub-paragraph (1)(b) above having ceased to apply, and
    - (ii) it would not be desirable for the pupil to cease to be provided with the particular board and lodging or, as the case may be, education.
- (3) Where this sub-paragraph applies—
- (a) if board and lodging is provided by the funding authority, no charge shall be payable to the authority under this Schedule in respect of the board and lodging;

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- (b) if board and lodging is provided at a maintained or grant-maintained school or by a local education authority, the funding authority shall pay the whole of the charges payable to any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging; and
  - (c) in any other case the funding authority shall pay the whole of the fees payable in respect of the board and lodging or, as the case may be, the education.
- (4) This paragraph does not apply in the case of a pupil for whom a statement is maintained under section 324.
- 10 (1) This paragraph applies where any pupil ordinarily resident in the area is being provided—
- (a) with board and lodging (at a boarding school or otherwise than at school), or
  - (b) with education at a school which is not a maintained or grant-maintained school,
- but does not apply in any case where paragraph 9(3) applies.
- (2) If board and lodging is provided at a school maintained by the responsible education authority and the authority are of the opinion that it is desirable for the pupil to be provided with board and lodging, or board and lodging otherwise than at school is provided by the authority, then—
- (a) the authority may remit the whole or any part of the charges payable to them under this Schedule in respect of the board and lodging; and
  - (b) if they are of the opinion that, in order to avoid financial hardship to the pupil's parent, the parent should not pay the whole or any part of those charges, the authority shall remit the whole or, as the case may be, that part of those charges.
- (3) If board and lodging otherwise than at school is provided by the funding authority, or board and lodging is provided at a grant-maintained school or a school maintained by another local education authority, then—
- (a) the responsible education authority may pay the charges payable to the funding authority, or any local education authority or governing body, under this Schedule or the existing charging provisions in respect of the board and lodging; and
  - (b) if they are of the opinion that it is desirable for the pupil to be provided with board and lodging, they shall pay so much (if any) of those charges as in their opinion is required to be paid by them in order to avoid financial hardship to the parent.
- (4) In any other case to which this paragraph applies—
- (a) the local education authority may pay the whole of the fees payable in respect of the board and lodging or, as the case may be, the education; and
  - (b) if they are of the opinion that it is—
    - (i) desirable for the pupil to be provided with board and lodging, and
    - (ii) appropriate for him to be provided with the particular board and lodging,
 they shall pay so much (if any) of the fees payable in respect of board and lodging as in their opinion is required to be paid by them in order to avoid financial hardship to the parent; and
  - (c) if they are of the opinion that it is—

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- (i) desirable for the pupil to be provided with education otherwise than in a maintained or grant-maintained school, and
      - (ii) appropriate for him to be provided with the particular education,
- they shall pay so much (if any) of the fees payable in respect of the education as in their opinion is required to be paid by them in order to avoid financial hardship to the parent.
- (5) In this paragraph “the responsible education authority”, in relation to a pupil ordinarily resident in any area, means the local education authority for the area.
  - (6) This paragraph does not apply in the case of a pupil for whom a statement is maintained under section 324.
- 11 (1) Where a pupil in the area for whom a statement is maintained under section 324 is attending a maintained or grant-maintained school, this paragraph applies if he is provided with board and lodging at the school or otherwise than at school and either—
- (a) the school is named in the statement and—
    - (i) the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless the particular board and lodging are also provided, or
    - (ii) the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him at the school unless board and lodging are also provided and that it is appropriate for him to be provided with the particular board and lodging; or
  - (b) the school is not named in the statement but the responsible education authority are satisfied that the necessary special educational provision cannot be provided for him unless board and lodging are also provided and that it is appropriate for him to be provided with the particular board and lodging.
- (2) Where the board and lodging is provided by the responsible education authority, no charge shall be payable to the authority under this Schedule in respect of the board and lodging.
- (3) Where the board and lodging is provided—
- (a) by the funding authority or another local education authority, or
  - (b) at a grant-maintained school or a school maintained by another local education authority,
- the responsible education authority shall pay the charges payable to the funding authority or any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging.
- (4) In any other case to which this paragraph applies, the responsible education authority shall pay to the person providing the board and lodging the whole of the fees in respect of the board and lodging.
- (5) In this paragraph “the responsible education authority”, in relation to a pupil, means the local education authority responsible for the pupil for the purposes of Part IV (special educational needs).
- 12 (1) Where a pupil in the area for whom a statement is maintained under section 324 is attending a maintained or grant-maintained school and is provided with board and lodging at the school or otherwise than at school, then—

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- (a) where the board and lodging is provided by the responsible education authority, the authority may remit the whole or any part of the charges payable to them under this Schedule in respect of the board and lodging;
- (b) where the board and lodging is provided—
  - (i) by the funding authority or another local education authority, or
  - (ii) at a grant-maintained school or a school maintained by another local education authority,
 the responsible education authority may pay the whole or any part of the charges payable to the funding authority or any local education authority or governing body under this Schedule or the existing charging provisions in respect of the board and lodging; and
- (c) in any other case, the responsible education authority may pay to the person providing the board and lodging the whole or any part of the fees in respect of the board and lodging.

(2) In this paragraph “the responsible education authority”, in relation to a pupil, means the local education authority responsible for the pupil for the purposes of Part IV.

#### *General*

- 13 (1) The following provisions shall not apply—
- (a) section 458 (charges and remission of charges for board and lodging in maintained and grant-maintained schools);
  - (b) section 514 (power of LEA to provide board and lodging otherwise than at school and recovery of charges from parents); and
  - (c) section 517(3) (payment by LEA of fees where pupil attends non-maintained school because of shortage of places in maintained and grant-maintained schools).
- (2) Any charges payable to the local education authority, the funding authority or the governing body of a grant-maintained school under this Schedule may be recovered summarily as a civil debt.
- 14 (1) Section 438 shall have effect as if for subsection (5) there were substituted—
- “(5) If—
- (a) within the period mentioned in subsection (3), the parent—
    - (i) applies to the funding authority, or the local education authority by whom the notice was served, for education to be provided for the child at a school which is not a school maintained by a local education authority or a grant-maintained school, and
    - (ii) in the case of an application to the funding authority, notifies the local education authority by whom the notice was served of the application,
  - (b) the child is offered a place at the school, and
  - (c) either the funding authority are required under paragraph 9 of Schedule 4 to pay the fees payable in respect of the education provided at the school or the local education authority agree to pay the whole of those fees under paragraph 10 of that Schedule,
- that school shall be named in the order.”

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

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(2) Section 440 shall have effect as if for subsection (3) there were substituted—

“(3) If at any time—

- (a) the parent applies to the funding authority or the local education authority by whom the notice was served for education to be provided for the child at a school which is not a school maintained by a local education authority or a grant-maintained school and is different from the school named in the order,
  - (b) the child is offered a place at the school,
  - (c) either the funding authority are required under paragraph 9 of Schedule 4 to pay the fees payable in respect of the education provided at the school or the local education authority agree to pay the whole of those fees under paragraph 10 of that Schedule, and
  - (d) the parent requests the local education authority to amend the order by substituting that school for the one currently named,
- the authority shall comply with the request.”

#### PART IV

##### FUNCTIONS WHERE RESPONSIBILITY EITHER SHARED OR TRANSFERRED

###### *Introductory*

- 15 If an order under section 27(1)(a) or (b) applies to the area of a local education authority, this Part of this Schedule has effect in respect of that area in relation to relevant education.

###### *Responsibility for providing sufficient school places*

- 16 In relation to any power under section 211 to publish proposals for the establishment of a grant-maintained school—
- (a) references to establishing a school for the purpose of providing primary education include establishing a primary school which also provides secondary education; and
  - (b) references to establishing a school for the purpose of providing secondary education include establishing a secondary school which also provides primary education.
- 17 (1) Where relevant education is only primary education—
- (a) no proposals may be published under section 260 in respect of any grant-maintained school which is a secondary school or if the implementation of the proposals would cause the school to become a secondary school;
  - (b) no proposals may be published under section 268 in respect of any grant-maintained secondary school; and
  - (c) no direction may be given under section 428(2) to the governing body of any grant-maintained secondary school.
- (2) Where relevant education is only secondary education—

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

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- (a) no proposals may be published under section 260 in respect of any grant-maintained school which is a primary school or if the implementation of the proposals would cause the school to become a primary school;
- (b) no proposals may be published under section 268 in respect of any grant-maintained primary school; and
- (c) no direction may be given under section 428(2) to the governing body of any grant-maintained primary school.

18 The funding authority shall not by virtue of paragraph 3 or 5 be under any duty in respect of junior pupils who have not attained the age of five.

#### *Boarding schools*

19 The powers of the funding authority to publish proposals under sections 211 and 260 or to give notice of proposals under section 339 may, in particular, be so exercised as to secure the provision of boarding accommodation at boarding schools.

#### *Other modifications of this Act*

20 Section 259 shall have effect as if the funding authority were among the persons who may submit objections under subsection (6) of that section to proposals under that section.

21 Section 267 shall have effect as if—

- (a) the reference in subsection (3) to the local education authority included the funding authority; and
- (b) the funding authority were among the persons who may submit objections under subsection (7) of that section to proposals under that section.

22 Section 272 shall have effect as if—

- (a) paragraph (a) of subsection (1) were omitted, and
- (b) the funding authority were among the persons required to be consulted under subsection (5)(b).

23 Section 426(4) shall have effect as if the reference to the Secretary of State were to the funding authority.

## SCHEDULE 5

Section 32.

### SPECIAL AGREEMENTS

#### *Preservation of special agreements*

1 Any special agreement in force immediately before the commencement of this Act shall continue in force despite the repeal by this Act of Schedule 3 to the Education Act 1944.

#### *Variation of special agreements*

2 (1) A special agreement may be varied by a further agreement between the local education authority and the governors of the school to which it relates, or in such other manner (if any) as may be specified in the agreement.



- (2) Sub-paragraph (1) has effect subject to the requirements of paragraph 3.

*The grant requirements*

- 3 (1) A special agreement shall provide for the making of a grant by the local education authority to persons specified in the agreement in consideration of the execution by those persons of the proposals to which the agreement relates.
- (2) Subject to sub-paragraph (3), the amount of any such grant shall be not less than half, and not more than three-quarters, of the cost of executing the proposals to which the agreement relates.
- (3) Where the proposals include proposals for establishing a playing field or any buildings of a kind which it is, under section 45(2)(b), the duty of the local education authority to provide, then—
- (a) if the proposals as respects the playing field or buildings are to be executed by the persons specified in the agreement, the amount of the grant (so far as attributable to the cost thereof) shall be equal to the whole of the cost; and
  - (b) if those proposals are to be executed by the local education authority, the cost thereof shall be borne by them and excluded in computing the amount of the grant.

*Religious education*

- 4 (1) A special agreement may provide—
- (a) for the giving of religious education in the school in accordance with the provisions of the trust deed relating to it, or (where provision for that purpose is not made by such a deed) in accordance with the practice observed in the school before it became a voluntary school; and
  - (b) for the employment in the school, for the purpose of giving such religious education, of such number of reserved teachers as may be specified in the agreement.
- (2) Sub-paragraph (1)(a) has effect subject to section 378(1)(c) and any arrangements made under section 378(2).

*Repayment of grants*

- 5 Any grant made in respect of a school in pursuance of a special agreement may, at any time while the school is a special agreement school, be repaid by the governing body to the local education authority by whom the school is maintained.

*Modification of obligations with respect to repairs and alterations*

- 6 Where a special agreement is in force in relation to a school, then, until the proposals to which the agreement relates have been carried out—
- (a) the provisions of Part II relating to the respective obligations of the governing bodies of voluntary schools and the local education authority in respect of repairs and alterations to the premises of the school shall not have effect in relation to the school; and
  - (b) the respective obligations of the governing body of the school and the local education authority in relation to those matters shall instead be such as may

be determined by agreement between the governing body and the authority or, in default of agreement, by the Secretary of State.

## SCHEDULE 6

Section 39.

### TRANSFER OF PREMISES WHERE VOLUNTARY SCHOOL CHANGES TO COUNTY SCHOOL

- 1        In connection with proposals by a local education authority under section 35(1) (b) for the maintenance as a county school of a school which is for the time being maintained by them as a voluntary school, they and the school’s governing body may make an agreement for the transfer to the authority of any interest in the school premises which is held by any persons for the purposes of any trust deed relating to the school.
- 2        Such an agreement shall not take effect unless it has been approved by the Secretary of State.
- 3        The Secretary of State shall not approve such an agreement unless—
  - (a) he is satisfied that due notice of the agreement has been given to—
    - (i) any persons (other than the governing body) who have an interest in the school by virtue of a trust deed relating to it, and
    - (ii) any other persons who appear to him to be concerned; and
  - (b) he is satisfied that the execution of the agreement will effect the transfer of all interests necessary for the purpose of enabling the authority to maintain the school as a county school.
- 4        Before approving an agreement under this Schedule, the Secretary of State shall consider any representations made to him by or on behalf of any persons appearing to him to be concerned with the proposed transfer.
- 5        An agreement under this Schedule—
  - (a) may provide for the transfer to the authority, subject to any conditions, reservations and restrictions specified in the agreement, either of the whole of any such interest as is referred to in paragraph 1 or of a lesser interest in the premises, and
  - (b) may include such other provisions (whether relating to the consideration for the transfer or otherwise) as may be agreed upon between the authority and the governing body.
- 6        Where an agreement under this Schedule has been approved by the Secretary of State, the governing body may, whether or not the interest to be transferred under the agreement is vested in them, convey that interest to the authority.
- 7        Where a person other than the governing body has a right to the occupation or use of the school premises or any part of them for a particular purpose, no provision of an agreement under this Schedule shall affect that right unless he has consented to it.
- 8        In this Schedule “premises” includes a teacher’s dwelling-house.

## SCHEDULE 7

Section 88(1).

### INCORPORATION OF GOVERNING BODIES OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

#### *Name and seal of incorporated body*

- 1 (1) A governing body incorporated under section 88(1) shall be known as “The governing body of ...” with the addition of the name of the school.
- (2) The application of the seal of any such governing body must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (3) Every document purporting to be an instrument made or issued by or on behalf of any such governing body and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

#### *Powers of incorporated body*

- 2 (1) A governing body incorporated under section 88(1) may do anything (including in particular the things referred to in the following sub-paragraphs) which appears to them to be necessary or expedient for the purpose of or in connection with the exercise of any of the functions conferred on them under or in pursuance of any enactment.
- (2) A governing body so incorporated may—
- (a) acquire and dispose of land and other property;
  - (b) enter into contracts, other than contracts of employment;
  - (c) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
  - (d) accept gifts of money, land and other property and apply it, or hold and administer it on trust, for any of those purposes; and
  - (e) do anything incidental to the conduct of the school.
- (3) Sub-paragraphs (1) and (2) have effect subject to—
- (a) any provisions of the instrument of government or articles of government for the school, and
  - (b) if the school has a delegated budget (as defined in section 115(b)) any provisions of the scheme falling within section 101(1) which covers the school.
- (4) The governing body so incorporated of an aided school may enter into contracts for the employment of teachers and other staff, subject to any provisions of the articles of

government for the school other than any provisions for the time being excluded by section 137(2) (aided schools having delegated budgets) from applying to the school.

*Property, rights and liabilities*

3 On the incorporation under section 88(1) of a governing body (“the new governing body”) for a school which, immediately before the incorporation date, was conducted by a temporary governing body constituted under arrangements made under section 96 or 97—

- (a) all land and other property which, immediately before the date of incorporation, was property of the temporary governing body used or held for the purposes of the school, and
- (b) all rights and liabilities of the temporary governing body subsisting immediately before that date which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body.

4 On the incorporation under section 88(1) of a governing body (“the new governing body”) constituted under an instrument of government for two or more schools grouped in pursuance of a resolution under section 89—

- (a) all land and other property which, immediately before the date of incorporation, was property of the governing body of any of those schools used or held for the purposes of the school in question, and
- (b) all rights and liabilities of the governing body of any of those schools subsisting immediately before that date which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body.

*Contracts of employment*

5 Without prejudice to the generality of paragraphs 3 and 4, where those provisions effect a transfer of rights and liabilities under a contract of employment—

- (a) the contract shall have effect from the date of incorporation as if originally made between the employee and the incorporated governing body, and
- (b) without prejudice to sub-paragraph (a) above, anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the incorporated governing body,

but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions shall arise by reason only of the change of employer effected by those provisions.

*Dissolution and discontinuance*

6 (1) A governing body incorporated under section 88(1) are dissolved by virtue of this paragraph—

- (a) if the school they conduct is discontinued;
- (b) where the school becomes a grant-maintained school or grant-maintained special school, when the local education authority cease to maintain the school; or

- (c) if a new governing body of the school are constituted under Chapter IV of Part II.
- (2) Where such a governing body conduct two or more schools, sub-paragraph (1) applies when, in relation to each of the schools, paragraphs (a), (b) or (c) is satisfied.
- 7 (1) Where such a governing body are to be dissolved by reason of—
- (a) the discontinuance of the county, voluntary or maintained special school which they conduct, or
  - (b) in the case of a governing body conducting two or more such schools, the discontinuance of each such school conducted by them,
- they shall have power to transfer any land or other property of theirs which is used or held for the purposes of the school to any person who provides education.
- (2) Where such a governing body are so dissolved—
- (a) any such land or property for which no provision has been made under sub-paragraph (1) for transfer, and
  - (b) all rights and liabilities of the governing body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school in question,
- shall be transferred to and, by virtue of this Act, vest in the local education authority.
- (3) Sub-paragraphs (1) and (2) do not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 8 (1) This paragraph applies where such a governing body dissolved by virtue of paragraph 6 are the governing body of two or more schools grouped in pursuance of a resolution under section 89.
- (2) Where none of the schools in the group are discontinued, then in the case of each school formerly a member of the group—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.
- (3) An order made by virtue of sub-paragraph (2) may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of the schools in the group, and
  - (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
- (4) Where not all of the schools in the group are discontinued, then in the case of each school formerly a member of the group which is not discontinued—

- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
- (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,

shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.

- (5) An order made by virtue of sub-paragraph (4) may provide that—
- (a) the whole or any part of any such land and other property which was property of the governing body used or held for the purposes of any school which is to be discontinued or the schools in the group, and
  - (b) any such rights and liabilities of the governing body which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school.
- (6) Sub-paragraph (5) does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- 9 (1) This paragraph applies in relation to the governing body of two or more schools grouped in pursuance of a resolution under section 89.
- (2) Where one or more schools conducted by the governing body are discontinued but the governing body are not dissolved by reason of the discontinuance, then in the case of each school formerly a member of the group which is discontinued—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be held by the governing body for the purposes of the schools in the group.
- (3) Sub-paragraph (2) does not apply to any land or other property held by the governing body on trust for the purposes of a voluntary school; and any such land or other property so held shall be transferred to and, by virtue of this Act, vest in the trustees of the school.
- (4) Where, in the case of one or more schools conducted by the governing body, new governing bodies are constituted under Chapter IV of Part II to conduct those schools but the governing body are not dissolved by reason of the constitution of such bodies, then in the case of each school formerly a member of the group—
- (a) all land and other property which, immediately before the date of dissolution, was property of the governing body used or held for the purposes of that school, and
  - (b) all rights and liabilities of the governing body subsisting immediately before that date which were acquired or incurred for those purposes,
- shall be transferred to and, by virtue of this Act, vest in the new governing body of the school in accordance with the order providing for the instrument of government for the school.

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- 10 For the purposes of this Schedule, references to the discontinuance of a school are—
- (a) to the local education authority ceasing to maintain it in accordance with proposals under section 167 (discontinuance of county or voluntary schools) or section 339 (discontinuance of special schools), or
  - (b) to its discontinuance under section 173 (discontinuance by governors of voluntary schools).

*Supplementary provisions about transfers*

- 11 Where a transfer under this Schedule relates to registered land, it shall be the duty of the transferor—
- (a) to execute any such instrument under the Land Registration Acts 1925 to 1986,
  - (b) to deliver any such certificate under those Acts, and
  - (c) to do such other things under those Acts,
- as he would be required to execute, deliver or do in the case of a transfer by agreement between the transferor and the transferee.
- 12 Paragraphs 6 to 8 of Schedule 10 to the Education Reform Act 1988 (construction of agreements) shall apply in relation to transfers effected by this Schedule as they apply to transfers to which that Schedule applies.

SCHEDULE 8

Section 88(2).

MEMBERSHIP AND PROCEEDINGS ETC. OF GOVERNING BODIES  
OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

*Introductory*

- 1 In this Schedule, except where a school of a particular category is referred to—
- “governing body” means the governing body of a county, voluntary or maintained special school, and
  - “school” means a county, voluntary or maintained special school.

*Co-option or other appointment of governors*

- 2 (1) Subject to sub-paragraph (2), where the instrument of government for a county, controlled or maintained special school provides for one or more persons to be co-opted by governors as members of the governing body, it shall not make any provision which has the effect of restricting those governors in their choice of person to co-opt.
- (2) The instrument of government for a county, controlled or maintained special school shall require the governors concerned, in co-opting a person to be a member of the governing body—
- (a) to have regard—
    - (i) to the extent to which they and the other governors are members of the local business community, and

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- (ii) to any representations made to the governing body as to the desirability of increasing the connection between the governing body and that community, and
- (b) where it appears to them that no governor of the school is a member of the local business community or that it is desirable to increase the number of governors who are, to co-opt a person who appears to them to be a member of that community.

- (3) In this paragraph references to the co-option of governors—
- (a) are to the co-option of governors required to be co-opted by virtue of section 79; but
  - (b) do not include the co-option of foundation governors.
- 3 If—
- (a) the instrument of government for a school provides for one or more governors to be appointed by persons acting jointly, and
  - (b) those persons fail to make an agreed appointment,
- the appointment shall be made by, or in accordance with a direction given by, the Secretary of State.
- 4 The instrument of government for a voluntary school shall name the person or persons (if any) who are entitled to appoint any foundation governor.

#### *Ex officio governors*

- 5 If a school has more than one head teacher (whether or not as a result of two or more schools being grouped under section 89), each of them shall be a governor (ex officio) unless he chooses not to be.
- 6 The instrument of government for a voluntary school may provide for any foundation governorship to be held ex officio by the holder of an office named in the instrument.

#### *Election of governors*

- 7 (1) In this paragraph “the appropriate authority”—
- (a) in relation to a county, controlled or maintained special school, means the local education authority, and
  - (b) in relation to an aided or special agreement school, means the governing body.
- (2) The appropriate authority in relation to a school shall determine—
- (a) for the purposes of an election of parent governors, any question whether a person is a parent of a registered pupil at the school, and
  - (b) for the purposes of an election of teacher governors, any question whether a person is a teacher at the school.
- (3) The appropriate authority shall make all necessary arrangements for, and determine all other matters relating to, an election of parent governors or teacher governors.
- (4) The power conferred by sub-paragraph (3)—
- (a) includes power to make provision as to qualifying dates, but



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- (b) does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected.
- (5) Any election of parent governors or teacher governors which is contested shall be held by secret ballot.
- (6) The arrangements made under sub-paragraph (3) shall, in the case of any election of a parent governor, provide for every person who is entitled to vote in the election to have an opportunity to do so by post or, if he prefers, by having his ballot paper returned to the school by a registered pupil at the school.
- (7) Where a vacancy for a parent governor is required to be filled by election, the appropriate authority shall take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school is—
  - (a) informed of the vacancy and that it is required to be filled by election;
  - (b) informed that he is entitled to stand as a candidate, and vote, at the election; and
  - (c) given an opportunity to do so.

#### *Qualifications of governors and tenure of office*

- 8 No person shall be qualified for membership of a governing body unless he is aged 18 or over at the date of his election or appointment.
- 9 No person shall at any time hold more than one governorship of the same school.
- 10 (1) Regulations may make provision as to the circumstances in which persons are to be disqualified for holding office as governors of schools.
  - (2) The instrument of government for a school may make provision as to circumstances in which persons are to be disqualified for holding office as governors of the school.
  - (3) The fact that a person is qualified to be elected or appointed as a governor of a particular category of a school does not disqualify him for election or appointment as a governor of any other category of that school.
- 11 (1) The instrument of government for a county, controlled or maintained special school shall provide for each governor, other than one who is a governor *ex officio*, to hold office for a term of four years.
  - (2) The instrument of government for an aided secondary school shall provide for each governor appointed by a person named in the instrument as a sponsor of the school to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
  - (3) This paragraph shall not be taken to prevent a governor—
    - (a) from being elected or appointed for a further term, or
    - (b) from being disqualified, by virtue of provision made under paragraph 10, for continuing to hold office.
- 12 Any governor of a school may at any time resign his office.
- 13 (1) Any governor of a school who was appointed otherwise than by being co-opted, or any foundation governor of a voluntary school, may be removed from office by the person or persons who appointed him.

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- (2) For the purposes of this paragraph, a parent governor appointed in accordance with any provision made by virtue of section 81 shall be treated as having been co-opted.

*Meetings and proceedings*

- 14 The proceedings of a governing body of a school shall not be invalidated by—
- (a) any vacancy among their number, or
  - (b) any defect in the election or appointment of any governor.
- 15 (1) Regulations may make provision (including provision modifying the effect of paragraph 14) as to the meetings and proceedings of governing bodies.
- (2) The instrument of government for a school may make provision as to the meetings and proceedings of the school’s governing body.
- (3) The provision that may be made under sub-paragraph (1) or (2) includes, in particular, provision—
- (a) for the election by the governors of a school of one of their number to be chairman, and one to be vice-chairman, of the governing body;
  - (b) for the period for which the chairman and vice-chairman are to be elected;
  - (c) for the establishment by the governing body of committees (which may include persons who are not members of the governing body) and for the constitution, meetings and proceedings of committees so established;
  - (d) for the delegation of functions of the governing body, in such circumstances as may be specified, to committees established by that body, to any member of that body or to the head teacher;
  - (e) for the chairman, or such other member of a governing body as may be specified, to have power in specified circumstances to discharge any of the governing body’s functions as a matter of urgency; and
  - (f) as to the quorum required for the purposes of making appointments of parent governors in accordance with any provision made by virtue of section 81 or when business is transacted by governors of a particular category.
- (4) In sub-paragraph (3) “specified” means specified in regulations or the instrument of government (as the case may be).
- 16 (1) No decision of a kind mentioned in sub-paragraph (2) which is taken at a meeting of the governing body of an aided or special agreement school shall have effect unless it is confirmed at a second meeting of the governing body held not less than 28 days after the first.
- (2) The decisions in question are—
- (a) any decision that would result in—
    - (i) the submission of any proposals under section 41 (alteration etc. of school), or
    - (ii) a transfer of the school to a new site in circumstances falling within section 41(3), or
    - (iii) the submission of any proposals under section 51 (division of school into two or more schools);
  - (b) any decision—

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- (i) to request the making of an order under section 46 (establishment of new school in substitution for old) or section 47 (transfer to new site), or
- (ii) as to the submissions to be made to the Secretary of State in any consultations under section 46(4) or section 47(3) (transfer to new site);
- (c) any decision that would result in an application under section 57 or 58(1) (revocation of order by virtue of which school is aided or special agreement school);
- (d) any decision to serve a notice under section 173 (discontinuance of school); and
- (e) any decision to make an agreement under Schedule 6 (transfer to local education authority of interests in school premises on school changing to county school).

*Information as to meetings and proceedings*

- 17 The minutes of the proceedings of the governing body of a school shall be open to inspection by the local education authority.
- 18 (1) Regulations may require the governing body of a school to make available, to such persons or classes of person as may be prescribed, such documents and information relating to the meetings and proceedings of the governing body as may be prescribed.
- (2) Documents and information required by the regulations to be made available shall be made available in such form and manner, and at such times, as may be prescribed.

*Travelling and subsistence allowances*

- 19 Section 519 makes provision for a local education authority to pay travelling and subsistence allowances to governors of a school where it does not have a delegated budget.

*Information and training for governors*

- 20 (1) The local education authority shall secure that every governor of a school is provided (free of charge) with—
- (a) a copy of the school's instrument of government and articles of government, and
  - (b) such other information as they consider appropriate in connection with the discharge of his functions as a governor.
- (2) The local education authority shall also secure that there is made available to every governor of a school (free of charge) such training as the authority consider necessary for the effective discharge of those functions.

*Conflict between instrument of government and regulations*

- 21 Any provision made by an instrument of government by virtue of paragraph 10(2), 11 or 15(2) which relates to a matter dealt with by regulations under paragraph 10(1) or 15(1) shall have effect subject to the regulations.

## SCHEDULE 9

Section 98.

### TEMPORARY GOVERNING BODIES OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

#### *Preliminary*

- 1        In this Schedule—
- “arrangement” means an arrangement made under section 96 or 97 for the constitution of a temporary governing body; and
- “promoters”, in relation to a new school which will be a voluntary school, means the persons making the relevant proposals.

#### *Constitution of temporary governing bodies*

- 2        (1) Subject to the following provisions of this Schedule, a temporary governing body of a new school shall be constituted—
- (a) in accordance with sections 79 and 80 (so far as applicable), where the school will be a county, controlled or maintained special school, and
- (b) in accordance with sections 84 and 85 (so far as applicable), where the school will be an aided school.
- (2) For the purposes of the application of section 79, 80, 84 or 85 in relation to the constitution of the temporary governing body of a new school, the new school shall be treated as having as registered pupils the maximum number of pupils referred to in the relevant proposals.
- 3        (1) A local education authority shall not make an arrangement in respect of a new school which will be a controlled school without the agreement of the promoters as to the provision which will be made in relation to the temporary foundation governors; and in the event of any disagreement between the authority and the promoters in respect of that provision, either of them may refer the matter to the Secretary of State.
- (2) A local education authority shall not make an arrangement in respect of a new school which will be an aided school without the agreement of the promoters as to the composition of the temporary governing body; and in the event of any disagreement between the authority and the promoters as to the composition of that body, either of them may refer the matter to the Secretary of State.
- (3) On a reference under this paragraph, the Secretary of State shall give such direction as he thinks fit.

#### *Appointment of temporary governors*

- 4        The temporary parent governors of a new school shall, subject to paragraph 6, be appointed—
- (a) where the school will be a county, controlled or maintained special school, by the local education authority, and
- (b) where it will be an aided school, by the promoters.
- 5        The temporary teacher governors of a new school shall, subject to paragraph 6, be co-opted by a resolution passed at a meeting of those temporary governors who have not themselves been co-opted.

- 6 (1) Where—
- (a) two or more schools have been, or are to be, discontinued, and
  - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school,
- the local education authority may provide for any of the governing bodies of the discontinued schools to appoint some or all of the temporary parent or teacher governors of the new school.
- (2) No provision may be made under sub-paragraph (1) for the appointment of temporary parent or teacher governors of a new school which will be an aided school without the agreement of the promoters; and in the event of any disagreement between the authority and the promoters as to whether any such provision should be made, either of them may refer the matter to the Secretary of State.
- (3) On a reference under sub-paragraph (2), the Secretary of State shall give such direction as he thinks fit.
- (4) Before making any provision under sub-paragraph (1) for the appointment of temporary parent or teacher governors of a new school which will be a controlled school, the local education authority shall consult the promoters.
- 7 (1) No person shall be appointed under paragraph 4 or 6 as a temporary parent governor of a new school unless—
- (a) he is the parent of a child who is likely to become a registered pupil at the school, or
  - (b) where it is not reasonably practicable to appoint such a person, he is the parent of a child of compulsory school age.
- (2) No person shall be appointed under paragraph 4 as a temporary parent governor of a new school if he is—
- (a) an elected member of the local education authority; or
  - (b) an employee of the authority or of the governing body of any aided school maintained by the authority.
- (3) No person shall be appointed under paragraph 5 or 6 as a temporary teacher governor of a new school unless he is employed as a teacher in a school maintained by a local education authority.
- 8 (1) Where any person, other than a prospective sponsor, appoints a person as a temporary governor of a new school, he shall have regard to the desirability of that person being suitably experienced.
- (2) For the purposes of this paragraph a person is suitably experienced—
- (a) if he has served as a governor or temporary governor of a school, and
  - (b) in particular, in a case where registered pupils at another school which has been, or is to be, discontinued are expected to transfer to the new school, if he has served as a governor or temporary governor of that other school.
- (3) In sub-paragraph (1) “prospective sponsor” means a person who is to be named in the instrument of government as a sponsor of the school in question.
- 9 (1) Subject to sub-paragraph (2), where temporary governors are required to co-opt one or more persons to be members of the temporary governing body, the arrangement under which the temporary governing body are constituted shall not make any

provision which has the effect of restricting those temporary governors in their choice of person to co-opt.

- (2) In co-opting a person to be a member of a temporary governing body of a new school which will be a county, controlled or maintained special school, the temporary governors concerned shall have regard—
- (a) to the extent to which they and the other temporary governors are members of the local business community, and
  - (b) to any representations made to the temporary governing body as to the desirability of increasing the connection between the temporary governing body and that community,

and, where it appears to them that no temporary governor of the new school is a member of the local business community or that it is desirable to increase the number of temporary governors who are, shall co-opt a person who appears to them to be a member of that community.

- (3) This paragraph does not apply in relation to the co-option of temporary foundation governors, and sub-paragraph (2) does not apply in relation to the co-option of temporary teacher governors.

10 If—

- (a) a temporary governor is to be appointed by persons acting jointly, and
- (b) those persons fail to make an agreed appointment,

the appointment shall be made by, or in accordance with a direction given by, the Secretary of State.

#### *Qualifications of temporary governors and tenure of office*

11 No person shall be qualified for membership of a temporary governing body unless he is aged 18 or over at the date of his appointment.

12 (1) No person shall at any time hold more than one temporary governorship of the same school.

- (2) The fact that a person is qualified to be appointed as a temporary governor of a particular category of a new school does not disqualify him for appointment as a temporary governor of any other category of that school.

13 Regulations may make provision as to the circumstances in which persons are to be disqualified for holding office as temporary governors.

14 A member of a temporary governing body may at any time resign his office, or be removed from office, in the same way as a member of a governing body constituted under an instrument of government.

#### *Meetings and proceedings*

- 15 (1) The proceedings of a temporary governing body shall not be invalidated by—
- (a) any vacancy among their number, or
  - (b) any defect in the appointment of any temporary governor.

- (2) If the clerk to a temporary governing body fails to attend any meeting of theirs, they may appoint one of their number to act as clerk for the purposes of that meeting (but without prejudice to his position as a temporary governor).

