

# EDUCATION ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### **Part 3 – Maintained Schools**

#### *Chapter 1 – Government of maintained schools*

#### *Sections 19 to 40*

#### *Section 19 and Schedule 1: Governing Bodies*

75. The section provides for each maintained school to have a governing body which is a body corporate, the constitution and membership of which will be established in accordance with regulations. Currently the SSFA prescribes the membership of governing bodies for different categories of schools.
76. In relation to England, regulations will establish the principles by which schools will be able to set the membership of their governing bodies from certain stakeholder categories and will set proportions to be drawn from them rather than absolute numbers as at present. In voluntary aided schools, foundation governors will be in the majority.
77. The regulations will also establish a single staff governor category to replace separate teacher and non-teacher staff categories and will also establish that within that category one place should be reserved for a teacher, and where at least 3 staff places are available, one place should be reserved for a member of the school's support staff.
78. In relation to Wales the NAW will make the regulations and will consult interested bodies before establishing the requirements for membership and procedures of governing bodies.
79. Regulations under this section will also make provision for other matters relating to the constitution and procedures of governing bodies, including how governors are to be elected or appointed, eligibility, resignation, removal and how governing body meetings should be conducted.
80. This section and the new Schedule 1 replace section 36 of, and Schedules 9, 10 and 11 to, the SSFA. Paragraph 1 of Schedule 10 to the SSFA, which provided for the continuance of governing bodies on the introduction of the new school categories, does not require re-enactment. Schedule 1 re-enacts the rest of that Schedule, with changes that reflect the transfer of functions to the NAW and also the new powers conferred on governing bodies under section 27 to provide community facilities.

#### *Section 20: Instruments of government*

81. This section requires every maintained school to have an instrument of government. It also provides the power to establish in regulations the procedures for making, reviewing and varying the instrument of government and its required content.

82. The section replaces section 37 and Schedule 12 of the SSFA. Requirements as to the contents and making of instruments of government, and their review and variation, will be set out in regulations under this section rather than in Schedule 12 to the SSFA. It is intended that the procedures for making, reviewing and varying instruments of government will be similar to those in Schedule 12, with no change in the requirement for consultation with interested parties.

***Section 21: General responsibility for conduct of school***

83. This section re-enacts section 38 of the SSFA. It sets out the governing body's responsibility for the conduct of the school, with an emphasis on promoting high standards. It also provides a power to make regulations on other matters relating to the conduct of the school. In particular, the section re-enacts the existing power to make regulations defining the respective roles and responsibilities of the governing body and the head teacher, but extends it to cover the role and responsibilities of the LEA.

***Section 22: Training and support of governors***

84. This section re-enacts without amendment paragraph 7 of Schedule 11 of the SSFA. It provides that the LEA must provide every governor, free of charge, with such information and training as they consider appropriate.

***Section 23: Clerk to the governing body***

85. This section re-enacts without amendment paragraph 8 of Schedule 11 of the SSFA. It provides for regulations to make provisions in relation to the clerk of the governing body. Such regulations may include a requirement to appoint a clerk to the governing body or to its committees, the dismissal of the clerk and where the clerk fails to attend, the appointment of a member of the governing body or one of its committees to act as clerk for the purposes of that meeting.

***Sections 24 and 25: Federations of schools and supplementary provisions***

86. **Section 24** gives effect to the proposal that two or more schools may federate under a single governing body and that the decision to federate should rest with the governing bodies concerned once they have complied with certain conditions and procedures, including consultation with interested parties. Regulations made by the Secretary of State or the NAW may, for example, establish a maximum number of schools that should be able to federate or restrict federation to schools within a certain category or within an individual LEA. Schools within a federation will continue to be treated as individual schools (i.e. that in exercising their duties governing bodies must do so for each school within a federation individually) except in prescribed circumstances.
87. The section also establishes a power to provide in regulations requirements relating to federations, federated schools and the formation or dissolution of federations. For example, it is intended to provide for a procedure by which a school within a federation will leave a federation; this may include a requirement to involve the parents of registered pupils at the school.
88. **Section 25** provides that regulations will be able to modify those parts of the SSFA that relate to schools causing concern and financial delegation as to how they should apply to federations. Similarly it provides that the regulations may modify any enactment that relates to different categories of schools as to how those individual schools in, or the governing body of, a federation should be treated.

