

SCHEDULES

SCHEDULE 1

Section 1

HER MAJESTY’S CHIEF INSPECTOR OF SCHOOLS IN ENGLAND

Chief Inspector’s other staff

- 1 The Chief Inspector may appoint such staff, in addition to inspectors who are members of his staff by virtue of section 1(3), as he thinks fit.

Additional inspectors

- 2 (1) The Chief Inspector may arrange for such persons as he thinks fit to assist him in the discharge of his functions in relation to a particular case or class of case.
- (2) Any person assisting the Chief Inspector under any such arrangements is to be known as an additional inspector.
- (3) The Chief Inspector must ensure that additional inspectors have the necessary qualifications, experience and skills to assist him in the effective discharge of his functions.
- (4) In pursuance of the duty imposed by sub-paragraph (3), the Chief Inspector must publish in such manner as he thinks fit, and may from time to time revise, a statement of—
- (a) the qualifications or experience (or both) that are to be required of additional inspectors who are not members of his staff, and
 - (b) the standards that such additional inspectors are to be required to meet in the exercise of their functions and the skills that they are to be required to demonstrate in the exercise of those functions.
- (5) Any arrangements which provide for assistance by persons who are not members of the Chief Inspector’s staff must be made on terms that require the person with whom the arrangements are made to secure compliance with any requirements that are from time to time published under sub-paragraph (4).
- (6) If the Chief Inspector has entered into arrangements with persons who are not themselves additional inspectors (“inspection service providers”) for the provision by the inspection service providers of the services of inspectors, the Chief Inspector must publish, at intervals of not more than 12 months, a list of the names of those persons who, as at a specified date, are currently notified to him by any inspection service provider as persons with whom the inspection service provider proposes to make arrangements for the carrying out of inspections on behalf of the Chief Inspector.
- (7) An additional inspector acting within the authority conferred on him by the Chief Inspector has all the powers of one of Her Majesty’s Inspectors of Schools in England.

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- (8) The Chief Inspector may not authorise an additional inspector to conduct an inspection of a school under section 5 unless—
- (a) the inspection is to be supervised by one of Her Majesty’s Inspectors of Schools in England, or
 - (b) the additional inspector has previously conducted an inspection under that section under the supervision of one of Her Majesty’s Inspectors of Schools in England (“the supervising inspector”) to the satisfaction of the supervising inspector.

Remuneration, pensions etc.

- 3 (1) There are to be paid to the Chief Inspector such remuneration, and such travelling and other allowances, as the Secretary of State may determine.
- (2) In the case of any such Chief Inspector as may be determined by the Secretary of State, there is to be paid—
- (a) such pension, allowance or gratuity to or in respect of him, or
 - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,
- as may be so determined.
- (3) If, when any person ceases to hold office as Chief Inspector, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him such sum by way of compensation as may be determined by the Secretary of State.

Official seal

- 4 The Chief Inspector is to continue to have an official seal for the authentication of documents required for the purposes of his functions.

Performance of functions

- 5 (1) Subject to sub-paragraph (3) and paragraph 2(8), anything authorised or required by or under this Part of this Act or any other enactment to be done by the Chief Inspector may be done by—
- (a) any of Her Majesty’s Inspectors of Schools in England,
 - (b) any other member of his staff, or
 - (c) any additional inspector,
- who is authorised generally or specially in that behalf by the Chief Inspector.
- (2) Without prejudice to the generality of sub-paragraph (1), the references to the Chief Inspector in sections 4 and 10 (powers of entry) include references to any person authorised to act on his behalf under sub-paragraph (1).
- (3) The making of any report of an inspection of a school under section 5 which states the opinion that special measures are required to be taken in relation to the school must be personally authorised by—
- (a) the Chief Inspector, or
 - (b) one of Her Majesty’s Inspectors of Schools in England who is authorised by the Chief Inspector for the purposes of this sub-paragraph.

Documentary evidence

- 6 The Documentary Evidence Act 1868 (c. 37) has effect in relation to the Chief Inspector as if—
- (a) he were included in the first column of the Schedule to that Act,
 - (b) he and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and
 - (c) the regulations referred to in that Act included any document issued by him or any such person.

SCHEDULE 2

Section 19

HER MAJESTY’S CHIEF INSPECTOR OF EDUCATION AND TRAINING IN WALES

Chief Inspector’s other staff

- 1 The Chief Inspector may, with the approval of the Assembly as to numbers and terms and conditions of service, appoint such staff, in addition to inspectors who are members of his staff by virtue of section 19(3), as he thinks fit.

Additional inspectors

- 2
- (1) The Chief Inspector may arrange for such persons as he thinks fit to assist him in the discharge of his functions in relation to a particular case or class of case.
 - (2) Any person assisting the Chief Inspector under any such arrangements is to be known as an additional inspector.
 - (3) Any arrangements which provide for assistance by persons who are not members of the Chief Inspector’s staff must be made on terms agreed by him with the Assembly.
 - (4) An additional inspector acting within the authority conferred on him by the Chief Inspector has all the powers of one of Her Majesty’s Inspectors of Education and Training in Wales.

Remuneration, pensions etc.

- 3
- (1) There are to be paid to the Chief Inspector such remuneration, and such travelling and other allowances, as the Assembly may determine.
 - (2) In the case of any such Chief Inspector as may be determined by the Assembly, there is to be paid—
 - (a) such pension, allowance or gratuity to or in respect of him, or
 - (b) such contributions or payments towards provision for such a pension, allowance or gratuity,as may be so determined.
 - (3) If, when any person ceases to hold office as Chief Inspector, the Assembly determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him such sum by way of compensation as may be determined by the Assembly.

Official seal

- 4 The Chief Inspector is to continue to have an official seal for the authentication of documents required for the purposes of his functions.

Performance of functions

- 5 (1) Anything authorised or required by or under this Part of this Act or any other enactment to be done by the Chief Inspector may be done by—
- (a) any of Her Majesty’s Inspectors of Education and Training in Wales,
 - (b) any other member of his staff, or
 - (c) any additional inspector,
- who is authorised generally or specially in that behalf by the Chief Inspector.
- (2) Without prejudice to the generality of sub-paragraph (1), the references to the Chief Inspector in section 23 include references to any person authorised to act on his behalf under sub-paragraph (1).

Documentary evidence

- 6 The Documentary Evidence Act 1868 (c. 37) has effect in relation to the Chief Inspector as if—
- (a) he were included in the first column of the Schedule to that Act,
 - (b) he and any person authorised to act on his behalf were mentioned in the second column of that Schedule, and
 - (c) the regulations referred to in that Act included any document issued by him or any such person.

SCHEDULE 3

Section 27

REGISTRATION OF INSPECTORS IN WALES: TRIBUNALS HEARING APPEALS UNDER SECTION 27

Constitution of tribunals

- 1 (1) A tribunal constituted to hear an appeal under section 27 (“a tribunal”) is to consist of—
- (a) a chairman appointed by the Lord Chancellor, and
 - (b) two other members appointed by the Assembly.
- (2) To be qualified for appointment as chairman of a tribunal, a person must have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41)).
- (3) A person may not be appointed after the day on which he attains the age of 70 to be the chairman of a tribunal.

Procedure of tribunals

- 2 (1) The Assembly may by regulations make provision with respect to the making of appeals to, and the procedure to be followed by, tribunals.

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- (2) The regulations may, in particular, make provision—
- (a) as to the period within which, and manner in which, appeals must be brought,
 - (b) for the holding of hearings in private in prescribed circumstances,
 - (c) as to the persons who may appear on behalf of the parties,
 - (d) for enabling hearings to be conducted even though a member of the tribunal, other than the chairman, is absent,
 - (e) as to the disclosure by the appellant, and others, of documents and the inspection of documents,
 - (f) requiring persons to attend the proceedings and give evidence,
 - (g) as to the payment of expenses incurred by persons compelled to attend proceedings by regulations made by virtue of paragraph (f),
 - (h) authorising the administration of oaths to witnesses,
 - (i) as to the withdrawal of appeals,
 - (j) as to costs and expenses incurred by any party to the proceedings, and
 - (k) authorising preliminary or incidental matters in relation to an appeal to be dealt with by the chairman of the tribunal hearing that appeal.