16 Regulations may make provision in relation to temporary governing bodies similar to that which may be made in relation to governing bodies by regulations under paragraph 15(1) of Schedule 8.

17 (1) Subject to sub-paragraph (2), the first meeting of a temporary governing body shall be called by their clerk.

(2) Where the clerk fails to call the first meeting within such period as the local education authority consider reasonable, the authority shall call it.

*Information as to meetings and proceedings*

18 The minutes of the proceedings of a temporary governing body shall be open to inspection by the local education authority.

*Travelling and subsistence allowances.*

19 Section 519 (allowances for governors) shall apply in relation to the members of a temporary governing body as it applies in relation to the members of a governing body of a school falling within subsection (1)(a) of that section.

*Expenses of temporary governing bodies*

20 Where a temporary governing body are constituted for a new school, the local education authority shall be under the same duty to defray the expenses incurred in relation to the temporary governing body as they would be if the relevant proposals had been implemented and the temporary governing body were the governing body of the school.

*Information for temporary governing bodies*

21 A local education authority shall secure that the temporary governing body of a new school which will be maintained by them are, on being constituted, provided (free of charge) with such explanatory and other information as the authority consider is required to enable the temporary governing body to discharge their functions effectively.

*Powers of the Secretary of State*

22 For the purposes of the following provisions—

- (a) section 495(1) (determination of disputes),
- (b) section 496 (prevention of unreasonable exercise of functions), and
- (c) sections 497 and 498 (default powers),

a temporary governing body shall be treated as if they were the governing body of the school in question.

SCHEDULE 10

Section 99.

TRANSITION FROM TEMPORARY GOVERNING BODY TO GOVERNING  
 BODY CONSTITUTED UNDER AN INSTRUMENT OF GOVERNMENT

*Time limit for constitution of governing body*

- 1 The local education authority shall secure that the governing body of a new school are constituted—
- (a) as soon as is reasonably practicable after the requirement for there to be an instrument of government for the school takes effect under section 99, and
  - (b) in any event not later than the last day of the term in which pupils first attend the new school or (as the case may be) first attend the school after it becomes maintained by the authority.

*Status of temporary governing body pending constitution of governing body*

- 2 Where the requirement for there to be an instrument of government for a new school has taken effect under section 99, the temporary governing body shall, until such time as the governing body are constituted—
- (a) continue in existence (despite the fact that the arrangement under which they were constituted has come to an end under section 96 or 97); and
  - (b) be treated as if they were the governing body.

*Role of temporary governing body as regards constitution of governing body*

- 3 (1) Before making an order under section 76 as to the instrument of government for a new school, the local education authority shall consult the temporary governing body and the head teacher.
- (2) Before making such an order in respect of a new school which will be a voluntary school, the authority shall—
- (a) secure the agreement of the temporary governing body to the terms of the proposed order; and
  - (b) secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.
- (3) Where a local education authority propose to make an order under section 76 as to the instrument of government for a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
- (4) On a reference under sub-paragraph (3), the Secretary of State shall give such direction as he thinks fit.
- 4 (1) A temporary governing body shall recommend (with reasons) persons who belong to the community served by the new school and who are, in their opinion, suitable for appointment as co-opted members of the governing body who will succeed them.
- (2) Before making any recommendations under this paragraph, a temporary governing body shall consult representatives of the local business community.



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*Initial constitution of governing body*

- 5
- (1) When the requirement for there to be an instrument of government for a new school takes effect under section 99, sub-paragraph (2) shall apply for the purposes of the application of section 79, 80, 84 or 85 in relation to the constitution of the school's governing body.
  - (2) Where this sub-paragraph applies, the school shall be treated as having as registered pupils the maximum number of pupils referred to in the relevant proposals.
  - (3) Subject to sub-paragraph (4), sub-paragraph (2) shall, as from the time when the governing body is first constituted, continue to apply for the purposes of determining what provision would be required to be made by a new instrument of government for the school.
  - (4) Sub-paragraph (2) shall cease so to apply in relation to the school at such time as—
    - (a) the number of registered pupils at the school reaches the maximum referred to in that sub-paragraph; or
    - (b) the local education authority give any direction by virtue of sub-paragraph (5).
  - (5) The instrument of government for a school in relation to which sub-paragraph (2) applies when the instrument is made shall provide for the local education authority to have power to direct that sub-paragraph (2) shall cease to apply in relation to the school.

*Information about temporary governing body for successors*

- 6
- (1) Immediately before the arrangement under which a temporary governing body are constituted comes to an end under section 96 or 97, they shall prepare, for the purpose of assisting the governing body who will succeed them, a brief report of the action which they have taken in the discharge of their functions.
  - (2) All minutes and papers of a temporary governing body, including the report prepared under sub-paragraph (1), shall be made available to their successors.

SCHEDULE 11

Sections 122 and 124.

CONTENTS OF STATEMENTS UNDER SECTION 122(2) AND SECTION 124(1)

**PART I**

STATEMENTS UNDER SECTION 122(2)

- 1
- (1) This Part of this Schedule applies to any statement prepared by a local education authority under section 122(2).
  - (2) In this Part of this Schedule “the scheme” means the scheme referred to in section 122(1).
- 2
- The statement shall contain the following particulars in respect of the financial year to which it relates—

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- (a) the amount of the authority’s general schools budget for the year (as initially determined for the purposes of the scheme),
  - (b) the amount of the authority’s aggregated budget for the year under the scheme (as so determined),
  - (c) such particulars as may be prescribed of amounts deducted in respect of excepted heads or items of expenditure (as defined in section 105(3)) in arriving at the amount specified in the statement by virtue of sub-paragraph (b),
  - (d) such particulars as may be prescribed of amounts deducted by virtue of section 105(1)(b) in arriving at the amount so specified, and
  - (e) such particulars of the allocation formula under the scheme as may be prescribed.
- 3 (1) The statement shall also contain, with respect to each school required to be covered by the scheme in the year in question, particulars in relation to that year of the planned expenditure per pupil arising from the division of the school’s budget share (as initially determined for the purposes of the scheme) by the initial pupil number.
- (2) In sub-paragraph (1) “the initial pupil number” means the number of registered pupils at the school in question which is required under the scheme to be used in applying the allocation formula under the scheme for initial determination of the school’s budget share for the year.
- 4 The statement shall contain such further information in respect of the financial provision the authority plan to make in the year in question for county and voluntary schools maintained by them as may be prescribed.

## PART II

### STATEMENTS UNDER SECTION 124(1)

- 5 (1) A statement prepared by a local education authority under section 124(1) shall give the following particulars in respect of the financial year to which it relates—
- (a) the initial amount appropriated for meeting expenditure in the year in respect of all the schools required to be covered by the statement,
  - (b) the amount remaining after deducting from that initial amount the aggregate of the amounts referred to in sub-paragraph (2), and
  - (c) such particulars as may be prescribed of the amounts referred to in sub-paragraph (2).
- (2) Those amounts are the initial amounts appropriated for meeting the following descriptions of expenditure in the year in respect of all the schools required to be covered by the statement—
- (a) expenditure treated by the authority as expenditure of a capital nature,
  - (b) 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 used to meet expenditure falling within paragraph (a), and
  - (c) expenditure of such other descriptions as may be prescribed.
- 6 (1) The statement shall also give, in relation to each school required to be covered by it, the following particulars in respect of the year—

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- (a) the share of the general expenditure amount which is appropriated by the authority for meeting expenditure for the purposes of the school,
  - (b) the share which is so appropriated of such of the amounts referred to in paragraph 5(2)(c) as may be prescribed,
  - (c) the amount of any expenditure initially planned for the purposes of the school and treated by the authority as expenditure of a capital nature, and
  - (d) such particulars as may be prescribed of the basis on which the authority determine the shares specified in the statement by virtue of paragraphs (a) and (b).
- (2) In sub-paragraph (1) “the general expenditure amount” means the amount of which particulars are required to be given by paragraph 5(1)(b).
- 7 The statement shall contain such further information in respect of the financial provision initially planned by the authority for the schools required to be covered by the statement as may be prescribed.
- 8 Where only one school is required to be covered by the statement, the references in paragraph 5 to all the schools are references to that school and paragraph 6 does not apply.

## SCHEDULE 12

Section 126.

### FINANCIAL DELEGATION AND NEW SCHOOLS

#### *Preliminary*

- 1 In this Schedule “temporary governing body” does not include a temporary governing body who by virtue of paragraph 2 of Schedule 10 fall to be treated as a governing body.

#### *New county and voluntary schools*

- 2 (1) For the purposes of applying (in accordance with this Schedule) sections 101 to 122 and Part I of Schedule 11 in relation to new schools which will be county or voluntary schools—
- (a) references to a school conducted by a governing body shall be read as including a new school which has a temporary governing body, and
  - (b) other references to the governing body of a school shall be read as including the temporary governing body of a new school.
- (2) For those purposes—
- (b) references to a county or voluntary school maintained by a local education authority, and
  - (b) references, in a context referring to a local education authority, to county and voluntary schools,
- shall be read as including a new school which on implementation of the relevant proposals will be a county or voluntary school maintained by the authority.

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- 3 (1) A new school which will be a county or voluntary school is required to be covered by a scheme in any financial year if it has a temporary governing body during the whole or any part of that year.
- (2) In the case of such a school, sections 101 to 122 and Part I of Schedule 11 apply subject to the modifications set out in paragraphs 4 to 7.
- 4 (1) Where a school required to be covered by a scheme in a financial year is a new school during the whole or any part of that year, the provision required by section 106(4)(a) shall not apply in relation to the determination of the school's budget share for the year, so far as that share falls in accordance with the scheme to be treated as referable to planned expenditure by the local education authority for the purposes of the school in respect of any period before the implementation of the relevant proposals.
- (2) Accordingly—
- (a) paragraph 3(1) of Schedule 11 shall apply in relation to the school as if it referred to such part (if any) of the school's budget share for the year as falls to be determined in accordance with the provision required by section 106(4)(a); and
- (b) the statement under section 122(2) shall include in relation to the school the additional particulars mentioned in sub-paragraph (3).
- (3) Those particulars are the amount of such part (if any) of the school's budget share for the year (as initially determined for the purposes of the scheme) as falls in accordance with the scheme to be treated as referable to planned expenditure such as is mentioned in sub-paragraph (1).
- (4) Sub-paragraph (1) shall not be taken as prejudicing the inclusion in the allocation formula under a scheme, by virtue of section 106(4)(b), of provision taking into account in relation to a new school any forecast made in accordance with the scheme of the number of pupils it will have on implementation of the relevant proposals.
- 5 The delegation requirement under a scheme shall not apply in relation to a new school (where it is not a school to which section 110 applies) until such date as may be determined by or under the scheme.
- 6 Section 110 shall have effect, in relation to a new school to which it applies, with the omission of subsection (3)(a).
- 7 Section 122(7) shall not apply in relation to the temporary governing body of a new school.

#### *New special schools*

- 8 (1) Any reference—
- (a) in section 120, to maintained special schools or to a maintained special school, or
- (b) in section 124, to special schools or to a special school,
- shall be read as including a new school proposed to be established by a local education authority which will be a maintained special school and which has a temporary governing body.
- (2) Any reference in section 120 or 124 to a school's governing body shall be read, in relation to such a new school, as a reference to its temporary governing body.

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- (3) The reference in section 124(1) to a local education authority maintaining a special school or special schools shall be read, in relation to such a new school, as a reference to the authority being under a duty by virtue of paragraph 20 of Schedule 9 to defray expenses in relation to its temporary governing body.
- 9 Section 124(8) shall not apply in relation to the temporary governing body of a new school.

*Financial delegation apart from schemes*

- 10 Section 125 shall not apply in relation to a new school.

SCHEDULE 13

Section 133.

STAFFING OF COUNTY, CONTROLLED, SPECIAL  
AGREEMENT AND MAINTAINED SPECIAL SCHOOLS

*The selection panel*

- 1 (1) The articles of government for a county, controlled, special agreement or maintained special school shall provide—
- (a) for the constitution of a selection panel whenever such a panel is required by virtue of this Schedule in relation to the appointment of a head teacher or deputy head teacher, and
  - (b) for a selection panel to consist of a specified number of persons appointed to it by the local education authority and a specified number of governors appointed to it by the governing body.
- (2) Neither of the numbers specified by virtue of sub-paragraph (1)(b) shall be less than three; and the number specified in relation to appointments made by the governing body shall not be less than the number specified in relation to appointments made by the authority.
- (3) The articles shall provide for the governing body and the authority to have power to replace, at any time, any member of a selection panel whom they have appointed.
- 2 Regulations may make provision as to the meetings and proceedings of selection panels.

*Appointment of head teacher*

- 3 (1) The articles of government for a county, controlled, special agreement or maintained special school shall, in relation to the appointment of a head teacher for the school, make provision for the matters set out in sub-paragraphs (2) to (11).
- (2) If the post of head teacher is vacant, the local education authority shall appoint an acting head teacher after consulting the governing body.
- (3) Before appointing a head teacher, the local education authority shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.

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- (4) The local education authority shall not appoint a person to be head teacher unless his appointment has been recommended by a selection panel constituted in accordance with the articles.
- (5) The selection panel shall interview such applicants for the post as they think fit.
- (6) If the panel fail to agree on the applicants whom they wish to interview—
  - (a) the members of the panel appointed by the governing body are to have the right to nominate not more than two applicants to be interviewed by the panel, and
  - (b) the other members of the panel are to have the right to nominate not more than two other applicants to be interviewed.
- (7) Where the panel consider it appropriate to do so, they shall recommend to the authority for appointment as head teacher one of the applicants interviewed by them.
- (8) If the panel are unable to agree on a person to recommend to the authority, they shall—
  - (a) repeat (with a view to reaching agreement) such of the steps mentioned in sub-paragraphs (5) to (7) as they think fit,
  - (b) where—
    - (i) they have repeated any of those steps in pursuance of paragraph (a) and remain unable to agree, or
    - (ii) they have decided that it is not appropriate to repeat any of those steps,require the authority to re-advertise the vacancy, and
  - (c) where the vacancy is re-advertised, repeat all of the steps mentioned in sub-paragraphs (5) to (7).
- (9) If the authority decline to appoint a person recommended by the panel, the panel shall—
  - (a) where there are applicants for the post whom they have not interviewed, interview such of those applicants (if any) as they think fit,
  - (b) recommend another of the applicants interviewed by them, if they think fit,
  - (c) ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised, and
  - (d) where the vacancy is re-advertised, repeat the steps mentioned in sub-paragraphs (5) to (7).
- (10) The authority shall re-advertise the vacancy where they are required to do so by the panel, and may do so where—
  - (a) it has been duly advertised,
  - (b) the panel have failed either to make a recommendation which is acceptable to the authority or to request that the vacancy be re-advertised, and
  - (c) the authority are of the opinion that the panel have had sufficient time in which to carry out their functions.
- (11) The chief education officer of the authority, or a member of his department nominated by him, shall have the right to attend all proceedings of the panel (including interviews) for the purpose of giving advice to members of the panel.
- (12) In this paragraph “head teacher” does not include an acting head teacher.

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*Appointment of deputy head teacher*

- 4 (1) The articles of government for a county, controlled, special agreement or maintained special school shall, in relation to the appointment of a deputy head teacher for the school, make either—
- (a) the same provision, modified as mentioned in sub-paragraphs (2) and (3), as that made (in accordance with paragraph 3) in relation to the appointment of a head teacher for the school, or
  - (b) the same provision as that made (in accordance with paragraph 5) in relation to the appointment of other teachers at the school.
- (2) If the articles (in accordance with sub-paragraph (1)(a)) provide for the appointment of a deputy head teacher to be on the recommendation of a selection panel, they shall provide that where the head teacher is not a member of the panel—
- (a) he may be present, for the purpose of giving advice, at any proceedings of the panel (including interviews), and
  - (b) whether or not he attends any such proceedings, he shall be consulted by the panel before they make any recommendation to the local education authority.
- (3) No provision similar to that set out in paragraph 3(2) is required in the articles in relation to the appointment of a deputy head teacher.

*Appointment of other staff: general*

- 5 (1) The articles of government for a county, controlled, special agreement or maintained special school shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) Where there is a vacancy in a post (other than that of head teacher or deputy head teacher) which is part of the complement of the school, the local education authority shall decide whether, if the post is not a new one, it should be retained.
- (3) If the authority decide that the post should be retained or it is a new post, they shall—
- (a) advertise the vacancy and fill it in accordance with the procedure laid down by virtue of paragraph 6, unless they have the intention mentioned in paragraph (b) below;
  - (b) fill the vacancy in accordance with the procedure laid down by virtue of paragraph 7, if they intend to appoint a person who, at the time when they form that intention, is an employee of theirs or has been appointed to take up employment with them at a future date.
- (4) Nothing in this paragraph (or in any of paragraphs 6 to 9) applies in relation to any temporary appointment pending—
- (a) the return to work of the holder of the post in question, or
  - (b) the taking of any steps required by the articles in relation to the vacancy in question.

*Appointment of other staff: vacancy advertised*

- 6 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) to (7).

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- (2) Where the local education authority decide to advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of theirs) who are qualified to fill the post.
- (3) Where the vacancy is advertised, the governing body shall—
  - (a) interview such applicants for the post as they think fit, and
  - (b) where they consider it appropriate to do so, recommend to the authority for appointment to the post one of the applicants interviewed by them.
- (4) If the governing body are unable to agree on a person to recommend to the authority, they shall—
  - (a) repeat the steps mentioned in sub-paragraph (3), if they consider that to do so might lead to their reaching agreement,
  - (b) where they have repeated those steps and remain unable to agree, or decide that it is not appropriate to repeat them, ask the authority to re-advertise the vacancy, and
  - (c) where the vacancy is re-advertised, repeat those steps.
- (5) If the authority decline to appoint a person recommended by the governing body, the governing body shall—
  - (a) where there are applicants for the post whom they have not interviewed, interview such of those applicants (if any) as they think fit,
  - (b) recommend another of the applicants interviewed by them, if they think fit,
  - (c) ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised, and
  - (d) where the vacancy is re-advertised, repeat the steps mentioned in sub-paragraph (3).
- (6) Where the authority are asked to re-advertise the vacancy by the governing body, they shall do so unless—
  - (a) they decide that the post is to be removed from the complement of the school, or
  - (b) they decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.
- (7) Whenever governors meet to discuss the appointment or an applicant is interviewed—
  - (a) the head teacher (if he would not otherwise be entitled to be present), and
  - (b) such person (if any) as the authority appoint to represent them,
 shall be entitled to be present for the purpose of giving advice.

*Appointment of other staff: vacancy not advertised*

- 7 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) Where the vacancy is not advertised, the governing body—
  - (a) shall be entitled to determine a specification for the post in consultation with the head teacher, and
  - (b) if they do so, shall send a copy of it to the local education authority.



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- (3) When considering whom to appoint to the post, the authority shall—
- (a) have regard to any such specification, and
  - (b) consult the governing body and the head teacher.

*Delegation of functions under paragraph 6 or 7*

- 8 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) The governing body shall have power, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, to delegate any of the functions which are theirs by virtue of paragraph 6 or 7—
- (a) to one or more governors,
  - (b) to the head teacher, or
  - (c) to one or more governors and the head teacher acting together.
- (3) In such a case, the provision made by virtue of paragraph 6(6) shall apply with the substitution of references to the person or persons to whom the functions are delegated for references to the governing body.

*Restriction on making appointment where vacancy advertised*

- 9 Where a local education authority have advertised a vacancy in accordance with the provision made by the articles of government for a school by virtue of paragraph 6(2), they shall not appoint a person to the post unless—
- (a) his appointment has been recommended in accordance with the provision made by the articles by virtue of paragraph 6(3) to (5), or
  - (b) they decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.

*Consultation by LEA before appointing certain non-teaching staff*

- 10 The articles of government for a county, controlled, special agreement or maintained special school shall require the local education authority to consult the governing body and the head teacher before appointing any person to work solely at the school otherwise than—
- (a) in a teaching post,
  - (b) in a non-teaching post which is part of the complement of the school, or
  - (c) solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.

*Dismissal etc. of staff*

- 11 (1) The articles of government for a county, controlled, special agreement or maintained special school shall make provision for the matters set out in sub-paragraphs (2) to (7).
- (2) The local education authority shall consult the governing body and (except where he is the person concerned) the head teacher before—

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- (a) dismissing a person to whom sub-paragraph (3) applies, or
  - (b) otherwise requiring such a person to cease to work at the school, or
  - (c) permitting such a person to retire in circumstances in which he would be entitled to compensation for premature retirement.
- (3) This sub-paragraph applies to any person who is—
- (a) employed in a post which is part of the complement of the school, or
  - (b) employed to work solely at the school in any other post, otherwise than solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.
- (4) Where a teacher at the school is required to complete an initial period of probation, the local education authority shall consult the governing body and the head teacher before—
- (a) extending his period of probation, or
  - (b) deciding whether he has completed it successfully.
- (5) Where the governing body recommend to the local education authority that a person should cease to work at the school, the authority shall consider their recommendation.
- (6) Both the governing body and the head teacher shall have power to suspend a person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (7) The governing body or head teacher shall—
- (a) when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body, and
  - (b) end the suspension if directed to do so by the authority.
- (8) In this paragraph “suspend” means suspend without loss of emoluments; and in sub-paragraph (2) the reference to dismissing a person does not include a dismissal under section 143(6) or 144(3) (dismissal of teachers of religious education).

## SCHEDULE 14

Section 136.

### STAFFING OF COUNTY, CONTROLLED AND SPECIAL AGREEMENT SCHOOLS WITH DELEGATED BUDGETS

#### *Introductory*

- 1 (1) In this Schedule “the school” means a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) References in this Schedule to a vacancy in any post include a prospective vacancy in the post.
- (3) References in this Schedule to staff qualification requirements are to any requirements with respect to—
- (a) qualifications,
  - (b) health and physical capacity, or

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(c) fitness on educational grounds or in any other respect, of teachers and other persons employed in work that brings them regularly into contact with persons who have not attained the age of 19 which for the time being apply under regulations under section 218 of the Education Reform Act 1988.

- (4) References in this Schedule to the chief education officer of a local education authority include any officer of the authority nominated by the chief education officer.

*Appointment of head teacher and deputy head teacher*

- 2 Paragraphs 3 to 7 apply in relation to an appointment to fill a vacancy in the post of head teacher or deputy head teacher of the school.
- 3 The governing body shall notify the local education authority of the vacancy in writing before taking any of the steps mentioned below.
- 4 (1) Where the vacancy is in the post of head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant—
- (a) the governing body shall recommend a person for appointment as acting head teacher, and
  - (b) the local education authority shall appoint the person recommended unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Where the vacancy is in the post of deputy head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant—
- (a) the governing body may recommend a person for appointment as acting deputy head teacher, and
  - (b) if they do recommend a person, the local education authority shall appoint him unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (3) If the authority decline to appoint a person recommended by the governing body for appointment as acting head teacher, the governing body shall recommend another person for appointment.
- 5 Before recommending a person for appointment as head teacher or deputy head teacher, the governing body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
- 6 (1) The governing body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on them by this paragraph.
- (2) The selection panel shall—
- (a) interview such applicants for the post as they think fit,
  - (b) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them, and
  - (c) if their recommendation is approved by the governing body, recommend the applicant in question to the local education authority for appointment.

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- (3) If the panel are unable to agree on a person to recommend to the governing body, or the governing body do not approve their recommendation, the governing body—
- (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
  - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in sub-paragraph (2).
- 7 (1) The local education authority shall appoint the person recommended by the selection panel unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint the person recommended by the panel, the governing body—
- (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
  - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in paragraph 6(2).

*Appointment of other teachers*

- 8 Subject to paragraph 9, paragraphs 10 to 14 apply in relation to an appointment to fill a vacancy in any teaching post (whether full-time or part-time) at the school, other than the post of head teacher or deputy head teacher.
- 9 (1) Paragraphs 10 to 14 do not apply in relation to a temporary appointment to fill such a vacancy—
- (a) for a period not exceeding four months, or
  - (b) where it appears to the governing body that the period for which the person appointed will hold the post in question will not exceed four months.
- (2) Where it appears to the governing body in the case of any post that it would be appropriate to make an appointment such as is mentioned in sub-paragraph (1)—
- (a) they may recommend a person for appointment to the post on such terms as to the duration of the appointment as they may specify, and
  - (b) the local education authority shall appoint the person recommended on the terms specified unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- 10 Before taking any of the steps mentioned below, the governing body shall—
- (a) determine a specification for the post in consultation with the head teacher, and
  - (b) send a copy of the specification to the local education authority.
- 11 (1) The local education authority may nominate for consideration for appointment to the post any person who appears to them to be qualified to fill it and who at the time of his nomination either—
- (a) is an employee of theirs or has been appointed to take up employment with them at a future date, or
  - (b) is employed by the governing body of an aided school maintained by them.
- (2) The authority shall not nominate a person within sub-paragraph (1)(b) without the consent of the governing body of the aided school.

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- 12 (1) The governing body may advertise the vacancy at any time after they have sent a copy of the specification for the post to the local education authority in accordance with paragraph 10, and shall do so unless either—
- (a) they accept for appointment to the post a person nominated by the local education authority under paragraph 11, or
  - (b) they decide to recommend to the authority for appointment to the post a person who is already employed to work at the school.
- (2) Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it.
- 13 (1) Where the governing body advertise the vacancy, they shall—
- (a) interview such applicants for the post and such of the persons (if any) nominated by the local education authority under paragraph 11 as they think fit, and
  - (b) where they consider it appropriate to do so, either recommend to the authority for appointment one of the applicants interviewed by them or notify the authority that they accept for appointment any person nominated by the authority under paragraph 11.
- (2) If the governing body are unable to agree on a person to recommend or accept for appointment, they may repeat the steps mentioned in sub-paragraph (1)(a) and (b), with or without first re-advertising the vacancy in accordance with paragraph 12(2).
- 14 (1) The local education authority shall appoint the person recommended or accepted for appointment by the governing body unless (in the case of a person other than one nominated by the authority) he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint a person recommended by the governing body, the governing body shall repeat such of the steps mentioned in paragraph 13(1)(a) and (b) as they think fit, with or without first re-advertising the vacancy in accordance with paragraph 12(2).
- 15 The governing body may, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, delegate any of their functions under paragraphs 9 to 14—
- (a) to one or more governors,
  - (b) to the head teacher, or
  - (c) to one or more governors and the head teacher acting together.

*Advice of chief education officer on appointments of teachers*

- 16 (1) The chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice—
- (a) all proceedings (including interviews) of the governing body, and of any selection panel appointed under paragraph 6, relating to appointments to which paragraphs 3 to 7 apply, and
  - (b) all proceedings (including interviews) of the governing body, and of any persons to whom any functions of the governing body under paragraphs 9 to 14 are delegated, relating to appointments to which paragraph 9 applies or to which paragraphs 10 to 14 apply.

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- (2) The chief education officer shall offer such advice as he considers appropriate with respect to—
- (a) the appointment of a head teacher, a deputy head teacher, an acting head teacher or an acting deputy head teacher, or
  - (b) any matter arising in connection with such an appointment.
- (3) If requested to do so by the governing body, the chief education officer shall give such advice as he considers appropriate in relation to any appointment to which paragraph 9 applies or to which paragraphs 10 to 14 apply.
- (4) Any advice given by the chief education officer to—
- (a) the governing body,
  - (b) any selection panel appointed under paragraph 6, or
  - (c) any persons to whom any functions of the governing body under paragraphs 9 to 14 are delegated,
- with respect to any matter which relates to an appointment and falls to be determined by them shall be considered by them before determining that matter, whether or not the advice was given at their request.

*Advice of head teacher on appointments of teachers*

- 17 Except in relation to the appointment of a head teacher—
- (a) paragraph 16(1) applies in relation to the head teacher (if not otherwise entitled to be present at the proceedings there mentioned) as it applies in relation to the chief education officer, and
  - (b) paragraph 16(4) applies in relation to advice given by the head teacher as it applies in relation to advice given by the chief education officer.

*Appointment of non-teaching staff*

- 18 (1) Where the governing body wish to appoint a person to work in a non-teaching post at the school, they may recommend a person to the local education authority for appointment to the post.
- (2) A recommendation under this paragraph shall be in writing and shall specify—
- (a) the duties to be performed by the person appointed (including, where the post is part-time, his hours of work);
  - (b) the grade (on the scale of grades currently applicable in relation to employment with the authority) which the governing body consider appropriate for the post; and
  - (c) where the authority have a discretion with respect to the remuneration to be paid to a person appointed to the post, the determination of any matter to which that discretion applies and which the governing body consider appropriate in the case of the person recommended for appointment.
- (3) Before selecting a person to recommend under this paragraph and determining in relation to such a recommendation any matters mentioned in sub-paragraph (2), the governing body shall consult—
- (a) the head teacher (where he would not otherwise be involved in the decision), and

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- (b) if the post involves (or in the case of a new post, it is proposed that it should involve) work at the school for 16 hours a week or more, the chief education officer of the authority.
- (4) For the purposes of sub-paragraph (2)(c), the authority are to be regarded as having a discretion with respect to the remuneration to be paid to a person appointed to a post if any provisions regulating the rates of remuneration or allowances payable to persons in the authority's employment either—
  - (a) do not apply in relation to that appointment, or
  - (b) leave to the authority any degree of discretion as to rate of remuneration or allowances in the case of that appointment.
- 19 (1) The local education authority shall appoint a person recommended to them under paragraph 18 unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Any such appointment shall be on such terms as to give effect, so far as they relate to any matter mentioned in paragraph 18(2), to the governing body's recommendation in respect of that matter.

*The clerk to the governing body*

- 20 (1) Where there is a vacancy in the office of clerk to the governing body of the school, the local education authority shall appoint a person selected by the governing body.
- (2) Before selecting a person to recommend for such appointment, the governing body shall consult the chief education officer of the authority.

*Discipline*

- 21 (1) The regulation of conduct and discipline in relation to the staff of the school, and any procedures for giving members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body.
- (2) The governing body shall establish—
  - (a) disciplinary rules and procedures, and
  - (b) procedures such as are mentioned in sub-paragraph (1),and shall take such steps as appear to them to be appropriate for making them known to the staff at the school.
- (3) Where the implementation of any determination made by the governing body in the exercise of their control over the conduct and discipline of the staff requires any action which—
  - (a) is not within the functions exercisable by the governing body by virtue of this Act, but
  - (b) is within the power of the local education authority,the authority shall take that action at the request of the governing body.

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*Suspension*

- 22 (1) Both the governing body and the head teacher shall have power to suspend any person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (2) The governing body or head teacher shall, when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body.
- (3) A suspension under this paragraph may only be ended by the governing body.
- (4) The governing body shall, on ending such a suspension, immediately inform the authority and the head teacher.
- (5) In this paragraph “suspend” means suspend without loss of emoluments.

*Dismissal, etc.*

- 23 (1) Where the governing body determine—
- (a) that any person employed to work at the school should cease to work there, or
  - (b) that the clerk to the governing body should be dismissed,
- they shall notify the local education authority in writing of their determination and the reasons for it.
- (2) If in a case within sub-paragraph (1)(a) the person concerned is employed to work solely at the school (and he does not resign), the authority shall, before the end of the period of 14 days beginning with the date on which the notification under sub-paragraph (1) is given, either—
- (a) give him such notice terminating his contract of employment with the authority as is required under that contract, or
  - (b) terminate that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.
- (3) If in a case within sub-paragraph (1)(a) the person concerned is not employed to work solely at the school, the authority shall require him to cease to work at the school.
- (4) In a case within sub-paragraph (1)(b), the authority shall dismiss the clerk to the governing body on receipt of the notification from the governing body.
- 24 (1) Where paragraph 23(3) applies, no part of the costs incurred by the local education authority in respect of the emoluments of the person concerned, so far as they relate to any period falling after the expiration of his contractual notice period, shall be met from the school’s budget share.
- (2) The reference in sub-paragraph (1) to the person’s contractual notice period is to the period of notice that would have been required under his contract of employment with the authority for termination of that contract if such notice had been given on the date on which the notification under paragraph 23(1) was given.
- 25 (1) The governing body shall—
- (a) make arrangements for giving any person in respect of whom they propose to make a determination under paragraph 23(1) an opportunity of making representations as to the action they propose to take (including, if he so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and



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- (b) have regard to any representations made by him.
- (2) The governing body shall also make arrangements for giving any person in respect of whom they have made a determination under paragraph 23(1) an opportunity of appealing against it before they notify the local education authority of the determination.
- 26 (1) The head teacher (except where he is the person concerned) and the chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the governing body relating to a determination under paragraph 23(1).
- (2) The governing body shall consider any advice given by a person who is entitled to attend such proceedings under this paragraph before making a determination under paragraph 23(1).
- 27 (1) The local education authority shall not dismiss a person employed by them to work solely at the school except as provided by paragraph 23.
- (2) Sub-paragraph (1) does not apply in a case where the dismissal of the person in question is required under regulations under section 218(6) of the Education Reform Act 1988 (regulations prohibiting or restricting employment or further employment of teachers etc. in cases of misconduct or on medical or educational grounds).

*School meals staff*

- 28 Nothing in paragraphs 18, 19 and 21 to 27 applies in relation to the appointment of a person to work at the school, or in relation to a person so employed, where—
- (a) the person concerned is to be, or is, employed to work solely in connection with the provision of meals, and
- (b) less than 50 per cent. of the person's remuneration will be, or is, met from the school's delegated budget.

SCHEDULE 15

Section 158.

REINSTATEMENT OF PUPILS EXCLUDED FROM COUNTY,  
VOLUNTARY OR MAINTAINED SPECIAL SCHOOLS

**PART I**

COUNTY, CONTROLLED AND MAINTAINED SPECIAL SCHOOLS

*Preliminary*

- 1 The articles of government for a county, controlled or maintained special school shall make provision for the matters set out in paragraphs 2 to 7.

*Reinstatement of permanently excluded pupils*

- 2 (1) Where the local education authority have been informed of the permanent exclusion of a pupil from the school, they shall—

- (a) after giving the governing body an opportunity to express their views, and
- (b) after considering any views expressed within the prescribed period by the governing body,

consider whether the pupil should be reinstated immediately, reinstated by a particular date or not reinstated.