***Section 26: Collaboration between schools***

89. This section provides for regulations to be made that would allow governing bodies to collaborate by arranging for joint discharge of functions either through whole governing bodies or through joint committees. The section permits those governing bodies that

wish to collaborate but do not wish to federate under a single governing body, as provided for in section 24, to have the opportunity to form joint committees or hold joint meetings.

***Sections 27 and 28: power of governing body to provide community facilities***

90. These sections enable the governing bodies of all maintained schools to provide any facilities or services which will further any charitable purpose for the benefit of their pupils, families of pupils and the wider community. This power is in addition to the governing body's general responsibility to conduct the school with a view to promoting high standards of educational achievement at the school.
91. These sections give governing bodies flexibility by, for example, allowing them to incur expenditure, enter into agreements and charge for any services or facilities.
92. **Schedule 1** provides that the general powers of the governing body relate to the provision of community facilities as well as the governing body's core duty of provision of education.
93. The sections place certain limits on governing bodies should they decide to exercise their power. Section 28 provides that governing bodies' power to provide community facilities is subject to any limits or restrictions contained in the school's instrument of government and the local authority's financial scheme under section 48 of SSFA. The sections ensure governors cannot exercise the power to provide community facilities if it interferes with the duties they are required to carry out under Education Acts and contain a power to make regulations to prohibit certain specific types of service.
94. The sections require the governing body to consult the LEA, school staff, parents, pupils and any other people the governing body thinks appropriate before exercising this power, to have regard to any guidance issued by the Secretary of State or the NAW and to have regard to any advice offered by the LEA.

***Section 29: Additional functions of governing body***

95. The section re-enacts section 39 of the SSFA. It requires governing bodies to establish a procedure to deal with complaints not covered by existing statutory requirements in relation to delivery of the National Curriculum, provision of collective worship and religious education (RE), SEN assessments, admissions and exclusions. In producing their complaints procedures, governing bodies will be required to have regard to any guidance given by the Secretary of State or the NAW. It is intended that the guidance will set out the general principles. The existing regulation-making power in section 39(1) has never been exercised. Unlike section 39(1), section 29(1) will apply to maintained nursery schools.
96. The section also makes provision for governing bodies to require pupils to attend any place outside the school for curriculum purposes. The section also extends the requirement for the governing body and head teacher of community, community special or voluntary controlled schools to comply with LEA directions in relation to health and safety on the school premises or elsewhere when taking part in school activities to governing bodies of maintained nursery schools.

***Section 30: Governors' reports and other information***

97. This section replaces sections 42 and 43 of the SSFA. The section places a duty on governing bodies of maintained schools to produce an annual report and provide for regulations to specify the content and other requirements including those relating to the distribution and availability of the annual report. The Government intends that such regulations will allow governing bodies to combine their annual report with their prospectus should they wish. The section also places a requirement on the governing body to provide the LEA with the information it requires about the discharge of the

governors' functions. The head teacher is required to provide the governing body or the LEA with information to enable them to fulfil their statutory functions.

***Section 31: Control of school premises***

98. This section replaces section 40 and Schedule 13 of the SSFA. It provides for regulations on the control of the occupation and use of school premises by governing bodies.

***Section 32: Responsibility for fixing dates of terms and holidays and times of sessions***

99. This section re-enacts section 41 of the SSFA. It sets out who is responsible for determining the dates of school terms and holidays as well as the times of school sessions and extends the provision to maintained nursery schools as they are now to have a governing body.