Staff

- 3 The Assembly may make such provision as the Assembly thinks fit for—
- (a) the allocation of staff for any tribunal,
 - (b) the remuneration of members of tribunals and the reimbursement of their expenses,
 - (c) defraying any reasonable expenses incurred by any tribunal.

SCHEDULE 4

Section 28

SCHOOL INSPECTIONS IN WALES UNDER SECTION 28

Interpretation

- 1 In this Schedule—
- “appropriate authority” means—
- (a) in relation to a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, the school’s governing body or, if the school does not have a delegated budget, the local education authority, and
 - (b) in relation to a school falling within section 28(2)(d), the proprietor of the school;
- “inspection” means an inspection under section 28.

Selection of registered inspectors

- 2 (1) Before entering into any arrangement for an inspection by a registered inspector, the Chief Inspector must invite tenders from at least two persons who can reasonably be expected to tender for the proposed inspection and to do so at arm’s length from each other, and each of whom is either—

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- (a) a registered inspector, or
 - (b) a person who the Chief Inspector is satisfied would, if his tender were successful, arrange with a registered inspector for the inspection to be carried out.
- (2) Before an inspection takes place the Chief Inspector must consult the appropriate authority about the inspection.

Inspection teams

- 3 (1) Every inspection must be conducted by a registered inspector or member of the Inspectorate with the assistance of a team (“an inspection team”); and no person may act as a member of an inspection team unless—
- (a) he is enrolled in the list kept by the Chief Inspector under paragraph 4, or
 - (b) he is a member of the Inspectorate and (if he is not the Chief Inspector) is authorised so to act by the Chief Inspector.
- (2) It is the duty of the inspector conducting the inspection to ensure that—
- (a) at least one member of the inspection team is a person—
 - (i) without personal experience in the management of any school or in the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
 - (ii) whose primary function on the team is not that of providing financial or business expertise, and
 - (b) no member of the inspection team falls within a category of person prescribed for the purposes of this sub-paragraph.
- (3) Otherwise, the composition of the inspection team is to be determined by the inspector conducting the inspection, subject (in the case of a registered inspector) to his complying with any condition imposed under section 25(4)(c).
- (4) Any experience of a kind mentioned in sub-paragraph (2)(a) which it is reasonable to regard as insignificant, having regard to the purposes of sub-paragraph (2), may be ignored by the inspector conducting the inspection.
- (5) It is the duty of the inspector conducting the inspection to ensure that no person takes part in an inspection if he has, or has at any time had, any connection with—
- (a) the school in question,
 - (b) any person who is employed at the school,
 - (c) any person who is a member of the school’s governing body, or
 - (d) the proprietor of the school,
- of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to that school.

Enrolment of persons to act as team members

- 4 (1) The Chief Inspector must keep a list of persons who may act as members of an inspection team by virtue of paragraph 3(1)(a) (“the list”).
- (2) The Chief Inspector may not enrol any person in the list unless, having regard to any conditions that he proposes to impose under section 25(4)(c) (as it applies in accordance with sub-paragraph (4) of this paragraph), it appears to him that that person—

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- (a) is a fit and proper person for carrying out an inspection, and
 - (b) will be capable of assisting in an inspection competently and effectively.
- (3) An application for enrolment in the list must (except in such circumstances as may be prescribed) be accompanied by the prescribed fee.
- (4) Subsections (3)(a), (4), (5)(b) and (6) to (9) of section 25 apply in relation to the enrolment of a person in the list and acting as a member of an inspection team as they apply in relation to the registration of a person under subsection (1) of that section and to acting as a registered inspector, but as if the reference in subsection (5)(b) of that section to the need for registered inspectors were a reference to the need for enrolled persons.
- (5) Sections 26 and 27 and Schedule 3 apply in relation to enrolment on the list and to a person so enrolled as they apply in relation to registration under section 25(1) and to a person so registered, but with any necessary modifications.
- (6) In its application to an enrolled person in accordance with sub-paragraph (5), section 26 has effect as if the conditions mentioned in subsection (2) of that section were that—
- (a) that person is no longer a fit and proper person to act as a member of an inspection team;
 - (b) he is no longer capable of assisting in an inspection competently and effectively;
 - (c) there has been a significant failure on his part to comply with any condition imposed under section 25(4)(c) (as it applies in accordance with sub-paragraph (4)).
- (7) Without prejudice to the generality of paragraph 2(1) of Schedule 3, regulations under that provision may provide that, where a person is appealing simultaneously —
- (a) against a decision of the Chief Inspector relating to that person’s registration, and
 - (b) against a decision of the Chief Inspector relating to that person’s enrolment in the list,
- both appeals are to be heard at the same time.

Training for inspections

- 5 (1) No person who is not a member of the Inspectorate may conduct an inspection of a school in Wales, or act as a member of an inspection team for such a school, unless he has, in the opinion of the Chief Inspector, satisfactorily completed a course of training provided by, or complying with arrangements approved by, the Chief Inspector.
- (2) Where the Chief Inspector provides such training he may charge such fees as are reasonable for the purpose of recovering the whole, or part, of the cost of providing it.
- (3) Sub-paragraph (1) does not apply in such circumstances as may be specified, either generally or in relation to a particular case or class of case, by the Chief Inspector.

Meeting with parents

- 6 Where an inspection is arranged, the appropriate authority for the school concerned must—
- (a) take such steps as are reasonably practicable to notify—

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- (i) the parents of registered pupils at the school, and
 - (ii) such other persons as may be prescribed,
- of the time when the inspection is to take place, and
- (b) arrange a meeting, in accordance with such provisions as may be prescribed, between the inspector conducting the inspection and those parents of registered pupils at the school who wish to attend.

Rights of entry etc.

- 7 (1) An inspector conducting an inspection, and the members of his inspection team, have at all reasonable times—
- (a) a right of entry to the premises of the school concerned, and
 - (b) a right to inspect, and take copies of, any records kept by the school, and any other documents containing information relating to the school, which he requires for the purposes of the inspection.
- (2) Where—
- (a) pupils registered at the school concerned are, by arrangement with another school, receiving part of their education at the other school, and
 - (b) the inspector is satisfied that he cannot properly discharge his duty under section 28(5) in relation to the school concerned without inspecting the provision made for those pupils at that other school,
- sub-paragraph (1) applies in relation to that other school as it applies in relation to the school concerned.
- (3) An inspector conducting an inspection of a school, and the members of his inspection team, also have at all reasonable times—
- (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by the school, any pupils who—
 - (i) are registered at the school, and
 - (ii) have attained the age of 15, or will attain that age in the current school year, but have not ceased to be of compulsory school age,
 are receiving part of their education from any person (“the provider”);
 - (b) a right of entry to any premises of the provider used in connection with the provision by him of that education, and
 - (c) a right to inspect and take copies of—
 - (i) any records kept by the provider relating to the provision of that education, and
 - (ii) any other documents containing information so relating,
 which the inspector or (as the case may be) member of the team requires for the purposes of the inspection.

Offence of obstructing inspector or inspection team

- 8 (1) It is an offence intentionally to obstruct—
- (a) the inspector conducting the inspection, or
 - (b) a member of an inspection team,
- in the exercise of his functions in relation to an inspection of a school.

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- (2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Replacement of inspector during course of inspection

- 9 (1) This paragraph applies to an inspection where, at any time—
- (a) after the meeting required by paragraph 6 is held, but
 - (b) before the making of the report of the inspection is completed,
- the inspector conducting the inspection becomes (for any reason) unable to continue to discharge his functions as an inspector in relation to the inspection.
- (2) If the conditions set out in sub-paragraph (3) are satisfied—
- (a) the Chief Inspector may arrange for that person to be replaced as the inspector conducting the inspection by another person who is either a registered inspector or a member of the Inspectorate, and
 - (b) if he does so, anything done by or in relation to that person in connection with the inspection is, so far as necessary for his effectual replacement by that other inspector, to be regarded as done by or in relation to that other inspector.
- (3) The conditions are—
- (a) that the appropriate authority for the school concerned have given the Chief Inspector notice in writing of their agreement to the inspector mentioned in sub-paragraph (1) being replaced under this paragraph, and
 - (b) that the replacement inspector does not have, and has not at any time had, any connection of the kind mentioned in paragraph 3(5) with the school in question or with any other person mentioned there.