- (2) If the authority decide that the pupil should be reinstated, they shall—
    - (a) give the appropriate direction to the head teacher, and
    - (b) inform the relevant person and the governing body of the direction.
  - (3) If the authority decide that the pupil should not be reinstated, they shall inform the relevant person of their decision.
- 3 (1) The head teacher shall comply with any direction for the reinstatement of a pupil who has been permanently excluded from the school—
- (a) which is given by the local education authority by virtue of paragraph 2, or
  - (b) which is given by the governing body.
- (2) If conflicting directions are given by the authority and the governing body, the head teacher shall comply with the direction which will lead to the earlier reinstatement of the pupil.
- 4 Where the governing body direct the head teacher to reinstate a pupil who has been permanently excluded from the school, they shall inform the relevant person and the local education authority of the direction.

*Reinstatement of pupils excluded for a fixed period*

- 5 (1) Where a pupil is excluded from the school for a fixed period in circumstances in which he would, as a result of the exclusion—
- (a) be excluded from the school for a total of more than five school days in any one term, or
  - (b) lose an opportunity to take a public examination,
- the head teacher shall comply with any direction given by the local education authority or the governing body for the pupil's reinstatement.
- (2) If conflicting directions are given by the authority and the governing body, the head teacher shall comply with the direction which will lead to the earlier reinstatement of the pupil.
- 6 (1) Where the local education authority—
- (a) have been informed of the exclusion of a pupil from the school for a fixed period, and
  - (b) propose to give any such direction as is mentioned in paragraph 5(1),
- they shall consult the governing body before giving such a direction.
- (2) Where they give such a direction, the authority shall inform the relevant person and the governing body of the direction.
- 7 Where the governing body give any such direction as is mentioned in paragraph 5(1), they shall inform the relevant person and the local education authority of the direction.

## PART II

### AIDED AND SPECIAL AGREEMENT SCHOOLS

#### *Preliminary*

- 8 The articles of government for an aided or a special agreement school shall make provision for the matters set out in paragraphs 9 to 13.

#### *Reinstatement of permanently excluded pupils*

- 9 (1) Where the governing body have been informed of the permanent exclusion of a pupil from the school, they shall consider whether he should be reinstated immediately, reinstated by a particular date or not reinstated.
- (2) If the governing body decide that the pupil should be reinstated, they shall—
- (a) give the appropriate direction to the head teacher, and
  - (b) inform the relevant person and the local education authority of the direction.
- (3) If the governing body decide that the pupil should not be reinstated, they shall (without delay) inform the relevant person and the local education authority of their decision.
- 10 The head teacher shall comply with any direction for the reinstatement of the pupil given by the governing body by virtue of paragraph 9.

#### *Reinstatement of pupils excluded for a fixed period*

- 11 (1) Where a pupil is excluded from the school for a fixed period in circumstances in which he would, as a result of the exclusion—
- (a) be excluded from the school for a total of more than five school days in any one term, or
  - (b) lose an opportunity to take a public examination,
- the head teacher shall comply with any direction given by the governing body or the local education authority for the pupil's reinstatement.
- (2) If conflicting directions are given by the authority and the governing body, the head teacher shall comply with the direction which will lead to the earlier reinstatement of the pupil.
- 12 (1) Before giving any such direction as is mentioned in paragraph 11(1) the local education authority shall—
- (a) give the governing body an opportunity to express their views; and
  - (b) consider any views expressed within the prescribed period by the governing body.
- (2) Where the authority give any such direction, they shall inform the relevant person and the governing body of the direction.
- 13 Where the governing body give any such direction as is mentioned in paragraph 11(1), they shall inform the relevant person and the local education authority of the direction.

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### PART III

#### GENERAL

##### *Power to prescribe periods for the taking of any required steps*

- 14 Regulations may provide that, where a local education authority or governing body of a school are required under the preceding provisions of this Schedule to take any step, the duty must, subject to prescribed exceptions, be performed within the prescribed period; but such a provision shall not relieve the authority or body of the duty to take any step which has not been taken within that period.

##### *Meaning of “the relevant person”*

- 15 In this Schedule “the relevant person” means—
- (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.

## SCHEDULE 16

Section 159.

### APPEALS AGAINST EXCLUSION OR REINSTATEMENT OF PUPILS

#### *Duty to inform parent or pupil of right of appeal*

- 1 (1) The articles of government for a county, controlled or maintained special school shall require the local education authority, where by virtue of paragraph 2(3) of Schedule 15 they inform the relevant person of their decision that a pupil should not be reinstated, to give him notice in writing—
- (a) of his right to appeal against the decision;
  - (b) of the last date on which an appeal may be made (calculated in accordance with paragraph 3(1) below);
  - (c) of his right to give notice under paragraph 3(2) below stating that he does not intend to appeal;
  - (d) that no appeal may be made after notice under that provision is given.
- (2) The articles of government for an aided or a special agreement school shall require the governing body, where by virtue of paragraph 9(3) of Schedule 15 they inform the relevant person of their decision that a pupil should not be reinstated, to give him notice in writing—
- (a) of his right to appeal against the decision;
  - (b) of the last date on which an appeal may be made (calculated in accordance with paragraph 3(1) below);
  - (c) of his right to give notice under paragraph 3(2) below stating that he does not intend to appeal;
  - (d) that no appeal may be made after notice under that provision is given.

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*Suspension of direction for reinstatement pending appeal etc.*

- 2 (1) A direction for the reinstatement of a pupil given by virtue of paragraph 2 of Schedule 15 shall not have effect for a period ending with the fifth school day ending after the governing body are informed of the direction by the local education authority unless, within that period, the governing body inform the authority that they do not intend to appeal against the direction.
- (2) Where, within that period, the governing body lodge an appeal against the direction in accordance with the arrangements made by the local education authority under section 159(1)—
- (a) the authority shall, before the end of the fourth school day after the day on which the appeal is lodged, inform the relevant person of his right to make representations to the appeal committee, and
  - (b) the direction shall not have effect unless it is confirmed by the appeal committee or the appeal is withdrawn.
- (3) No appeal against such a direction may be made by the governing body after the direction has taken effect.

*Time limits and notices waiving right to appeal*

- 3 (1) No appeal under section 159(1)(a) or (2) against a decision not to reinstate a pupil may be made after the 15th school day after the day on which the relevant person is given notice in writing under paragraph 1(1) or (2).
- (2) Any notice in writing given by the relevant person to the body responsible for making any arrangements under section 159(1) or (2) which states that he does not intend to appeal against a decision not to reinstate the pupil shall be final.
- (3) The time limit for appealing under section 159 shall be treated as having expired on the day on which notice is given under sub-paragraph (2) (if earlier than the last day on which an appeal may be made in accordance with sub-paragraph (1)).

*Appeal committees*

- 4 (1) Part I of Schedule 33 (school admission appeals) shall have effect in relation to appeals under section 159 with the necessary modifications.
- (2) Accordingly, in the application of that Part of that Schedule in relation to any such appeals—
- (a) any reference to section 423(1) shall be read as a reference to section 159(1);
  - (b) any reference to section 423(2) shall be read as a reference to section 159(2); and
  - (c) any reference to section 423(3) shall be read as a reference to section 159(3).

*Procedure on an appeal*

- 5 In the following provisions of this Schedule—
- “appeal” means an appeal under section 159;
  - “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33, as it applies in accordance with paragraph 4 above.

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- 6 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 7 The appeal committee shall meet to consider an appeal—
- (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or
  - (b) if the body responsible for making any arrangements under section 159 has determined a shorter period, within that period.
- 8 (1) On an appeal by a pupil or parent the appeal committee shall give the appellant an opportunity of appearing and making oral representations, and may allow him to be accompanied by a friend or to be represented.
- (2) On such an appeal the committee shall allow—
- (a) the local education authority and the governing body to make written representations, and
  - (b) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations.
- 9 (1) On an appeal by a governing body the appeal committee shall give a governor nominated by the governing body an opportunity of appearing and making oral representations, and shall allow the governing body to be represented.
- (2) On such an appeal the committee shall allow—
- (a) the relevant person to make written representations and to appear and make oral representations,
  - (b) the local education authority to make written representations, and
  - (c) an officer of the authority nominated by the authority to appear and make oral representations.
- 10 (1) The body responsible for making any arrangements under section 159 shall, in setting any time limits in connection with appeals, have regard to the desirability of securing that appeals are disposed of without delay.
- (2) If the relevant person making an appeal under section 159(1)(a) or (2) requests that body to do so, it may in exceptional circumstances extend the period in which an appeal committee is to hear the appeal and communicate its decision.
- 11 (1) Appeals shall be heard in private except when the local education authority or governing body by whom the arrangements under section 159 are made direct otherwise.
- (2) Without prejudice to any of the provisions of this Schedule—
- (a) a member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal committee; and
  - (b) any member of the Council on Tribunals may attend, as an observer, any meeting of an appeal committee at which an appeal is considered.
- 12 Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.
- 13 In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.

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- 14 The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to the relevant person, the local education authority and the governing body, and shall be so communicated—
- (a) within the period ending with the 17th school day after the day on which the appeal is lodged, or
  - (b) if the body responsible for making any arrangements under section 159 has determined a shorter period, within that period.
- 15 (1) Subject to paragraphs 6 to 14, all matters relating to the procedure on appeals, including the time within which they are to be brought, shall be determined by the local education authority or governing body by whom the arrangements under section 159 are made.
- (2) Neither section 106 of the Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee.

#### *Notices*

- 16 (1) Where in accordance with paragraph 1(1) or (2) notice in writing is required to be given to a person, the notice may be given either—
- (a) by delivering it to the person's last-known address, or
  - (b) by properly addressing, pre-paying and sending by first class post to the person's last-known address a letter containing the notice.
- (2) For the purposes of calculating the period referred to in paragraph 3(1), a notice shall be taken to have been given—
- (a) where first class post is used, on the second school day after the date of posting, or
  - (b) where the notice is delivered, on the date of delivery,
- unless (in either case) the contrary is shown.

#### *Meaning of "the relevant person"*

- 17 In this Schedule "the relevant person" means—
- (a) in relation to a pupil under the age of 18, a parent of his;
  - (b) in relation to a pupil who has attained that age, the pupil himself.

#### *Power of Secretary of State to make amendments*

- 18 The Secretary of State may by order amend the preceding provisions of this Schedule.

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## SCHEDULE 17

Section 161.

## GOVERNORS' ANNUAL REPORTS

*General*

- 1 (1) The articles of government for a county, voluntary or maintained special school shall impose the requirements set out in paragraphs 2 to 9.
- (2) In those paragraphs “the report” means a governors' report prepared under section 161.
- 2 The report shall be as brief as is reasonably consistent with the requirements as to its contents.

*Requirements as to contents*

- 3 Where there is an obligation on the governing body (by virtue of section 162) to hold an annual parents' meeting, the report shall—
- (a) give details of the date, time and place for the next annual parents' meeting and its agenda;
  - (b) indicate that the purpose of that meeting will be to discuss both the governors' report and the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school; and
  - (c) report on the consideration which has been given to any resolutions passed at the previous annual parents' meeting.
- 4 The report shall—
- (a) give the name of each governor and indicate whether he—
    - (i) is a parent, teacher or foundation governor,
    - (ii) was co-opted or otherwise appointed as a governor, or
    - (iii) is an ex officio governor;
  - (b) in the case of an appointed governor, say by whom he was appointed;
  - (c) in relation to each governor who is not an ex officio governor, give the date on which his term of office comes to an end; and
  - (d) name, and give the address of, the chairman of the governing body and their clerk.
- 5 The report shall give such information as is available to the governing body about arrangements for the next election of parent governors.
- 6 The report shall contain a financial statement—
- (a) reproducing or summarising any financial statement of which a copy has been provided to the governing body by the local education authority under section 122 or 124 since the last governors' report was prepared under section 161;
  - (b) indicating, in general terms, how any sum made available to the governing body by the authority—
    - (i) in respect of the school's budget share, or
    - (ii) under section 125,
 in the period covered by the report was used;



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- (c) giving details of the application of any gifts made to the school in that period; and
  - (d) stating the total amount of any travelling and subsistence allowances paid to members of the governing body in that period.
- 7 The report shall give such information about—
- (a) public examinations and other assessments of pupils' achievements,
  - (b) pupils' absences from the school,
  - (c) the continuing education of pupils leaving the school, and
  - (d) the employment or training taken up by such pupils,
- as is required to be published by virtue of section 414(6) and (7).
- 8 The report shall describe what steps have been taken by the governing body to develop or strengthen the school's links with the community (including links with the police).
- 9 The report shall draw attention to the information made available by the governing body in accordance with regulations made under section 408 so far as relating to the matters mentioned in subsection (2)(b) of that section (information as to educational provision made for pupils at the school and syllabuses followed by them).

*Power of Secretary of State to make amendments*

- 10 The Secretary of State may by order amend the preceding provisions of this Schedule.

SCHEDULE 18

Section 162.

ANNUAL PARENTS' MEETINGS

*Proceedings at an annual parents' meeting*

- 1 The articles of government for a county, voluntary or maintained special school shall provide for the proceedings at an annual parents' meeting to be under the control of the governing body.
- 2 (1) The articles of government for a county, voluntary or maintained special school shall provide for any annual parents' meeting at which the required number of parents of registered pupils at the school are present to be entitled to pass (by a simple majority) resolutions on any matters which may properly be discussed at the meeting.
- (2) In sub-paragraph (1) "the required number", in relation to a school, means any number equal to or greater than 20 per cent. of the number of registered pupils at the school.
- 3 No person who is not a parent of a registered pupil at the school may vote on any question put to an annual parents' meeting.

*Consideration of resolutions passed at an annual parents' meeting*

- 4 (1) The articles of government for a county, voluntary or maintained special school shall require the governing body—

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- (a) to consider any resolution which is duly passed at an annual parents' meeting and which they consider is a matter for them;
  - (b) to send to the head teacher a copy of any resolution which is so passed and which they consider is a matter for him; and
  - (c) to send to the local education authority a copy of any resolution which is so passed and which they consider is a matter for the authority.
- (2) The articles of government shall in addition—
- (a) require the head teacher to consider any resolution a copy of which has been sent to him by virtue of sub-paragraph (1)(b) and to provide the governing body with a brief comment on it (in writing) for inclusion in their next governors' report; and
  - (b) require the local education authority to do likewise in relation to any resolution a copy of which has been sent to them by virtue of sub-paragraph (1)(c).

*Determination of question whether person is to be treated as pupil's parent*

- 5 (1) The articles of government for a county, controlled or maintained special school shall provide for any question whether any person is to be treated, for the purposes of any provision of the articles relating to the annual parents' meeting, as the parent of a registered pupil at the school to be determined by the local education authority.
- (2) The articles of government for an aided or a special agreement school shall provide for any such question to be determined by the governing body.

SCHEDULE 19

Section 166.

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

**PART I**

GENERAL

*Articles of government for new schools*

- 1 (1) The requirement for there to be articles of government for a school (imposed by section 127) shall not apply in relation to a new school until the requirement for there to be an instrument of government for the school takes effect under section 99.
- (2) Before making an order under section 127 as to the articles of government for a new school, the local education authority shall consult the temporary governing body and the head teacher.
- (3) Before making such an order in respect of a new school which will be a voluntary school, the authority shall—
- (a) secure the agreement of the temporary governing body to the terms of the proposed order, and
  - (b) secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.

- (4) Where a local education authority propose to make an order under section 127 in respect of a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
- (5) On a reference to him under this paragraph, the Secretary of State shall give such direction as he thinks fit.

- 2 Section 129(2) (amendment of articles) shall not apply in relation to a new school; but if the articles of government for a new county or voluntary school contain any provisions to which section 129(1) would apply during any period when the school had a delegated budget (“inconsistent provisions”) they shall also include in relation to each inconsistent provision the statement required by section 129(3).

*Conduct of new schools: general*

- 3 The determination of those matters relating to the conduct of a new school which require to be determined before a governing body is constituted for the school under an instrument of government shall be under the direction of the temporary governing body, but subject to any provision made by or under this Act (including, in particular, this Schedule) or any other enactment.
- 4 Regulations may make in relation to consultation with temporary governing bodies provision similar to the provision that may be made in relation to consultation with governing bodies by regulations under section 131 (consultation not required in urgent cases).

**PART II**

STAFFING OF NEW SCHOOLS: FINANCIAL DELEGATION NOT PROPOSED

*Staffing of new county, controlled or maintained special schools*

- 5 Subject to paragraph 19(4), paragraphs 6 to 11 apply in relation to any new school for which a temporary governing body have been constituted and which will be a county, controlled or maintained special school.
- 6 (1) The complement of teaching and non-teaching posts for the school shall be determined by the local education authority.
- (2) Section 133(2) and (3) (staff complements) shall apply in relation to a complement determined under this paragraph.
- 7 (1) Whenever a selection panel is required by virtue of paragraph 8 or 9, it shall be constituted in accordance with this paragraph.
- (2) A selection panel shall consist of—
- (a) such number of persons appointed to it by the local education authority, and
  - (b) such number of temporary governors appointed to it by the temporary governing body,
- as the authority shall determine.
- (3) Neither of the numbers so determined shall be less than three; and the number determined in relation to appointments made by the temporary governing body shall

not be less than the number determined in relation to appointments made by the authority.

- (4) The temporary governing body and the authority may replace, at any time, any member of a selection panel whom they have appointed.
- (5) Regulations may make provision, for the purposes of this paragraph, as to the meetings and proceedings of selection panels.
- 8 (1) Subject to sub-paragraph (2) below, sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 (appointment of head teacher) shall apply in relation to the appointment of a head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
  - (b) subject to any necessary modifications.
- (2) Where—
- (a) two or more schools are to be discontinued (“the discontinued schools”), and
  - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to the new school,
- the local education authority may, in consultation with the temporary governing body, appoint one of the head teachers of the discontinued schools as the first head teacher for the new school, instead of following the procedure set out in sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 (as applied by sub-paragraph (1) above).
- (3) If the post of head teacher is vacant, the authority may, if they think fit, appoint an acting head teacher after consulting the temporary governing body.
- 9 (1) Subject to sub-paragraph (2) below, sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 shall apply in relation to the appointment of a deputy head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
  - (b) subject to any necessary modifications.
- (2) If the local education authority so decide, those provisions of Schedule 13 shall not so apply and instead the general staff appointment provisions shall apply in relation to the appointment of a deputy head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
  - (b) subject to any necessary modifications.
- (3) Where (in accordance with sub-paragraph (1)) the appointment of a deputy head teacher is on the recommendation of a selection panel and the head teacher is not a member of the panel, the head teacher—
- (a) shall be entitled to be present, for the purpose of giving advice, at any proceedings of the panel (including interviews), and
  - (b) whether or not he attends any such proceedings, shall be consulted by the panel before they make any recommendation to the local education authority.
- (4) In this paragraph and paragraph 10 “the general staff appointment provisions” means the following provisions of Schedule 13—
- (a) paragraph 5(3);

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- (b) paragraph 6(2) to (7);
  - (c) paragraph 7(2) and (3); and
  - (d) paragraph 8(2) and (3).
- 10 (1) The general staff appointment provisions shall apply in relation to the appointment of a person to a post (other than that of head teacher or deputy head teacher) which is part of the complement of the school as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government).
- (2) The local education authority shall consult the temporary governing body and the head teacher before appointing any person to work solely at the school otherwise than—
  - (a) in a teaching post,
  - (b) in a non-teaching post which is part of the complement of the school, or
  - (c) solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.
- (3) This paragraph does not apply in relation to a temporary appointment pending—
  - (a) the return to work of the holder of the post in question, or
  - (b) the taking of any steps required by virtue of this Schedule in relation to the vacancy in question.
- (4) Paragraph 9(4) applies for the purposes of this paragraph.
- 11 (1) The clerk to the temporary governing body shall be appointed by the local education authority.
- (2) When the arrangement for the constitution of the temporary governing body comes to an end under section 96 or 97, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of a clerk under section 135.
- 12 Subject to paragraph 19(4), a local education authority shall, in discharging their duty under paragraph 21 of Schedule 9 (temporary governing bodies) to provide information to the temporary governing body of a new school which will be a county, controlled or maintained special school, inform the temporary governing body, in particular—
  - (a) of the number of members of any selection panel required by virtue of paragraph 8 or 9 above who are to be appointed by the authority and the number who are to be appointed by the temporary governing body;
  - (b) where the authority intend to exercise the power conferred on them by paragraph 8(2) above, of their intention to do so;
  - (c) of the provision which is to apply in relation to the appointment of the deputy head teacher of the school;
  - (d) of the complement of staff for the school; and
  - (e) of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.

*Staffing of new aided schools*

- 13 Subject to paragraph 19(5), paragraphs 14 to 16 apply in relation to a new school which will be an aided school.

- 14 Subject to paragraph 15(1), the local education authority and the temporary governing body shall have the same powers, and be under the same duties, for the purposes of the appointment and dismissal of staff at the school as would the authority and the governing body for an aided school whose articles of government provided for—
- (a) staff employed solely in connection with the provision of school meals to be appointed by the authority, and
  - (b) other staff employed at the school to be appointed by the governing body.
- 15 (1) The first appointment of a clerk to the temporary governing body shall be made by the promoters of the school (that is, the persons making the relevant proposals).
- (2) When the arrangement for the constitution of the temporary governing body comes to an end under section 97, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of their clerk.
- 16 (1) The local education authority shall, with a view to enabling staff to be appointed in good time, notify the temporary governing body of any determination, prohibition or direction they intend to make or give pursuant to subsection (2)(b), (4)(a) or (b) or (5) of section 134 (staffing of aided schools).
- (2) The authority shall, in discharging their duty under paragraph 21 of Schedule 9 to provide information to the temporary governing body of a new school which will be an aided school, inform the temporary governing body, in particular, of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.

*Expenditure on staff for new schools*

- 17 Where a temporary governing body are constituted for a new school, the local education authority shall be under the same duty to defray the expenses incurred in relation to the staff appointed in accordance with paragraphs 6 to 11 or (as the case may be) 14 and 15, as they would be if the relevant proposals had been implemented and the temporary governing body were the governing body of the school.

**PART III**

STAFFING OF NEW SCHOOLS: FINANCIAL DELEGATION PROPOSED

*Adaptation of references*

- 18 For the purposes of the application (in accordance with paragraphs 19 to 24) of sections 136 to 141 and Schedule 14 in relation to new schools which will be county or voluntary schools—
- (a) references to the governing body of a school shall be read as including the temporary governing body of a new school;
  - (b) references to a county school shall be read as including a new school which on implementation of the relevant proposals will be a county school; and
  - (c) references to a voluntary school of a particular category, or maintained by a particular local education authority, shall be read as including a new school which on implementation of the relevant proposals will be a voluntary school of that category, or maintained by that authority.

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*Application or otherwise of provisions about staffing*

- 19 (1) Subject to paragraphs 20 to 24, section 136 or (as the case may be) section 137 (staffing of county or voluntary schools with delegated budgets) shall apply to a new school which on implementation of the relevant proposals will be a school of a category to which that section applies not only at any time when (by virtue of Schedule 12) the new school has a delegated budget but also at any time when it has a temporary governing body and sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the delegation requirement under the scheme will apply to the school on or before the implementation of the relevant proposals.
- (3) This sub-paragraph is satisfied if the local education authority propose to exercise any power under the scheme to delegate the management of the school's budget share for a financial year by making such a delegation—
- (a) to the temporary governing body before the implementation of the relevant proposals, or
- (b) to the governing body of the school on implementation of those proposals.
- (4) Paragraphs 6 to 12 of this Schedule shall not apply in relation to a new school to which section 136 for the time being applies.
- (5) Paragraphs 14 to 16 of this Schedule shall not apply in relation to a new school to which section 137 for the time being applies.
- 20 Sections 136, 137 and 138 and Schedule 14 (staffing of schools with delegated budgets) shall apply, in the case of a new school, for the purposes only of—
- (a) the appointment of staff at the school, and
- (b) the taking of such steps with respect to any other matters referred to in those provisions as may be appropriate in preparation for the conduct of the school following implementation of the relevant proposals.
- 21 In the case of a new school which is a proposed county, controlled, aided or special school, no appointments of staff for the school shall be made by the local education authority before the constitution of a temporary governing body for the school.
- 22 Section 139(2) and (5) (payments in respect of dismissal) shall not apply in relation to a new school.
- 23 Any provision included in a scheme by virtue of subsection (3) of section 140 (community schools), so far as it relates to the appointment of staff at a school to which that section applies, shall apply in relation to a new school which on implementation of the relevant proposals will be a school to which that section applies.
- 24 (1) Section 141 (amendment of articles) shall not apply in relation to a new school.
- (2) The local education authority shall, however, incorporate—
- (a) the statement mentioned in section 141(2) in the articles of government for a new school which will be a county or controlled school and to which section 136 applies, or
- (b) the statement mentioned in section 141(3) in the articles of government for a new school which will be an aided school and to which section 137 applies.

## PART IV

### OTHER MATTERS RELATING TO CONDUCT ETC. OF NEW SCHOOLS

#### *Preparation of curriculum*

- 25 (1) The head teacher of a new school for which a temporary governing body have been constituted shall, in preparing to discharge his functions under Part V in relation to the curriculum for the school, consult that body and the local education authority.
- (2) Any authority who have been consulted under this paragraph shall inform the head teacher of the resources which are likely to be made available to the school; and the head teacher shall have regard to any information so given to him.

#### *School terms, holidays and sessions*

- 26 (1) Pending the coming into force of the articles of government for a new school which will be a county or controlled school—
- (a) the dates when the school terms and holidays are to begin and end shall be determined by the local education authority, and
  - (b) the times of the school sessions shall be determined by the temporary governing body after consultation with the authority.
- (2) Pending the coming into force of the articles of government for a new school which will be an aided school—
- (a) the dates and times when the school terms and holidays are to begin and end, and
  - (b) the times of the school sessions,
- shall be determined by the temporary governing body.
- (3) In this paragraph “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

#### *Discipline*

- 27 Pending the coming into force of the articles of government for a new school, section 154(2) to (6) (responsibility for discipline) shall apply—
- (a) in relation to the head teacher, and
  - (b) subject to any necessary modifications, in relation to the temporary governing body,
- as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government).

#### *Reports and information*

- 28 (1) A temporary governing body shall provide the local education authority with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time).
- (2) The head teacher of a new school for which a temporary governing body have been constituted shall provide that body or (as the case may be) the local education



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authority with such reports in connection with the discharge of his functions as that body or the authority may require (either on a regular basis or from time to time).

- (3) In the case of a new school which will be an aided school—
- (a) the local education authority shall notify the temporary governing body of any requirement imposed by them on the head teacher under sub-paragraph (2), and
  - (b) the head teacher shall provide the temporary governing body with a copy of any report which he makes in complying with any such requirement.

*Consultation on expenditure by local education authority*

- 29 (1) Where a temporary governing body have been constituted for a new school, the local education authority shall consult that body and the head teacher on their proposed expenditure on books, equipment and stationery for the school.
- (2) Sub-paragraph (1) does not apply in relation to a new school which has a delegated budget.

SCHEDULE 20

Sections 193 and 213.

PROPOSALS FOR SCHOOLS TO BECOME, OR BE  
ESTABLISHED AS, GRANT-MAINTAINED SCHOOLS

**PART I**

PROPOSALS FOR ACQUISITION OF GRANT-MAINTAINED STATUS

*Publication of proposals and notice*

- 1 (1) Where proposals are required to be published under section 193, they shall be published by being—
- (a) posted at or near the main entrance to the school, or (if there is more than one main entrance) all of them,
  - (b) posted in at least one conspicuous place within the area served by the school, and
  - (c) made available for inspection at all reasonable times at the school or at any other place within that area to which members of the public may conveniently have access.
- (2) Within the period of 10 days beginning with the date of publication of the proposals there shall be published in at least one newspaper circulating in that area a notice in respect of the proposals containing such summary of the proposals as the governing body may think appropriate (including, in particular, the information required by sub-paragraph (3)).
- (3) The notice shall—
- (a) state that proposals for acquisition of grant-maintained status have been published and submitted to the Secretary of State for approval,
  - (b) specify the proposed date of implementation of the proposals,

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- (c) state that, if the proposals are approved, the school will on that date cease to be maintained by the local education authority,
  - (d) state that, if the proposals are approved, the school will on and after that date be conducted by a governing body incorporated under Part III and receive annual grants from the funding authority,
  - (e) give the information required to be specified in the proposals by paragraph 4(1)(a) and (2)(a),
  - (f) state where the proposals may be inspected, and
  - (g) explain the effect of paragraph 5.
- (4) The Secretary of State may by regulations make such provision (whether by way of modification of, or substitution for, the provisions of sub-paragraphs (1) to (3)) as he considers appropriate in relation to—
- (a) the publication of proposals for acquisition of grant-maintained status, and
  - (b) the publication of such notice (if any) in respect of proposals for acquisition of grant-maintained status as may be prescribed.
- (5) For the purposes of the application of section 311(6) in relation to sub-paragraph (2) above the requirement to publish a notice under that sub-paragraph shall not be regarded as a requirement with respect to the publication of the proposals in question.

*Statement to be annexed to proposals*

- 2 (1) There shall be annexed to any proposals published under section 193 a statement which shall—
- (a) state the result of the ballot, giving the number of votes cast in favour of seeking grant-maintained status for the school, the percentage of those eligible to vote who voted, and the number of votes cast against,
  - (b) state whether the school is a county, controlled, aided or special agreement school,
  - (c) briefly describe the existing character of the school including, in the case of a school which has a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is provided,
  - (d) state the number of pupils for whom accommodation can be provided at the school, and
  - (e) give such other information as may be prescribed.
- (2) The statement so annexed shall be treated for the purposes of section 193 and of paragraph 1 as forming part of the proposals.

*Statement to accompany published proposals*

- 3 Any proposals published under section 193 shall be accompanied by a statement which shall—
- (a) describe the requirements of Part III as to the membership of the governing body of a grant-maintained school,
  - (b) state that the head teacher will be a governor of the school ex officio if the school becomes a grant-maintained school,
  - (c) explain the circumstances in which a person named in the proposals in accordance with section 234 or 236, or regulations made by virtue

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- of section 240, as a proposed initial governor may be replaced under section 237 or 238 or the regulations,
- (d) explain the procedure applicable under Part III in each case in which such a replacement is required,
  - (e) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, explain the requirements applicable under Part III in any such case,
  - (f) explain the effect of paragraph 5, and
  - (g) give such other information as may be prescribed.

#### *Details of proposals*

- 4 (1) Any proposals published under section 193 shall—
- (a) where any person is proposed as a sponsor of the school, state the name of that person and the number of initial sponsor governors to be appointed by him (in accordance with section 229),
  - (b) specify the number of initial parent, teacher and first or, as the case may be, foundation governors proposed for the governing body (in accordance with sections 223 to 228),
  - (c) give the name of the person who is the head teacher of the school on the date of publication of the proposals,
  - (d) give the relevant particulars in respect of each person required by section 234 or 236, or regulations made by virtue of section 240, to be named in the proposals as published as a proposed initial governor,
  - (e) where it is proposed that any foundation governorship be held ex officio, specify the relevant office,
  - (f) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, state that fact and refer to the explanation given in the statement accompanying the proposals in accordance with paragraph 3(e),
  - (g) give the name under which it is proposed that the governing body should be incorporated under section 195, and
  - (h) specify the proposed date of implementation of the proposals.
- (2) The proposals shall describe the arrangements it is proposed to adopt, if the school becomes a grant-maintained school, in respect of—
- (a) the admission of pupils to the school,
  - (b) the provision to be made at the school for pupils who have special educational needs, and
  - (c) the induction of newly-qualified teachers at the school and the in-service training and professional development of teachers at the school.
- (3) In giving the information required by sub-paragraph (2)(a), the proposals shall in particular specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the proposed date of implementation of the proposals and, if pupils are proposed to be admitted for nursery education, give the prescribed information.

*Objections to proposals*

- 5 Within the period of two months beginning with the date of publication of any proposals under section 193, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) any persons holding property on trust for the purposes of the school,
  - (c) the governing body of any school affected by the proposals, and
  - (d) any local education authority concerned.

*Interpretation*

- 6 (1) For the purposes of this Part of this Schedule, the determination of an initial governor of an elected category is pending on the date of publication of any proposals under section 193 if sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies if an election or appointment required by section 234(7) has not been held or made by the date of publication.
- (3) This sub-paragraph applies if—
- (a) an election or appointment required for filling an outstanding vacancy for a governor of an elected category on the existing governing body has not been held or made by the date of publication, and
  - (b) the vacancy falls to be taken into account in determining whether an election or appointment is required by section 234(7).

**PART II**

PROPOSALS FOR ESTABLISHMENT OF NEW GRANT-MAINTAINED SCHOOL

*Content of proposals*

- 7 (1) Proposals published under section 211 or 212 shall—
- (a) where any person is proposed as a sponsor of the school, state the name of that person and the number of sponsor governors to be appointed by him (in accordance with section 229),
  - (b) specify the number of initial first or, as the case may be, foundation governors proposed for the governing body (in accordance with sections 226 to 228),
  - (c) specify the number of parent and teacher governors proposed for the governing body (in accordance with sections 223 and 224),
  - (d) specify in the case of initial first, initial foundation or sponsor governors their proposed term of office (not being less than five nor more than seven years),
  - (e) where it is proposed that any foundation governorship be held ex officio, specify the relevant office,
  - (f) give the name under which it is proposed that the governing body should be incorporated under section 215, and
  - (g) specify the proposed incorporation date and the proposed date of implementation of the proposals.

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- (2) The proposals shall describe the arrangements it is proposed to adopt in respect of the admission of pupils to the school and, in particular, shall specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the date of implementation of the proposals and, if pupils are proposed to be admitted for nursery education, give the prescribed information.

*Statement to be annexed to proposals*

- 8 There shall be annexed to any proposals published under section 211 or 212 a statement briefly describing the intended character of the proposed school including, in the case of proposals published under section 212 for a school which is intended to have a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is to be provided.

*Statement to accompany published proposals*

- 9 Any proposals published under section 211 or 212 shall be accompanied by a statement explaining the effect of paragraph 10 or (as the case may be) paragraph 11.

*Objections*

- 10 (1) Within the period of two months beginning with the date of publication of any proposals under section 211, objections to the proposals may be submitted to the funding authority by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals are for a school which may provide education to which section 2(1) of the Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.
- (2) Within one month after the end of the period mentioned in sub-paragraph (1), the funding authority shall send to the Secretary of State copies of any objections made under that sub-paragraph (and not withdrawn in writing) within that period, together with their observations on them.
- 11 Within the period of two months beginning with the date of publication of any proposals under section 212, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies),
  - (d) the funding authority (except, in relation to Wales, before the Schools Funding Council for Wales begin to exercise their functions), and
  - (e) any local education authority concerned.