***Section 33: Annual parents' meeting***

100. This section requires governing bodies to hold an annual parents' meeting and describes their purpose. Regulations will set out the circumstances under which governing bodies will be exempt from holding such meetings. None of the other provisions in section 41 of the SSFA relating to processes and procedures are being re-enacted.

***Section 34: Arrangements for government of new schools***

101. This section re-enacts, with amendments, section 44 of the SSFA. It sets out the arrangements for the governance of new schools before and shortly after they open. The section therefore provides that where proposals for the establishment of a maintained school are approved, the LEA must make arrangement for the constitution of a temporary governing body and that it will exist until a permanent governing body has been constituted. The section requires that a permanent governing body should be constituted after the school opening date and by a time to be specified in regulations. The regulations will allow temporary governing bodies to continue in existence until the changes introduced by the Act come into force. The section also provides that regulations may cover matters relating to the temporary governing body including its meetings and proceedings, payment of allowances and the transition to a permanent governing body.

***Section 35: Staffing of community, voluntary controlled, community special and maintained nursery schools***

102. This section contains provisions regarding the staffing of community, voluntary controlled, community special and maintained nursery schools. It replaces the current arrangements set out in section 54 and Schedule 16 of the SSFA, which are repealed. It provides enabling powers for the Secretary of State, or the NAW, to make regulations, supplemented by statutory guidance, related to the appointment, discipline, suspension, and dismissal of staff.
103. The section provides for LEAs to be the employer of staff in community, voluntary controlled, community special, and maintained nursery schools and for such schools to have a head teacher and enables staff to be engaged to work in these schools otherwise than under a contract of employment.
104. The section provides for any regulations made under the section to be replaced by Part 1 of Schedule 2 at any time when a school's delegated budget is suspended by the LEA.

***Section 36: Staffing of foundation, voluntary aided and foundation special schools***

105. This section contains provisions regarding the staffing of foundation, voluntary aided and foundation special schools. It replaces the current arrangements set out in section 55 and Schedule 17 of the SSFA, which are repealed. It provides enabling powers for the Secretary of State, or the NAW, to make regulations, supplemented by statutory guidance, related to the appointment, discipline, suspension, and dismissal of staff.
106. The section provides for governing bodies to be the main employer of staff in foundation, voluntary aided and foundation special schools, for such schools to have a head teacher and also enables staff to be engaged to work in these schools otherwise than under a contract of employment.
107. The section provides for any regulations made under the section to have effect subject to Part 2 of Schedule 2 at any time when a school's delegated budget is suspended by the LEA.

***Schedule 2Part 1: Effect on staffing of suspension of delegated budget:  
Community, voluntary controlled, community special and maintained nursery  
schools***

108. **Part 1** of this Schedule provides for particular arrangements to come into effect in place of any regulations in relation to the staffing of community, voluntary controlled, community special and maintained nursery schools, at any time when a school's delegated budget is suspended. Subject to consultation with the governing body and the arrangements for the appointment and dismissal of reserved teachers at voluntary controlled schools, the LEA may appoint, suspend and dismiss staff at the school as the authority thinks fit.

***Schedule 2Part 2: Effect on staffing of suspension of delegated budget:  
Foundation, voluntary aided and foundation special schools***

109. **Part 2** of this Schedule provides for particular arrangements to come into effect in relation to the staffing of foundation, voluntary aided and foundation special schools, at any time when a schools delegated budget is suspended. It provides for any staffing regulations under section 36 to have effect subject to the LEA having particular rights over the school's staff, the governing body's appointment and dismissal of staff, the educational qualifications of teachers giving secular education, and the conditions of service of persons employed for the care and maintenance of the school premises.