SCHEDULE 5

Section 46

SIXTH FORMS REQUIRING SIGNIFICANT IMPROVEMENT

- 1 In this Schedule “the 2000 Act” means the Learning and Skills Act 2000 (c. 21).
- 2 (1) Section 113 of the 2000 Act (inadequate sixth-forms) is amended as follows.
- (2) In subsection (1), and in the heading to the section, for “inadequate sixth-forms” substitute “sixth forms requiring significant improvement”.
- (3) For subsection (2) substitute—
- “(2) Expressions used in that Schedule and in Chapter 2 or 4 of Part 1 of the Education Act 2005 have—
- (a) in relation to schools in England, the same meaning as in Chapter 2 of that Part, and
 - (b) in relation to schools in Wales, the same meaning as in Chapter 4 of that Part.”
- 3 (1) Schedule 7 to the 2000 Act (inadequate sixth forms) is amended as follows.
- (2) For the heading to the Schedule, substitute “Sixth forms requiring significant improvement”.

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- (3) In paragraph 1, for sub-paragraph (2) substitute—
- “(2) For the purposes of those paragraphs a school requires significant improvement in relation to its sixth form if—
- (a) the school is failing to give its pupils over compulsory school age an acceptable standard of education, or
- (b) in relation to its provision for pupils over compulsory school age, the school is performing significantly less well than it might in all the circumstances reasonably be expected to perform.”
- (4) For paragraph 2 substitute—
- “2 If a person who inspects a school—
- (a) states in his report an opinion, in accordance with section 13(4), 34(7) or 35 (2) or (5) of the Education Act 2005 (school no longer requiring special measures), that special measures are not required to be taken in relation to the school, but
- (b) is of the opinion that the school requires significant improvement in relation to its sixth form,
- he shall state that opinion in his report.”
- (5) In paragraph 3—
- (a) in sub-paragraph (1) for “has an inadequate sixth-form” substitute “requires significant improvement in relation to its sixth form”, and
- (b) for sub-paragraph (3) substitute—
- “(3) The report shall be treated for all purposes of this Schedule and Part 1 of the Education Act 2005 (inspections) as if it were a report of an inspection of a school under section 5 or 28 of that Act.”
- (6) In paragraph 4—
- (a) in sub-paragraph (1)—
- (i) in paragraph (a), for “has an inadequate sixth form” substitute “requires significant improvement in relation to its sixth form”, and
- (ii) in paragraph (b), after “where” insert “the report relates to a school in Wales and”,
- (b) in sub-paragraph (2)—
- (i) for paragraph (a) substitute—
- “(a) a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 states the opinion that the school requires significant improvement in relation to its sixth form,”, and
- (ii) at the beginning of paragraph (c) insert “in the case of a school in Wales”.
- (7) In paragraph 5—
- (a) in sub-paragraph (1)—
- (i) for “Part I of the Schools Inspection Act 1996” substitute “Chapter 1 or 3 of Part 1 of the Education Act 2005”, and
- (ii) in paragraph (b), for “have an inadequate sixth-form” substitute “require significant improvement in relation to its sixth form”, and

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(b) in sub-paragraph (2), after “Where” insert “, in the case of a school in Wales,”.

(8) In paragraph 6—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies to a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 which—

- (a) states an opinion that a school requires significant improvement in relation to its sixth form, and
- (b) in the case of a school in Wales, is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a).”

(b) in sub-paragraph (2), for paragraph (b) substitute—

“(b) if either—

- (i) the school is in England, or
 - (ii) the school is in Wales and the person making the report is a member of the Inspectorate,
- to the appropriate authority for the school.”

(c) for sub-paragraph (3) substitute—

“(3) The following provisions of the Education Act 2005 shall apply (with the necessary modifications) in relation to a report to which this paragraph applies—

- (a) in the case of a school in England—
 - (i) section 14(2) (additional copies),
 - (ii) section 14(4) (publication by appropriate authority), and
 - (iii) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 15(2) and (3) (measures by local education authority), and
- (b) in the case of a school in Wales—
 - (i) section 38(2) (additional copies),
 - (ii) section 38(4) (publication by appropriate authority),
 - (iii) section 39 (action plan by appropriate authority), and
 - (iv) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 40(2) and (3) (measures by local education authority).”

(9) For paragraph 7 substitute—

“7 (1) Where a person who inspects a school is of the opinion that a school requires significant improvement in relation to its sixth form, the provisions specified in sub-paragraph (2) shall apply, with the necessary

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modifications, as they apply where he is of the opinion that special measures are required to be taken in relation to the school.

(2) Those provisions are—

- (a) in the case of a school in England, section 13(1) to (3) of the Education Act 2005 (duty of Chief Inspector to send draft report to governing body or proprietor, to consider their comments and to state opinion in report), and
- (b) in the case of a school in Wales, section 34(1) to (6) of that Act (registered inspectors) or, as the case requires, section 35(1) of that Act (members of the Inspectorate).”

(10) Omit paragraph 9.

(11) In paragraph 10—

- (a) in sub-paragraph (1)(b), for “has significant weaknesses in one or more area of its activities” substitute “requires significant improvement”, and
- (b) in sub-paragraph (3)—
 - (i) for “the School Inspections Act 1996” substitute “Part 1 of the Education Act 2005”, and
 - (ii) for “section 10” substitute “section 5 or 28”.

(12) In paragraph 11—

- (a) for sub-paragraph (1) substitute—

“(1) Parts 2 and 3 of this Schedule shall apply—

- (a) in relation to a school in England, if a report of an inspection of the school made under Chapter 1 of Part 1 of the Education Act 2005 states—
 - (i) in accordance with subsection (4) of section 13, an opinion that special measures are not required to be taken in relation to the school, and
 - (ii) in accordance with subsection (3)(b) of that section, an opinion that the school requires significant improvement,
- (b) in relation to a school in Wales, if—
 - (i) a report of an inspection of the school made under Chapter 3 of Part 1 of the Education Act 2005 states in accordance with section 34(7) or 35(5) an opinion that special measures are not required to be taken in relation to the school,
 - (ii) the report also states in accordance with section 34(6) or 35(4) an opinion that the school requires significant improvement, and
 - (iii) where the person making the report is not a member of the Inspectorate, the report also states that the Chief Inspector agrees with his opinion.”

- (b) in sub-paragraph (2)—

- (i) for paragraph (a) substitute—

“(a) a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 states that special measures are required to be taken in relation to

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the school or that the school requires significant improvement,” and

- (ii) at the beginning of paragraph (c) insert “in the case of a school in Wales”.

(13) In paragraph 12—

- (a) in sub-paragraph (1)—
- (i) for “Part I of the School Inspections Act 1996” substitute “Chapter 1 or 3 of Part 1 of the Education Act 2005”, and
- (ii) in paragraph (b), for “have significant weaknesses in one or more areas of its activities” substitute “require significant improvement”, and
- (b) in sub-paragraph (2), after “Where” insert “, in the case of a school in Wales,”.

(14) In paragraph 13—

- (a) for sub-paragraph (1) substitute—
- “(1) This paragraph applies to a report of an inspection under Chapter 1 or 3 of Part 1 of the Education Act 2005 which—
- (a) states an opinion that a school requires significant improvement, and
- (b) in the case of a school in Wales, is made by a member of the Inspectorate or states that the Chief Inspector agrees with the opinion mentioned in paragraph (a).”
- (b) in sub-paragraph (2), for paragraph (b) substitute—
- “(b) if either—
- (i) the school is in England, or
- (ii) the school is in Wales and the person making the report is a member of the Inspectorate,
- to the appropriate authority for the school.”
- (c) for sub-paragraph (3) substitute—
- “(3) The following provisions of the Education Act 2005 shall apply (with the necessary modifications) in relation to a report to which this paragraph applies—
- (a) in the case of a school in England—
- (i) section 14(2) (additional copies),
- (ii) section 14(4) (publication by appropriate authority), and
- (iii) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 15(2) and (3) (measures by local education authority), and
- (b) in the case of a school in Wales—
- (i) section 38(2) (additional copies),
- (ii) section 38(4) (publication by appropriate authority),
- (iii) section 39 (action plan by appropriate authority), and

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- (iv) where the local education authority receives a copy of a report about a school the governing body of which have a delegated budget, section 40(2) and (3) (measures by local education authority).”