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*Approval of school premises*

- 12 (1) Where proposals for the establishment of a new grant-maintained school are published under section 211, the funding authority shall prepare the particulars in respect of the proposed premises of the school mentioned in sub-paragraph (3).
- (2) Where proposals for the establishment of a new grant-maintained school are published under section 212, the particulars in respect of the proposed premises of the school mentioned in sub-paragraph (3) shall be submitted to the funding authority, at such time and in such form and manner as the authority may direct, by the promoters.
- (3) The particulars are—
- (a) particulars of the provision made or to be made in respect of the means of access to and within the proposed premises of the school, and
  - (b) such other particulars in respect of the proposed premises of the school as may be required or, in the case of proposals published under section 212, as the funding authority may require.
- (4) The particulars prepared or submitted under sub-paragraph (3)(a) shall indicate the extent to which the provision referred to conforms with the minimum requirements, so far as they are relevant to school premises, of—
- (a) Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or
  - (b) (if that Note has been replaced by a document prescribed by regulations made or having effect as if made under the Town and Country Planning Act 1990) that document.

SCHEDULE 21

Section 196.

ACQUISITION OF GRANT-MAINTAINED STATUS: EXERCISE  
OF POWERS BEFORE DATE OF IMPLEMENTATION

*Introductory*

- 1 The functions conferred by or under paragraphs 2 to 5 on the new governing body or any members of the body—
- (a) may be exercised by them at any time during the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals, but
  - (b) may be exercised only for the purpose of or in connection with the conduct of the school on or after the date of implementation of the proposals,
- and those functions shall be exercised in accordance with any requirements of regulations (or, in the case of paragraph 3 or 5, of the directions or order in question) as to the circumstances, manner and conditions of their exercise.

*Powers to contract, etc.*

- 2 The new governing body may—
- (a) enter into contracts including, in particular, contracts for the employment of teachers and other staff, and
  - (b) acquire and dispose of land and other property.

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#### *Access to school*

- 3 Any member of, or person authorised by, the new governing body shall, if the Secretary of State directs that this paragraph applies in relation to the school, be entitled to have access to and use the premises of the school.

#### *Information*

- 4 (1) If the new governing body request the existing governing body or the local education authority in writing to provide them with such information falling within sub-paragraph (2) as may be prescribed, the existing governing body or, as the case may be, the authority shall comply with the request.
- (2) Information falls within this sub-paragraph if—
- (a) it is held by the existing governing body or, as the case may be, the local education authority, and
  - (b) it relates to the school, including persons employed to work at the school and pupils at the school.

#### *General powers of Secretary of State*

- 5 (1) The Secretary of State may by order make such provision as he considers appropriate in connection with the school's transition to grant-maintained status and the impending transfer of responsibility for the conduct of the school.
- (2) An order under sub-paragraph (1) may in particular provide for any provision of this Act specified in the order to have effect as if references to the governing body included the new governing body.
- (3) Such an order may in particular—
- (a) exclude or modify any powers of the local education authority or of the existing governing body in relation to any matter to which any power exercisable by the new governing body in accordance with any provision made by virtue of sub-paragraph (2) applies,
  - (b) require the new governing body to be consulted before the local education authority or the existing governing body exercise in relation to the school any function of a description specified in the order or take in relation to the school any action of a description so specified, and
  - (c) require or enable the new governing body to participate in the exercise in relation to the school of any such function or the taking in relation to the school of any such action.

#### *Grants to new governing body*

- 6 (1) The funding authority may make grants to the new governing body of a school in respect of expenditure incurred or to be incurred by that body in pursuance of any provision made by or under paragraphs 2 to 5 in respect of the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals.
- (2) The funding authority may impose on a new governing body to whom such a grant is made such requirements as they may from time to time determine (whether before, at or after the time when the grant is made).

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- (3) 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.
- (4) 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.

*Liability for expenses of new governing body*

- 7 The duty of a local education authority to maintain any school shall not apply in relation to any expenses incurred by the new governing body of the school.

SCHEDULE 22

Section 218(4).

GOVERNING BODIES OF GRANT-MAINTAINED SCHOOLS

*Introductory*

- 1 In this Schedule—
- “school” means a grant-maintained school, and
- “instrument”, in relation to a school, means the instrument of government for the school.

*Election of governors*

- 2 The instrument for a school may make provision—
- (a) as to the procedure for the election of members of the governing body, and
  - (b) for the determination of any questions arising in connection with, or matters relating to, such elections.

*Disqualification for, tenure of and removal from office*

- 3 A person who is a member of the teaching or other staff at a school which is required to have first governors shall be disqualified for holding office as such a governor on the governing body.
- 4 The instrument for a school may make provision as to the circumstances in which persons are to be disqualified for holding office as members of the governing body.
- 5 Subject to paragraph 10, the instrument for a school must provide for each governor of an elected category to hold office for a term of four years.
- 6 (1) Subject to paragraph 10, the instrument for a school must make the following provision for the term of office of—
- (a) first or, as the case may be, foundation governors, other than a foundation governor who is a governor ex officio, and



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- (b) where there are sponsor governors, those governors.
- (2) Except where sub-paragraph (3), (4) or (5) applies, such a governor is to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
- (3) The initial instrument must provide, except where sub-paragraph (4) or (5) applies—
- (a) subject to paragraph (b), for such a governor to hold office for such term as was specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school as the proposed term of office for initial governors of the category in question, and
- (b) in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which name a person as a sponsor of the school, for any sponsor governor to hold office for such term as was specified as the proposed term of office for such governors in those proposals.
- (4) Any additional first or foundation governor appointed in pursuance of provision made in the instrument by virtue of section 230(2) is to hold office for such term (not being more than five years) as may be specified in the terms of that governor's appointment.
- (5) Any first governor appointed in pursuance of provision made in the instrument by virtue of section 227 is to hold office for such term (not being less than five nor more than seven years) as may be specified in the terms of his appointment.
- 7 No provision made in the instrument by virtue of paragraph 5, 6 or 10 shall be taken to prevent a governor—
- (a) from being elected or appointed for a further term, or
- (b) from being disqualified, by virtue of paragraph 3 or any provision made by virtue of paragraph 4, for continuing to hold office.
- 8 The instrument for a school must provide that any member of the governing body may at any time resign his office.
- 9 (1) The instrument for a school must provide that any foundation governor (other than one holding office *ex officio*) and any sponsor governor may be removed from office by the person or persons who appointed him.
- (2) For the purposes of this paragraph, an initial foundation governor shall be treated as having been appointed by the person or persons entitled to appoint foundation governors under provision included in the instrument in accordance with section 228(7)(b).

*Initial appointments: terms of office*

- 10 (1) The instrument for a school must, until every initial governor has ceased to hold office, make the provision required by sub-paragraphs (2) and (3).
- (2) In the case of a governing body incorporated under Chapter II of Part III—
- (a) an initial governor of an elected category who was a governor of that category on the governing body of the school immediately before the incorporation date shall hold office for the remainder of his term of office on the former governing body, and

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- (b) an initial governor of an elected category who was elected under section 234, or elected or nominated under section 237 to hold office as such, shall hold office for a term of four years.
- (3) An initial first governor, initial foundation governor (other than a foundation governor who is a governor ex officio) or initial sponsor governor shall hold office for such term (not being less than five nor more than seven years) beginning with the incorporation date as may be specified as his proposed term of office in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (4) In the case of a governing body incorporated under Chapter IV of Part III, the instrument for a school must, until every governor of an elected category appointed before the date of implementation of the proposals has ceased to hold office, provide for any such governor to hold office for the prescribed term.

*Meetings and proceedings*

- 11 The proceedings of the governing body of a school shall not be invalidated by—
  - (a) any vacancy among their number, or
  - (b) any defect in the election or appointment of any governor.
- 12 Subject to the provisions of Chapter V of Part III and any instrument of government or articles of government made under that Chapter, the governing body of a school may regulate their own procedure.
- 13 (1) The instrument for a school may make provision as to the meetings and proceedings of the governing body.
- (2) The provision that may be made in pursuance of this paragraph includes, in particular, provision—
  - (a) as to the election of a chairman and vice-chairman,
  - (b) as to the establishment, constitution, meetings and proceedings of committees,
  - (c) for the delegation of the governing body's functions, in such circumstances as may be specified in the instrument, to committees established by that body or to any member of that body, and
  - (d) as to the procedure (including any quorum) when business is transacted by members of the governing body of a particular category.
- (3) The provision mentioned in sub-paragraph (2)(b) may provide for a committee to include persons who are not members of the governing body.
- (4) The instrument shall make provision for an appeal committee for the purposes of paragraph 6(1) of Schedule 23 to include among its members (with full voting powers) a person nominated by the governing body from among persons who are eligible to be lay members.
- (5) A person is eligible to be a lay member for the purposes of sub-paragraph (4) if—
  - (a) he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity), and
  - (b) he does not have, and has not at any time had, any connection with—
    - (i) the school, or

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(ii) any person who is a member of, or employed by, the governing body of the school,  
of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.

*Information as to meetings and proceedings*

- 14 (1) Regulations may require the governing body of a school to make available, to such persons or classes of person as may be prescribed, such documents and information relating to the meetings and proceedings of the governing body as may be prescribed.
- (2) Documents and information required by the regulations to be made available shall be made available in such form and manner, and at such times, as may be prescribed.

*Allowances for governors*

- 15 (1) The governing body of a school may pay to their members such travelling, subsistence or other allowances as may be determined in accordance with a scheme made by the governing body and approved by the Secretary of State.
- (2) A scheme under this paragraph may be varied or revoked by a subsequent scheme made under this paragraph.

*Seal etc.*

- 16 (1) The application of the seal of the governing body of a school must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (2) Every document purporting to be an instrument made or issued by or on behalf of the governing body of a school and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 23

Section 218(5).

CONTENT OF ARTICLES OF GOVERNMENT FOR GRANT-MAINTAINED SCHOOLS

*Introductory*

- 1 In this Schedule—
- “school” means a grant-maintained school, and
  - “articles”, in relation to a school, means the articles of government for the school.

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*Performance and delegation of functions*

- 2 (1) The articles must make provision as to the functions to be exercised in relation to the school by—
- (a) the Secretary of State,
  - (b) the funding authority,
  - (c) the governing body,
  - (d) any committee or other body established by the governing body,
  - (e) the head teacher, and
  - (f) any other persons specified in or determined under the articles.
- (2) The articles must also include provision as to the delegation of such functions by those on whom they are imposed or conferred by or under the articles.
- (3) The articles may include provision as to the establishment by the governing body of committees or other bodies of persons for the purposes of or in connection with the performance in relation to the school of such functions as may be determined by or under the articles.

*Staff*

- 3 (1) The articles must include provision as to—
- (a) disciplinary rules and procedures applicable to members of the staff of the school, and
  - (b) procedures for giving them opportunities for seeking redress of any grievances relating to their employment.
- (2) The articles must also include provision as to arrangements—
- (a) for giving any member of the staff an opportunity of making representations as to any proposal to dismiss him by the governing body or any persons authorised under the articles to dismiss him, including (if he so wishes) oral representations to such person or persons as may be appointed for the purpose,
  - (b) for requiring the governing body or any persons authorised under the articles to dismiss him to have regard to any representations made by him before taking any decision to dismiss him, and
  - (c) for giving any member of staff whom it has been decided to dismiss an opportunity of appealing against that decision before any action is taken to implement it.

*Curriculum*

- 4 (1) The articles must include provision for securing the discharge by the governing body and the head teacher of duties imposed on them under Chapters I and II of Part V and sections 384, 388, 389, 400 and 408.
- (2) The articles must include provision as to arrangements for the consideration and disposal of complaints relating to any matter concerning the curriculum followed within the school including, in particular, the discharge by the governing body of those duties.

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- (3) The articles must require the governing body, when considering the content of the secular curriculum for the school, to have regard to any representations with regard to that curriculum—
- (a) which are made to them by any persons connected with the community served by the school, or
  - (b) which are made to them by the chief officer of police and are connected with his responsibilities.

#### *Admission arrangements*

- 5 (1) The articles must—
- (a) provide for the governing body to be responsible for determining the arrangements for admitting pupils to the school; and
  - (b) include provision as to the policy to be followed in deciding admissions.
- (2) The articles must also require the governing body to publish, for each school year, particulars of—
- (a) the arrangements for admission of pupils to the school; and
  - (b) the procedures applicable under the articles in relation to the admission of pupils to the school.

#### *Appeals relating to admission and exclusion of pupils*

- 6 (1) The articles must include provision as to the arrangements for appeals (in such circumstances as may be provided by the articles) to an appeal committee constituted in accordance with the instrument of government against any decision or action taken—
- (a) by the governing body, or
  - (b) by any persons authorised under the articles to take any decision or action of the kind in question,
- in relation to admissions of pupils to the school or the permanent exclusion of a pupil from the school.
- (2) The articles must enable the governing body to make such arrangements jointly with the governing body of one or more other grant-maintained schools.
- (3) The articles must require the governing body to publish, for each school year, particulars of any arrangements made by them in respect of appeals by parents against any such decision or action in relation to admissions of pupils to the school as is mentioned in sub-paragraph (1) above.

#### *Annual reports*

- 7 (1) The articles must require the governing body to prepare once in every school year a report in such form and containing such information as the articles may require.
- (2) The articles must require the governing body to take such steps as are reasonably practicable to secure that—
- (a) the registered parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the report, and
  - (b) copies of the report are available for inspection (at all reasonable times and free of charge) at the school.

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*Annual parents' meetings*

- 8 (1) The articles must require the governing body, subject to any exceptions provided for in the articles, to hold a meeting once in every school year which is open to—
- (a) all parents of registered pupils at the school, and
  - (b) such other persons as the governing body may invite.
- (2) The articles must include provision as to—
- (a) the procedure to be followed and the matters to be considered at such a meeting,
  - (b) the determination of any questions arising in connection with such a meeting, and
  - (c) the taking by the governing body or any other persons of such action as may be required by the articles for the purposes of, or in connection with, such a meeting or any resolutions passed at it.

SCHEDULE 24

Section 222.

CATEGORIES OF GOVERNORS

**PART I**

INTRODUCTORY

*Application*

- 1 (1) This Schedule applies, in relation to the governing body of a grant-maintained school, for the purposes of Part III.
- (2) Part II of this Schedule applies for the purpose of determining who are to be the initial governors of a grant-maintained school.
- (3) Part III of this Schedule applies for the purpose of determining who are to be the governors of a grant-maintained school on and after the incorporation date.

*General interpretation*

- 2 References to an initial governor are to any person who becomes a member of the governing body on the incorporation date.
- 3 References to a governor of an elected category are to a person who is a parent or teacher governor as defined by section 78(3) or (4) or is such a governor within the meaning of this Schedule.
- 4 In relation to any proposals for acquisition of grant-maintained status in respect of a school, a person who is a governor of an elected category on the existing governing body of the school is an eligible governor of that category if—
- (a) his term of office as a governor is due to end after the date of implementation of the proposals, and
  - (b) he has notified the existing governing body that he is willing to serve on the proposed governing body and has not withdrawn that notification.

## PART II

### INITIAL GOVERNORS

#### *Parent governors*

- 5 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “parent governor” means—
- (a) a person who, immediately before the incorporation date in relation to the school, is a parent governor (as defined by section 78(3)) in relation to the school, or
  - (b) a person elected or appointed under section 234, or elected, appointed or nominated under section 237, to hold office as an initial parent governor on the governing body.
- (2) A person elected under section 234 to hold office as an initial parent governor must be elected by registered parents of registered pupils at the school and a person elected or appointed under that section to hold such office must when he is elected or appointed be such a parent.
- (3) A person elected, appointed or nominated under section 237 to hold office as an initial parent governor—
- (a) in the case of an election, must be elected by registered parents of registered pupils at the school and must when he is elected be such a parent, and
  - (b) in the case of an appointment or nomination, must be a registered parent of a registered pupil at the school at the time of his appointment or nomination.

#### *Teacher governors*

- 6 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “teacher governor” means—
- (a) a person who, immediately before the incorporation date in relation to the school, is a teacher governor (as defined by section 78(4)) in relation to the school, or
  - (b) a person elected under section 234, or elected or nominated under section 237, to hold office as an initial teacher governor on the governing body.
- (2) A person elected under section 234 to hold office as an initial teacher governor must be elected by teachers at the school and must when he is elected be such a teacher.
- (3) A person elected or nominated under section 237 to hold office as an initial teacher governor—
- (a) in the case of an election, must be elected by teachers at the school and must when he is elected be such a teacher, and
  - (b) in the case of a nomination, must be a teacher at the school at the time of his nomination.

#### *First governors*

- 7 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “first governor” means a person who is selected under section 236(1), or nominated

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under section 238(1), and appears to the persons selecting or nominating him to be committed to the good government and continuing viability of the school.

- (2) In relation to a governing body to be incorporated under Chapter IV of Part III, “first governor” means a person appointed by the funding authority who appears to them to be committed to the good government and continuing viability of the proposed school.

#### *Foundation governors*

- 8 (1) In relation to a governing body to be incorporated under Chapter II of Part III, “foundation governor” means—
- (a) a person who is selected under section 236(2) or nominated under section 238(2),
  - (b) where the statement annexed (under paragraph 2 of Schedule 20) to the proposals for acquisition of grant-maintained status describes the religious character of the school, a person who is appointed for the purpose of securing that (subject to the approval or adoption under section 261 of any proposals) the religious character of the school is such as is indicated in the statement, and
  - (c) where there is a trust deed relating to the school, a person who is appointed for the purpose of securing that the school is conducted in accordance with the deed.
- (2) In relation to a governing body to be incorporated under Chapter IV of Part III, “foundation governor” means—
- (a) a person who is appointed by the promoters,
  - (b) where the statement annexed under paragraph 8 of Schedule 20 to the proposals for the establishment of a new grant-maintained school describes the religious character of the school, a person who is appointed for the purpose of securing that (subject to the approval or adoption under section 261 of any proposals) the religious character of the proposed school is such as is indicated in the statement, and
  - (c) where there is a trust deed relating to the proposed school, a person who is appointed for the purpose of securing that the proposed school is conducted in accordance with that deed.

#### *Sponsor governors*

- 9 In relation to a governing body to be incorporated under Chapter II of Part III, “sponsor governor” means a person appointed by a person named as a sponsor of the school in the proposals for acquisition of grant-maintained status.

### **PART III**

#### GOVERNORS OTHER THAN INITIAL GOVERNORS

#### *Parent governors*

- 10 (1) “Parent governor” means a person who—
- (a) is elected by registered parents of registered pupils at the school,



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- (b) is appointed under a provision of the instrument of government made by virtue of section 223(3),
  - (c) is appointed by virtue of section 223(6), or
  - (d) is an initial parent governor.
- (2) To qualify for such election, the person must when he is elected be a registered parent of a registered pupil at the school.

*Teacher governors*

- 11 (1) “Teacher governor” means a person who—
- (a) is elected by teachers at the school,
  - (b) is appointed by virtue of section 224(4), or
  - (c) is an initial teacher governor.
- (2) To qualify for such election, the person must when he is elected be a teacher at the school.

*First governors*

- 12 “First governor” means—
- (a) a person appointed by the governing body who appears to them to be committed to the good government and continuing viability of the school,
  - (b) a person appointed under a provision of the instrument of government made by virtue of section 227 who appears to the person appointing him to be committed to the good government and continuing viability of the school, or
  - (c) an initial first governor.

*Foundation governors*

- 13 “Foundation governor” means a person who—
- (a) is appointed otherwise than by a local education authority or the funding authority,
  - (b) where paragraph 8(1)(b) or (2)(b) applies, is appointed for the purpose there referred to, and
  - (c) where there is a trust deed relating to the school, is appointed for the purpose of securing that the school is conducted in accordance with that deed.

*Sponsor governors*

- 14 “Sponsor governor” means—
- (a) a person appointed by a person named in the instrument of government as a sponsor of the school,
  - (b) while the instrument of government is the initial instrument, a person appointed by a person named as a sponsor of the school in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school, or
  - (c) an initial sponsor governor.

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

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## SCHEDULE 25

Section 285.

## CORE GOVERNORS FOR GROUPS

*Introductory*

- 1 The provision made for core governors in the instrument of government for the governing body of a group must be in accordance with this Schedule.

*Kinds of core governor*

- 2 (1) Core governors may be either—
- (a) appointed by the governing body, or
  - (b) externally appointed.
- (2) Externally appointed core governors may be either—
- (a) appointed in respect of a particular school in the group, being a school—
    - (i) which was a voluntary school immediately before it became grant-maintained, or
    - (ii) which was established in pursuance of proposals published under section 212, or
  - (b) where the group consists only of such schools, appointed in respect of the group otherwise than by the governing body.
- (3) A person appointed as mentioned in sub-paragraph (2)(a) must be appointed by the persons named in the instrument of government for the group as being entitled to appoint externally appointed core governors in respect of the school.
- (4) A person appointed as mentioned in sub-paragraph (2)(a) must be appointed—
- (a) (where any statement annexed to the proposals in pursuance of which the school became a grant-maintained school described the religious character of the school) for the purpose of securing that, subject to any change in the character of the school which may be authorised by or under Part III, the religious character of the school is such as was indicated in the statement, and
  - (b) (where there is a trust deed relating to the school) for the purpose of securing that the school is conducted in accordance with the deed.
- (5) Core governors, other than externally appointed core governors appointed in respect of particular schools in the group, must be appointed from among persons who appear to the person making the appointment to be committed to the good government and continuing viability of all the schools in the group.
- (6) A person who is a member of the teaching or other staff at any of the schools in the group is disqualified from holding office as a core governor, other than an externally appointed core governor.

*Groups consisting only of former voluntary schools or section 212 schools*

- 3 (1) This paragraph applies in the case of such a group as is mentioned in paragraph 2(2)
- (b).

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

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- (2) The minimum number of externally appointed core governors (referred to in this paragraph as “MN”) is one greater than the number of governors other than externally appointed core governors.
- (3) Any head teacher of a school in the group who has chosen not to be a governor shall be counted as one for the purposes of sub-paragraph (2).
- (4) In respect of each school in the group there must be the same number of externally appointed core governors.
- (5) The total number of externally appointed core governors in respect of schools in the group must not be less than the highest number, not exceeding MN, that is consistent with sub-paragraph (4).

#### *Other groups*

- 4 (1) This paragraph applies in the case of a group other than such a group as is mentioned in paragraph 2(2)(b).
- (2) If any school in the group falls within paragraph 2(2)(a), one externally appointed governor must be appointed in respect of that school.
- (3) The appropriate number of the core governors must (on the date or dates on which they respectively take office) be parents of registered pupils at schools in the group, and the appropriate number of the core governors must (on the date or dates on which they respectively take office) be members of the local community; but one person may satisfy both requirements.
- (4) In sub-paragraph (3) “the appropriate number” means not less than two or, if all but one of the schools in the group fall within paragraph 2(2)(a), at least one.
- (5) In appointing core governors, the governing body must secure that those governors include persons appearing to the governing body to be members of the local business community (and such persons may also satisfy one or both of the requirements of sub-paragraph (3)).
- (6) The number of core governors must be such number, not being—
  - (a) less than five, or
  - (b) (subject to paragraph (a)) more than the number of schools in the group, as will secure that they and the parent governors outnumber the other governors.
- (7) Any head teacher of a school in the group who has chosen not to be a governor shall be counted as one for the purposes of sub-paragraph (6).

## SCHEDULE 26

Section 323.

### MAKING OF ASSESSMENTS UNDER SECTION 323

#### *Introductory*

- 1 In this Schedule “assessment” means an assessment of a child’s educational needs under section 323.

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

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*Medical and other advice*

- 2 (1) Regulations shall make provision as to the advice which a local education authority are to seek in making assessments.
- (2) Without prejudice to the generality of sub-paragraph (1), the regulations shall require the authority, except in such circumstances as may be prescribed, to seek medical, psychological and educational advice and such other advice as may be prescribed.

*Manner, and timing, of assessments, etc.*

- 3 (1) Regulations may make provision—
- (a) as to the manner in which assessments are to be conducted,
  - (b) requiring the local education authority, where, after conducting an assessment under section 323 of the educational needs of a child for whom a statement is maintained under section 324, they determine not to amend the statement, to serve on the parent of the child a notice giving the prescribed information, and
  - (c) in connection with such other matters relating to the making of assessments as the Secretary of State considers appropriate.
- (2) Sub-paragraph (1)(b) does not apply to a determination made following the service of notice under paragraph 10 of Schedule 27 (amendment of statement by LEA) of a proposal to amend the statement.
- (3) Regulations may provide that, where a local education authority are under a duty to make an assessment, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make an assessment which has not been performed within that period.

*Attendance at examinations*

- 4 (1) Where a local education authority propose to make an assessment, they may serve a notice on the parent of the child concerned requiring the child's attendance for examination in accordance with the provisions of the notice.
- (2) The parent of a child examined under this paragraph may be present at the examination if he so desires.
- (3) A notice under this paragraph shall—
- (a) state the purpose of the examination,
  - (b) state the time and place at which the examination will be held,
  - (c) name an officer of the authority from whom further information may be obtained,
  - (d) inform the parent that he may submit such information to the authority as he may wish, and
  - (e) inform the parent of his right to be present at the examination.

*Offence*

- 5 (1) Any parent who fails without reasonable excuse to comply with any requirements of a notice served on him under paragraph 4 commits an offence if the notice relates

to a child who is not over compulsory school age at the time stated in it as the time for holding the examination.

- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## SCHEDULE 27

Section 324.

### MAKING AND MAINTENANCE OF STATEMENTS UNDER SECTION 324

#### *Introductory*

- 1 In this Schedule “statement” means a statement of a child’s special educational needs under section 324.

#### *Copy of proposed statement*

- 2 Before making a statement, a local education authority shall serve on the parent of the child concerned—
- (a) a copy of the proposed statement, and
  - (b) a written notice explaining the arrangements under paragraph 3, the effect of paragraph 4 and the right to appeal under section 326 and containing such other information as may be prescribed,
- but the copy of the proposed statement shall not specify any matter in pursuance of section 324(4) or any prescribed matter.

#### *Choice of school*

- 3 (1) Every local education authority shall make arrangements for enabling a parent on whom a copy of a proposed statement has been served under paragraph 2 to express a preference as to the maintained, grant-maintained or grant-maintained special school at which he wishes education to be provided for his child and to give reasons for his preference.
- (2) Any such preference must be expressed or made within the period of 15 days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
  - (b) if a meeting has (or meetings have) been arranged under paragraph 4(1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).
- (3) Where a local education authority make a statement in a case where the parent of the child concerned has expressed a preference in pursuance of such arrangements as to the school at which he wishes education to be provided for his child, they shall specify the name of that school in the statement unless—
- (a) the school is unsuitable to the child’s age, ability or aptitude or to his special educational needs, or
  - (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.

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

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- (4) A local education authority shall, before specifying the name of any maintained, grant-maintained or grant-maintained special school in a statement, consult the governing body of the school and, if the school is maintained by another local education authority, that authority.

#### *Representations*

- 4 (1) A parent on whom a copy of a proposed statement has been served under paragraph 2 may—
- (a) make representations (or further representations) to the local education authority about the content of the statement, and
  - (b) require the authority to arrange a meeting between him and an officer of the authority at which the statement can be discussed.
- (2) Where a parent, having attended a meeting arranged by a local education authority under sub-paragraph (1)(b), disagrees with any part of the assessment in question, he may require the authority to arrange such meeting or meetings as they consider will enable him to discuss the relevant advice with the appropriate person or persons.
- (3) In this paragraph—
- “relevant advice” means such of the advice given to the authority in connection with the assessment as they consider to be relevant to that part of the assessment with which the parent disagrees, and
- “appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the authority, is the appropriate person to discuss it with the parent.
- (4) Any representations under sub-paragraph (1)(a) must be made within the period of 15 days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
  - (b) if a meeting has (or meetings have) been arranged under sub-paragraph (1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).
- (5) A requirement under sub-paragraph (1)(b) must be made within the period of 15 days beginning with the date on which the written notice mentioned in paragraph 2(b) was served on the parent.
- (6) A requirement under sub-paragraph (2) must be made within the period of 15 days beginning with the date fixed for the meeting arranged under sub-paragraph (1)(b).

#### *Making the statement*

- 5 (1) Where representations are made to a local education authority under paragraph 4(1)(a), the authority shall not make the statement until they have considered the representations and the period or the last of the periods allowed by paragraph 4 for making requirements or further representations has expired.
- (2) The statement may be in the form originally proposed (except as to the matters required to be excluded from the copy of the proposed statement) or in a form modified in the light of the representations.

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- (3) Regulations may provide that, where a local education authority are under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty, or any step required to be taken for performance of the duty, must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make a statement, or take any step, which has not been performed or taken within that period.

#### *Service of statement*

- 6 Where a local education authority make a statement they shall serve a copy of the statement on the parent of the child concerned and shall give notice in writing to him—
  - (a) of his right under section 326(1) to appeal against—
    - (i) the description in the statement of the authority's assessment of the child's special educational needs,
    - (ii) the special educational provision specified in the statement, or
    - (iii) if no school is named in the statement, that fact, and
  - (b) of the name of the person to whom he may apply for information and advice about the child's special educational needs.

#### *Keeping, disclosure and transfer of statements*

- 7 (1) Regulations may make provision as to the keeping and disclosure of statements.
- (2) Regulations may make provision, where a local education authority become responsible for a child for whom a statement is maintained by another authority, for the transfer of the statement to them and for Part IV to have effect as if the duty to maintain the transferred statement were their duty.

#### *Change of named school*

- 8 (1) Sub-paragraph (2) applies where—
  - (a) the parent of a child for whom a statement is maintained which specifies the name of a school or institution asks the local education authority to substitute for that name the name of a maintained, grant-maintained or grant-maintained special school specified by the parent, and
  - (b) the request is not made less than 12 months after—
    - (i) an earlier request under this paragraph,
    - (ii) the service of a copy of the statement under paragraph 6,
    - (iii) if the statement has been amended, the date when notice of the amendment is given under paragraph 10(3)(b), or
    - (iv) if the parent has appealed to the Tribunal under section 326 or this paragraph, the date when the appeal is concluded,whichever is the later.
- (2) The local education authority shall comply with the request unless—
  - (a) the school is unsuitable to the child's age, ability or aptitude or to his special educational needs, or

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- (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (3) Where the local education authority determine not to comply with the request—
  - (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
  - (b) the parent of the child may appeal to the Tribunal against the determination.
- (4) On the appeal the Tribunal may—
  - (a) dismiss the appeal, or
  - (b) order the local education authority to substitute for the name of the school or other institution specified in the statement the name of the school specified by the parent.
- (5) Regulations may provide that, where a local education authority are under a duty to comply with a request under this paragraph, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (6) Such provision shall not relieve the authority of the duty to comply with such a request which has not been complied with within that period.

*Procedure for amending or ceasing to maintain a statement*

- 9 (1) A local education authority may not amend, or cease to maintain, a statement except in accordance with paragraph 10 or 11.
- (2) Sub-paragraph (1) does not apply where the local education authority—
  - (a) cease to maintain a statement for a child who has ceased to be a child for whom they are responsible,
  - (b) amend a statement in pursuance of paragraph 8,
  - (c) are ordered to cease to maintain a statement under section 326(3)(c), or
  - (d) amend a statement in pursuance of directions under section 442 (revocation of school attendance order).
- 10 (1) Before amending a statement, a local education authority shall serve on the parent of the child concerned a notice informing him—
  - (a) of their proposal, and
  - (b) of his right to make representations under sub-paragraph (2).
- (2) A parent on whom a notice has been served under sub-paragraph (1) may, within the period of 15 days beginning with the date on which the notice is served, make representations to the local education authority about their proposal.
- (3) The local education authority—
  - (a) shall consider any representations made to them under sub-paragraph (2), and
  - (b) on taking a decision on the proposal to which the representations relate, shall give notice in writing to the parent of their decision.
- (4) Where a local education authority make an amendment under this paragraph to the description in a statement of the authority's assessment of a child's special educational needs or to the special educational provision specified in a statement,



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- they shall give notice in writing to the parent of his right under section 326(1) to appeal against—
- (a) the description in the statement of the authority's assessment of the child's special educational needs,
  - (b) the special educational provision specified in the statement, or
  - (c) if no school is named in the statement, that fact.
- (5) A local education authority may only amend a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (1).
- 11 (1) A local education authority may cease to maintain a statement only if it is no longer necessary to maintain it.
- (2) Where the local education authority determine to cease to maintain a statement—
- (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
  - (b) the parent of the child may appeal to the Tribunal against the determination.
- (3) On an appeal under this paragraph the Tribunal may—
- (a) dismiss the appeal, or
  - (b) order the local education authority to continue to maintain the statement in its existing form or with such amendments of—
    - (i) the description in the statement of the authority's assessment of the child's special educational needs, or
    - (ii) the special educational provision specified in the statement,and such other consequential amendments, as the Tribunal may determine.
- (4) Except where the parent of the child appeals to the Tribunal under this paragraph, a local education authority may only cease to maintain a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (2).

## SCHEDULE 28

Section 344(2).

### GOVERNMENT AND CONDUCT OF GRANT-MAINTAINED SPECIAL SCHOOLS

#### *Constitution of governing body and conduct of school*

- 1 (1) For every governing body of a grant-maintained special school there shall be—
- (a) an instrument (known as the instrument of government) providing for the constitution of the governing body, and
  - (b) an instrument (known as the articles of government) in accordance with which the school is to be conducted.
- (2) The instrument and articles of government—
- (a) shall comply with any requirements imposed by or under Part IV, and
  - (b) may make any provision authorised by or under Part IV to be made and such other provision as may be necessary or desirable.

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

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- (3) Subject to any express provision of the instrument or articles of government, the school shall be conducted in accordance with any trust deed relating to it.

*Initial instruments and articles of government*

- 2 (1) The initial instrument of government for the governing body of a grant-maintained special school, and the initial articles of government for such a school, shall be such as are prescribed.
- (2) The initial instrument of government shall have effect as from the incorporation date.
- (3) The initial articles of government shall have effect as from the date of implementation of the proposals made under section 339(2)(a) or 345 but, in the case of a governing body incorporated in pursuance of proposals made under section 339(2)(a), such of the articles as may be prescribed shall have effect as from the incorporation date.