***Section 37: Payments in respect of dismissal, etc***

110. This section re-enacts the provisions of section 57 of the SSFA dealing with payments in respect of dismissal of staff from maintained schools, including payments for dismissal and securing the resignation of staff, payments required under contract or statutory provision, and payments for premature retirement. This section only differs from the SSFA provisions in so far as it includes an additional provision related to payments in respect of dismissal of staff employed for community purposes.
111. This additional provision requires the LEA to recover from the governing body any costs the authority has incurred arising from the premature retirement, dismissal, or in securing the resignation, of staff employed at the school for community or family services. However this subsection allows this requirement to be waived where the authority has agreed with the governors in writing that all or part of the costs will not be recovered in this way. The new parts of this section apply even if the delegated budget is withdrawn.
112. Where the governing body are required to pay the costs relating to dismissal or premature retirement of a member of staff employed for community purposes they may not do so out of the school's budget share.

113. Where a member of staff is employed partly for the purpose of the school, say as a classroom assistant, and partly for community purposes, say supporting adult education, the costs must be apportioned between the school's budget share and the funds the school holds for expenditure on community purposes.
114. Regulations may also be made which provide for the recovery of costs in relation to the dismissal of staff employed for community purposes.

### ***Section 38: Communication with schools***

115. This section requires the Secretary of State and National Assembly when considering whether to issue guidance to have regard to the desirability of providing information about good educational practice, the benefits expected to result from any particular piece of guidance and the desirability of avoiding excessive material. It also imposes a duty on both the Secretary of State and National Assembly to produce an annual report listing all documents sent during the year to maintained schools

### ***Section 39: Interpretation of Chapter 1***

116. This section has the effect of applying to nursery schools the requirements for schools to have legally constituted governing bodies and the majority of the consequent powers, duties and responsibilities invested in those governing bodies. Currently all maintained schools are required to have governing bodies. Nursery schools are schools maintained by LEAs but are not within the definition of maintained schools in section 20(7) of the SSFA and are therefore not currently captured by this requirement.
117. It is proposed that nursery schools should have similar provisions for establishing governing bodies and making and amending instruments of government, as for maintained schools. As a consequence, nursery school governing bodies will take on similar responsibilities, powers and duties, as for maintained schools, including delegated budget shares, staffing, Ofsted inspection and conduct of the school. It is not proposed to apply admissions legislation fully to nursery schools: the responsibility for making decisions about the admission of a pupil will be dealt with by regulations.
118. The governing bodies of maintained nursery schools will have power to provide community facilities and services.

### ***Section 40: Amendments of Part 2 of School Standards and Framework Act 1998***

119. This section introduces Schedule 3 which provides that governing body may not use the school's budget share to finance any services they provide under the new power. The financial management of community services provided by governing bodies may be subject to requirements contained in the financial schemes prepared by LEAs under section 48 of the SSFA.
120. The Schedule also inserts a new section in the SSFA to provide cover by LEAs in cases where a third party has a claim arising from the provision of community services. The LEA may recover these costs from the school. However, these costs cannot be recovered from the school's budget share.
121. Where it appears to an LEA that a governing body are not managing their expenditure on community services satisfactorily, the LEA may suspend the governing body's right to a delegated budget.

### ***Chapter 2 – Financing of maintained schools***



## ***Determination of budgets***

### ***Sections 41 to 43***

#### ***Sections 41 to 43: Determination of specified budgets of LEA, power of Secretary of State to set minimum schools budget and Schools Forums***