(15) Omit paragraph 14.

SCHEDULE 6

Section 50

INSPECTIONS OF DENOMINATIONAL EDUCATION IN WALES

Interpretation

- 1 In this Schedule—
- “inspection” means an inspection of a school under section 50;
- “inspector” means the person conducting the inspection.

Inspectors' reports

- 2 (1) An inspection must be carried out within such period as may be prescribed.
- (2) When an inspection has been completed, the inspector must, before the end of the period prescribed for the purposes of this sub-paragraph, prepare in writing a report of the inspection and a summary of the report.
- (3) The inspector must, without delay, send the report and summary to the governing body for the school concerned.
- (4) The governing body must—
- (a) make any such report and its accompanying summary available for inspection by members of the public, at such times and at such a place as may be reasonable,
 - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every parent of a registered pupil at the school—
 - (i) for whom the school provides denominational education, or
 - (ii) who takes part in an act of collective worship the content of which falls to be inspected under section 50,
 as the case may be, receives a copy of the summary as soon as is reasonably practicable.

Action plans

- 3 (1) The governing body to whom an inspector has reported under this Schedule must, before the end of the prescribed period, prepare a written statement (“the action plan”) of the action which they propose to take in the light of his report and the period within which they propose to take it.

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- (2) Where an action plan has been prepared by a governing body, they must, before the end of the prescribed period, send copies of it to the person who appoints the school's foundation governors, to the local education authority and to such other persons (if any), in such circumstances, as may be prescribed.
- (3) The governing body must—
 - (a) make any action plan prepared by them available for inspection by members of the public, at such times and at such a place as may be reasonable,
 - (b) provide a copy of the plan, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply) to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every parent of a registered pupil at the school—
 - (i) for whom the school provides denominational education, or
 - (ii) who takes part in acts of collective worship the content of which falls to be inspected under section 50,as the case may be, receives a copy of the plan as soon as is reasonably practicable.
- (4) Where the governing body of a school have prepared an action plan, they must include in their governors' report under section 30 of the Education Act 2002 (c. 32) a statement of the extent to which the proposals set out in the plan have been carried into effect.
- (5) Sub-paragraph (4) applies only in relation to the most recent action plan for the school in question.

SCHEDULE 7

Section 53

INSPECTION OF CHILD MINDING, DAY CARE AND NURSERY EDUCATION

PART 1

CHILD MINDING AND DAY CARE: AMENDMENTS OF CHILDREN ACT 1989

- 1 (1) Section 79N of the Children Act 1989 (c. 41) (general functions of the Chief Inspector) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) The Chief Inspector has the general duty of keeping the Secretary of State informed about—
 - (a) the quality and standards of child minding and day care provided in England,
 - (b) how far child minding and day care provided in England meet the needs of the range of children for whom they are provided,
 - (c) the contribution made by child minding and day care provided in England to the well-being of the children for whom they are provided, and

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- (d) the quality of leadership and management in connection with the provision of day care in England.
- (1A) In subsection (1)(c), the reference to well-being is a reference to well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004.”
- (3) In subsection (6)—
- (a) for “subsection (7)(a) of section 2 of the School Inspections Act 1996” substitute “section 3(a) of the Education Act 2005”, and
 - (b) for “subsection (7)(b) of that section” substitute “section 3(b) of that Act”.
- 2 Omit section 79P of the Children Act 1989 (early years child care inspectorate for England).
- 3 (1) Section 79Q of the Children Act 1989 (inspection of provision of child minding and day care in England) is amended as follows.
- (2) In subsection (1), for “provision” substitute “provider”.
 - (3) In subsection (2), omit “or secure the inspection by a registered inspector of”.
 - (4) In subsection (3), omit “or secure the inspection by a registered inspector of”.
 - (5) Omit subsection (4).
 - (6) After subsection (5) insert—

“(5A) Regulations may make provision requiring a registered person, except in prescribed cases, to notify prescribed persons of the fact that any child minding or day care provided by the registered person is to be inspected under this section.”
 - (7) For subsection (6) substitute—

“(6) When conducting an inspection under this section the Chief Inspector shall report in writing on—

 - (a) the quality and standards of the child minding or day care provided,
 - (b) how far the child minding or day care meets the needs of the range of children for whom it is provided,
 - (c) the contribution made by the child minding or day care to the well-being of the children for whom it is provided, and
 - (d) in the case of day care, the quality of leadership and management in connection with its provision.

(6A) In subsection (6)(c), the reference to well-being is a reference to well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004.”
 - (8) Omit subsection (7).
- 4 (1) Section 79R of the Children Act 1989 (c. 41) (reports of inspections) is amended as follows.
- (2) Omit subsections (1) and (2).
 - (3) For subsection (3) substitute—

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

“(3) Where the Chief Inspector reports on an inspection under section 79Q he—

- (a) may send a copy of the report to the Secretary of State, and shall do so without delay if the Secretary of State requests a copy;
- (b) shall ensure that a copy of the report is sent to the registered person providing the child minding or day care that was inspected;
- (c) shall ensure that copies of the report, or such parts of it as he considers appropriate, are sent to such other authorities or persons as may be prescribed; and
- (d) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.”

(4) After subsection (3) insert—

“(3A) Regulations may make provision—

- (a) requiring a registered person to make a copy of any report sent to him under subsection (3)(b) available for inspection by prescribed persons,
- (b) requiring a registered person, except in prescribed cases, to provide a copy of the report to prescribed persons, and
- (c) authorising a registered person in prescribed cases to charge a fee for providing a copy of the report.”

(5) For subsection (4) substitute—

“(4) Subsections (2) to (4) of section 11 of the Education Act 2005 (publication of inspection reports) shall apply in relation to the publication of a report under subsection (3) as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 11.”

5 (1) Section 79T of the Children Act 1989 (c. 41) (inspection: Wales) is amended as follows.

(2) In subsection (2)(a), omit “the quality and standards of”.

(3) In subsection (4), for “section 42A of the School Inspections Act 1996” substitute “section 29 of the Education Act 2005”.

6 In section 79U of the Children Act 1989 (rights of entry etc.), in subsection (4), for “Section 42 of the School Inspections Act 1996” substitute “Section 58 of the Education Act 2005”.

PART 2

NURSERY EDUCATION: AMENDMENTS OF SCHOOL STANDARDS AND FRAMEWORK ACT 1998

7 (1) Section 122 of the School Standards and Framework Act 1998 (c. 31) (inspection of nursery education) is amended as follows.

(2) In subsection (3), for “the Chief Inspector” substitute “the Chief Inspector for Wales”.

(3) In subsection (4), for ““the Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England or” substitute ““the Chief Inspector for Wales” means”.

8 Schedule 26 to the School Standards and Framework Act 1998 (inspection of nursery education) is amended as follows.

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

- 9 (1) Paragraph 1 is amended as follows.
- (2) In sub-paragraph (1)—
- (a) before paragraph (a) insert—
- “(za) nursery education provided in a maintained school or a maintained nursery school;”
- (b) in paragraph (a), after “nursery education” insert “not falling within paragraph (za)”;
- (c) for paragraph (b) substitute—
- “(b) nursery education which is provided by any other person under arrangements made with that person by a local education authority in pursuance of the duty imposed on the authority by section 118 and in consideration of financial assistance provided by the authority under the arrangements.”
- (3) In sub-paragraph (2), for the words from “to whom” onwards substitute “with whom a local education authority are considering making arrangements in pursuance of the duty imposed on the authority by section 118 for the provision of nursery education in consideration of financial assistance provided by the authority under the arrangements”.
- (4) For sub-paragraph (3) substitute—
- “(3) Where—
- (a) any education is for the time being provided at any premises for children who have not attained the age prescribed for the purposes of section 118(1)(b) (“the prescribed age”), and
- (b) that education is provided by a person—
- (i) who proposes to provide nursery education at those premises for children who have attained the prescribed age, and
- (ii) with whom a local education authority are considering making arrangements of the kind mentioned in sub-paragraph (2),
- the education is to be treated for the purposes of this Schedule as nursery education under consideration for funding even though it is provided for children who have not attained the prescribed age.”
- 10 (1) Paragraph 2 is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) In this Schedule—
- (a) “the Chief Inspector for England” means Her Majesty’s Chief Inspector of Schools in England,
- (b) “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales, and
- (c) “the Chief Inspector” (without more) means—
- (i) as respects nursery education provided in England, the Chief Inspector for England, and
- (ii) as respects nursery education provided in Wales, the Chief Inspector for Wales.”