*Subsequent instruments of government*

- 3 (1) The Secretary of State may—
- (a) if the governing body of a grant-maintained special school submit a draft of an instrument of government to have effect in place of their existing instrument, by order make a new instrument of government in terms of the draft or in such terms as he thinks fit, and
- (b) if such a governing body submit draft modifications of an instrument made under paragraph (a) above, by order modify the instrument concerned in terms of the draft or in such terms as he thinks fit,
- but shall not make a new instrument otherwise than in the terms of the draft, or modify the instrument otherwise than in terms of the draft, unless he has consulted the governing body.
- (2) The Secretary of State may by order modify the instrument of government for the governing body of any grant-maintained special school.
- (3) An order under sub-paragraph (2)—
- (a) may relate to all grant-maintained special schools, to any category of such schools specified in the order or to any such school so specified, but
- (b) shall not be made unless the Secretary of State has consulted the governing body of each grant-maintained special school to which the order relates.
- (4) Where, by reason of the making of a new instrument, or the modification of an instrument, under this paragraph, the number of governors of any category will (unless the required number of governors of that category resign) exceed the number provided for in the instrument, the new instrument or, as the case may be, the instrument as modified shall provide—
- (a) for such number of governors of that category as is required to eliminate the excess to cease to hold office, and
- (b) for the selection of those who are to cease to hold office.

*Subsequent articles of government*

- 4 (1) The governing body of a grant-maintained special school may, with the consent of the Secretary of State—

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

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- (a) make new articles of government in place of the existing articles for the school, or
  - (b) modify the existing articles for the school.
- (2) The Secretary of State may by a direction under this paragraph require—
- (a) the governing bodies of grant-maintained special schools or any class of such schools specified in the direction, or
  - (b) the governing body of any particular grant-maintained special school so specified,
- to modify their articles of government in any manner so specified.
- (3) Before giving a direction under this paragraph, the Secretary of State shall consult the governing body or (as the case may be) each governing body to which the direction applies.

#### *Parent governors*

- 5 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include not less than three nor more than five parent governors.
- (2) Subject to sub-paragraph (5), the parent governors—
- (a) in the case of a school not established in a hospital, shall be elected by persons who are registered parents of registered pupils at the school, and
  - (b) in the case of a school so established, shall be appointed by the other members of the governing body.
- (3) To qualify for such election a person must when he is elected be a registered parent of a registered pupil at the school; and to qualify for appointment under sub-paragraph (2)(b) a person must when he is appointed be such a parent or, if that is not reasonably practicable, a parent of one or more children of compulsory school age.
- (4) The instrument shall provide for each parent governor to hold office for a term of four years.
- (5) In the case of a school not established in a hospital, the instrument shall provide that if—
- (a) one or more vacancies for parent governors are required to be filled by election, and
  - (b) the number of parents standing for election as parent governors is less than the number of vacancies,
- the required number of parent governors shall be made up by persons appointed by the other members of the governing body.
- (6) The instrument shall require governors, in appointing a person under a provision made by virtue of sub-paragraph (5)—
- (a) to appoint a person who is the registered parent of a registered pupil at the school, where it is reasonably practicable to do so, and
  - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age with special educational needs or, if that also is not reasonably practicable, a person who is the parent of a person of any age with special educational needs.

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

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*Teacher governors*

- 6 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include either one or two teacher governors.
- (2) Each teacher governor shall be elected by persons who are teachers at the school.
- (3) To qualify for such election, a person must when he is elected be a teacher at the school.
- (4) The instrument shall provide for each teacher governor to hold office for a term of four years.

*Head teacher*

- 7 The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include (as a governor ex officio) the person who is for the time being the head teacher.

*First governors*

- 8 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the governing body to include first governors.
- (2) The instrument shall provide for such number of first governors as will secure that they outnumber the other governors.
- (3) The instrument—
- (a) shall require—
- (i) that, where it is reasonably practicable, at least two of the first governors shall be (on the date or dates on which they respectively take office) parents of registered pupils at the school, and
- (ii) that at least two of the first governors shall be persons with experience of education for those with special educational needs, but one person may satisfy both requirements, and
- (b) shall require the governing body, in appointing first governors, to secure that those governors include a person appearing to them to be a member of the local business community (and such a person may also satisfy one or both of the requirements of paragraph (a)(i) and (ii) above).
- (4) The instrument shall provide for the first governors to be appointed by the governing body from among persons who appear to the governing body to be committed to the good government and continuing viability of the school.
- (5) The instrument shall provide for first governors to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.
- (6) A person who is a member of the teaching or other staff at the school shall be disqualified for holding office as a first governor.
- (7) References in this paragraph to governors other than first governors do not include sponsor governors.

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

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*Power of Secretary of State to replace first governors*

- 9 (1) The instrument of government for the governing body of a grant-maintained special school shall provide for the Secretary of State to have power, where any of sub-paragraphs (2) to (4) apply, to replace all or any of the first governors.
- (2) This sub-paragraph applies where the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any requirement imposed by or under any enactment.
- (3) This sub-paragraph applies where—
- (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
  - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
  - (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Part I of the School Inspections Act 1996, he did not express the opinion in the report that special measures were not required to be taken in relation to the school, and
  - (d) the Secretary of State has received a statement prepared under section 17 of that Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired;
- and expressions used in this sub-paragraph and in that Act have the same meaning as in that Act.
- (4) This sub-paragraph applies where in the opinion of the Secretary of State any action taken or proposed by the governing body of the school, or any failure of the governing body to act, is prejudicial to the provision of education by the school.
- (5) The instrument of government for a grant-maintained special school shall enable the Secretary of State to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.
- (6) Any provision made by the instrument of government in pursuance of paragraph 8(3) shall not apply for the purposes of the appointment by virtue of this paragraph of any first governor.

*Sponsor governors*

- 10 The instrument of government for the governing body of a grant-maintained special school which provides secondary education may—
- (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the instrument.

*Additional governors*

- 11 (1) The instrument of government for the governing body of a grant-maintained special school shall enable the Secretary of State to appoint not more than two additional governors if it appears to him that the governing body are not adequately carrying out their responsibilities in respect of the conduct or management of the school.

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

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- (2) The instrument shall enable the governing body, during any period when any additional governors appointed by the Secretary of State by virtue of subparagraph (1) are in office, to appoint a number of additional first governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.
- (3) Any additional first governor appointed in pursuance of such a provision is to hold office for such term (not being more than five years) as may be specified in the terms of his appointment.

*Powers*

- 12 Section 231 of this Act shall have effect in relation to the governing body of a grant-maintained special school with such modifications as may be prescribed.

*Transitory provisions*

- 13 Regulations may modify the provisions of paragraphs 5 to 12 in relation to—
- (a) the initial instrument of government, or
  - (b) governors holding office, elected or appointed, before the date of implementation of the proposals in pursuance of which the governing body are constituted.

*General application of enactments*

- 14 In relation to any governing body incorporated in pursuance of proposals under section 339(2)(a) or 345 or any school conducted or formerly conducted by such a governing body, regulations may provide for any provision of—
- (a) Schedules 22 and 23 (governing bodies; articles),
  - (b) Chapters VI, VII, VIII and X of Part III (funding; alteration; discontinuance, etc.), and
  - (c) any other enactment (not contained in Part III) relating to grant-maintained schools or maintained special schools (or schools including such schools),
- to have effect with or without modification.
- 15 Section 307 (exclusion of pupils) applies to a grant-maintained special school as it applies to a grant-maintained school.

SCHEDULE 29

Section 358.

THE SCHOOL CURRICULUM AND ASSESSMENT AUTHORITY

*Status*

- 1 The Authority shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

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

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### *Powers*

- 2 (1) The Authority may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Authority may—
- (a) acquire or dispose of land or other property,
  - (b) enter into contracts,
  - (c) form bodies corporate or subscribe for shares or stock,
  - (d) invest any sums not immediately required for the purpose of carrying out their functions,
  - (e) accept gifts of money, land or other property, and
  - (f) borrow money.
- 3 (1) The Authority may also give to any person or body (whether or not in the United Kingdom) such assistance, other than financial assistance, as they may determine.
- (2) Assistance may be provided on such terms and subject to such conditions (if any) as the Authority may determine.
- (3) In particular, assistance may be provided free of charge or on such terms as to payment as the Authority may determine.
- (4) The consent of the Secretary of State is required for the exercise of any power conferred by this paragraph.

### *Chief officer*

- 4 The Authority shall have a chief officer who shall be appointed by the Authority with the approval of the Secretary of State on such terms and conditions as the Authority may with the approval of the Secretary of State determine.

### *Chairman and chief officer: division of functions*

- 5 (1) The Secretary of State may, on appointing a person to be the chairman of the Authority, confer on him such additional functions in relation to the Authority as may be specified in the appointment.
- (2) The functions for the time being conferred by virtue of appointment as chief officer of the Authority shall not include any function for the time being conferred under sub-paragraph (1) on the chairman of the Authority.

### *Tenure of office*

- 6 (1) A person shall hold and vacate office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or deputy chairman of the Authority.
- 7 The Secretary of State may, if satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for a continuous period of more than six months without the permission of the Authority, or
  - (b) is unable or unfit to discharge the functions of a member,

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remove him from office by giving him notice in writing and thereupon the office shall become vacant.

- 8 If the chairman or deputy chairman of the Authority ceases to be a member of the Authority, he shall also cease to be chairman or deputy chairman.

*Payments to members*

- 9 (1) The Authority shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine.
- (2) The Authority shall, as regards any member in whose case the Secretary of State may so determine, pay, or make provision for the payment of, such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (3) If a person ceases to be a member of the Authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Authority to make to that person a payment of such amount as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

*Staff*

- 10 Subject to the approval of the Secretary of State, given with the consent of the Treasury, the Authority—
- (a) may appoint such number of employees, on such terms and conditions, as they may determine; and
- (b) shall pay to their employees such remuneration and allowances as they may determine.
- 11 (1) Employment with the Authority shall continue to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
- (2) The Authority shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (3) Where an employee of the Authority is (by reference to that employment) a participant in a scheme under section 1 of that Act and is also a member of the Authority, the Treasury may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the Authority (whether or not any benefits are payable to or in respect of him by virtue of paragraph 9).

*Finance*

- 12 (1) The Secretary of State may make grants to the Authority of such amount as he thinks fit in respect of expenses incurred or to be incurred by the Authority in carrying out their functions.



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- (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.
- (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.

#### *Committees*

- 13 (1) The Authority may establish a committee for any purpose.
- (2) The Authority shall determine the number of members which a committee established under this paragraph shall have, and the terms on which they are to hold and vacate office.
- (3) A committee may include persons who are not members of the Authority.
- (4) The Authority shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

#### *Delegation of functions*

- 14 The Authority may authorise the chairman, the deputy chairman, the chief officer or any committee established under paragraph 13 to carry out such of the Authority's functions as the Authority may determine.

#### *Proceedings*

- 15 (1) A representative of the Secretary of State shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the Secretary of State with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 16 (1) Her Majesty's Chief Inspector of Schools in England, or a representative of his, shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide Her Majesty's Chief Inspector of Schools in England with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 17 (1) The chairman of the Curriculum and Assessment Authority for Wales, or a representative of his, shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the chairman of the Curriculum and Assessment Authority for Wales with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 18 The validity of the Authority's proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 19 Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure and that of any of their committees.

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

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### *Accounts*

- 20 (1) The Authority shall—
- (a) keep proper accounts and proper records in relation to the accounts;
  - (b) prepare a statement of accounts in respect of each financial year of the Authority; and
  - (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it;
  - (b) the manner in which the information contained in it is to be presented; or
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.

### *Documents*

- 21 The application of the seal of the Authority shall be authenticated by the signature—
- (a) of the chairman or some other person authorised either generally or specially by the Authority to act for that purpose, and
  - (b) of one other member.
- 22 Any document purporting to be an instrument made or issued by or on behalf of the Authority and to be duly executed by a person authorised by the Authority in that behalf, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

## SCHEDULE 30

Section 360.

### THE CURRICULUM AND ASSESSMENT AUTHORITY FOR WALES

#### *Status*

- 1 The Authority shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

#### *Powers*

- 2 (1) The Authority may do anything which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of their functions.
- (2) In particular, the Authority may—
- (a) acquire or dispose of land or other property,
  - (b) enter into contracts,

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- (c) form bodies corporate or subscribe for shares or stock,
  - (d) invest any sums not immediately required for the purpose of carrying out their functions,
  - (e) accept gifts of money, land or other property, and
  - (f) borrow money.
- 3 (1) The Authority may also give to any person or body (whether or not in the United Kingdom) such assistance, other than financial assistance, as they may determine.
- (2) Assistance may be provided on such terms and subject to such conditions (if any) as the Authority may determine.
- (3) In particular, assistance may be provided free of charge or on such terms as to payment as the Authority may determine.
- (4) The consent of the Secretary of State is required for the exercise of any power conferred by this paragraph.

#### *Chief officer*

- 4 (1) The Authority shall have a chief officer who shall be appointed—
- (a) in the case of a person who is also chairman of the Authority, by the Secretary of State, and
  - (b) in any other case, by the Authority with the approval of the Secretary of State.
- (2) The appointment of the chief officer shall be on such terms and conditions as the Secretary of State, or (as the case may be) the Authority with the approval of the Secretary of State, may determine.
- (3) No member of the Authority other than the chairman shall be appointed as chief officer.

#### *Tenure of office*

- 5 (1) A person shall hold and vacate office as a member or as chairman or deputy chairman of the Authority in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.
- (2) A person may at any time by notice in writing to the Secretary of State resign his office as a member or as chairman or deputy chairman of the Authority.
- 6 The Secretary of State may, if satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for a continuous period of more than six months without the permission of the Authority, or
  - (b) is unable or unfit to discharge the functions of a member,
- remove him from office by giving him notice in writing and thereupon the office shall become vacant.
- 7 If the chairman or deputy chairman of the Authority ceases to be a member of the Authority, he shall also cease to be chairman or deputy chairman.

#### *Payments to members*

- 8 (1) The Authority shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine.

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

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- (2) The Authority shall, as regards any member in whose case the Secretary of State may so determine, pay, or make provision for the payment of, such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (3) If a person ceases to be a member of the Authority and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Authority to make to that person a payment of such amount as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

#### *Staff*

- 9 Subject to the approval of the Secretary of State, given with the consent of the Treasury, the Authority—
  - (a) may appoint such number of employees, on such terms and conditions, as they may determine; and
  - (b) shall pay to their employees such remuneration and allowances as they may determine.
- 10 (1) Employment with the Authority shall continue to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply.
  - (2) The Authority shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
  - (3) Where an employee of the Authority is (by reference to that employment) a participant in a scheme under section 1 of that Act and is also a member of the Authority, the Treasury may determine that his service as such a member shall be treated for the purposes of the scheme as service as an employee of the Authority (whether or not any benefits are payable to or in respect of him by virtue of paragraph 8).

#### *Finance*

- 11 (1) The Secretary of State may make grants to the Authority of such amount as he thinks fit in respect of expenses incurred or to be incurred by the Authority in carrying out their functions.
  - (2) The payment of grant under this paragraph shall be subject to the fulfilment of such conditions as the Secretary of State may determine.
  - (3) The Secretary of State may also impose such requirements as he thinks fit in connection with the payment of grant under this paragraph.

#### *Committees*

- 12 (1) The Authority may establish a committee for any purpose.

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- (2) The Authority shall determine the number of members which a committee established under this paragraph shall have, and the terms on which they are to hold and vacate office.
- (3) A committee may include persons who are not members of the Authority.
- (4) The Authority shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

#### *Delegation of functions*

- 13 The Authority may authorise the chairman, the deputy chairman, the chief officer or any committee established under paragraph 12 to carry out such of the Authority's functions as the Authority may determine.

#### *Proceedings*

- 14 (1) The chairman of the School Curriculum and Assessment Authority, or a representative of his, shall be entitled to attend and take part in deliberations (but not in decisions) at meetings of the Authority or of any committee of the Authority.
- (2) The Authority shall provide the chairman of the School Curriculum and Assessment Authority with such copies of any documents distributed to members of the Authority or of any such committee as he may require.
- 15 The validity of the Authority's proceedings shall not be affected by a vacancy among the members or any defect in the appointment of a member.
- 16 Subject to the preceding provisions of this Schedule, the Authority may regulate their own procedure and that of any of their committees.

#### *Accounts*

- 17 (1) The Authority shall—
- (a) keep proper accounts and proper records in relation to the accounts;
  - (b) prepare a statement of accounts in respect of each financial year of the Authority; and
  - (c) send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it;
  - (b) the manner in which the information contained in it is to be presented; or
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.

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

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*Documents*

- 18 The application of the Authority’s seal shall be authenticated by the signature of the chairman or deputy chairman and that of one other member.
- 19 Any document purporting to be an instrument made or issued by or on behalf of the Authority and to be—
- (a) duly executed under the Authority’s seal, or
  - (b) signed or executed by a person authorised by the Authority to act in that behalf,
- shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

SCHEDULE 31

Section 375.

AGREED SYLLABUSES OF RELIGIOUS EDUCATION

*Duty to convene conference to reconsider agreed syllabus*

- 1 (1) Where the agreed syllabus for the time being adopted by a local education authority was adopted by them on or after 29th September 1988 but before 1st April 1994, they shall, within the period of five years beginning with the date on which they adopted the syllabus, convene a conference for the purpose of reconsidering the syllabus.
- (2) Sub-paragraph (1) does not apply where the authority have already convened such a conference on or after 1st April 1994 in pursuance of paragraph 12(3) of Schedule 5 to the Education Act 1944.
- 2 (1) A local education authority shall from time to time cause further conferences to be convened for the purpose of reconsidering any agreed syllabus for the time being adopted by them (whether adopted before, on or after 1st April 1994).
- (2) No such conference shall be convened later than the end of the period of five years beginning with the date (falling after 31st March 1994) on which—
- (a) the authority adopted the syllabus, or
  - (b) the authority gave effect to a recommendation under paragraph 10(2) below (or under paragraph 13 of Schedule 5 to the Education Act 1944) that the syllabus should continue to be the agreed syllabus.
- 3 On receipt by a local education authority of written notification of any such requirement as is mentioned in section 391(3), the authority shall cause a conference to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.

*Constitution of conference*

- 4 (1) A conference convened under this Schedule shall consist of such groups of persons (“committees”) appointed by the local education authority which convenes the conference as are required by sub-paragraph (2).
- (2) Those committees are—
- (a) a committee of persons representing such Christian denominations and other religions and denominations of such religions as, in the opinion of the

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- authority, will appropriately reflect the principal religious traditions in the area;
- (b) except in the case of an area in Wales, a committee of persons representing the Church of England;
  - (c) a committee of persons representing such associations representing teachers as, in the opinion of the authority, ought to be represented, having regard to the circumstances of the area; and
  - (d) a committee of persons representing the authority.
- (3) Where a committee is required to be appointed by virtue of sub-paragraph (2)(b), the committee required to be appointed by virtue of sub-paragraph (2)(a) shall not include persons appointed to represent the Church of England.
- (4) The number of persons appointed under sub-paragraph (2)(a) to represent each denomination or religion required to be represented shall, so far as is consistent with the efficient discharge of the committee's functions, reflect broadly the proportionate strength of that denomination or religion in the area.
- 5 Any sub-committees appointed by the conference shall each include at least one member of each of the committees constituting the conference.
- 6 On any question to be decided by the conference or by any sub-committee of the conference, a single vote shall be given for each of the committees constituting the conference.
- 7 (1) Before appointing a person to represent any religion, denomination or associations as a member of a committee, the local education authority shall take all reasonable steps to assure themselves that he is representative of the religion, denomination or associations in question.
- (2) No proceedings under this Schedule shall be invalidated on the ground that a member of a committee did not represent the religion, denomination or associations which he was appointed to represent, unless it is shown that the authority failed to take the steps required by sub-paragraph (1).
- 8 A person appointed as a member of a committee—
- (a) may resign his membership, or
  - (b) may be withdrawn from membership by the local education authority if, in their opinion, he ceases to be representative of the religion, denomination or associations which he was appointed to represent or (as the case may be) of the authority.
- 9 Where a person resigns or is withdrawn from a committee, the local education authority shall appoint someone in his place in the same manner as that in which they made the original appointment.

#### *Reconsideration of agreed syllabus*

- 10 (1) This paragraph applies where a local education authority cause a conference to be convened for the purpose of reconsidering any agreed syllabus under any of paragraphs 1 to 3.
- (2) If—
- (a) the conference—

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- (i) unanimously recommend that the existing syllabus should continue to be the agreed syllabus, or
  - (ii) unanimously recommend a new syllabus to be adopted in substitution for the existing syllabus, and
  - (b) it appears to the local education authority that the syllabus or, as the case may be, the new syllabus, reflects the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Great Britain,
- the authority may give effect to the recommendation.

(3) If—

- (a) the authority report to the Secretary of State that the conference are unable to reach unanimous agreement, or
- (b) the conference unanimously recommend that the existing syllabus should continue to be the agreed syllabus but the local education authority consider that sub-paragraph (2)(b) prevents them from giving effect to the recommendation, or
- (c) it appears to the Secretary of State that the authority have failed to exercise their power under sub-paragraph (2) to give effect to the unanimous recommendation of the conference,

the Secretary of State shall proceed in accordance with paragraph 12.

- 11 Where any agreed syllabus for the time being adopted by a local education authority which is in use at a grant-maintained school within the area of the authority (or for any pupils at such a school) falls to be reconsidered under this Schedule, the conference shall consult the governing body of the grant-maintained school before making any recommendation.

*Preparation of new syllabus by appointed body*

- 12 (1) Where required by paragraph 10 to proceed in accordance with this paragraph, the Secretary of State shall appoint a body of persons having experience in religious education to prepare a syllabus of religious education.

(2) The appointed body shall, so far as is practicable, be of a representative character which is the same as that required by paragraph 4 in the case of a conference.

- 13 (1) The appointed body shall—

- (a) give the local education authority, the conference and every committee constituting the conference an opportunity of making representations to it;
- (b) after considering any such representations made to it, prepare a syllabus of religious education; and
- (c) transmit a copy of that syllabus to the authority and to the Secretary of State.

(2) Subject to sub-paragraph (1)(a), the appointed body may conduct its proceedings in such manner as it thinks fit.

- 14 The syllabus prepared by the appointed body shall be deemed to be the agreed syllabus adopted for use in the schools for which, or for the class or description of pupils for which, it was prepared—

- (a) as from such date as the Secretary of State may direct, and
- (b) until a new syllabus is adopted for use in those schools, or for pupils of that class or description, in accordance with this Schedule.



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*Special provisions applicable where order under section 27(1)(b) applies*

- 15 (1) This paragraph has effect in respect of the area of a local education authority if an order under section 27(1)(b) (allocation of responsibility for providing sufficient school places to funding authority) applies to the area.
- (2) Within six months of the date of the first such order the authority shall reconvene any conference—
- (a) which they have convened under any of paragraphs 1 to 3 above (or for the purpose set out in paragraph 1 or 12 of Schedule 5 to the Education Act 1944 (preparation and reconsideration of agreed syllabuses) or section 11(8) of the Education Reform Act 1988 (standing advisory councils on religious education)), and
  - (b) which has not made a recommendation under paragraph 10(2)(a) above (or under paragraph 9 or 13(2) of that Schedule), and
  - (c) in respect of which the authority have not made a report under paragraph 10(3)(a) above (or under paragraph 10 or 13(4) of that Schedule).
- (3) Where a conference is convened (or reconvened) after the date of the order—
- (a) paragraph 4 shall have effect as if it required the appointment of a committee, in addition to those listed in sub-paragraph (2)(a) to (d) of that paragraph, consisting of persons representing grant-maintained schools, and
  - (b) paragraph 11 shall have effect only in relation to grant-maintained schools, or pupils at such schools, at which the syllabus is in use in accordance with section 381(3);
- and paragraph 4(4) shall apply in relation to a conference reconvened by virtue of this paragraph (whether or not it applied when the conference was originally convened).
- (4) Before appointing a person to represent relevant grant-maintained schools in accordance with sub-paragraph (3)(a), the local education authority shall take all reasonable steps to assure themselves that he is acceptable as such to the governing bodies of the majority of such schools.
- (5) No proceedings under this Schedule shall be invalidated on the ground that any such person was not so acceptable unless it is shown that the local education authority failed to take those steps.
- (6) A person so appointed—
- (a) may resign his membership of the committee, or
  - (b) may be withdrawn from the committee by the local education authority if, in their opinion, he ceases to be acceptable as a representative of relevant grant-maintained schools to the governing bodies of the majority of such schools.
- (7) Where any such person resigns or is withdrawn from the committee, the local education authority shall appoint someone in his place in the same manner as that in which they made the original appointment.
- (8) For the purposes of this paragraph “relevant grant-maintained schools” means those grant-maintained schools within the area of the local education authority in relation to which section 379 or 380 applies.

SCHEDULE 32

Section 420.

REDUCTION OF STANDARD NUMBER FOR ADMISSION OF PUPILS

*Proposals for reduction of standard number*

- 1 Where the admission authority for a county or voluntary school intend to apply for an order under section 420(2) reducing any standard number applying to the school under sections 417 to 420 for any age group in any year, they shall—
- (a) publish their proposals relating to the reduction in such manner as may be required by regulations, and
  - (b) submit a copy of the published proposals to the Secretary of State together with their application.
- 2 The published proposals shall be accompanied by a statement explaining the effect of—
- (a) paragraph 3, where the local education authority are the admission authority, or
  - (b) paragraph 4, where the governing body are the admission authority.
- 3 (1) Where the local education authority are the admission authority, objections to the proposals may, within the period of two months beginning with the date of publication of the proposals, be submitted to the authority by any of the following—
- (a) any ten or more local government electors for the authority's area,
  - (b) the governing body of any school affected by the proposals, and
  - (c) any other local education authority concerned.
- (2) Within one month after the end of the period mentioned in sub-paragraph (1), the authority shall transmit to the Secretary of State copies of all objections made (and not withdrawn in writing) within that period, together with their observations on them.
- 4 Where the governing body are the admission authority, objections to the proposals may, within the period of two months beginning with the date of publication of the proposals, be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the local education authority's area,
  - (b) the governing body of any school affected by the proposals, and
  - (c) any local education authority concerned.

*Order of Secretary of State*

- 5 (1) Subject to sub-paragraph (2), where an application is made to the Secretary of State for any such order reducing a standard number as is mentioned in paragraph 1, he may—
- (a) make an order reducing the standard number to the number proposed;
  - (b) after consultation with both the local education authority and the governing body, make an order reducing the standard number to such number (greater than the number proposed) as he thinks desirable; or
  - (c) refuse to make any order reducing the standard number.
- (2) The Secretary of State shall not make an order reducing the standard number unless he is satisfied that the reduction is necessary, having regard to any reduction in

the school's capacity to accommodate pupils as compared with its capacity at the beginning of the school year in which the current standard number first applied in relation to the age group in question (whether by virtue of section 15 of the Education Act 1980, section 27 of the Education Reform Act 1988 or sections 417 to 420 of this Act).

- (3) For the purposes of sub-paragraph (2) a school's capacity to accommodate pupils is changed if—
- (a) as a result of changes in the availability or use of accommodation at the school, there is any change in the amount of accommodation available for use by pupils at the school; or
  - (b) as a result of changes in the requirements applicable to the school under regulations made under section 542 there is any change in the number of pupils for whom accommodation may lawfully be provided at the school;
- and a school's capacity to accommodate pupils is reduced if the result of the changes is, in a case within paragraph (a), less accommodation or, in a case within paragraph (b), a reduction in the number there mentioned.

*Consultation before making application*

- 6 (1) Where the local education authority are the admission authority for a county or voluntary school, they shall not make an application for an order under section 420(2) reducing any standard number applying to the school without first consulting the governing body.
- (2) Where the governing body are the admission authority for such a school, they shall not make such an application without first consulting the local education authority.

*References to date of publication of proposals*

- 7 (1) References in this Schedule, in relation to proposals under paragraph 1, to the date of publication of the proposals are references—
- (a) to the date on which the requirements of regulations with respect to the publication of the proposals are satisfied; or
  - (b) where different such requirements are satisfied on different dates, to the last of those dates.
- (2) Where any such requirement imposes a continuing obligation with respect to the publication of any such proposals, the requirement shall for the purposes of sub-paragraph (1) be taken to be satisfied on the first date in respect of which it is satisfied.

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## SCHEDULE 33

Section 423.

## ADMISSION APPEALS

## PART I

## CONSTITUTION OF APPEAL COMMITTEES

*Appeal arrangements made by local education authorities*

- 1 (1) An appeal pursuant to arrangements made by a local education authority under section 423(1) shall be to an appeal committee constituted in accordance with this paragraph.
- (2) An appeal committee shall consist of—
- (a) one person nominated by the authority from among persons who are eligible to be lay members; and
  - (b) two, four or six other members nominated by the authority from among persons appointed by the authority under sub-paragraph (3).
- (3) The persons appointed by the authority under this sub-paragraph shall comprise—
- (a) members of the authority, and
  - (b) persons who are not members of the authority but who have experience in education, are acquainted with the educational conditions in the area of the authority or are parents of registered pupils at a school,
- but shall not include any person employed by the authority otherwise than as a teacher.
- (4) Sufficient persons may be appointed by the authority under sub-paragraph (3) to enable two or more appeal committees to sit at the same time.
- (5) The authority shall not nominate a person under sub-paragraph (2)(a) if he is a member of the authority or is employed by them.
- (6) The members of an appeal committee who are members of the authority shall not outnumber the others.
- (7) A person who is a member of the authority or employed by the authority shall not be chairman of an appeal committee.
- (8) A person shall not be a member of an appeal committee for the consideration of an appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.
- (9) A person who is a teacher at a school shall not be a member of an appeal committee for the consideration of an appeal involving a question whether a child is to be admitted to that school.

*Appeal arrangements made by governing bodies*

- 2 (1) An appeal pursuant to arrangements made by the governing body of an aided or a special agreement school under section 423(2) shall be to an appeal committee constituted in accordance with this paragraph.

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

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- (2) An appeal committee shall consist of—
    - (a) one person nominated by the governing body from among persons who are eligible to be lay members; and
    - (b) two, four or six other members nominated by the governing body from among persons appointed by them under sub-paragraph (3).
  - (3) The persons appointed by the governing body under this sub-paragraph—
    - (a) may include one or more of the governors,
    - (b) shall include persons appointed from a list drawn up by the local education authority by whom the school is maintained, and
    - (c) shall not include any person employed by the authority otherwise than as a teacher.
  - (4) Sufficient persons may be appointed by the governing body under sub-paragraph (3) to enable two or more appeal committees to sit at the same time.
  - (5) Of the members of an appeal committee—
    - (a) three shall be nominated from among those mentioned in sub-paragraph (3)
    - (b) in the case of a committee consisting of seven members;
    - (b) two shall be so nominated in the case of a committee consisting of five members; and
    - (c) one shall be so nominated in the case of a committee consisting of three members.
  - (6) The governing body shall not nominate under sub-paragraph (2)(a) a person who falls within sub-paragraph (3)(a) or (b) or is employed by the local education authority by whom the school is maintained.
  - (7) None of the governors shall be chairman of an appeal committee.
  - (8) A person shall not be a member of an appeal committee for the consideration of an appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.
  - (9) A person who is a teacher at a school shall not be a member of an appeal committee for the consideration of an appeal involving a question whether a child is to be admitted to that school.
- 3       Where (by virtue of section 423(3)) joint arrangements are made under section 423(2) by the governing bodies of two or more schools, paragraph 2 shall apply as if any reference to the governing body or to the governors were a reference to the governing bodies or (as the case may be) the governors of both or all the schools; and an appeal pursuant to such joint arrangements shall be to an appeal committee constituted in accordance with paragraph 2 as it so applies.
- 4       An appeal committee constituted in accordance with paragraph 2 (or in accordance with that paragraph as it applies by virtue of paragraph 3)—
  - (a) shall be included in the bodies to which section 174 of the Local Government Act 1972 (travelling and subsistence allowances) applies; and
  - (b) for the purpose of the payment of financial loss allowance under section 173(4) of that Act to members of the committee, shall be included among the bodies to which section 173 applies.

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

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### *Lay members*

- 5 (1) A person is eligible to be a lay member for the purposes of paragraphs 1(2)(a) and 2(2)(a) if—
- (a) he is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity), and
  - (b) he satisfies the conditions specified in sub-paragraph (2).
- (2) Those conditions are—
- (a) in the case of a person to be nominated as a lay member for the purposes of paragraph 1(2)(a), that he does not have, and has not at any time had, any connection with—
    - (i) the local education authority in question, or
    - (ii) any person who is a member of, or employed by, that authority,
 of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the authority, and
  - (b) in the case of a person to be nominated as a lay member for the purposes of paragraph 2(2)(a), that he does not have, and has not at any time had, any connection with—
    - (i) the school in question, or
    - (ii) any person who is a member of, or employed by, the governing body of that school,
 of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.
- 6 The Secretary of State may by regulations require any local education authority or governing body who are required by section 423(1) or (2) to make arrangements under that provision—
- (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 such arrangements to apply to the authority or 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 authority or body in response to an advertisement placed in pursuance of sub-paragraph (a) above.

### *Indemnity*

- 7 Any local education authority or governing body required to make arrangements under section 423(1) or (2) shall indemnify the members of any appeal committee required to be constituted for the purposes of those arrangements 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.

## PART II

### PROCEDURE

- 8 In this Part “appeal” means an appeal pursuant to any arrangements made under section 423.
- 9 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 10 An appeal committee shall give the appellant an opportunity of appearing and making oral representations, and may allow him to be accompanied by a friend or to be represented.
- 11 The matters to be taken into account by an appeal committee in considering an appeal shall include—
- (a) any preference expressed by the appellant in respect of the child as mentioned in section 411, and
  - (b) the arrangements for the admission of pupils published by the local education authority or the governing body under section 414.
- 12 (1) Appeals shall be heard in private except when the local education authority or governing body (or bodies) by whom the arrangements under section 423 are made direct otherwise.
- (2) Without prejudice to any of the other provisions of this Schedule—
- (a) a member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal committee constituted in accordance with paragraph 1; and
  - (b) a member of the Council on Tribunals may attend as an observer any meeting of any appeal committee at which an appeal is considered.
- 13 In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.
- 14 The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to—
- (a) the appellant and the local education authority, and
  - (b) in the case of an appeal to an appeal committee constituted in accordance with paragraph 2 (or in accordance with that paragraph as it applies by virtue of paragraph 3), to the governing body by whom or on whose behalf the decision appealed against was made.
- 15 (1) Subject to paragraphs 9 to 14, all matters relating to the procedure on appeals, including the time within which they are to be brought, shall be determined by the local education authority or governing body (or bodies) by whom the arrangements under section 423 are made.
- (2) Neither section 106 of the Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee constituted in accordance with paragraph 1.