122. These sections are related to the introduction of a new system of funding LEAs and schools in England. Much of this will be accomplished under existing local government finance legislation - the Local Government Finance Act 1992 (as amended). The new system will involve separate financial assessments for expenditure on school pupils and expenditure on the central functions of LEAs. These sections amend education finance legislation to bring it into line and set up new arrangements in connection with the new system.
123. **Section 41** introduces new definitions of the “LEA budget” for central functions and the “schools budget” for expenditure on pupils. Details will be set out in regulations. That part of the schools budget which is placed under the control of individual schools will continue to be known as the “individual schools budget”. These new definitions will apply in Wales but in the context of the existing funding arrangements for LEAs and schools. The Secretary of State, or the NAW, will continue to have power to set limits on the classes, descriptions and amounts of expenditure that may or must be deducted from the schools budget to arrive at the individual schools budget.
124. **Section 41** requires LEAs to notify the Secretary of State, or the NAW, and all the schools maintained by them, by the end of January each year, of the proposed amount of their schools budget for the following financial year. Section 42 provides for a reserve power of intervention by the Secretary of State, or the NAW. It is intended that this would be exercised in exceptional circumstances, where the Secretary of State, or the NAW, considers that the schools budget proposed by the LEA is seriously inadequate. It also allows the Secretary of State to intervene if an authority fails to notify him of its proposed budget by the end of January. In coming to such a conclusion the Secretary of State, or the NAW, would have to consider all relevant circumstances, such as an LEA’s proposed schools budget compared with its school funding assessment; the performance of an LEA’s schools; significant and demonstrable pressures from other services; or the degree to which the authority has failed to pass on extra funding for schools.
125. **Section 43** requires LEAs to establish a schools forum, to represent the views of schools and such other organisations as are included by the LEA in the membership of the forum, on the authority’s schools budget. The functions of the forum will be set out in regulations: it is intended that they will include the giving of advice on funding policy and other financial issues affecting schools, which the LEA will be obliged to take into account in setting the schools budget; consultation on the LEA’s school funding formula, and consultation on contracts for services provided by the local authority.

## ***Accounts and financial statements***

### ***Sections 44 and 45***

#### ***Sections 44 and 45: Accounts of maintained schools and financial statements***

126. These sections will allow requirements to be imposed as to the way maintained schools keep accounts, and report information based upon those accounts. In England, this will be implemented under the Consistent Financial Reporting (CFR) initiative for schools. This will provide a consistent minimum standard for school financial reporting, and enable all schools to compare their expenditure with that of similar schools. The Secretary of State, or the NAW, will publish information reported by schools so as to facilitate financial benchmarking. The main provision will also allow requirements to be imposed as to the way in which maintained schools’ resources are to be audited. In

both cases the scope of the provision extends both to public funds and private funds controlled by the governing body.

127. **Section 45** makes related amendments of section 52 of the SSFA, extending the scope of that section to private funds included in the main provision. This will enable LEAs, in publishing their annual out-turn statements, to include data relating to such funds.

### **Chapter 3 – Admissions, exclusions and attendance**

#### ***Admission arrangements***

##### ***Sections 46 to 51***

128. The following sections introduce a number of changes to the current legal framework that instructs LEAs and school governing bodies on how they should operate their school admission arrangements. Guidelines for England are set out in the School Admissions Code of Practice and the School Admission Appeals Code of Practice, in force since April 1999 and September 1999 respectively. Revised versions of these Codes, to reflect the legislative changes, will be issued in January 2003. Guidelines for Wales are set out in corresponding Codes of Practice, which will also be revised.

##### ***Section 46: Admission forums***

129. This section amends the SSFA by inserting a new section 85A to require LEAs, through regulations, to establish advisory bodies, to be known as admission forums, to discuss and advise on local school admission issues including proposed admission arrangements. It also inserts a new section 85B to require admission forums to advise Academies about local admission arrangements, and requires the governing body of an Academy to have regard to the advice given by the forum. There is provision for LEAs to establish such admissions forums jointly with one or more neighbouring LEAs. This provision replaces the current guidance from the Secretary of State and the NAW in the Codes of Practice on School Admissions that recommends voluntary bodies for this purpose. There will be a requirement on admission forums to advise Academies, as well as maintained schools, and for Academies to have regard to such advice (see section 66).