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

- (3) In sub-paragraph (2), after “registered” insert “Welsh”.
- (4) For sub-paragraph (3) substitute—
- “**(3)** In this Schedule “members of the Welsh Inspectorate” means—
- (a) the Chief Inspector for Wales,
 - (b) Her Majesty’s Inspectors of Education and Training in Wales, and
 - (c) additional inspectors with whom the Chief Inspector for Wales has made arrangements to give him assistance under paragraph 2 of Schedule 2 to the Education Act 2005.”
- (5) Omit sub-paragraph (4).
- (6) At the end insert—
- “**(5)** In this Schedule “well-being”—
- (a) in relation to children for whom nursery education is provided in England, is a reference to their well-being having regard to the matters mentioned in section 10(2) of the Children Act 2004, and
 - (b) in relation to children for whom such education is provided in Wales, is a reference to their well-being having regard to the matters mentioned in section 25(2) of that Act.”
- 11 In paragraph 3, before the “and” immediately following paragraph (a) insert—
- “(aa) how far relevant nursery education meets the needs of the range of children for whom it is provided,
- (ab) the quality of leadership and management in connection with the provision of relevant nursery education,
 - (ac) the contribution of relevant nursery education to the well-being of the children for whom it is provided.”
- 12 For paragraphs 6 and 7 substitute—
- “Inspections in England*
- 6A (1) The Chief Inspector for England—
- (a) shall at such intervals as may be prescribed inspect relevant nursery education provided in England,
 - (b) shall inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any time when the Secretary of State requires the Chief Inspector for England to secure its inspection, and
 - (c) may inspect relevant nursery education, or nursery education under consideration for funding, provided in England, at any other time when the Chief Inspector for England considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 5 of the Education Act 2005 (inspections of certain schools) applies.
- (3) A requirement such as is mentioned in sub-paragraph (1)(b) may be imposed in relation to nursery education provided at particular premises or a class of premises.

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- (4) Regulations may make provision requiring the responsible person to notify prescribed persons of the fact that relevant nursery education or nursery education under consideration for funding provided by the responsible person is to be inspected under this paragraph.
- (5) In sub-paragraph (4) “the responsible person”, in relation to any relevant nursery education or nursery education under consideration for funding, means such person as may be prescribed.

Inspections in Wales

- 6B (1) The Chief Inspector for Wales—
- (a) shall secure that relevant nursery education provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at such intervals as may be prescribed,
 - (b) shall secure that relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any time when the National Assembly for Wales requires the Chief Inspector for Wales to secure its inspection, and
 - (c) may secure that any relevant nursery education, or nursery education under consideration for funding, provided in Wales is inspected by a member of the Welsh Inspectorate or a registered Welsh nursery education inspector at any other time when the Chief Inspector for Wales considers that it would be appropriate for it to be inspected.
- (2) Sub-paragraph (1)(a) does not apply to nursery education provided at a school to which section 28 of the Education Act 2005 (duty to arrange regular inspections of certain schools) applies.
 - (3) The Chief Inspector for Wales may comply with sub-paragraph (1) either by organising inspections or by making arrangements with others for them to organise inspections.
 - (4) A requirement such as is mentioned in sub-paragraph (1)(b) may relate to nursery education provided at particular premises or a class of premises.

Reports of inspections under paragraph 6A or 6B

- 7 A person conducting an inspection under paragraph 6A or 6B shall report on—
- (a) the quality and standards of the nursery education provided,
 - (b) how far that nursery education meets the needs of the range of children for whom the education is provided,
 - (c) the quality of leadership and management in connection with the provision of the nursery education,
 - (d) the contribution made by that nursery education to the well-being of those children, and

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- (e) so far as it is reasonably practicable to do so, the spiritual, moral, social and cultural development of the children for whom the nursery education is provided.”

- 13 At the end of the heading before paragraph 8 insert “for Wales”.
- 14 (1) Paragraph 8 is amended as follows.
 - (2) In sub-paragraph (1), omit the words from the beginning to “England and”.
 - (3) After “Chief Inspector” wherever occurring in sub-paragraphs (2) to (8) insert “for Wales”.
 - (4) In sub-paragraph (2)—
 - (a) for “6” (in both places) substitute “6B”, and
 - (b) in paragraph (a), after “registered” insert “Welsh”.
 - (5) In sub-paragraph (3)—
 - (a) in paragraph (a), after “registered” insert “Welsh”, and
 - (b) in paragraph (b), for “6” substitute “6B”.
 - (6) In sub-paragraph (5), omit “England and”.
 - (7) In sub-paragraph (7), for “registered nursery education inspector” substitute “registered Welsh nursery education inspector”.
- 15 (1) Paragraph 9 is amended as follows.
 - (2) In sub-paragraph (1), after “Chief Inspector” insert “for Wales”.
 - (3) In sub-paragraph (2)—
 - (a) in paragraph (a), after “registered” insert “Welsh”, and
 - (b) in paragraphs (a) and (d), for “6” substitute “6B”.
 - (4) In sub-paragraph (3), after “Chief Inspector” insert “for Wales”.
 - (5) Omit sub-paragraph (5).
- 16 (1) Paragraph 10 is amended as follows.
 - (2) In sub-paragraph (1), after “Chief Inspector” insert “for Wales”.
 - (3) Omit sub-paragraph (1A).
 - (4) For sub-paragraph (2) substitute—
 - “(2) An appeal under sub-paragraph (1) shall be made to a tribunal with the same constitution as a tribunal to hear an appeal under section 27 of the Education Act 2005; and paragraph 2 (procedure) and paragraph 3 (staff) of Schedule 3 to that Act apply to tribunals to hear appeals under sub-paragraph (1) as they apply to tribunals to hear appeals under that section.”
 - (5) In sub-paragraphs (4) and (5) after “Chief Inspector” insert “for Wales”.
- 17 For the heading before paragraph 11 substitute “Training of registered Welsh nursery education inspectors”.
- 18 (1) Paragraph 11 is amended as follows.
 - (2) In sub-paragraph (1)—

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- (a) after “registered” insert “Welsh”, and
- (b) after “Chief Inspector”, in both places, insert “for Wales”.

(3) In sub-paragraphs (2) and (3), after “Chief Inspector” insert “for Wales”.

19 In paragraph 12, for “6” substitute “6B”.

20 For paragraph 13 (and the heading immediately preceding it) substitute—

“Reports of inspections: England

13A (1) After an inspection under paragraph 6A, the Chief Inspector for England shall—

- (a) make a report in writing, and
- (b) ensure that a copy of the report is sent without delay—
 - (i) to the responsible person, and
 - (ii) to such other authorities and persons as may be prescribed.

(2) Regulations may make provision—

- (a) requiring the responsible person to make a copy of any report sent to him under sub-paragraph (1)(b)(i) available for inspection by prescribed persons,
- (b) requiring the responsible person to provide a copy of the report to prescribed persons, and
- (c) authorising the responsible person in prescribed cases to charge a fee for providing a copy of the report.

(3) In sub-paragraph (2) “responsible person” has the meaning given by paragraph 6A(5).

(4) Subsections (2) to (4) of section 11 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to England as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.

Reports of inspections: Wales

13B (1) Where a person has conducted an inspection under paragraph 6B he shall make his report in writing to the Chief Inspector for Wales within such period as may be prescribed, subject to any extension not exceeding three months which the Chief Inspector for Wales may consider necessary.

(2) Once the report of an inspection has been made to the Chief Inspector for Wales under sub-paragraph (1) he shall without delay send a copy to such authorities and persons as may be prescribed.

(3) Regulations may require any prescribed person to whom a copy of the report is sent under subsection (2) to make a copy of the report available for inspection by prescribed persons.

(4) Subsections (2) to (4) of section 29 of the Education Act 2005 shall apply in relation to the publication of any such report in relation to Wales as

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they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.”

21 For paragraph 14 substitute—

“14 (1) The annual report of the Chief Inspector for England required by paragraph (a) of section 3 of the Education Act 2005 to be made to the Secretary of State shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by paragraph (b) of that section to make other reports to the Secretary of State includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.