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

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## SCHEDULE 34

Section 476.

### INDEPENDENT SCHOOLS TRIBUNALS

#### *Appointment of legal and educational panels*

- 1 (1) For the purpose of enabling Independent Schools Tribunals to be constituted as occasion may require there shall be two panels.
- (2) One of the panels (the “legal panel”) shall consist of persons who will be available to act when required as chairmen of such tribunals and shall be appointed by the Lord Chancellor.
- (3) The other panel (the “educational panel”) shall consist of persons who will be available to act when required as members of such tribunals and shall be appointed by the Lord President of the Council.

#### *Qualifications for appointment*

- 2 (1) A person is not qualified to be appointed to the legal panel unless he possesses such legal qualifications as the Lord Chancellor considers suitable.
- (2) A person is not qualified to be appointed to the educational panel unless he has had such experience in teaching or in the conduct, management or administration of schools as the Lord President of the Council considers suitable.
- (3) A person who is—
- (a) an officer of a government department, or
  - (b) employed by a local education authority otherwise than as a teacher,
- is disqualified from being appointed to either panel.

#### *Terms and conditions of appointment*

- 3 (1) Subject (in the case of a member of the legal panel) to sub-paragraph (2), a person appointed to be a member of a panel shall hold office as such subject to such conditions as to the period of his membership and otherwise as may be determined by the Lord Chancellor or the Lord President of the Council, as the case may be.
- (2) No appointment of a person to be a member of the legal panel shall be such as to extend beyond the day on which he attains the age of 70; but this sub-paragraph has effect subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

#### *Constitution of tribunal*

- 4 (1) Where an appeal is required to be determined by an Independent Schools Tribunal, the tribunal shall consist of—
- (a) a chairman who is a member of the legal panel, and
  - (b) two other members who are members of the educational panel.
- (2) The chairman and other members of the tribunal shall be impartial persons appointed from those panels by the Lord Chancellor and the Lord President of the Council respectively.



*Remuneration*

- 5       The Secretary of State may pay to the members of an Independent Schools Tribunal such remuneration and allowances as he may determine with the consent of the Treasury.

SCHEDULE 35

Section 479.

TERMINATION OF PARTICIPATION AGREEMENTS

- 1       (1) A participation agreement shall provide that it may be terminated in accordance with this Schedule.
- (2) A participation agreement shall not be capable of being terminated by either party otherwise than in accordance with this Schedule.
- 2       The proprietors of the school may terminate a participation agreement by giving three years' written notice to the Secretary of State or such shorter notice as he may in any particular case accept.
- 3       Subject to paragraph 4, the Secretary of State may terminate a participation agreement by giving three years' written notice to the proprietors of the school.
- 4       (1) If in the case of a participation agreement the Secretary of State—
- (a) is satisfied that any condition applying to the school under the agreement or by virtue of regulations made under section 480 has been contravened, or
- (b) is not satisfied that appropriate educational standards are being maintained at the school, or
- (c) is not satisfied that section 550 (which provides that a person is not to be refused education at a school because section 548 would prevent his being given corporal punishment) is being complied with in relation to the school,
- he may at any time terminate the agreement by written notice to the proprietors of the school.
- (2) A notice of termination given under this paragraph may provide that it shall be treated as of no effect if the proprietors of the school satisfy the Secretary of State within such time as may be specified in the notice that they have complied with any condition so specified.
- 5       A notice of termination given under paragraph 3 or 4 shall contain a statement of the reason for which it is given.
- 6       The termination of a participation agreement shall not affect the operation of the agreement or of the assisted places scheme (including any regulations made under section 480) in relation to any pupil holding an assisted place at the school on the date of the termination.

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

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## SCHEDULE 36

Section 557.

### UNIFORM STATUTORY TRUSTS FOR EDUCATIONAL ENDOWMENTS

- 1 The trustees may, after payment of any expenses incurred in connection with the administration of the trust, apply the capital and income of the relevant trust assets for any of the following purposes—
- (a) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of any relevant school in the area,
  - (b) for the maintenance of any relevant school in the area;
  - (c) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of a teacher’s house for use in connection with any relevant school in the area; and
  - (d) for the maintenance of a teacher’s house for use in connection with any relevant school in the area.
- 2 The trustees may also, after payment of any expenses incurred in connection with the administration of the trust, apply the income of the relevant trust assets for any of the following purposes—
- (a) in or towards the provision of advice, guidance and resources (including materials) in connection with any matter related to the management of, or education provided at, any relevant school in the area;
  - (b) the provision of services for the carrying out of any inspection of any relevant school in the area required by Part I of the School Inspections Act 1996; and
  - (c) to defray the cost of employing or engaging staff in connection with—
    - (i) the application of income of the relevant trust assets for either of the purposes referred to in sub-paragraphs (a) and (b) above, or
    - (ii) the application of capital or income of the relevant trust assets for any of the purposes referred to in paragraph 1 above.

## SCHEDULE 37

Section 582(1).

### CONSEQUENTIAL AMENDMENTS

#### PART I

#### AMENDMENTS COMING INTO FORCE ON 1ST NOVEMBER 1996

##### *Children and Young Persons Act 1933 (c. 12)*

- 1 Section 96 of the Children and Young Persons Act 1933 (provisions as to local authorities) shall continue to have effect with the following amendments (originally made by Schedule 8 to the Education Act 1944)—
- (a) in subsection (3), for the words from “for elementary education” onwards there is substituted “shall be defrayed as expenses under the enactments relating to education”; and
  - (b) in subsection (4), for the second “under” there is substituted “in accordance with”.

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*Public Records Act 1958 (c. 51)*

2 In Schedule 1 to the Public Records Act 1958 (definition of public records) Part II of the Table at the end of paragraph 3 (organisations whose records are public records) shall continue to include the following entries (originally inserted by Schedule 19 to the Education Act 1993, taken with Schedule 15 to that Act)—

“Curriculum and Assessment Authority for Wales”,

“Funding Agency for Schools”,

“School Curriculum and Assessment Authority”, and

“Schools Funding Council for Wales”.

*Church Schools (Assistance by Church Commissioners) Measure 1958 (1958 No. 2)*

3 In section 2(1) of the Church Schools (Assistance by Church Commissioners) Measure 1958 (interpretation) for “the Education Acts, 1944 to 1993” there is substituted “the Education Act 1996”.

*Education Act 1962 (c. 12)*

4 (1) Section 1 of the Education Act 1962 (local education authority awards for designated courses) shall continue to have effect with the following amendment (originally made by section 4 of the Education (Grants and Awards) Act 1984).

(2) In subsection (3)(d), for the words from “for the higher diploma” onwards there is substituted “or for the higher national diploma of the body corporate known at the passing of the Education (Grants and Awards) Act 1984 as the Business & Technician Education Council.”

5 In section 3(c)(i) of that Act (awards by Secretary of State) for “section 100 of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”.

6 For section 14(4) of that Act there is substituted—

“(4) This Act shall be construed as one with the Education Act 1996.”

7 In paragraph 2 of Schedule 1 to that Act (ordinary residence) for “section 31(3) of the Education Act 1980” there is substituted “the Education Act 1996 in accordance with regulations made under section 579(4) of that Act.”

*London Government Act 1963 (c. 33)*

8 In section 30(1) of the London Government Act 1963 (local education authorities) for “the Education Acts 1944 to 1962 or in any other Act” there is substituted “any Act”.

9 In section 31(5) of that Act (primary, secondary and further education in Greater London) for “except in accordance with the Education Acts 1944 to 1980” there is substituted “except in accordance with the Education Act 1996”.

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*Children and Young Persons Act 1963 (c. 37)*

- 10 In section 37(3) of the Children and Young Persons Act 1963 (exceptions to restriction on persons under 16 taking part in public performances etc.) for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 11 In section 38 of that Act (restriction on licences for performances by children under 13)—
- (a) in subsection (1) for “thirteen” there is substituted “fourteen”;
  - (b) subsection (2) is omitted; and
  - (c) in the sidenote, for “13” there is substituted “14”.

*Veterinary Surgeons Act 1966 (c. 36)*

- 12 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions from restrictions on practice of veterinary surgery), in the definition of “recognised institution” following paragraph 5, for “the Education Act 1944” there is substituted “the Education Act 1996”.

*Education Act 1967 (c. 3)*

- 13 In section 6(2) of the Education Act 1967 (construction as one) for “the Education Acts 1944 to 1965” there is substituted “the Education Act 1996.”

*Public Expenditure and Receipts Act 1968 (c. 14)*

- 14 In Schedule 3 to the Public Expenditure and Receipts Act 1968 (variation of fees, etc.) for “The Education Act 1944 (c. 31) section 94” there is substituted “The Education Act 1996 (c. 56) section 564”.

*Children and Young Persons Act 1969 (c. 54)*

- 15 In section 12C(3) of the Children and Young Persons Act 1969 (requirements as to education) for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 16 In section 19(17) of that Act (facilities for the carrying out of supervisor’s directions etc.) for “the Education Act 1944” there is substituted “the Education Act 1996”.

*Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 17 (1) Subject to sub-paragraph (2), in the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) “public body” shall include the School Curriculum and Assessment Authority and the Curriculum and Assessment Authority for Wales.
- (2) The provision in sub-paragraph (1) shall have effect as if made by an order under section 1(5) of that Act (power to provide that a person shall be a public body for the purposes of the Act).

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*Local Authority Social Services Act 1970 (c. 42)*

- 18 In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committee) the entry relating to the Education Act 1993 is omitted and at the end there is added—

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“Education Act 1996.

Section 322 ... .. Help for local education authority in exercising functions under Part IV of the Act.”

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*Chronically Sick and Disabled Persons Act 1970 (c. 44)*

- 19 In section 8(2) of the Chronically Sick and Disabled Persons Act 1970 (access to and facilities at university and school buildings) for the words from “and expressions used” onwards there is substituted “and expressions used in paragraph (b) above and in the Education Act 1996 have the same meanings as in that Act.”

*Pensions (Increase) Act 1971 (c. 56)*

- 20 In Part II of Schedule 2 to the Pensions (Increase) Act 1971 (official pensions payable out of local funds), in paragraph 57, for “the Education Act 1944” there is substituted “the Education Act 1996.”

*Superannuation Act 1972 (c. 11)*

- 21 (1) Schedule 1 to the Superannuation Act 1972 shall continue—
- (a) to include the entry relating to the School Curriculum and Assessment Authority (originally inserted by Schedule 14 to the Education Act 1993) and the entries relating to the Funding Agency for Schools and the Schools Funding Council for Wales (originally inserted by Schedule 19 to that Act); and
  - (b) to have effect with the amendment set out in sub-paragraph (2) (originally made by Schedule 15 to that Act).
- (2) In the list of Other Bodies, for “Curriculum Council for Wales” there is substituted “Curriculum and Assessment Authority for Wales”.

*Local Government Act 1972 (c. 70)*

- 22 (1) Section 104(2)(a) of the Local Government Act 1972 (teachers not disqualified for being members of committees) shall continue to have effect with the following amendment (originally made by Schedule 19 to the Education Act 1993).
- (2) For “for the purposes of the enactments relating to education” there is substituted “wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities”.
- 23 In section 112(4)(b) of that Act (appointment of staff) for “section 88 of the Education Act 1944” there is substituted “section 532 of the Education Act 1996”.
- 24 In section 139(4) of that Act (acceptance of gifts of property) for “the Education Acts 1944 to 1971” there is substituted “the Education Act 1996”.

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- 25 In section 177(1) of that Act (supplementary provisions as to allowances) for “paragraph 4 of Schedule 2 to the Education Act 1980” there is substituted “paragraph 4 of Schedule 33 to the Education Act 1996”.

*Fair Trading Act 1973 (c. 41)*

- 26 In Schedule 4 to the Fair Trading Act 1973 (services excluded from sections 14 and 109), in paragraph 14, for “the Education Act 1944,” there is substituted “the Education Act 1996.”

*Local Government Act 1974 (c. 7)*

- 27 In section 25 of the Local Government Act 1974 (authorities subject to investigation by Local Commissioner) for subsection (5) there is substituted—

“(5) Any reference to an authority to which this Part of this Act applies also includes a reference to any appeal committee constituted—

- (a) for the purposes of paragraph 6 of Schedule 23 to the Education Act 1996, or  
(b) in accordance with paragraph 1 or 2 of Schedule 33 to that Act.”

- 28 In section 31A(2) of that Act (consideration of adverse reports) for “paragraph 1 of Schedule 2 to the Education Act 1980” there is substituted “paragraph 1 of Schedule 33 to the Education Act 1996”.

- 29 In paragraph 5(1) of Schedule 5 to that Act (matters not subject to investigation) for the words from “section 23” to “1986” there is substituted “section 370 of the Education Act 1996 or section 17 of the Education (No.2) Act 1986”.

*House of Commons Disqualification Act 1975 (c. 24)*

- 30 (1) Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices)—

- (a) shall be amended as provided in sub-paragraphs (2) and (3); and  
(b) shall continue to include the entries set out in sub-paragraph (4) (originally inserted by Schedule 19 to the Education Act 1993).

- (2) For the entry relating to the Curriculum and Assessment Authority for Wales there is substituted—

“Any member of the Curriculum and Assessment Authority for Wales constituted under section 360 of the Education Act 1996 in receipt of remuneration”.

- (3) For the entry relating to the School Curriculum and Assessment Authority there is substituted—

“Any member of the School Curriculum and Assessment Authority constituted under section 358 of the Education Act 1996 in receipt of remuneration”.

- (4) The entries referred to in sub-paragraph (1)(b) are—

“Any member of an education association in receipt of remuneration”,

“Any member of the Funding Agency for Schools in receipt of remuneration”, and

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“Any member of the Schools Funding Council for Wales in receipt of remuneration”.

*Sex Discrimination Act 1975 (c. 65)*

- 31 In section 23(1) of the Sex Discrimination Act 1975 (other discrimination by local education authorities) for “the Education Acts 1944 to 1996” there is substituted “the Education Acts”.
- 32 In section 23A of that Act (discrimination by Further Education and Higher Education Funding Councils) for “the Education Acts 1944 to 1994” there is substituted “the Education Acts”.
- 33 For the section 23C inserted in that Act by Schedule 19 to the Education Act 1993 there is substituted—

**“23C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales**

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions imposed by or under the Education Acts to do any act which constitutes sex discrimination.”

- 34 In section 24(2)(c) of that Act (designated establishments) for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 35 (1) Section 25 of that Act (general duty in public sector of education)—
- (a) shall be amended in accordance with sub-paragraphs (2)(a) to (c), (3)(b), and (4)(a); and
  - (b) shall continue to have effect with the amendments set out in sub-paragraphs (2)(d), (3)(a) and (4)(b) (originally made by Schedule 19 to the Education Act 1993 and subsequently amended by the Education Act 1994).
- (2) In subsection (2)—
- (a) for “the Education Act 1944” there is substituted “the Education Act 1996”;
  - (b) in paragraph (a), for “section 68” there is substituted “section 496”;
  - (c) in paragraph (b), for “section 99” there is substituted “section 497”; and
  - (d) for “and 23” there is substituted “23, 23A, 23C and 23D”.
- (3) In subsection (4)—
- (a) for “and 23” there is substituted “23, 23A, 23C and 23D”; and
  - (b) for “either” there is substituted “any”.
- (4) In subsection (6)—
- (a) in paragraph (c)(iii), for “section 100 of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”; and
  - (b) after paragraph (d) there is added—
    - “(e) the Funding Agency for Schools and the Schools Funding Council for Wales.”
- 36 In section 82 of that Act (general interpretation), in subsection (1)—
- (a) after the definition of “education” there is inserted—

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“the Education Acts” has the meaning given by section 578 of the Education Act 1996;”;

- (b) in the definition of “further education”, for “section 41(3) of the Education Act 1944 as read with section 14 of the Further and Higher Education Act 1992” there is substituted “section 2 of the Education Act 1996”;
- (c) in the definition of “independent school”, for “section 114(1) of the Education Act 1944” there is substituted “section 463 of the Education Act 1996”;
- (d) in the definition of “proprietor”, for “section 114(1) of the Education Act 1944” there is substituted “section 579 of the Education Act 1996”; and
- (e) in the definition of “school”, for “section 114(1) of the Education Act 1944” there is substituted “section 4 of the Education Act 1996”.

37 In Schedule 2 to that Act (transitional exemption orders for educational admissions)

- (a) in paragraph 1, for the words from “under the provisions” to “that section,” there is substituted “under section 35, 41 or 259 of the Education Act 1996 a responsible body submits to the Secretary of State”; and
- (b) in paragraph 3—
  - (i) for “section 100 of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”; and
  - (ii) for “subsection (1)(b) of the said section 100” there is substituted “the said section 485”.

*Restrictive Trade Practices Act 1976 (c. 34)*

38 In Schedule 1 to the Restrictive Trade Practices Act 1976 (services excluded from section 13), in paragraph 14, for “the Education Act 1944,” there is substituted “the Education Act 1996,”.

*Race Relations Act 1976 (c. 74)*

39 In section 18(1) of the Race Relations Act 1976 (other discrimination by local education authorities) for “the Education Acts 1944 to 1996” there is substituted “the Education Acts”.

40 In section 18A of that Act (discrimination by Further Education and Higher Education Funding Councils) for “the Education Acts 1944 to 1994” there is substituted “the Education Acts”.

41 For the section 18C inserted in that Act by Schedule 19 to the Education Act 1993 there is substituted—

**“18C Discrimination by Funding Agency for Schools or Schools Funding Council for Wales**

It is unlawful for the Funding Agency for Schools or the Schools Funding Council for Wales in carrying out their functions imposed by or under the Education Acts to do any act which constitutes racial discrimination.”

- 42 (1) Section 19 of that Act (general duty in public sector of education)—
- (a) shall be amended in accordance with sub-paragraphs (2)(a) to (c), (3)(b) and (4)(a); and



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- (b) shall continue to have effect with the amendments set out in sub-paragraphs (2)(d), (3)(a) and (4)(b) (originally made by Schedule 19 to the Education Act 1993 and subsequently amended by the Education Act 1994).
- (2) In subsection (2)—
- (a) for “the Education Act 1944” there is substituted “the Education Act 1996”;
  - (b) in paragraph (a), for “section 68” there is substituted “section 496”;
  - (c) in paragraph (b), for “section 99” there is substituted “section 497”; and
  - (d) for “and 18” there is substituted “18, 18A, 18C and 18D”.
- (3) In subsection (4)—
- (a) for “and 18” there is substituted “18, 18A, 18C and 18D”; and
  - (b) for “either” there is substituted “any”.
- (4) In subsection (6)—
- (a) in paragraph (c)(iii), for “section 100 of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”; and
  - (b) after paragraph (d) there is added—
    - “(e) the Funding Agency for Schools and the Schools Funding Council for Wales.”
- 43 In section 78 of that Act (general interpretation), in subsection (1)—
- (a) after the definition of “education” there is inserted—
    - ““the Education Acts” has the meaning given by section 578 of the Education Act 1996;”;
  - (b) in the definition of “independent school”, for “section 114(1) of the Education Act 1944” there is substituted “section 463 of the Education Act 1996”;
  - (c) in the definition of “proprietor”, for “section 114(1) of the Education Act 1944” there is substituted “section 579 of the Education Act 1996”; and
  - (d) in the definition of “school”, for “section 114(1) of the Education Act 1944” there is substituted “section 4 of the Education Act 1996”.

*National Health Service Act 1977 (c. 49)*

- 44 In section 28A(2)(c) of the National Health Service Act 1977 (power to make payments to local education authority)—
- (a) for “the Education Acts 1944 to 1996” there is substituted “the Education Act 1996”; and
  - (b) for “those Acts” there is substituted “the Education Acts (within the meaning of that Act)”.
- 45 In section 128(1) of that Act (interpretation), in the definition of “local education authority”, for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 46 In Schedule 1 to that Act (medical and dental inspection and treatment of pupils etc.)—
- (a) in paragraph 1(a)(ii), for “section 163 or 298 of the Education Act 1993” there is substituted “section 19 or 319 of the Education Act 1996”; and
  - (b) in paragraph 4, for “by section 114(1) of the Education Act 1944” there is substituted “for the purposes of the Education Act 1996”.

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*Education Act 1980 (c. 20)*

- 47 (1) Section 38 of the Education Act 1980 (citation etc.) shall be amended as follows.
- (2) Subsections (2) and (4) to (6) are omitted.
- (3) For subsection (3) there is substituted—
- “(3) This Act shall, in its application to England and Wales, be construed as one with the Education Act 1996.”
- (4) In subsection (7), for the words from the beginning to “Northern Ireland;” there is substituted “In this Act section 20 and this section extend to Northern Ireland.”

*Education (Scotland) Act 1980 (c. 44)*

- 48 (1) Section 48A of the Education (Scotland) Act 1980 (corporal punishment) shall continue to have effect with the following amendments (originally made by section 294 of the Education Act 1993).
- (2) In subsection (1), after “pupil” there is inserted “to whom this subsection applies”, and after that subsection there is inserted—
- “(1A) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified if the punishment was inhuman or degrading.
- (1B) In determining whether punishment is inhuman or degrading regard shall be had to all the circumstances of the case, including the reason for giving it, how soon after the event it is given, its nature, the manner and circumstances in which it is given, the persons involved and its mental and physical effects.”
- (3) In subsection (5) for the words preceding paragraph (a) there is substituted “In this section “pupil” means a person for whom education is provided at a school or for whom school education is provided by an education authority otherwise than at a school.
- (5A) Subsection (1) above applies to a pupil”.
- (4) In subsection (8)(a) for “(5)(a)(iii)” there is substituted “(5A)(a)(iii)”.

*Local Government, Planning and Land Act 1980 (c. 65)*

- 49 In paragraph 10 of Schedule 10 to the Local Government, Planning and Land Act 1980 (adjustment of block grant in connection with education etc.: interpretation) for “Section 38(5) of the Education Act 1980” there is substituted “Section 579(4) of the Education Act 1996”.

*Acquisition of Land Act 1981 (c. 67)*

- 50 In section 1(2) of the Acquisition of Land Act 1981 (application of Act) for “section 90(1) of the Education Act 1944” there is substituted “section 530(1) of the Education Act 1996”.
- 51 (1) Section 17(4) of that Act (statutory undertakers) shall have effect with the following amendment instead of that made by section 11 of the Education Act 1993.

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- (2) After paragraph (aa) of the definition of “statutory undertakers” there is inserted—
- “(ab) the Funding Agency for Schools,
  - (ac) the Schools Funding Council for Wales.”.

*Greater London Council (General Powers) Act 1981 (c. xvii)*

- 52 In section 16 of the Greater London Council (General Powers) Act 1981 (exemptions from Part IV)—
- (a) in paragraph (b) for “the Education Act 1944” there is substituted “the Education Act 1996”; and
  - (b) in paragraph (k) for “section 100(1)(b) of the said Act of 1944” there is substituted “section 485 of the Education Act 1996”.

*Agricultural Training Board Act 1982 (c. 9)*

- 53 In section 4(5) of the Agricultural Training Board Act 1982 (meaning of “post-school education”), for paragraph (a) there is substituted—
- “(a) in England and Wales, “higher education” as defined by section 120(1) of the Education Reform Act 1988 or “further education” as defined by section 2(3) to (5) of the Education Act 1996; and”.

*Industrial Training Act 1982 (c. 10)*

- 54 In section 5 of the Industrial Training Act 1982 (functions of boards) for the subsection (7) inserted by the Education Reform Act 1988 there is substituted—
- “(8) In this section “post-school education” means—
  - (a) in England and Wales, “higher education” as defined by section 120(1) of the Education Reform Act 1988 or “further education” as defined by section 2(3) to (5) of the Education Act 1996; and
  - (b) in Scotland, “further education” within the meaning of the Education (Scotland) Act 1980.”

*Local Government (Miscellaneous Provisions) Act 1982 (c. 30)*

- 55 In section 40 of the Local Government (Miscellaneous Provisions) Act 1982 (nuisance and disturbance on educational premises) for subsections (2) to (10) there is substituted—
- “(2) This section applies to premises, including playing fields and other premises for outdoor recreation, of an institution (other than a school) which—
  - (a) is maintained by a local education authority; and
  - (b) provides further education or higher education (or both).
- (3) If—
- (a) a police constable; or
  - (b) a person whom a local education authority have authorised to exercise the power conferred by this subsection,

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has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.

- (4) No proceedings under this section shall be brought by any person other than—
- (a) a police constable; or
  - (b) a local education authority.
- (5) Expressions used in this section and in the Education Act 1996 have the same meaning as in that Act.”

*Representation of the People Act 1983 (c. 2)*

- 56 (1) Paragraph 22 of Schedule 1 to the Representation of the People Act 1983 (use of schools for the purpose of taking a poll) shall continue to have effect with the following amendment (originally made by Schedule 19 to the Education Act 1993).
- (2) In sub-paragraph (1)(i), after “authority” there is inserted “a grant-maintained school”.

*Education (Fees and Awards) Act 1983 (c. 40)*

- 57 In section 1(4) of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments)—
- (a) for “section 100(1)(b) of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”; and
  - (b) for “the Education Act 1944” there is substituted “the 1996 Act”.

*Registered Homes Act 1984 (c. 23)*

- 58 (1) Section 1 of the Registered Homes Act 1984 (requirement of registration: independent schools) shall be amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (f), for “section 114 of the Education Act 1944” there is substituted “section 4 of the Education Act 1996”; and
  - (b) in paragraph (g), for “section 100(1)(b) of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”.
- (3) In subsection (6)—
- (a) for “the Education Act 1944” there is substituted “the Education Act 1996”; and
  - (b) for “section 189(1) of the Education Act 1993” there is substituted “section 347 of the Education Act 1996”.
- (4) In subsection (7), for “section 100(1)(b) of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”.

*Building Act 1984 (c. 55)*

- 59 In section 4(1)(a) of the Building Act 1984 (exemption of educational buildings etc) for sub-paragraphs (i) to (iv) substitute—

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- “(i) plans that have been approved by the Secretary of State,
- (ii) particulars submitted and approved under section 39 or 44 of the Education Act 1996 or under regulations made under section 544 of that Act or section 218(7) of the Education Reform Act 1988,
- (iii) particulars approved or adopted under section 214, 262 or 341 of the Education Act 1996, or
- (iv) particulars given in a direction under section 428 of that Act.”

*Greater London Council (General Powers) Act 1984 (c. xxvii)*

- 60 In section 10(2)(g) of the Greater London Council (General Powers) Act 1984 (buildings excepted from Part IV) for “section 100(1)(b) of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”.

*Further Education Act 1985 (c. 47)*

- 61 In section 8(3) (short title etc.) for “the Education Act 1944” there is substituted “the Education Act 1996.”

*Housing Act 1985 (c. 68)*

- 62 In Schedule 1 (tenancies which are not secure tenancies), in paragraph 10(4), for “the Education Act 1944” there is substituted “the Education Act 1996”.

*Local Government Act 1986 (c. 10)*

- 63 In section 2A(4)(a) of the Local Government Act 1986 (prohibition on promoting homosexuality) for “the Education Act 1944” there is substituted “the Education Act 1996”.

*Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)*

- 64 (1) Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (disabled persons leaving special education) shall be amended as follows.
- (2) In subsection (1)(a) for “or 168 of the Education Act 1993” there is substituted “section 168 of the Education Act 1993 or section 324 of the Education Act 1996”.
- (3) In subsection (8)—
- (a) for “paragraph 7 of Schedule 10 to the Education Act 1993” there is substituted “paragraph 7 of Schedule 27 to the Education Act 1996”, and
  - (b) for “maintained under section 168” there is substituted “maintained under section 324”.
- (4) In subsection (9)—
- (a) for “Part III of the Education Act 1993” there is substituted “Part IV of the Education Act 1996”; and
  - (b) for “the Education Act 1944” there is substituted “the Education Act 1996”.

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*Education (No. 2) Act 1986 (c. 61)*

- 65 (1) Section 50 of the Education (No. 2) Act 1986 (grants for teacher training etc.) shall continue to have effect with the following amendments (originally made by section 278 of and Schedule 19 to the Education Act 1993).
- (2) In subsection (1)—
- (a) for “local authorities and other persons” there is substituted “persons other than local education authorities”; and
- (b) for the words from the end of paragraph (a) onwards there is substituted—
- “and
- (b) such other classes of persons as may be prescribed.”
- (3) In subsection (2)(b), for “capacity as an employee of the kind in question” there is substituted “employment”.
- 66 (1) Section 67 of that Act (short title etc.) shall be amended as follows.
- (2) Subsections (2), (5) and (6) are omitted.
- (3) In subsection (3), for “the 1944 Act” there is substituted “the Education Act 1996.”
- (4) In subsection (7), for the words from the beginning to “Northern Ireland;” there is substituted “In this Act section 48 and this section extend to Scotland.”

*Reverter of Sites Act 1987 (c. 15)*

- 67 (1) The Reverter of Sites Act 1987 shall be amended as follows.
- (2) In section 1(5) (right of reverter replaced by trust for sale) for “section 2 of the Education Act 1973” there is substituted “section 554 of the Education Act 1996”.
- (2) In section 5 (orders under Education Act 1973)—
- (a) in subsection (1), for “section 2 of the Education Act 1973” there is substituted “section 554 of the Education Act 1996”; and
- (b) for “section 2 of the said Act of 1973”, wherever occurring, there is substituted “section 554 of the 1996 Act”.

*Local Government Act 1988 (c. 9)*

- 68 In paragraph 8(3)(a) of Schedule 1 to the Local Government Act 1988 (competition) for “section 53 of the Education Act 1944 (whether or not also provided under section 41 of that Act)” there is substituted “section 508 of the Education Act 1996 (whether or not also provided under section 15 of that Act)”.

*Criminal Justice Act 1988 (c. 33)*

- 69 In section 139A(6) and (7) of the Criminal Justice Act 1988 (as amended by the Offensive Weapons Act 1996), for “section 14(5) of the Further and Higher Education Act 1992” there is substituted “section 4 of the Education Act 1996”.

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

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*Education Reform Act 1988 (c. 40)*

- 70 In section 124(2)(b) of the Education Reform Act 1988 (powers of a higher education corporation) for “within the meaning of section 41(9) of the Education Act 1944” there is substituted “, as defined by section 15(6) and (7) of the Education Act 1996”.
- 71 In section 161(1)(b)(i) of that Act (interpretation of Part II) for “section 41 of the 1944 Act” there is substituted “section 15 of the Education Act 1996”.
- 72 In section 163(1) of that Act (new education authorities for London) for “the Education Acts 1944 to 1996” there is substituted “the Education Act 1996”.
- 73 In section 166(5) of that Act (responsibility for schools) for “the Education Acts 1944 to 1993” there is substituted “the Education Act 1996”.
- 74 (1) Section 197 of that Act (Education Assets Board) shall be amended as follows.
- (2) In subsection (6), for “the Education Acts 1944 to 1993” there is substituted “the Education Acts”.
- (3) Subsection (7) shall continue to have effect with the insertion of the words “and any governing body of a maintained or grant-maintained school” (originally inserted by section 47(5) of the Education Act 1993); and in that subsection for “the Education Acts 1944 to 1993” there is substituted “the Education Acts”.
- (4) In subsection (7B), for “the Education Acts 1944 to 1992” there is substituted “the Education Acts”.
- (5) At the end of the section there is added—
- “*(10) In this section “the Education Acts” has the meaning given by section 578 of the Education Act 1996.*”
- 75 In section 198 of that Act (transfers under Parts I and II)—
- (a) in subsection (1), for “or section 38 of the Education Act 1993” there is substituted “or section 201 of the Education Act 1996”; and
- (b) in subsection (4), for “or under the Education Act 1993”, in both places, there is substituted “or under the Education Act 1996”.
- 76 (1) Section 218 of that Act (school and further and higher regulations)—
- (a) shall be amended as provided in sub-paragraphs (2) to (5); and
- (b) shall continue to have effect with the amendments set out in sub-paragraph (6) (originally made by section 290 of the Education Act 1993).
- (2) In subsection (1) the following are omitted—
- (a) in paragraphs (e) and (f), the words “schools and”; and
- (b) paragraph (g).
- (3) For subsection (2B) (renumbered by paragraph 8(4) of Schedule 2 to the Education Act 1994) there is substituted—
- “(2B) Regulations under subsection (2) above may impose requirements on persons carrying on city technology colleges or city colleges for the technology of the arts as to the training and teaching experience of persons employed as teachers at such colleges who seek to become (in relation to schools) qualified teachers.”

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- (4) In subsection (7), the following are omitted—
- (a) the words from “or, in such cases” to “the funding authority”; and
  - (b) the words “school or” (where first occurring) and “any school or”.
- (5) Subsections (8) and (13) are omitted.
- (6) The amendments referred to in sub-paragraph (1)(b) are—
- (a) after subsection (6)(c) there is added “or
    - (d) by the proprietors of independent schools or at such schools as teachers or in any such work;”;
  - (b) in subsection (12) after “section” there is inserted “other than in subsection (6)(d) above”.
- 77 For section 219 of that Act there is substituted—

**“219 Powers of the Secretary of State in relation to certain educational institutions**

- (1) This section applies to any institution which is maintained by a local education authority and provides higher education or further education (or both).
  - (2) Section 495(1) of the Education Act 1996 (determination of disputes by the Secretary of State) shall apply in relation to the governing body of an institution to which this section applies as it applies in relation to the governing body of a school.
  - (3) Each of sections 496 and 497 of that Act (power of Secretary of State to prevent unreasonable exercise of functions and Secretary of State’s general default powers) shall have effect as if any reference to a body to which that section applies included a reference to the governing body of an institution to which this section applies.
  - (4) Section 498 of that Act (powers of Secretary of State where there is no properly constituted governing body) shall have effect as if any reference to a school to which that section applies included a reference to an institution to which this section applies.”
- 78 (1) Section 220 of that Act (extension of functions of Audit Commission) shall continue to have effect with the following amendments (originally made by section 10 of the Education Act 1993).
- (2) At the beginning of subsection (1)(c) there is inserted “the Funding Agency for Schools, the Schools Funding Council for Wales or”.
  - (3) After subsection (2)(bb) there is inserted—
    - “(bc) with respect to studies relating to the Funding Agency for Schools, the agency;
    - (bd) with respect to studies relating to the Schools Funding Council for Wales, the council;”.
  - (4) In subsection (2)(c) after “school,” there is inserted “the funding authority or”.