##### ***Section 47: Admission numbers***

130. This section, together with the relevant repeals, removes the requirement for a school to have a standard number (relating to an age group in which pupils are normally admitted to the school) as regards the number of pupils who are to be admitted in any particular school year. It inserts a new section 89A into the SSFA, under which admission authorities will have to consider, amongst other factors, the current capacity of the school (as determined under a new formula which is being introduced) when setting an admission number. Section 86(5) of the SSFA is amended so that prejudice to efficient education or the efficient use of resources may not be taken to arise (and, therefore, the duty to comply with parental preference will apply) until such time as an admission authority has admitted the number of pupils it has determined to admit in the year in question. This section also inserts new provisions into the SSFA which allow admission authorities for schools which provide boarding accommodation to have separate admission numbers for their day and boarding places respectively. Under these, day place applicants are to be considered separately from boarding applicants, and vice versa.

##### ***Section 48: Co-ordination of admission arrangements***

131. This section amends the SSFA by inserting new sections 89B and 89C which allow regulations to be made requiring LEAs to co-ordinate, for their areas, school admission arrangements as between themselves and those maintained schools which are responsible for their own admissions. The effect is that LEAs must attempt to negotiate agreement between all maintained schools in their area for a co-ordinated application



process for local parents. Each LEA will be responsible for the administration of the co-ordinated arrangements. Regulations may also require that all parents in an LEA's area are made an offer of a school place on the same day. If an LEA and other admission authorities are unable to agree a scheme, the Secretary of State, or (in Wales) the NAW, will have the power to impose one. The NAW will have the same regulation-making power in relation to Wales.

***Section 49: Repeal of power to make certain special arrangements for preserving religious character***

132. This section repeals section 91 of the SSFA which allows foundation or voluntary aided faith schools to make special arrangements to preserve their religious character.

***Section 50: Admission Appeals***

133. This section amends section 94 of the SSFA to reflect the repeal of Schedule 24, relating to admission appeals, which will be replaced by regulations.
134. Admission appeal panels consider parents' appeals against the decision of an LEA or governing body (where it is the admission authority for a school) to refuse their child a place. The current provisions that govern arrangements by LEAs and schools for such appeals, and their operation, will in future be prescribed by regulations.

***Section 51: Further amendments relating to admission arrangements***

135. This section introduces Schedule 4 which contains a number of other amendments to statutory provisions relating to school admission arrangements, as follows.
136. The definition of "appeal panel" in section 84(6) of the SSFA is amended to reflect the substitution of the provisions of Schedule 24 by regulations.
137. Section 86 of the SSFA is further amended to clarify that a parent may express more than one preference for the school they wish their child to attend, to which the duty to comply placed on LEAs and governing bodies by subsection (2) will apply. Provision is also made to clarify that this duty also applies in relation to preferences expressed for a school's sixth form.
138. Section 87, which removes the requirement from LEAs and school governing bodies to comply with a parent's request to admit their child if he or she has been permanently excluded from two or more schools, is amended. The effect is that a child is not to be regarded as having been permanently excluded from a school for the purposes of section 87 if, had it been practical to do so, either a governing body reviewing the head teacher's decision to exclude or an exclusion panel hearing an appeal against the governing body's refusal to direct reinstatement, would have directed that the child be reinstated.
139. Section 89 of the SSFA, which sets out the procedure for determining admission arrangements annually, is amended. The main change is to provide governing bodies of community and voluntary controlled schools with a right to be consulted about the admission arrangements which admission authorities for other schools in their areas propose to make. This, in turn, will give such governing bodies the right to refer objections about proposed admissions arrangements to the Schools Adjudicator, or the NAW, to the extent permitted by regulations. Admission authorities may also be required to publish their proposals in certain circumstances, such as where they intend to admit fewer pupils than the school has capacity for (as calculated under a formula); this is for the purpose of enabling (by regulations) groups of ten or more parents to refer an objection to the Schools Adjudicator about the proposed admission number.
140. In addition, where the admission authority is a school's governing body, the new section 89(2A) allow for regulations to provide that the duty to consult may be disapplied in certain circumstances (for example, where their admission arrangements

have not been the subject of previous objection to the Schools Adjudicator and remain unchanged).