(2) The annual report of the Chief Inspector for Wales required by subsection (1)(a) of section 21 of the Education Act 2005 to be made to the National Assembly for Wales shall include an account of the exercise of the functions conferred or imposed on him by or under this Schedule; and the power conferred by subsection (1)(b) of that section to make other reports to the Assembly includes a power to make reports which fall within the scope of his functions by virtue of this Schedule.”

22 In paragraph 16, for “6” substitute “6A or 6B”.

23 For paragraph 17 substitute—

“17 Where an inspection in Wales is being conducted by a registered Welsh nursery education inspector under paragraph 6B, the Chief Inspector for Wales may arrange for the inspection to be monitored by one or more members of the Welsh Inspectorate.”

24 (1) Paragraph 18 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) This paragraph applies to—

- (a) the Chief Inspector for England when conducting an inspection under paragraph 6A,
- (b) a registered Welsh nursery education inspector or member of the Welsh Inspectorate conducting an inspection under paragraph 6B, or
- (c) a member of the Welsh Inspectorate monitoring under paragraph 17 an inspection under paragraph 6B.”

(3) For sub-paragraphs (3) and (4) substitute—

“(3) Section 58 of the Education Act 2005 (inspection of computer records for the purposes of Part 1 of that Act) shall apply for the purposes of this paragraph as it applies for the purposes of Part 1 of that Act.

(4) It shall be an offence—

- (a) intentionally to obstruct the Chief Inspector for England in the exercise of his functions in relation to an inspection under paragraph 6A, or
- (b) intentionally to obstruct a member of the Welsh Inspectorate or a registered Welsh nursery education inspector in the exercise of his functions in relation to an inspection under paragraph 6B.”

SCHEDULE 8

Section 54

INSPECTION OF INDEPENDENT SCHOOLS

- 1 In this Schedule “the 2002 Act” means the Education Act 2002 (c. 32).
 2 After section 162 of the 2002 Act insert—

“162A Power to inspect registered schools in England

- (1) The registration authority may at any time—
- (a) require the Chief Inspector for England to inspect any registered school in England, or
 - (b) arrange for the inspection of any registered school in England by a body approved by the registration authority for the purposes of this subsection.
- (2) The inspection of a school under this section shall relate to—
- (a) such of the independent school standards as are, at the time of the inspection, specified by the registration authority for the purposes of this section in relation to any category of school into which that school falls, or
 - (b) if the registration authority so determines, such of the independent school standards as the registration authority may specify in relation to that school.
- (3) When conducting an inspection under this section, the Chief Inspector for England shall—
- (a) make a report to the registration authority on the extent to which the school meets the standard or standards to which the inspection relates, and
 - (b) if the registration authority so requires, arrange for the publication of the report in the prescribed manner.
- (4) A report published under subsection (3) is privileged for the purposes of the law of defamation unless the publication is shown to be made with malice (but without prejudice to any privilege subsisting apart from this subsection).
- (5) In this section and section 162B “the Chief Inspector for England” means Her Majesty’s Chief Inspector of Schools in England.

162B Inspections under section 162A: supplementary

- (1) This section applies to the inspection of a school which is conducted by the Chief Inspector for England under section 162A(1)(a).
- (2) The Chief Inspector for England shall have at all reasonable times—
- (a) a right of entry to the premises of the school, and
 - (b) a right to inspect and take copies of any records kept by the school and any other documents containing information relating to the school which are required for the purposes of the inspection.
- (3) Section 58 of the Education Act 2005 (computer records) applies in relation to the inspection of records or other documents under subsection (2)(b).

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

- (4) It is an offence intentionally to obstruct a person in the exercise of his functions in relation to the inspection.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) The proprietor of the school shall pay the Chief Inspector for England, in respect of the inspection, a fee of such amount, and by such time, as may be specified in or determined under regulations.
- (7) Where the proprietor fails to comply with subsection (6), the registration authority may remove the school from the register.
- (8) The Chief Inspector for England shall pay the amount of any fee received under subsection (7) into the Consolidated Fund.”

3 For sections 163 and 164 of the 2002 Act substitute—

“163 Power to inspect registered schools in Wales

- (1) The registration authority may at any time—
 - (a) require the Chief Inspector for Wales to inspect any registered school in Wales, or to secure its inspection by one or more registered inspectors, or
 - (b) arrange for the inspection of any registered school by a body approved by the registration authority for the purposes of this subsection.
- (2) The inspection of a school under this section shall relate to—
 - (a) such of the independent school standards as are, at the time of the inspection, specified by the registration authority for the purposes of this section in relation to any category of school into which that school falls, or
 - (b) if the registration authority so determines, such of the independent school standards as the registration authority may specify in relation to that school.
- (3) A person who conducts an inspection under this section shall—
 - (a) make a report to the registration authority on the extent to which the school meets the standard or standards to which the inspection relates, and
 - (b) if the registration authority so requires, arrange for the publication of the report in the prescribed manner.
- (4) A report published under subsection (3) is privileged for the purposes of the law of defamation unless the publication is shown to be made with malice (but without prejudice to any privilege subsisting apart from this subsection).
- (5) In this section and section 164—
 - “the Chief Inspector for Wales” means Her Majesty’s Chief Inspector of Education and Training in Wales;
 - “registered inspector” means a person registered under section 25 of the Education Act 2005.

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

164 Inspections under section 163: supplementary

- (1) This section applies to the inspection of a school which is conducted by the Chief Inspector for Wales or a registered inspector under section 163(1)(a).
- (2) If the inspection is conducted by a registered inspector—
 - (a) he may, by agreement with the Chief Inspector for Wales, be assisted by the Chief Inspector for Wales, and
 - (b) he may be assisted by such one or more persons enrolled in the list kept under paragraph 4 of Schedule 4 to the Education Act 2005 as he may determine, subject to paragraph 3(5) of that Schedule and subsection (3) below.
- (3) If the Chief Inspector for Wales so requires, a registered inspector shall be assisted by at least one person enrolled in the list referred to in subsection (2)
 - (b)—
 - (a) who is without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity, and disregarding any experience which it is reasonable to regard as insignificant), and
 - (b) whose primary function in the inspection is not that of providing financial or business expertise.
- (4) If the inspection is conducted by a registered inspector, it may be monitored by the Chief Inspector for Wales.
- (5) The person conducting the inspection, any person assisting him pursuant to subsection (2) or (3) and any person monitoring the inspection shall have at all reasonable times—
 - (a) a right of entry to the premises of the school, and
 - (b) a right to inspect and take copies of any records kept by the school and any other documents containing information relating to the school which are required for the purposes of the inspection.
- (6) Section 58 of the Education Act 2005 (computer records) applies in relation to the inspection of records or other documents under subsection (5)(b).
- (7) It is an offence intentionally to obstruct a person in the exercise of his functions in relation to the inspection.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (9) The proprietor of the school shall pay the Chief Inspector for Wales, in respect of the inspection, a fee of such amount, and by such time, as may be specified in or determined under regulations.
- (10) Where the proprietor fails to comply with subsection (9), the registration authority may remove the school from the register.
- (11) The Chief Inspector for Wales shall pay the amount of any fee received under subsection (9) into the Consolidated Fund.

- (12) Subsection (11) has effect subject to paragraph 4 of Schedule 6 to the Government of Wales Act 1998 (Treasury power to direct that requirement for payment into Consolidated Fund not to apply in relation to specified sums received by the Chief Inspector for Wales).”
- 4 In section 165 of the 2002 Act (failure to meet standards), in subsection (1)(a), after “section” insert “162A or”.
- 5 In section 171 of the 2002 Act (interpretation of Chapter 1 of Part 10), omit the definition of “registered inspector”.

SCHEDULE 9

Section 61

FURTHER AMENDMENTS RELATING TO SCHOOL INSPECTION

Parliamentary Commissioner Act 1967 (c. 13)

- 1 In Schedule 4 to the Parliamentary Commissioner Act 1967, omit the entry beginning “Registered Inspectors of Schools Appeal Tribunals”.

Employment and Training Act 1973 (c. 50)

- 2 (1) Section 10B of the Employment and Training Act 1973 (inspection) is amended as follows.
- (2) For subsection (6) substitute—
- “(6) A person carrying out or participating in the inspection shall have the same powers as the Chief Inspector has under the following provisions of the Education Act 2005—
- (a) section 10(1)(a) and (d) (right of access), and
- (b) section 58 (computer records).”
- (3) In subsection (7), for “Section 42A of the 1996 Act” substitute “Section 11 of the Education Act 2005”.