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- 79 In section 228 of that Act (transfer of property to grant-aided institutions in Wales), in subsection (2)(a), for “section 100(1)(b) of the 1944 Act” there is substituted “section 485 of the Education Act 1996”.
- 80 In section 232 of that Act (orders and regulations)—
- (a) in subsection (2), for the words from “sections” to “Schedule 5” there is substituted “section 157”;
  - (b) subsection (3) is omitted; and
  - (c) in subsection (4), “3(4)(a), 4(2)(c), 24,” is omitted.
- 81 (1) Section 235 of that Act (general interpretation) shall be amended as follows.
- (2) In subsection (1) the definition of “the 1980 Act” is omitted.
  - (3) In subsection (2)(c), after “1944 Act” there is inserted “or section 485 of the Education Act 1996”.
  - (4) In subsections (7) and (8), for “the 1944 Act” in each place there is substituted “the Education Act 1996”.
- 82 (1) Schedule 10 to that Act (supplementary provisions with respect to transfers)—
- (a) shall continue to have effect with the amendments set out in sub-paragraph (2) (originally made by section 47 of the Education Act 1993); and
  - (b) shall be amended as provided in sub-paragraph (3).
- (2) The amendments mentioned in sub-paragraph (1)(a) are as follows—
- (a) in paragraph 1(1) of the Schedule, after “held” there is inserted “or used”;
  - (b) in paragraph 4(1) of the Schedule, for “by virtue of section 126 or 130” there is substituted “to which this Schedule applies”; and
  - (c) for “local education authority”, wherever occurring in the Schedule, there is substituted “local authority”.
- (3) In the Schedule—
- (a) in paragraph 1(4)(a)(i), for “or under the Education Act 1993” there is substituted “or under the Education Act 1996”;
  - (b) in paragraph 2(1)(b), for “or of the Education Act 1993” there is substituted “or of the Education Act 1996”;
  - (c) in paragraph 5, for “or of the Education Act 1993” there is substituted “or of the Education Act 1996”;
  - (d) in paragraph 7, for “or of the Education Act 1993” there is substituted “or of the Education Act 1996”; and
  - (e) in paragraph 9(6)(b), for “or of the Education Act 1993” there is substituted “or of the Education Act 1996”.

*Copyright, Designs and Patents Act 1988 (c. 48)*

- 83 In section 174(3) of the Copyright, Patents and Designs Act 1988 (meaning of “school”) for “the Education Act 1944” there is substituted “the Education Act 1996”.

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*Children Act 1989 (c. 41)*

- 84 In section 28(4) of the Children Act 1989 (local authority support for children and families: consultation with local education authorities) for “Part III of the Education Act 1993” there is substituted “Part IV of the Education Act 1996”.
- 85 In section 36(5) of that Act (education supervision orders: presumption that child is not being properly educated)—
- (a) for “section 37 of the Education Act 1944” there is substituted “section 437 of the Education Act 1996”; and
  - (b) for “section 39” there is substituted “section 444”.
- 86 (1) Section 63 of that Act (children not to be cared for and accommodated in unregistered children’s homes) shall be amended as follows.
- (2) For subsection (6) there is substituted—
- “(6) An independent school is a children’s home at any time if at that time accommodation is provided for children at the school and either—
- (a) in each year that fell within the period of two years ending at that time accommodation was provided for more than three of the children at the school, or under arrangements made by the proprietor of the school, for more than 295 days in that year, or
  - (b) it is intended to provide accommodation for more than three of the children at the school, or under arrangements made by the proprietor of the school, for more than 295 days in any year,
- unless the school is approved by the Secretary of State under section 347(1) of the Education Act 1996 (approval of independent schools for children with statements); and in this subsection “year” means a period of twelve months and “proprietor” has the same meaning as in that Act.”
- 87 In section 87(10) of that Act (welfare of children accommodated in independent schools) for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 88 In section 87A(6) of that Act (inspection of independent schools), in paragraph (a), for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 89 In section 87B(4) of that Act (duties of inspectors of independent schools), in paragraph (a), for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 90 In section 91(5) of that Act (effect and duration of orders: school attendance orders) for “section 37 of the Education Act 1944” there is substituted “section 437 of the Education Act 1996”.
- 91 In section 105(1) of that Act (interpretation) for “the Education Act 1944” in each place where it occurs, and for “the Education Act 1993”, there is substituted “the Education Act 1996”.
- 92 In paragraph 3(b) of Schedule 2 to that Act (local authority support for children and families: assessment of children’s needs) for “Part III of the Education Act 1993” there is substituted “Part IV of the Education Act 1996”.
- 93 (1) Part III of Schedule 3 to that Act (education supervision orders) shall be amended as follows.
- (2) In paragraph 13—

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- (a) in sub-paragraph (1) for “section 36 of the Education Act 1944 (duty to secure education of children) and section 199 of the Education Act 1993 (duty)” there is substituted “sections 7 and 444 of the Education Act 1996 (duties to secure education of children and”;
  - (b) in sub-paragraph (2)—
    - (i) in paragraph (a)(i) for “section 192 of that Act” there is substituted “section 437 of the Education Act 1996”;
    - (ii) in paragraph (b)(i) for “section 192” there is substituted “section 437”;
    - (iii) in paragraph (b)(ii) for “section 76 of the Education Act 1944” there is substituted “section 9 of that Act”, and
    - (iv) in paragraph (b)(iii) for “sections 6 and 7 of the Education Act 1980” there is substituted “sections 411 and 423 of that Act”.
- (3) In paragraph 21 for “the Education Act 1944 (as amended by Schedule 13)” there is substituted “the Education Act 1996.”
- 94 (1) Paragraph 3 of Schedule 9 to that Act (child minding and day care: exemption of certain schools) shall be amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “section 100 of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”, and
  - (b) for “section 53 of the Act of 1944” there is substituted “section 508 of that Act”.
- (3) In sub-paragraph (3)—
- (a) for “the Education Act 1944” there is substituted “the Education Act 1996”, and
  - (b) for “the Education Act 1993” there is substituted “that Act”.

*Local Government and Housing Act 1989 (c. 42)*

- 95 In section 2(6)(a) of the Local Government and Housing Act 1989 (politically restricted posts) for “section 88 of the Education Act 1944” there is substituted “section 532 of the Education Act 1996”.
- 96 (1) Section 13 of that Act (voting rights of members of committees)—
- (a) shall be amended as provided in sub-paragraphs (2), (3) and (5); and
  - (b) shall continue to have effect with the amendment set out in sub-paragraph (4) (originally made by Schedule 19 to the Education Act 1993).
- (2) In subsection (4)(f) for “Part I of Schedule 2 to the Education Act 1980 (appeal committees for hearing school admissions appeals)” there is substituted “Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)”.
- (3) For subsection (5) there is substituted—
- “(5) Nothing in this section shall prevent the appointment of a person who is not a member of a local education authority as a voting member of—
- (a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any functions with

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respect to education conferred on them in their capacity as a local education authority,

- (b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities, or
- (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee's functions with respect to education,

where that appointment is required by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees)."

- (4) In subsection (7) for "education committee or sub-committee of an education committee" there is substituted "committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection".
  - (5) In subsection (9) the definition of "foundation governors" and the "and" immediately following it are omitted.
- 97 In section 18(5)(c) of that Act (schemes for allowances for local authority members) for "paragraph 2 or 3 of Schedule 2 to the Education Act 1980" there is substituted "paragraph 2 or 3 of Schedule 33 to the Education Act 1996".

*Education (Student Loans) Act 1990 (c. 6)*

- 98 In section 1(3)(a) of the Education (Student Loans) Act 1990 (meaning of "institutions receiving support from public funds") for "section 100(1)(b) of the Education Act 1944" there is substituted "section 485 of the Education Act 1996".

*Town and Country Planning Act 1990 (c. 8)*

- 99 In section 76 of the Town and Country Planning Act 1990 (duty to draw attention to certain provisions for benefit of disabled) for subsection (3) there is substituted—
- “(3) Expressions used in subsection (1)(e) and in the Education Act 1996 have the same meanings as in that Act.”

*Environmental Protection Act 1990 (c. 43)*

- 100 In section 98(2) of the Environmental Protection Act 1990 (definitions)—
- (a) in paragraph (c)(i) for "section 100(1)(b) of the Education Act 1944" there is substituted "section 485 of the Education Act 1996"; and
  - (b) in paragraph (e) for "section 105 of the Education Reform Act 1988" there is substituted "section 482 of the Education Act 1996".

*School Teachers' Pay and Conditions Act 1991 (c. 49)*

- 101 (1) The School Teachers' Pay and Conditions Act 1991—
- (a) shall continue to have effect with the amendment set out in sub-paragraph (2) (originally made by Schedule 19 to the Education Act 1993); and
  - (b) shall be amended as provided in sub-paragraphs (3) and (4).

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- (2) In section 2 (orders relating to statutory conditions of employment), in subsections (6) and (7) for “section 3” there is substituted “sections 3 and 3A”.
- (3) For the section 3A inserted by section 289 of the Education Act 1993 there is substituted—

### **“3A Special provisions for teachers on transfer of employment**

- (1) This section applies where a school teacher employed to teach at an independent school—
  - (a) which becomes a county or voluntary school in pursuance of proposals published under section 35(1)(b) or, as the case may be, 41(1) of the Education Act 1996, or
  - (b) in place of which a grant-maintained school is established in pursuance of proposals published under section 212 of that Act, becomes employed (in the case of a county or voluntary school) by the local education authority or the governing body or (in the case of a grant-maintained school) by the governing body in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981.
- (2) A pay and conditions order shall not apply to the statutory conditions of employment of such a teacher unless he gives notice in writing to the new employer that the order is to so apply.
- (3) Where the governing body of an aided school receive notice given under subsection (2) above, they shall inform the local education authority.”
- (4) In section 5 (interpretation etc.)—
  - (a) in subsection (1)—
    - (i) in the definition of “school which has a delegated budget” for “Chapter III of Part I of the Education Reform Act 1988” there is substituted “Part II of the Education Act 1996”, and
    - (ii) for “the Education Act 1944” there is substituted “that Act”; and
  - (b) in subsection (5), for “sections 68 and 99(1) of the Education Act 1944” there is substituted “sections 496 and 497 of the Education Act 1996”.

### *Diocesan Boards of Education Measure 1991 (1991 No. 2)*

- 102 (1) Section 3 of the Diocesan Boards of Education Measure 1991 (transactions for which advice or consent of Diocesan Board required)—
- (a) shall continue to have effect with the amendment set out in sub-paragraph (2) (originally made by Schedule 19 to the Education Act 1993); and
  - (b) shall be amended as provided in sub-paragraph (3).
- (2) In subsection (4) for the words from “by a resolution” to the end there is substituted “to hold a meeting to consider whether to hold a ballot of parents on the question of whether grant-maintained status should be sought for the school, it shall—
- (a) give to the secretary of the Board for the diocese in which the school is situated at least seven days' notice that such a meeting is to be held at such time and place as is specified in the notice, and

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- (b) have regard to any relevant advice given by the Board, when considering at the meeting whether to hold a ballot of parents on that question,

and in paragraph (b) above “relevant advice” means advice given in connection with the acquisition of grant-maintained status for the school whether given for the purposes of that school or for Church of England voluntary schools generally”.

- (3) In subsection (5) for “section 96 of the Education Act 1993” there is substituted “section 259 of the Education Act 1996”.
- 103 (1) Section 5 of that Measure (proposals for acquisition of grant-maintained status)—
- (a) shall be amended as provided in sub-paragraph (2); and
- (b) shall continue to have effect with the amendment set out in sub-paragraph (3) (originally made by Schedule 19 to the Education Act 1993).
- (2) For “paragraph 2 of Schedule 3 to the Education Act 1993” there is substituted “paragraph 2 of Schedule 20 to the Education Act 1996”.
- (3) For “the advice given by the Board under section 3(4) above” there is substituted “any relevant advice (defined in section 3(4) above) given by the Board”.
- 104 (1) Section 6 of that Measure (Board to be consulted in certain cases) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “section 13(1) of the 1988 Act” there is substituted “section 392(2) of the Education Act 1996”; and
- (b) for “section 11” there is substituted “section 390”.
- (3) In subsection (2), for “section 136 of the Education Act 1993” there is substituted “section 302 of the Education Act 1996”.
- 105 In section 7(3) of that Measure (powers of Board to give directions to governing bodies of aided church schools)—
- (a) for “section 15(4) of the Education Act 1944” there is substituted “section 57(1) of the Education Act 1996”;
- (b) for “section 13(1)(b) of the Education Act 1980” there is substituted “section 41(2) of that Act”; and
- (c) for “the Education Acts 1944 to 1993” there is substituted “that Act”.
- 106 In section 9 of that Measure (attendance of diocesan director of education at governing bodies' proceedings) for “section 45(6) of the 1988 Act” there is substituted “section 138(2) of the Education Act 1996”.
- 107 In section 10 (interpretation)—
- (a) in subsection (1) the definition of “the 1988 Act” is omitted;
- (b) for the definition of “church school” in that subsection there is substituted—
- ““church school” means—
- (a) a Church of England voluntary school,
- (b) a grant-maintained school which was such a voluntary school immediately before it became grant-maintained,

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- (c) a grant-maintained school established in pursuance of proposals published under section 212 of the Education Act 1996 where either any trust deed relating to the school or the statement required by paragraph 8 of Schedule 20 to that Act provides for religious education at the school to accord with the faith and practice of the Church of England, or
  - (d) a grant-maintained school in respect of which proposals for the required provision for religious education to be provision for religious education in accordance with the faith and practice of the Church of England are approved under section 261 of that Act”; and
- (c) in subsection (3)—
- (i) for “the 1988 Act or the Education Act 1993” there is substituted “the Education Act 1996”, and
  - (ii) for “those Acts” there is substituted “that Act”.

*Further and Higher Education Act 1992 (c. 13)*

- 108 In section 21(3) of the Further and Higher Education Act 1992 (initial instruments and articles) for “Chapter IV of Part I of the Education Reform Act 1988” there is substituted “Chapter V of Part III of the Education Act 1996 (or any corresponding earlier enactment)”.
- 109 In section 28(3)(a) of that Act (institutions which are grant-aided or eligible to receive aid by way of grant) for “section 100(1)(b) of the Education Act 1944” there is substituted “section 485 of the Education Act 1996”.
- 110 (1) Section 37 of that Act (attribution of surpluses and deficits) shall be amended as follows.
- (2) In subsection (1), for the words from “section 33” to “higher education)” there is substituted “section 103 of the Education Act 1996 (schemes for financing schools)”.
- (3) In subsection (7)—
- (a) in the definition of “budget share”, for “Chapter III of Part I or Chapter III of Part II of the Education Reform Act 1988” there is substituted “Part II of the Education Act 1996”; and
  - (b) in the definition of “financial year”, for “the Education Reform Act 1988” there is substituted “the Education Act 1996”.
- 111 In section 54(2) of that Act (duty to give information) for the words from “section 51” to “section 52 of that Act” there is substituted “regulations under section 492 or 493 of the Education Act 1996”.
- 112 At the end of section 56 of that Act (directions) there is added—
- “(3) Section 496 of the Education Act 1996 (power to prevent unreasonable exercise of functions) applies in relation to a council as it applies in relation to a body falling within subsection (2) of that section.”
- 113 For section 57(6) of that Act (intervention in event of mismanagement etc.) there is substituted—
- “(6) In the Education Act 1996—

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- (a) section 496 (power to prevent unreasonable exercise of functions) applies in relation to the governing body of an institution within the further education sector as it applies in relation to a body falling within subsection (2) of that section; and
  - (b) section 507 (power to direct local inquiries) applies for the purposes of the Secretary of State’s functions under this section as it applies for the purposes of his functions under that Act.”
- 114 In section 89(5) of that Act (orders, regulations and directions) for “Section 111 of the Education Act 1944” there is substituted “Section 570 of the Education Act 1996”.
- 115 (1) Section 90 of that Act (interpretation) shall be amended as follows.
  - (2) In subsection (1)—
    - (a) in the definition of “the Education Acts”, for “means the Education Acts 1944 to 1996” there is substituted “has the meaning given by section 578 of the Education Act 1996”; and
    - (b) after that definition there is inserted—
      - ““further education” has the meaning given by section 2(3) to (5) of that Act;”.
  - (3) In subsection (5), for “the Education Act 1944” there is substituted “the Education Act 1996”.
- 116 In section 92 of that Act (Index)—
  - (a) in the entry for “further education”, for “section 14(1) to (4)” there is substituted “section 90(1)”; and
  - (b) the entries for “pupil”, “secondary education” and “school” are omitted.
- 117 (1) Schedule 8 to that Act—
  - (a) shall continue to have effect with the amendment set out in sub-paragraph (2) (originally made by section 47(6) of the Education Act 1993); and
  - (b) shall be amended as provided in sub-paragraphs (3) and (4).
  - (2) In paragraph 61, for “by virtue of section 126 or 130 and in such a case” there is substituted “and”.
  - (3) In paragraph 62(3), for “or (as the case may be) the Education Act 1993” there is substituted “or (as the case may be) the Education Act 1996”.
  - (4) In—
    - (a) paragraph 79(2) (which provides that, in relation to a further education corporation or a Further Education Funding Council, the reference in section 25(2) of the Sex Discrimination Act 1975 to section 99 of the Education Act 1944 is to be read as a reference to section 57(3) of the 1992 Act), and
    - (b) paragraph 88(2) (which makes similar provision in relation to section 19(2) of the Race Relations Act 1976),
 for “section 99 of the Education Act 1944” there is substituted “section 497 of the Education Act 1996”.



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

*Tribunals and Inquiries Act 1992 (c. 53)*

- 118 (1) The Tribunals and Inquiries Act 1992 shall be amended as follows.
- (2) Section 11(1) (appeals from certain tribunals) shall continue to have effect with the substitution for “15(a) or (d)” of “15(a), (d) or (e)” (originally made by section 181 of the Education Act 1993).
- (3) In paragraph 15 of Schedule 1 (tribunals under general supervision of Council on Tribunals)—
- (a) in sub-paragraph (a), for “section 72 of, and Schedule 6 to, the Education Act 1944 (c. 31)” there is substituted “section 476 of, and Schedule 34 to, the Education Act 1996 (c. 56)”;
  - (b) in sub-paragraph (b), for “Part I of Schedule 2 to the Education Act 1980 (c. 20)” there is substituted “Part I of Schedule 33 to that Act”;
  - (c) in sub-paragraph (c), for “paragraph 5(1) of Schedule 6 to the Education Act 1993” there is substituted “paragraph 6(1) of Schedule 23 to that Act”; and
  - (d) for sub-paragraph (e) there is substituted—
    - “(e) the Special Educational Needs Tribunal constituted under section 333 of that Act”.

*Charities Act 1993 (c. 10)*

- 119 For section 79(9) of the Charities Act 1993 (parochial charities) there is substituted—
- “(9) This section shall not affect the trusteeship, control or management of any voluntary or grant-maintained school within the meaning of the Education Act 1996.”
- 120 (1) Schedule 2 to that Act (exempt charities) shall continue to have effect with the following amendments (originally made by Schedules 15 and 19 to the Education Act 1993).
- (2) After paragraph (d) there is inserted—
- “(da) the School Curriculum and Assessment Authority;”.
- (3) For paragraph (f) there is substituted—
- “(f) the Curriculum and Assessment Authority for Wales;”.
- 121 At the end of paragraph 1(b) of Schedule 4 to that Act (charities over which the court has jurisdiction) there is added “or section 554 of the Education Act 1996”.

*Welsh Language Act 1993 (c. 38)*

- 122 In section 6(1)(l) of the Welsh Language Act 1993 (meaning of “public body”) for “the Education Acts 1944 to 1992” there is substituted “the Education Act 1996”.

*Local Government (Wales) Act 1994 (c. 19)*

- 123 (1) Section 30 of the Local Government (Wales) Act 1994 (area committees) shall be amended as follows.
- (2) In subsection (7) for “section 297 of the Education Act 1993” there is substituted “section 499 of the Education Act 1996”.

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

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- (3) In subsections (9) and (14) for “section 297 of the Act of 1993” there is substituted “section 499 of the Act of 1996”.
- 124 (1) Section 31 of that Act (sub-committees of area committees) shall be amended as follows.
- (2) In subsection (6) for “section 297 of the Education Act 1993” there is substituted “section 499 of the Education Act 1996”.
- (3) In subsections (8) and (12) for “section 297 of the Act of 1993” there is substituted “section 499 of the Act of 1996”.

*Value Added Tax Act 1994 (c. 23)*

- 125 In Schedule 9 to the Value Added Tax Act 1994 (exemptions), in paragraph (a) of Note (1) to Group 6 (education)—
- (a) for “the Education Acts 1944 to 1996” there is substituted “the Education Act 1996”;
- (b) in sub-paragraph (iii), for “a maintained school within the meaning of the Education Act 1993 or” there is substituted “a county school, voluntary school or maintained special school (other than one established in a hospital) within the meaning of the Education Act 1996 or a maintained school within the meaning of”;
- (c) in sub-paragraph (v), for “section 22 of the Education Act 1993” there is substituted “the Education Act 1996”; and
- (d) in sub-paragraph (vii), for “section 182(3) of the Education Act 1993” there is substituted “the Education Act 1996”.

*Education Act 1994 (c. 30)*

- 126 After section 11 of the Education Act 1994 there is inserted—

*“General duty of Secretary of State*

**11A General duty of Secretary of State with respect to teacher training**

In carrying out his duties under sections 10 and 11 of the Education Act 1996 the Secretary of State shall, in particular, make such arrangements as he considers expedient for securing that sufficient facilities are available for the training of teachers to serve in schools maintained by local education authorities, grant-maintained schools, institutions within the further education sector and institutions which are maintained by such authorities and provide higher education or further education (or both).”

- 127 (1) Section 12 of that Act (power of schools to provide courses of initial teacher training) shall be amended as follows.
- (2) In subsection (5), for “section 12 or 13 of the Education Act 1980 or section 96 of the Education Act 1993” there is substituted “section 35, 41 or 259 of the Education Act 1996”.
- (3) In subsection (6)—

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- (a) for “sections 33 to 43 of the Education Reform Act 1988” there is substituted “sections 101 to 123 of the Education Act 1996”, and
- (b) for “Chapter VI of Part II of the Education Act 1993” there is substituted “Chapter VI of Part III of that Act”.

128 In section 19 of that Act (interpretation)—

- (a) in subsection (3), for “section 156 of the Education Act 1993” there is substituted “section 312 of the Education Act 1996”; and
- (b) in subsection (5), for “the Education Act 1944” there is substituted “the Education Act 1996”.

*Disability Discrimination Act 1995 (c. 50)*

129 In section 19(5)(a)(ii) of the Disability Discrimination Act 1995 (discrimination in relation to goods, facilities and services) for “section 14(5) of the Further and Higher Education Act 1992” there is substituted “section 4(1) and (2) of the Education Act 1996”.

*Employment Rights Act 1996 (c. 18)*

130 In section 134(1) of the Employment Rights Act 1996 (dismissal of teachers in aided schools) for “paragraph (a) of the proviso to section 24(2) of the Education Act 1944” there is substituted “section 134(3) of the Education Act 1996”.

*Nursery Education and Grant-Maintained Schools Act 1996 (c. 57)*

131 (1) Section 4 of the Nursery Education and Grant-Maintained Schools Act 1996 (children with special educational needs) shall be amended as follows.

(2) In subsection (1)—

- (a) for “section 157 of the Education Act 1993” there is substituted “section 313 of the Education Act 1996”; and
- (b) for “Part III” there is substituted “Part IV”.

(3) In each of subsections (2) and (3), for “Part III of the Education Act 1993” there is substituted “Part IV of the Education Act 1996”.

132 In section 11 of that Act (citation etc.) for subsection (2) there is substituted—

“(2) This Act shall be construed as one with the Education Act 1996.”

## PART II

### AMENDMENTS COMING INTO FORCE ON APPOINTED DAY

*Children and Young Persons Act 1933 (c. 12)*

133 In section 30(1)(a) of the Children and Young Persons Act 1933 (interpretation) for the words from “for the purposes” to the end of paragraph (a) there is substituted “over compulsory school age (construed in accordance with section 8 of the Education Act 1996)”.

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

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*Agriculture (Safety, Health and Welfare Provisions) Act 1956 (c. 49)*

- 134 In section 24(1) of the Agriculture (Safety, Health and Welfare Provisions) Act 1956 (interpretation) in the definition of “young person”, for “for the purposes of the Education Act 1944” there is substituted “(construed in accordance with section 8 of the Education Act 1996)”.

*Factories Act 1961 (c. 34)*

- 135 In section 176(1) of the Factories Act 1961 (general interpretation) for the definition of “child” there is substituted—

““child” means any person who is not over—

- (a) compulsory school age (construed in accordance with section 8 of the Education Act 1996), or
- (b) school age (construed in accordance with section 31 of the Education (Scotland) Act 1980);”.

*Matrimonial Causes Act 1973 (c. 18)*

- 136 In section 29(2)(a) of the Matrimonial Causes Act 1973 (age limit on making certain orders in favour of children) for the words from “(that is to say” to “that section)” there is substituted “(construed in accordance with section 8 of the Education Act 1996)”.

*Sex Discrimination Act 1975 (c. 65)*

- 137 In section 24(2)(d) of the Sex Discrimination Act 1975 (designated establishments) after “school age” there is inserted “(construed in accordance with section 8 of the Education Act 1996)”.

*Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)*

- 138 In section 5(2)(a) of the Domestic Proceedings and Magistrates' Courts Act 1978 (age limit on making certain orders in favour of children) for the words from “(that is to say” to “that section)” there is substituted “(construed in accordance with section 8 of the Education Act 1996)”.

*Employment Act 1989 (c. 38)*

- 139 In section 10 of the Employment Act 1989 (removal of restrictions relating to employment of young persons), in subsection (6), for “for the purposes of the Education Act 1944” there is substituted “(construed in accordance with section 8 of the Education Act 1996)”.

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

SCHEDULE 38

Section 582(2).

REPEALS AND REVOCATIONS

**PART I**

REPEALS COMING INTO FORCE ON 1ST NOVEMBER 1996

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1944 c. 31.	Education Act 1944.	The whole Act.
1946 c. 49.	Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entry relating to the Education Act 1944.
1946 c. 50.	Education Act 1946.	The whole Act.
1948 c. 40.	Education (Miscellaneous Provisions) Act 1948.	The whole Act.
1953 c. 33.	Education (Miscellaneous Provisions) Act 1953.	The whole Act.
1959 c. 53.	Town and Country Planning Act 1959.	In Schedule 4, paragraph 4.
1959 c. 60.	Education Act 1959.	The whole Act.
1961 c. 45.	Rating and Valuation Act 1961.	The whole Act.
1962 c. 12.	Education Act 1962.	Section 9. Section 13(4). Section 14(2).
1963 c. 37.	Children and Young Persons Act 1963.	Section 38(2).
1964 c. 82.	Education Act 1964.	The whole Act.
1967 c. 3.	Education Act 1967.	Section 2. In section 6(1), the words from “and this Act” onwards.
1967 c. 80.	Criminal Justice Act 1967.	In Part I of Schedule 3, the entry relating to the Education Act 1944.
1968 c. 17.	Education Act 1968.	The whole Act.
1968 c. xxxix	Greater London Council (General Powers) Act 1968.	Section 56.
1970 c. 42.	Local Authority Social Services Act 1970.	In Schedule 1, the entry relating to the Education Act 1993.

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

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1970 c. 52.	Education (Handicapped Children) Act 1970.	The whole Act.
1972 c. 70.	Local Government Act 1972.	Section 192.
1973 c. 16.	Education Act 1973.	Section 1(2). Section 2. In section 5(1), the words from “, and the Education Acts” onwards. In Schedule 1, paragraph 3.
1973 c. 23.	Education (Work Experience) Act 1973.	The whole Act.
1975 c. 2.	Education Act 1975.	The whole Act.
1976 c. 5.	Education (School-leaving Dates) Act 1976.	The whole Act.
1976 c. 81.	Education Act 1976.	The whole Act.
1977 c. 49.	National Health Service Act 1977.	In Schedule 14, in paragraph 13(1)(b) “7 to 9”. In Schedule 15, paragraphs 2 and 3.
1979 c. 49.	Education Act 1979.	The whole Act.
1980 c. 20.	Education Act 1980.	Sections 1 to 18. Sections 21 and 22. Section 24. Section 26. Sections 28 to 30. Section 33(3). Sections 34 and 35. Section 37. In section 38, subsections (2) and (4) to (6). Schedules 1 to 4. Schedule 7.
1980 c. 65.	Local Government, Planning and Land Act 1980.	Section 2(3).
1981 c. 60.	Education Act 1981.	The whole Act.
1982 c. 48.	Criminal Justice Act 1982.	In Schedule 3, the entries relating to the Education Act 1944.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1984 c. 11.	Education (Grants and Awards) Act 1984.	The whole Act.
1985 c. 47.	Further Education Act 1985.	Section 8(2).
1986 c. 50.	Social Security Act 1986.	Section 77 so far as relating to section 22 of the Education Act 1980.
1986 c. 61.	Education (No.2) Act 1986.	Sections 1 to 42. Sections 44 to 47. Sections 51 to 60. In section 62(1), paragraph (a) and the “(b)” immediately following it. In section 63, in subsection (1) the words “(other than under section 2(7), 9(6) or 54)”, in subsection (2) “51 or”, and subsection (2A). In section 65(1), all the definitions except that of “establishment of higher or further education”. In section 66, in subsection (1) “60 and” and “to (3)”, and in subsection (2) “and 59”. In section 67, subsections (2), (5) and (6). Schedules 1 to 3. In Schedule 4, paragraphs 1, 2 and 5. Schedules 5 and 6.
1987 c. 15.	Reverter of Sites Act 1987.	Section 8(1).
1988 c. 40.	Education Reform Act 1988.	Part I. Section 120(5) and (9). In section 210, in each of subsections (1) and (3)(d) the words “local education authorities or”. In section 211, paragraphs (a) and (b) and the words “the school or”.

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Sections 212 and 213.
		In section 218, in subsection (1) in each of paragraphs (e) and (f) the words “schools and” and paragraph (g), in subsection (7) the words from “or, in such cases” to “the funding authority” and the words “school or” (where first occurring) and “any school or”, and subsections (8) and (13).
		Section 222.
		Sections 225 and 227.
		Section 229(1).
		In section 230(1), “section 15(2)”.
		In section 232, subsection (3) and, in subsection (4)(b), “3(4)(a), 4(2)(c), 24”.
		Section 234.
		In section 235, in subsection (1) the definition of “the 1980 Act”.
		In section 236, in subsection (1) the words from “section 1” to “section 119” and “sections 212 and 213”, and subsections (2) and (3).
		Section 238(2).
		Schedules 1 to 4.
		In Schedule 12, paragraphs 1 to 8, 14, 17, 24, 25, 34, 35, 37, 54 to 62, 69(4), 76, 77, 81, 82, 87(3), 99, 102, 103 and 106.
1989 c. 41.	Children Act 1989.	In Schedule 13, paragraphs 9 and 10.
1989 c. 42.	Local Government and Housing Act 1989.	In section 13(9), the definition of “foundation governors” and the “and” immediately following it.



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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Section 188.
1990 c. 6.	Education (Student Loans) Act 1990.	Section 4(2).
1990 c. 19.	National Health Service and Community Care Act 1990.	In Schedule 9, paragraph 31.
1990 c. 38.	Employment Act 1990.	Section 14. In section 18(2), the words from “section 14” to “experience”.
1991 c. 21.	Disability Living Allowance and Disability Working Allowance Act 1991.	In Schedule 3, paragraph 12.
1991 c. 49.	School Teachers' Pay and Conditions Act 1991.	Section 6(2).
1991 No.2.	Diocesan Boards of Education Measure 1991.	In section 10(1), the definition of “the 1988 Act”.
1992 c. 13.	Further and Higher Education Act 1992.	Sections 10 to 14. Section 59. In section 92, the entries for “pupil”, “secondary education” and “school”. Section 94(2). In Schedule 8, paragraphs 1 to 17, 24 to 26, 28, 43(b), 50, 53, 54, 56, 57 and 82.
1992 c. 38.	Education (Schools) Act 1992.	Section 16. In Schedule 4, paragraphs 1 and 4 to 6.
1993 c. 8.	Judicial Pensions and Retirement Act 1993.	In Schedule 6, paragraph 51.
1993 c. 10.	Charities Act 1993.	In Schedule 2, paragraphs (e) and (g).
1993 c. 35.	Education Act 1993.	The whole Act.
1994 c. 19.	Local Government (Wales) Act 1994.	Section 21. In Schedule 16, paragraphs 8 and 105.
1994 c. 30.	Education Act 1994.	Section 27(2).

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

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In Schedule 2, paragraphs 5(2) and (4)(a), 6(2) and (4)(a) and 8(2) to (4).
1995 c. 17.	Health Authorities Act 1995.	In Schedule 1, paragraphs 112 and 124.
1995 c. 18.	Jobseekers Act 1995.	In Schedule 2, paragraphs 3 and 17.
1995 c. 21.	Merchant Shipping Act 1995.	In Schedule 13, paragraph 48.
1995 c. 50.	Disability Discrimination Act 1995.	Section 29(1) and (2).  Section 30(7) to (9).
1996 c. 9.	Education (Student Loans) Act 1996.	Section 4(2).
1996 c. 18.	Employment Rights Act 1996.	In Schedule 1, paragraph 59.
1996 c. 23.	Arbitration Act 1996.	In Schedule 3, paragraphs 4 and 59.
1996 c. 50.	Nursery Education and Grant-Maintained Schools Act 1996.	Section 7.  In Schedule 3, paragraphs 1 to 8 and 10 to 15.

## PART II

### REPEALS COMING INTO FORCE ON APPOINTED DAY

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1975 c. 65.	Sex Discrimination Act 1975.	In section 82(1), the definition of “upper limit of compulsory school age”.
1976 c. 74.	Race Relations Act 1976.	In section 78(1), the definition of “upper limit of compulsory school age”.
1995 c. 36.	Children (Scotland) Act 1995.	In Schedule 4, paragraph 10(a).