141. Section 90 of the SSFA is amended to clarify that an objection about proposed admission arrangements can be referred to the Schools Adjudicator, or (in Wales) the NAW, by anyone in the local area who should have been consulted about them, even if they were not.
142. A new section 92 of the SSFA is substituted, enabling information requirements to be placed in regulations.
143. Section 94 is further amended to clarify that any refusal to transfer a pupil already admitted to a secondary school into that school's sixth form carries the right of appeal. Section 95 of the SSFA is amended to reflect the repeal of Schedule 25 in relation to the making and hearing of appeals by governing bodies of community and voluntary controlled schools against an LEA's decision (where it is the admission authority) to admit to that school a child who has been permanently excluded from two or more schools. The provision presently contained in Schedule 25 to the SSFA is now to be made by regulations.
144. Sections 96 and 97, which relate to the power LEAs have to direct a school to admit a child who has been refused admission to, or permanently excluded from, every other suitable school within a reasonable travelling distance of the child's home, are amended. They clarify that such a direction may only be given to a school for which the LEA is not the admission authority. They also clarify that where (following a referral) the Secretary of State, or the NAW, decides that the child should be admitted to a different school for which the LEA is the admission authority, the LEA must admit the child to that school.
145. Section 98 of the SSFA is amended to clarify which of the LEA or the governing body of a maintained school has responsibility for any decision relating to the admission of a child to a nursery class at such a school. Provision is also made for regulations to make such provision in relation to maintained nursery schools.
146. Section 3 of the Diocesan Boards of Education Measure 1991 is amended to require an admission authority for a Church of England school to consult the Diocesan Board about its proposed admission arrangements before going out to the statutory consultation with other admission authorities.

## **Exclusion of pupils**

### ***Section 52***

#### ***Section 52: Exclusion of pupils***

147. Subsections (1) and (2) of this section, which give head teachers of maintained schools power to exclude any pupil from the school on disciplinary grounds and gives the same power to teachers in charge of PRUs, re-enact the existing provisions in section 64(1) of the SSFA and paragraph 7 of Schedule 1 to the EA 96.
148. The rest of the section provides for the procedures relating to the exclusion of pupils, including the arrangements for reviewing exclusions and appealing against decisions not to reinstate the pupil in question, to be set out in regulations. It is intended that the existing requirement for head teachers, governing bodies, LEAs and appeal panels to have regard to the Secretary of State's, or the NAW's, guidance relating to exclusion will be continued under those regulations.
149. Under the proposed regulations, the procedures for excluding a pupil from a maintained school other than a PRU will be largely unchanged. It is proposed, however, that regulations may provide for altering the constitution of the appeal panel; ensuring that, when reaching a decision, panels will be required to consider the interests of the whole

school community, not just those of the excluded pupil; and for ensuring that defects in prior procedure will not alone constitute grounds for reinstating a pupil.

150. Regulations may also provide for changes to the number of days a fixed period exclusion must be before the governing body, through its discipline committee, is required to review it.
151. In relation to PRUs, the section provides the parent of a pupil permanently excluded from a PRU a right to appeal equivalent to that available to the parents of pupils excluded from maintained schools. The right will be given retrospectively to 1<sup>st</sup> September 1994, the date when PRUs were first recognised in statute.
152. The section also adds maintained nursery schools to the exclusions regime.

### **Attendance targets**

#### ***Section 53***

##### ***Section 53: Attendance targets***

153. Section 63 of the SSFA enables the Secretary of State or the NAW to require school governing bodies to set school-level targets for unauthorised absence. Unauthorised absences are absences that have not been approved by the school. The section extends this power to include authorised absence and will therefore enable the Secretary of State, or the NAW, to require specified schools to set targets to reduce their overall level of absence.