House of Commons Disqualification Act 1975 (c. 24)

- 3 Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 is to continue to include the following entries (originally inserted by paragraph 9 of Schedule 1 to the Education (Schools) Act 1992, continued in force by paragraph 2 of Schedule 6 to the School Inspections Act 1996 and amended by virtue of section 73(3)(a) of the Learning and Skills Act 2000)—
- “Her Majesty’s Chief Inspector of Schools in England.
Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolgydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.”

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 4 Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 is to continue to include the same entries as those specified in paragraph 3 of this Schedule

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

(originally inserted by paragraph 9 of Schedule 1 to the Education (Schools) Act 1992, continued in force by paragraph 3 of Schedule 6 to the School Inspections Act 1996 and amended by virtue of section 73(3)(a) of the Learning and Skills Act 2000).

Education Reform Act 1988 (c. 40)

- 5 (1) Section 226(2)(b) of the Education Reform Act 1988 (inspection of schools in other member States providing education for British children) is to continue to have effect with the following amendment (originally made by paragraph 7 of Schedule 4 to the Education (Schools) Act 1992 and continued by paragraph 4 of Schedule 6 to the School Inspections Act 1996).
- (2) For the words from “school” to the end of the paragraph substitute “by, or under the direction of, one or more of Her Majesty’s Inspectors of Schools for England”.

Tribunals and Inquiries Act 1992 (c. 53)

- 6 In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals), in paragraph 15(d) for “Schedule 2 to the School Inspections Act 1996 (c. 57)” substitute “Schedule 3 to the Education Act 2005”.

Judicial Pensions and Retirement Act 1993 (c. 8)

- 7 In section 26 of the Judicial Pensions and Retirement Act 1993 (retirement date for holders of certain judicial offices etc.) in subsection (8)(h), for “Schedule 2 to the School Inspections Act 1996” substitute “Schedule 3 to the Education Act 2005”.

Disability Discrimination Act 1995 (c. 50)

- 8 In section 28D of the Disability Discrimination Act 1995 (accessibility strategies and plans), in subsection (13) for “School Inspections Act 1996” substitute “Part 1 of the Education Act 2005”.

Education Act 1996 (c. 56)

- 9 In section 578(1) (meaning of “the Education Acts”) omit “the School Inspections Act 1996”.
- 10 In Schedule 36 to the Education Act 1996 (uniform statutory trusts for educational endowments), in paragraph 2(b) for “Part I of the School Inspections Act 1996” substitute “Part 1 of the Education Act 2005”.

Education Act 1997 (c. 44)

- 11 In section 38 of the Education Act 1997 (inspection of local education authorities) in subsection (5)(b) for “paragraph 2 of Schedule 1 to the School Inspections Act 1996” substitute “paragraph 2 of Schedule 1 to the Education Act 2005 or (as the case requires) paragraph 2 of Schedule 2 to that Act”.
- 12 In section 39 of the Education Act 1997 (reports of inspections under section 38 and action plan by local education authority), in subsection (4)—

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- (a) for “section 42A(2) to (4) of the School Inspections Act 1996” substitute “section 11(2) to (4) of the Education Act 2005 or, in relation to Wales, section 29(2) to (4) of that Act”, and
 - (b) for “section 42A(2)” substitute “section 11(2) or, as the case may be, section 29(2)”.
- 13 In section 40 (inspector’s right of entry etc.), in subsection (4) for “Section 42 of the School Inspections Act 1996” substitute “Section 58 of the Education Act 2005”.

School Standards and Framework Act 1998 (c. 31)

- 14 (1) Section 14 of the School Standards and Framework Act 1998 (powers of intervention exercisable by LEAs) is amended as follows.
- (2) In subsections (1)(b) and (3), for “with serious weaknesses” substitute “requiring significant improvement”.
- (3) For subsection (4) substitute—
- “ (4) In this Chapter—
- (a) “Chief Inspector” means—
 - (i) in relation to a school in England, Her Majesty’s Chief Inspector of Schools in England, and
 - (ii) in relation to a school in Wales, Her Majesty’s Chief Inspector of Education and Training in Wales,
 - (b) “member of the Inspectorate”, in relation to an inspection of a school in Wales, has the meaning given by section 43 of the Education Act 2005,
 - (c) references to special measures being, or not being, required to be taken in relation to a school are to be read in accordance with section 44(1) of that Act, and
 - (d) references to a school requiring, or not requiring, significant improvement are to be read in accordance with section 44(2) of that Act.”
- 15 (1) Section 15 of the School Standards and Framework Act 1998 (cases where LEA may exercise powers of intervention) is amended as follows.
- (2) For subsection (4) substitute—
- “ (4) This section applies to a maintained school by virtue of this subsection if—
- (a) following an inspection of the school under Chapter 1 or 3 of Part 1 of the Education Act 2005, the Chief Inspector—
 - (i) in the case of a school in England, has given the Secretary of State a notice under subsection (3)(a) of section 13 of that Act in a case falling within subsection (1)(b) of that section (school requiring significant improvement), or
 - (ii) in the case of a school in Wales, has given the National Assembly for Wales a notice under subsection (2) of section 37 of that Act in a case falling within subsection (1)(a)(ii) or (b)(ii) of that section (school requiring significant improvement), and

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- (b) where any subsequent inspection of the school has been made under Chapter 1 or 3 of Part 1 of that Act, the notice has not been superseded by—
 - (i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or
 - (ii) the Chief Inspector giving the Secretary of State or the Assembly a notice under section 13(3)(a) or 37(2) of that Act in a case falling within section 13(1)(a) or 37(1)(a)(i) or (1)(b)(i) (school requiring special measures).”
- (3) Omit subsection (5).
- (4) For subsection (6) substitute—
 - “(6) This section applies to a maintained school by virtue of this subsection if—
 - (a) following an inspection of the school under Chapter 1 or 3 of Part 1 of the Education Act 2005, the Chief Inspector—
 - (i) in the case of a school in England, has given the Secretary of State a notice under subsection (3)(a) of section 13 of that Act in a case falling within subsection (1)(a) of that section (school requiring special measures), or
 - (ii) in the case of a school in Wales, has given the National Assembly for Wales a notice under subsection (2) of section 37 of that Act in a case falling with subsection (1)(a)(i) or (b)(i) of that section (school requiring special measures), and
 - (b) where any subsequent inspection of the school has been made under Chapter 1 or 3 of Part 1 of that Act, the person making it did not state that in his opinion special measures were not required to be taken in relation to the school.”
- 16 (1) Section 16 of the School Standards and Framework Act 1998 (power of LEA to appoint additional governors) is amended as follows.
 - (2) In subsection (3)—
 - (a) for “with serious weaknesses” substitute “requiring significant improvement”, and
 - (b) for paragraph (a) substitute—
 - “(a) the Chief Inspector has given the local education authority a notice under section 13(3)(a) or 37(2) of the Education Act 2005”.
 - (3) In subsection (9)(a), for “section 16A(2) of the School Inspections Act 1996” substitute “section 13(3)(a) or 37(2) of the Education Act 2005”.
- 17 In section 16A of the School Standards and Framework Act 1998 (power of LEA to provide for governing body to consist of interim executive members), in subsection (2)—
 - (a) for “with serious weaknesses” substitute “requiring significant improvement”, and
 - (b) for paragraph (a) substitute—

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

- “(a) the Chief Inspector has given the local education authority a notice under section 13(3)(a) or 37(2) of the Education Act 2005, and”.
- 18 In section 17 of the School Standards and Framework Act 1998 (power of LEA to suspend right to delegated budget), in subsection (3)—
- (a) for “with serious weaknesses” substitute “requiring significant improvement”, and
- (b) for paragraph (a) substitute—
- “(a) the Chief Inspector has given the local education authority a notice under section 13(3)(a) or 37(2) of the Education Act 2005, and”.
- 19 In section 18 of the School Standards and Framework Act 1998 (power of Secretary of State to appoint additional governors), in subsection (1)(a), for “with serious weaknesses” substitute “requiring significant improvement”.
- 20 In section 18A of the School Standards and Framework Act 1998 (power of Secretary of State to provide for governing body to consist of interim executive members), in subsection (1)(a), for “with serious weaknesses” substitute “requiring significant improvement”.
- 21 In section 127 of the School Standards and Framework Act 1998 (code of practice for securing effective relationships between local education authorities and maintained schools), in subsection (6)—
- (a) omit paragraph (l), and
- (b) after paragraph (q) insert—
- “(r) section 51 of the Education Act 2005 (power of local education authority to inspect school for specific purpose),”.