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

### PART III

#### REVOCATIONS

<i>S.I. Number</i>	<i>Title</i>	<i>Extent of revocation</i>
<a href="#">S.I. 1977/293.</a>	Local Authorities etc. (Miscellaneous Provision) Order 1977.	Article 4(1) and (5).
<a href="#">S.I. 1991/1890.</a>	Education (Financial Delegation for Primary Schools) Regulations 1991.	The whole Regulations.
<a href="#">S.I. 1992/110.</a>	Education (Financial Delegation for Primary Schools) (Amendment) Regulations 1992.	The whole Regulations.
<a href="#">S.I. 1992/1548.</a>	Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1992.	The whole Order.
<a href="#">S.I. 1993/2709.</a>	Education (No. 2) Act 1986 (Amendment) Order 1993.	The whole Order.
<a href="#">S.I. 1993/2827.</a>	Education (No. 2) Act 1986 (Amendment) (No. 2) Order 1993.	The whole Order.
<a href="#">S.I. 1994/692.</a>	Education (No. 2) Act 1986 (Amendment) Order 1994.	The whole Order.
<a href="#">S.I. 1994/1814.</a>	Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1994.	The whole Order.
<a href="#">S.I. 1994/2092.</a>	Education (No. 2) Act 1986 (Amendment) (No. 2) Order 1994.	The whole Order.
<a href="#">S.I. 1994/2732.</a>	Education (No. 2) Act 1986 (Amendment) (No. 3) Order 1994.	The whole Order.
<a href="#">S.I. 1996/710.</a>	Local Government Changes for England (Education) (Miscellaneous Provisions) Regulations 1996.	Regulation 19.
<a href="#">S.I. 1996/951.</a>	Deregulation (Length of the School Day) Order 1996.	The whole Order.

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

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## SCHEDULE 39

Section 582(3).

## TRANSITIONAL PROVISIONS AND SAVINGS

## PART I

## GENERAL

*General transitional provisions*

- 1 (1) The repeal and re-enactment of provisions by this Act does not affect the continuity of the law.
- (2) Any subordinate legislation made or other thing done, or having effect as if made or done, under or for the purposes of any provision repealed and re-enacted by this Act shall, if in force or effective immediately before the commencement of the corresponding provision of this Act, have effect thereafter as if made or done under or for the purposes of that corresponding provision.
- (3) Any reference (express or implied) in this Act or any other enactment or in any instrument or document—
- (a) to any provision of this Act, or
  - (b) to things done or falling to be done under or for the purposes of any provision of this Act,
- shall (so far as the context permits) be construed as including, in relation to times, circumstances or purposes in relation to which the corresponding provision repealed by this Act had effect, a reference—
- (i) to that corresponding provision, or
  - (ii) to things done or falling to be done under or for the purposes of that corresponding provision,
- as the case may be.
- (4) Any reference (express or implied) in any enactment or in any instrument or document—
- (a) to any provision repealed and re-enacted by this Act, or
  - (b) to things done or falling to be done under or for the purposes of any such provision,
- shall (so far as the context permits) be construed as including, in relation to times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference—
- (i) to that corresponding provision, or
  - (ii) to things done or falling to be done under or for the purposes of that corresponding provision,
- as the case may be.
- (5) Without prejudice to the generality of sub-paragraph (4), where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act which reproduce such enactments.

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- (6) Sub-paragraphs (1) to (5) have effect instead of section 17(2) of the Interpretation Act 1978 (but are without prejudice to any other provision of that Act); and sub-paragraph (1) has effect subject to any amendments of the law which give effect to recommendations of the Law Commission.
- (7) Sub-paragraph (2) does not apply to any subordinate legislation in so far as it is reproduced in this Act.

*Extension of references to provisions repealed by Education Act 1993*

- 2 (1) Paragraph 1(3) above shall have effect, for the purpose of extending references so as to include references to (or to things done or falling to be done under) the pre-1993 Act enactments, as if any reference in paragraph 1(3) to the corresponding provision repealed by this Act were a reference to the corresponding provision of those enactments.
- (2) Paragraph 1(4) above shall have effect, for the purpose of extending references to (or to things done or falling to be done under) the pre-1993 Act enactments, as if any reference in paragraph 1(4) to any provision repealed and re-enacted by this Act were a reference to a provision of those enactments.
- (3) Any reference in any provision of the Education Acts to a funding authority, in relation to any function which, under a corresponding provision of the pre-1993 Act enactments, was exercisable by the Secretary of State shall (so far as the context permits) be construed, in relation to times, circumstances or purposes in relation to which the corresponding provision of those enactments had effect, as a reference to the Secretary of State.
- (4) In this paragraph “the pre-1993 Act enactments” means the enactments specified in Part I of Schedule 21 to the Education Act 1993 (repeals).

*Construction of pre-1944 Act references*

- 3 Where immediately before the commencement of this Act any reference in any enactment, instrument or document had effect as if it were a reference to the Secretary of State or the Department for Education and Employment by virtue of the operation of section 2(1) of the Education Act 1944 and any order made under the Ministers of the Crown Act 1975, it shall continue to do so despite the repeal of that provision by this Act.
- 4 (1) This paragraph applies to enactments passed before 1st April 1945.
- (2) Unless the context otherwise requires any such enactment shall be construed as if—
  - (a) any reference to an elementary school or to a public elementary school (whether or not any reference is made there to the payment of parliamentary grants in respect of the school) were a reference to a county school or voluntary school, as the context may require;
  - (b) any reference to a school certified by the Board of Education, in accordance with the provisions of Part V of the Education Act 1921, as suitable for providing education for blind, deaf, defective or epileptic children were a reference to a special school;
  - (c) any reference to the managers of a school, in relation to a county school or voluntary school, were a reference to the governors (or, if the context so requires, the governing body) of the school;

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- (d) any reference to elementary education or to higher education were a reference to such education as may be provided by a local education authority in the exercise of their functions under sections 13 to 15 of this Act; and
- (e) any reference to a local education authority, to a local education authority for elementary education or to a local education authority for higher education were a reference to a local education authority within the meaning of this Act.

*Effect of old transitional provisions and savings*

- 5 The repeals made by this Act shall not affect the operation of any transitional provision or saving relating to the coming into force of a provision reproduced in this Act in so far as the transitional provision or saving is not specifically reproduced in this Act but remains capable of having effect in relation to the corresponding provision of this Act or otherwise.
- 6 (1) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (2) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the saving so far as it is not specifically reproduced in this Act but remains capable of having effect.

*Use of existing forms etc.*

- 7 Any reference to an enactment repealed by this Act which is contained in a document made, served or issued after the commencement of that repeal shall be construed, except so far as a contrary intention appears, as a reference or (as the context may require) including a reference to the corresponding provision of this Act.

*Pre-commencement offences*

- 8 Nothing in this Act affects the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

## PART II

### SPECIFIC PROVISIONS

*Governing bodies of LEA-maintained schools*

- 9 (1) Any governing body which immediately before the commencement of this Act was incorporated by virtue of section 238 of the Education Act 1993 (incorporation of governing bodies of county, voluntary and maintained special schools) shall continue in existence as a body corporate despite the repeal of that section by this Act.
- (2) In Schedule 7 to this Act any reference to a governing body incorporated under section 88(1) of this Act includes a reference to a governing body falling within subparagraph (1).

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- (3) Despite the repeal by this Act of Schedule 13 to the Education Act 1993 (incorporated governing bodies for county, voluntary and maintained special schools)—
- (a) paragraph 3 of that Schedule (contracts of employment) shall continue to apply to, or in relation to, any contract of employment to which it applied immediately before the commencement of this Act; and
  - (b) to the extent that any provision of paragraphs 13 to 15 (general provisions about transfers) applied in relation to any transfer immediately before the commencement of this Act, it shall continue so to apply.
- 10 (1) The reproduction by this Act of any reference, in an enactment repealed by this Act, to the governors of a school of any description as a reference to the governing body of a school of that description shall not be taken to affect the construction or operation of that enactment in relation to any times, circumstances or purposes in relation to which it had effect.
- (2) Where by virtue of section 1(4) of the Education Act 1980 any enactment or document referred immediately before the commencement of this Act to the governors, foundation governors, instrument of government or articles of government of a primary school to which section 1(2) and (3) of that Act applied, it shall continue to do so despite the repeal of section 1(4) by this Act.
- 11 Where any instrument under which the governing body of an aided or special agreement school is constituted was in force immediately before the commencement of this Act by virtue of paragraph 1 of Schedule 5 to the Education (No. 2) Act 1986, the instrument shall have effect thereafter as if made by order under section 76 of this Act; but this paragraph shall cease to apply to any such school if it is grouped with any other school or schools under section 89 of this Act.

#### *Special agreement schools*

- 12 (1) Any order under section 15(2) of the Education Act 1944 directing that a school is to be a special agreement school shall, if in force immediately before the commencement of this Act, continue in force despite the repeal by this Act of section 15(2) of that Act.
- (2) Sub-paragraph (1) does not prejudice the operation of paragraph 1(2) above in relation to other orders in force under section 15(2) of that Act immediately before the commencement of this Act.

#### *Proposals to establish etc. maintained or grant-maintained schools*

- 13 (1) Nothing in sections 35 to 45 or in sections 259 to 263 of this Act applies in relation to any proposals published before the commencement of this Act; and the corresponding provisions of the Education Act 1980 and the Education Act 1993 shall continue to apply in relation to any proposals duly published under section 12(1) (a) to (d) or 13 of the 1980 Act or section 96 or 97 of the 1993 Act as if this Act had not been passed.
- (2) Sub-paragraph (1) does not prevent references in other provisions of this Act to proposals published or implemented under any of those sections of this Act from applying, by virtue of paragraph 1(3) above, to any proposals falling within sub-paragraph (1).

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

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*Review of constitution of governing bodies*

- 14 (1) Subject to sub-paragraph (2), nothing in section 82 of this Act applies in relation to the implementation of any proposal made before the commencement of this Act, and section 11 of the Education (No. 2) Act 1986 shall continue to apply in relation to the implementation of any such proposal falling within subsection (2)(a) of that section as if this Act had not been passed.
- (2) In section 82(2) of this Act—
- (a) in paragraph (b), the reference to proposals falling within subsection (3) of that section includes a reference to proposals falling within section 11(2) of the 1986 Act; and
  - (b) in paragraph (c) the reference to a relevant event for the purposes of section 82 includes a reference to a relevant event for the purposes of section 11 of the 1986 Act;
- and any date determined by the local authority under section 11(6) of the 1986 Act shall be taken, for the purposes of section 82(2) of this Act, to be the date on which the proposals in question were implemented.

*Confirmation of certain decisions of governing body*

- 15 Paragraph 16(1) of Schedule 8 to this Act does not apply to any decision taken before the commencement of this Act, and section 8(11) of the Education (No. 2) Act 1986 shall continue to apply to any such decision falling within section 8(12) as if this Act had not been passed.

*Review of grouping*

- 16 The reference in section 94(2)(c) of this Act to an order under section 50 or 51 or 58(1) of this Act does not, by virtue of paragraph 1(3) above, include a reference to an order made before the commencement of this Act under section 2 of the Education Act 1946 or section 15(5) of the Education Act 1944.

*Financial delegation*

- 17 (1) Without prejudice to paragraph 1(3) above—
- (a) the reference in section 101(1) of this Act to a scheme made by a local education authority under section 103 of this Act includes a reference to a scheme in force immediately before the commencement of this Act which was made under section 33 of the Education Reform Act 1988 (including one made by way of variation or replacement of such a scheme under section 35 of that Act); and
  - (b) the reference in section 104(6) of this Act to section 104(5) includes a reference to section 34(6) of that Act.
- (2) In relation to any such scheme made (or treated as if made) under section 33 of that Act, the reference in section 110(2) of this Act to the date of the coming into force of the scheme is (subject to sub-paragraph (3) below) a reference to the date of its coming into force as first made under section 33 (or 34(6)) of that Act.
- (3) Where the initial period of any such scheme made before 1st January 1994 (the date on which section 274 of the Education Act 1993 came into force) was before 1st January 1994 determined by reference to a date later than that referred to in sub-



paragraph (2) above, section 110(2) of this Act shall have effect in relation to the scheme as if it instead referred to that later date.

- 18 Nothing in section 141 of this Act requires a local education authority to amend the articles of government of a school if, before the commencement of this Act, they have already amended those articles in accordance with section 44(4) of the Education Reform Act 1988.

*School sessions*

- 19 For the purposes of section 147(1)(b) of this Act as it applies to a county, controlled or maintained special school, any determination as to the times of the school sessions (within the meaning of section 147) which had effect immediately before the commencement of this Act, whether made—
- (a) by the governing body, or
  - (b) by the local education authority before 1st May 1989 (the date on which section 115 of the Education Reform Act 1988 came into force),
- shall continue to have effect, as if made for those purposes, subject to any new determination under section 148 of this Act.

*Exclusion of pupils*

- 20 Nothing in section 157 of this Act applies in relation to any pupil excluded from a school before the commencement of this Act, and section 23 of the Education (No. 2) Act 1986 shall continue to apply to any such pupil as if this Act had not been passed.

*School premises: pre-1993 Act transfer of control agreements*

- 21 (1) This paragraph applies to any agreement to which paragraph 6 or 7 of Schedule 13 to the Education Act 1993 (pre-existing transfer of control agreements) applied immediately before the commencement of this Act.
- (2) The provisions of paragraph 6 or (as the case may be) paragraph 7 shall continue to apply in relation to any such agreement as if this Act had not been passed.

*Variation of trust deeds etc.*

- 22 In section 179(1) of this Act—
- (a) paragraph (b) does not apply to a transfer made before the commencement of this Act unless it was made in pursuance of proposals that fell to be implemented under section 12 or 13 of the Education Act 1980; but
  - (b) in paragraph (d) the reference to any order made by the Secretary of State under section 47 of this Act includes a reference to any order made under section 16(1) of the Education Act 1944 (whether made in relation to a county school or a voluntary school).

*Ballots relating to acquisition of grant-maintained status*

- 23 Section 190(2)(b) of this Act applies where after the commencement of this Act the Secretary of State has given his consent for the purposes of section 186(3) or section 187(5) of this Act.

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*Instruments and articles for grant-maintained schools incorporated under pre-1993 Act law*

- 24 (1) This paragraph applies in relation to a grant-maintained school where—
- (a) the governing body of the school were incorporated under Chapter IV of Part I of the Education Reform Act 1988;
  - (b) an instrument and articles of government were made for the school under that Chapter before 1st January 1994; and
  - (c) immediately before the commencement of this Act those instruments had effect (in accordance with paragraph 1(2) of Schedule 20 to the Education Act 1993 (transitional provisions and savings)) subject to the modifications specified in either or both of paragraphs 8 and 9 of the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993.
- (2) The instrument and articles of government for the school shall continue to have effect, subject to those modifications, as if made under section 220 of this Act and in accordance with Part III of this Act.
- 25 (1) This paragraph applies in relation to a grant-maintained school where—
- (a) the governing body of the school were incorporated under Chapter IV of Part I of the Education Reform Act 1988;
  - (b) paragraph 24(1)(b) above does not apply; and
  - (c) immediately before the commencement of this Act the instrument and articles of government prescribed by virtue of section 56 of the Education Act 1993 had effect in relation to the school (in accordance with paragraph 1(3) of Schedule 20 to that Act).
- (2) The instrument and articles of government for the school shall continue to have effect as if made under section 219 of this Act; and while they remain in force Schedule 24 to this Act shall apply in relation to the school with the following modifications.
- (3) In paragraph 10(1) there shall be inserted at the end of paragraph (d) “or
- (e) in the case of a governing body incorporated under Chapter IV of Part I of the Education Reform Act 1988, became a member of the governing body on the incorporation date in relation to the school (as defined by section 104(3) of that Act) and—
    - (i) immediately before that date, was a parent governor (within the meaning of the Education (No. 2) Act 1986) in relation to the school, or
    - (ii) was elected under section 66, or elected or nominated under section 68, of the Education Reform Act 1988 to hold office as a parent governor on the governing body.”
- (4) In paragraph 11(1) there shall be inserted at the end of paragraph (c) “or
- (d) in the case of a governing body incorporated under Chapter IV of Part I of the Education Reform Act 1988, became a member of the governing body on the incorporation date in relation to the school (as defined by section 104(3) of that Act) and—
    - (i) immediately before that date, was a teacher governor (within the meaning of the Education (No. 2) Act 1986) in relation to the school, or
    - (ii) was elected under section 66, or elected or nominated under section 68, of the Education Reform Act 1988 to hold office as a teacher governor on the governing body.”

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- (5) In paragraph 12(1) there shall be inserted at the end of paragraph (c) “or
- (d) in the case of a governing body incorporated under Chapter IV of Part I of the Education Reform Act 1988—
    - (i) became a member of the governing body on the incorporation date in relation to the school (as defined by section 104(3) of that Act), and
    - (ii) was selected under section 66, or nominated under section 68, of that Act as being a person appearing to be a member of the local community committed to the good government and continuing viability of the school.”
- 26 (1) This paragraph applies in relation to a grant-maintained school where—
- (a) the governing body of the school were incorporated under Chapter IV of Part I of the Education Reform Act 1988; and
  - (b) the school was a voluntary school before it became grant-maintained.
- (2) Schedule 24 to this Act shall apply in relation to the school with the substitution of the following paragraph for paragraph 13—
- “13 “Foundation governor” means—
- (a) a person appointed otherwise than by a local education authority for the purpose of securing, so far as is practicable, that the established character of the school at the time when it became grant-maintained is preserved and developed and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it; or
  - (b) a person selected under section 66, or nominated under section 68, of the Education Reform Act 1988 for the purpose referred to in sub-paragraph (a) above.”

#### *Appeal committees*

- 27 Nothing in—
- (a) section 308(3) of this Act, or
  - (b) paragraph 7 of Schedule 33 to this Act,
- applies in relation to any decision or action taken by the members of an appeal committee before 1st January 1994.
- 28 Paragraph 13(4) of Schedule 22 to this Act does not apply to any appeal committee constituted before 1st January 1994 in accordance with the instrument of government for any grant-maintained school for the purposes referred to in section 58(5)(d) of the Education Reform Act 1988 (articles of government admission appeal committees) while all the members of the committee are persons who were nominated before that date.
- 29 Where immediately before the commencement of this Act an appeal committee was constituted in accordance with the provisions of Part I of Schedule 2 to the Education (No. 2) Act 1986 as they had effect by virtue of paragraph 6 of Schedule 20 to the Education Act 1993 (namely without the amendments made by Schedule 16 to that Act), those provisions shall continue to apply to the committee (in place of the corresponding provisions of Part I of Schedule 33 to this Act) while all the members of the committee are persons nominated before 1st January 1994.

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- 30 Nothing in this Act affects the restriction imposed by paragraph 4(2) of Schedule 2 to the Education Act 1993 (Commencement No.1 and Transitional Provisions) Order 1993 on the jurisdiction exercisable by a Local Commissioner, by virtue of section 25(5) of the Local Government Act 1974, in relation to cases where notice of appeal was served before 1st October 1993.

*Maintenance etc. grants*

- 31 (1) The former grants code shall continue to have effect in relation to—
- (a) any payments of maintenance grant under section 79(1) of the Education Reform Act 1988 in respect of any financial year ending before 1st April 1994; and
  - (b) any payments of capital and special purpose grants under section 79(3) of that Act made before that date.
- (2) The functions conferred on the Secretary of State by or under the former grants code (as it has effect by virtue of sub-paragraph (1) above) shall, so far as relating to any amounts which—
- (a) fall or may fall to be paid in any financial year beginning on or after 1st April 1994 in respect of any grant under that code, or
  - (b) have been paid by the Secretary of State before that date in respect of any such grant,
- be exercisable by the funding authority.
- (3) In this paragraph “the former grants code” means sections 79 and 80 of the Education Reform Act 1988 (maintenance, special purpose and capital grants) in their application to England.

- 32 Section 81 of the Education Reform Act 1988 (recovery from local funds of sums in respect of maintenance grant) shall continue to have effect in relation to any sums recoverable by the Secretary of State under section 81(1) of that Act for any financial year ending before 1st April 1994.

- 33 The Education (Grant-maintained Schools) (Finance) Regulations 1990, so far as in force immediately before the commencement of this Act, shall continue in force despite the repeals made by this Act.

*Assessments and statements of special educational needs*

- 34 Any assessment or statement of special educational needs which—
- (a) was made pursuant to a notice or copy of a proposed statement served before 1st September 1994, and
  - (b) immediately before the commencement of this Act was treated, by virtue of paragraph 2(7) or 4(3) of Schedule 4 to the Education Act 1993 (Commencement No.5 and Transitional Provisions) Order 1994, as if it had been made under section 167 or 168 of the Education Act 1993,
- shall have effect as if made under section 323 or 324 of this Act (as the case may be).

*Applications relating to special schools*

- 35 Any application which—
- (a) was made to the Secretary of State before 1st April 1994, and

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- (b) immediately before the commencement of this Act was treated, by virtue of paragraph 5 of Schedule 3 to the Education Act 1993 (Commencement No. 3 and Transitional Provisions) Order 1994, as if it had been made in accordance with—
- (i) paragraph (a) or paragraph (b) of subsection (2), and subsection (6), of section 183 of the Education Act 1993, and
  - (ii) section 184(1) to (3) of that Act,
- shall have effect as if made in accordance with paragraph (a) or (as the case may be) paragraph (b) of subsection (1), and subsection (5), of section 339 of this Act and section 340(1) to (3) of this Act.

*Contracts of staff transferred to School Curriculum and Assessment Authority or Curriculum and Assessment Authority for Wales*

- 36 (1) The repeal by this Act of—
- (a) section 15 of the Education Reform Act 1988 (transfer of staff of School Curriculum Development Committee or Secondary Examinations Council), or
  - (b) section 248 of the Education Act 1993 (transfer of staff of National Curriculum Council and School Examinations and Assessment Council),
- shall not affect the continued operation of section 15(3) to (5) or (as the case may be) section 248(2) and (3) in relation to any contract of employment in relation to which those provisions applied immediately before the commencement of this Act.
- (2) Nothing in this Act shall affect the continued operation of Article 4 of the Education (School Curriculum and Assessment Authority) (Transfer of Functions) Order 1995 in relation to the person mentioned in that Article.

*Information about directions under section 365*

- 37 Nothing in section 366 of this Act applies, by virtue of paragraph 1 above, to any direction given before the commencement of this Act under regulations made under section 19 of the Education Reform Act 1988, and that section shall continue to apply in relation to any such direction as if this Act had not been passed.

*Review of conclusions about policy relating to curriculum*

- 38 Any articles of government of a county, controlled or maintained special school made under section 18(7) of the Education (No. 2) Act 1986 shall, in their operation after the commencement of this Act in accordance with paragraph 1 above, have effect as if the events requiring the governing body to review their conclusions about the matters mentioned in section 371(2) and (3) of this Act included the implementation of any proposals made after that time which—
- (a) would fall to be published by virtue of section 35 of this Act but for subsection (2)(b) of that section, and
  - (b) materially affect the school.

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*Agreed syllabuses of religious education*

- 39 (1) Nothing in this Act affects the constitution of, or the operation of Schedule 5 to the Education Act 1944 in relation to, any conference convened (or reconvened) before the commencement of this Act.
- (2) Any regulations made under section 258(2) of the Education Act 1993 and having effect immediately before the commencement of this Act in relation to any conference or other body falling within section 258(1) or (3) shall continue to have effect in relation to any such conference or body, subject to the provisions of any regulations made under section 397(2) of this Act.

*Arrangements for collective worship*

- 40 In section 385 of this Act—
- (a) subsection (4)(b) does not affect any arrangements for collective worship in the case of a grant-maintained school that was formerly a voluntary school which were made before the commencement of this Act for the purposes of section 6 of the Education Reform Act 1988; and
- (b) subsection (6) does not affect any arrangements made for the purposes of section 6(5) of that Act before the commencement of this Act.

*Disqualification for purposes of Part VII*

- 41 Sections 472 and 473 of this Act shall apply to a person who is disqualified—
- (a) from being the proprietor of an independent school, or
- (b) from being a teacher in any school,
- by virtue of an order under Part III of the Education Act 1944 made before 1st January 1994 as if the words “or other employee” were omitted, wherever occurring.

*Chairmen of Independent Schools Tribunals*

- 42 In its application to a person who, immediately before 31st March 1995, was a member of the legal panel appointed under paragraph 1 of Schedule 6 to the Education Act 1944, paragraph 3(2) of Schedule 34 to this Act has effect subject to Schedule 7 to the Judicial Pensions and Retirement Act 1993 (transitional provisions), as well as to section 26(4) to (6) of that Act.

*Training grants*

- 43 The Education (Training Grants) Regulations 1993 shall continue to have effect in so far as they relate to the payment of grant on and after 1st April 1994, or to grant paid before that date, in respect of expenditure incurred before that date.

*Education committees etc. and members of those committees*

- 44 (1) Sub-paragraph (2) below applies to—
- (a) any education committee established in accordance with paragraph 1 of Part II of Schedule 1 to the Education Act 1944, and
- (b) any sub-committee of any such committee appointed in accordance with paragraph 10 of that Part,

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which was in existence immediately before 1st April 1994.

- (2) Any committee or sub-committee to which this sub-paragraph applies shall, for the purposes of any enactment, be treated as if it had been—
- (a) appointed on that date—
    - (i) in the case of a committee, by the local authority, or
    - (ii) in the case of a sub-committee, by the committee appointed by the authority,in accordance with section 102(1) of the Local Government Act 1972, and
  - (b) so appointed wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority or, as the case may be, the committee's functions with respect to education.
- (3) Sub-paragraph (4) below applies to any person who was immediately before 1st April 1994 a member of an education committee or sub-committee of such a committee appointed for a term of office.
- (4) Any person to whom this sub-paragraph applies shall, for the purposes of any enactment, be treated—
- (a) as if he had been appointed on that date as a member of a committee or sub-committee appointed as mentioned in sub-paragraph (2) above for the residue of that term, and
  - (b) if he was a member of an education committee or sub-committee by virtue of directions given by the Secretary of State under paragraph 5A of Part II of Schedule 1 to the Education Act 1944, as if he had been appointed on that date as a member of a committee or sub-committee appointed as mentioned in sub-paragraph (2) above by virtue of directions given by the Secretary of State under section 297 of the Education Act 1993 or, in relation to any time after the commencement of this Act, under section 499 of this Act.

*Documents issued by divisional executives*

- 45 Section 566(1) of this Act applies to a document purporting—
- (a) to be a document issued by a divisional executive (within the meaning of Part III of Schedule 1 to the Education Act 1944), and
  - (b) to be signed by the person authorised by the executive to sign it,
- as it applies to a document falling within paragraph (a) of that provision.

**PART III**

MISCELLANEOUS SAVINGS ETC.

*Handicapped children*

- 46 The repeal by this Act of the Education (Handicapped Children) Act 1970 shall not affect the operation of any order made under section 1 of that Act so far as in force immediately before the commencement of this Act or of any statement of terms and conditions of employment given in connection with any such order.

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*Byelaws under Children and Young Persons Act 1933*

- 47 Despite the repeal by this Act of section 120(5) of the Education Act 1944—
- (a) references to a “child” in any byelaws made under Part II of the Children and Young Persons Act 1933 (employment of children) shall continue to be construed as references to a child within the meaning of that Part of that Act; and
  - (b) any such byelaws made before 1st April 1945 which were continued in force by section 120(5) shall, if in force immediately before the commencement of this Act, continue in force as if made by the local education authority for the area in question and may be varied or revoked accordingly.

*Disputes as to property transferred by virtue of 1944 Act*

- 48 Any question which, if it had arisen before the commencement of this Act, would have fallen to be determined by the Secretary of State in accordance with section 96(2) of the Education Act 1944 (questions relating to property etc. transferred to LEAs) shall be determined by him despite the repeal of that provision by this Act.

*Modifications of deeds made prior to Education Act 1973*

- 49 Without prejudice to the generality of paragraph 6(2) above, any order to which paragraph 3 of Schedule 1 to the Education Act 1973 (saving on repeals made by that Act) applied immediately before the commencement of this Act shall continue in force despite the repeal by this Act of that paragraph; and section 570 of this Act shall apply to any such order as if it had been made under this Act.

*Instruments made prior to Local Government Act 1972*

- 50 The repeal by this Act of section 192(5) and (6) of the Local Government Act 1972 (transitional provisions about instruments made by old LEAs) shall not affect the continued operation of those provisions in relation to any instrument in relation to which they applied or were applicable immediately before the commencement of this Act.

**PART IV**

INTERPRETATION

- 51 In this Schedule “repeal” includes (so far as the context permits) revoke or revocation.



SCHEDULE 40

Section 582(4).

TRANSITORY PROVISIONS

*Compulsory school age: general*

- 1 (1) Until the day appointed under section 583(3) for the coming into force of section 8—
- (a) this paragraph shall have effect for defining “compulsory school age” for the purposes of this Act; and
  - (b) in the enactments to which Part II of Schedule 37 relates or any other enactment, or in any instrument or document—
    - (i) any reference (however expressed) to compulsory school age within the meaning of the Education Act 1944 shall be construed as a reference to compulsory school age as defined by this paragraph, and
    - (ii) any reference to section 9 of the Education Act 1962 shall be construed as reference to sub-paragraphs (3) to (7) of this paragraph.
- (2) “Compulsory school age” means any age between five and 16, so that—
- (a) a person is of compulsory school age if he has attained the age of five and is under the age of 16, and
  - (b) a person is over compulsory school age if he has attained the age of 16.
- (3) The following provisions apply in relation to a person who attains the age of 16 on a day when either—
- (a) he is a registered pupil at a school, or
  - (b) not being such a pupil, he has been a registered pupil at a school within the preceding period of 12 months.
- (4) If he attains that age within the period from the beginning of September to the end of January, he shall be treated for the purposes of this paragraph as not having attained it until the end of the following spring term at his school (that is, the last term at his school to end before the following May).
- (5) If he attains that age after the end of January but before the May school-leaving date (that is, the Friday before the last Monday in May), he shall be treated for the purposes of this paragraph as not having attained it until the May school-leaving date.
- (6) If he attains that age after the May school-leaving date but before the beginning of September, he shall be treated for the purposes of this paragraph as having attained it on the May school-leaving date.
- (7) In sub-paragraph (4) the references to a person’s school are to the last school at which he is a registered pupil for a term ending before the May referred to in that sub-paragraph or for part of such a term.

*Section 231: powers of governing body of grant-maintained school*

- 2 (1) If section 7 of the Nursery Education and Grant-Maintained Schools Act 1996 has not come into force before the commencement of this Act, this Act shall have effect with the following modifications until the relevant commencement date.
- (2) Section 231 shall have effect as if—
- (a) subsection (5)(c) were omitted; and

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

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(b) the following subsections were substituted for subsections (6) and (7)—

“(6) Subsection (4) does not confer power to borrow money, except money lent under section 255.

(7) The power to dispose of land mentioned in subsection (5)(d) above—

(a) does not include power to grant any mortgage, charge or other security in respect of any land, and

(b) may only be exercised with the written consent of the Secretary of State.”

(3) Section 296(2) shall have effect as if “section 231(7)(b)” were substituted for “section 231(7)”.

(4) Paragraph 1 of Schedule 3 shall have effect as if sub-paragraph (2)(b) were omitted.

*Section 318: provision by LEAs of goods and services*

3 If paragraph 12 of Schedule 3 to the Nursery Education and Grant-Maintained Schools Act 1996 has not come into force before the commencement of this Act, section 318 shall have effect until the relevant commencement date as if subsection (3) were omitted.

*Sections 336 and 476: disapplication of arbitration legislation*

4 If paragraphs 4 and 59 of Schedule 3 to the Arbitration Act 1996 have not come into force before the commencement of this Act, sections 336(4) and 476(4) shall have effect until the relevant commencement date as if in each case “The Arbitration Act 1950” were substituted for “Part I of the Arbitration Act 1996”.

*Section 355: the “key stages”*

5 Until the day appointed under section 583(3) for the coming into force of section 8, section 355(1)(d) shall have effect as if for the words from “the expiry of” to the end there were substituted “the majority of pupils in his class ceasing to be of compulsory school age.”

*Section 357: implementation of National Curriculum*

6 Until the relevant commencement date, section 357(2) shall not apply, in relation to pupils in the fourth key stage, to any of the foundation subjects other than the core subjects.

*Section 433: time for admission of pupils*

7 If paragraph 2 of Schedule 3 to the Nursery Education and Grant-Maintained Schools Act 1996 has not come into force before the commencement of this Act, section 433 shall have effect until the relevant commencement date as if subsection (4) were omitted.

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

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*Sections 457, 512 and 534: jobseeker’s allowances*

- 8 (1) If paragraph 17 of Schedule 2 to the Jobseekers Act 1995 has not come into force before the commencement of this Act, section 457(4)(b) shall have effect until the relevant commencement date with the omission of sub-paragraph (iii).
- (2) If paragraph 3 of Schedule 2 to that Act has not come into force before the commencement of this Act, sections 512(3) and 534(3) shall each have effect until the relevant commencement date with the omission of “or of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995)”.

*Section 560: work experience*

- 9 Until the day appointed under section 583(3) for the coming into force of section 8, section 560(2) shall have effect as if “by virtue of paragraph 1 of Schedule 40 he would be entitled to leave school” were substituted for “he would cease to be of compulsory school age”.

*Section 578 and Schedule 37: “the Education Acts”; consequential amendments*

- 10 If the provisions of Schedule 3 to the Nursery Education and Grant-Maintained Schools Act 1996 (other than paragraph 2 and paragraphs 9 to 12) have not come into force before the commencement of this Act—
- (a) section 578 shall have effect until the relevant commencement date as if the following Acts were omitted—  
the Education Act 1994;  
the Education (Student Loans) Act 1996; and  
the Nursery Education and Grant-Maintained Schools Act 1996; and
- (b) the amendments made by Schedule 37 to this Act in such of the enactments amended by those provisions of Schedule 3 to that Act as are not reproduced in this Act shall be construed as operating instead on the statutory references in those enactments as they have effect without the amendments made by those provisions.

*Meaning of “the relevant commencement date”*

- 11 (1) Subject to sub-paragraph (2), in any of the preceding paragraphs “the relevant commencement date” means such day as the Secretary of State may by order appoint in relation to that paragraph; and different days may be so appointed for different purposes.
- (2) If, in the case of any provision or provisions referred to in any of paragraphs 2, 3, 4, 7, 8 and 10 above which has or have not come into force before the commencement of this Act, an order under the Act in question has been made before that time appointing a day for the coming into force of that provision or those provisions, “the relevant commencement date”, in relation to that provision or those provisions, means the day so appointed.