Government of Wales Act 1998 (c. 38)

- 22 In Schedule 6 to the Government of Wales Act 1998 (Her Majesty’s Chief Inspector of Education and Training in Wales), in the definition of “the Office of the Chief Inspector” in paragraph 1, for “(in accordance with section 4(3) of, and Schedule 1 to, the School Inspections Act 1996)” substitute “(in accordance with section 19(3) of, and Schedule 2 to, the Education Act 2005)”.

Protection of Children Act 1999 (c. 14)

- 23 In section 9 of the Protection of Children Act 1999 (tribunal to hear certain appeals) omit subsection (2)(ca).

Learning and Skills Act 2000 (c. 21)

- 24 In section 75 of the Learning and Skills Act 2000 (extended remit of Chief Inspector for Wales), in subsection (2)(a), for “the Schools Inspections Act 1996” substitute “Part 1 of the Education Act 2005”.
- 25 In section 86 of the Learning and Skills Act 2000 (annual reports), in subsection (1), for “section 5(7)(a) of the School Inspections Act 1996” substitute “section 21(1)(a) of the Education Act 2005”.
- 26 (1) Section 118 of the Learning and Skills Act 2000 (inspection) is amended as follows.

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

- (2) For subsection (5) substitute—
- “(5) A person carrying out or participating in the inspection shall have the same powers as the Chief Inspector has under the following provisions of the Education Act 2005—
- (a) section 10(1)(a) and (d) (right of access), and
- (b) section 58 (computer records).”
- (3) In subsection (6), for “Section 42A of the 1996 Act” substitute “Section 11 of the Education Act 2005”.
- 27 (1) Section 128 of the Learning and Skills Act 2000 (conduct and effect of inspections) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) A person carrying out or participating in the inspection shall have the same powers as an Inspector has under the following provisions of the Education Act 2005—
- (a) section 24(3)(a) and (d) (right of access), and
- (b) section 58 (computer records).”
- (3) In subsection (3), for “Section 42A” substitute “Section 29”.

Education Act 2002 (c. 32)

- 28 In section 63 of the Education Act 2002 (power to require LEA to obtain advisory services) in subsection (1)(a)(i) for “with serious weaknesses” substitute “requiring significant improvement”.
- 29 In section 159 of the Education Act 2002 (unregistered independent schools), in subsection (5), for “Section 42 of the School Inspections Act 1996” substitute “Section 58 of the Education Act 2005”.

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 30 In section 36 of the Nationality, Immigration and Asylum Act 2002 (education: general), in subsection (9)(a), for “the School Inspections Act 1996 (c. 57)” substitute “Part 1 of the Education Act 2005 (school inspections)”.

SCHEDULE 10

Section 66

PROPOSALS UNDER SECTION 66 FOR ESTABLISHMENT
 OF SECONDARY SCHOOLS: SUPPLEMENTARY

PART 1

INTRODUCTORY

- 1 This Schedule applies to proposals published under section 66.

- 2 In this Schedule “promoters”, in relation to any proposals, means the persons who made the proposals (but does not include a local education authority).

PART 2

APPROVAL OF PROPOSALS BY SCHOOL ORGANISATION COMMITTEE OR ADJUDICATOR

Submission of proposals to school organisation committee

- 3 (1) Regulations must make provision for the submission of the proposals to the school organisation committee.
- (2) Regulations under this paragraph may make provision—
- (a) for the making of objections or comments in relation to the proposals within a prescribed period to the local education authority who published the proposals, and
 - (b) for the sending by the local education authority to the school organisation committee within a prescribed period of copies of objections or comments received.

Approval of proposals

- 4 (1) The proposals must be considered in the first instance by the school organisation committee.
- (2) The committee may—
- (a) reject all the proposals,
 - (b) approve any of the proposals without modification,
 - (c) approve any of the proposals with such modifications as the committee think desirable after consulting such persons as may be prescribed, or
 - (d) if the committee think it appropriate to do so, and subject to regulations, refer to the adjudicator all the proposals with any comments on them made by the committee.
- (3) Sub-paragraph (2) does not apply in any case where paragraph 5 requires the committee to refer the proposals to the adjudicator.
- (4) Regulations may make provision modifying the application of sub-paragraphs (1) and (2) in relation to proposals which are related to other proposals of a prescribed description; and regulations may require the committee, in deciding for the purposes of the regulations whether any proposals are related, to have regard to any guidance given from time to time by the Secretary of State.
- (5) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (6) When deciding whether or not to give an approval under this paragraph, the committee must have regard to any guidance given from time to time by the Secretary of State.
- (7) Sub-paragraphs (1) and (2) do not prevent the promoters or local education authority by whom any proposals have been made from withdrawing those proposals—

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- (a) except in a case where the proposals have been referred to the adjudicator, by notice in writing to the school organisation committee, or
 - (b) in that excepted case, by notice in writing to the adjudicator,
- at any time before the proposals are determined under this paragraph by the committee or by the adjudicator.

Mandatory reference to adjudicator

- 5 (1) Regulations may make provision requiring the school organisation committee in prescribed cases to refer to the adjudicator all the proposals with any comments made on them by the committee.
- (2) The Secretary of State may at any time give a direction to a school organisation committee requiring them to refer to the adjudicator—
- (a) any proposals which have been submitted to the committee under paragraph 3 but which, at the time when the direction is given, have not been determined by the committee, and
 - (b) all subsequent proposals submitted to the committee under that paragraph until the direction is revoked,
- with any comments made on any of the proposals by the committee.
- (3) Where a direction under sub-paragraph (2) is given to a school organisation committee at a time when the committee are considering proposals which consist of or include proposals to establish an Academy, the committee must complete any consultation required by paragraph 7 before referring the proposals to the adjudicator.
- (4) Where a school organisation committee are required by regulations under sub-paragraph (1) or a direction under sub-paragraph (2) to refer any proposals (“the relevant proposals”) to the adjudicator, the committee must also refer to the adjudicator any proposals published under section 28, 28A, 29 or 31 of the School Standards and Framework Act 1998 (c. 31) which relate to the area of the local education authority, if they are satisfied that the proposals are related to the relevant proposals.
- (5) In deciding under sub-paragraph (4) whether any proposals are related to other proposals the school organisation committee must have regard to any guidance given from time to time by the Secretary of State.

Effect of reference to adjudicator

- 6 (1) Where any proposals are referred to the adjudicator under paragraph 4(2)(d) or paragraph 5(1) or (2)—
- (a) he must consider the proposals afresh, and
 - (b) sub-paragraphs (2) and (4) to (6) of paragraph 4 (other than sub-paragraph (2)(d) of that paragraph) apply to him in connection with his decision on the proposals as they apply to the committee.
- (2) The revocation of a direction under paragraph 5(2) does not affect the determination by the adjudicator of any proposals referred to him before the revocation.

Proposals to establish Academy

- 7
- (1) Regulations may provide that, where proposals submitted to the school organisation committee under paragraph 3 consist of or include proposals to establish an Academy, the committee must within the prescribed period consult the Secretary of State in accordance with regulations, before taking any decision under paragraph 4.
 - (2) The school organisation committee may not approve under paragraph 4 proposals to establish an Academy unless the Secretary of State, on being consulted under sub-paragraph (1), has indicated in accordance with regulations that, if the proposals were approved, he would be willing to commence negotiations with a view to entering into an agreement under section 482 of the Education Act 1996 (c. 56) for the establishment of an Academy.
 - (3) If a direction under paragraph 5(2) is in force in relation to a school organisation committee and the case does not fall within paragraph 5(3), the reference in sub-paragraph (1) to the committee is to be read as a reference to the adjudicator.
 - (4) Sub-paragraph (2) has effect in relation to a decision of an adjudicator under paragraph 4 as it has effect in relation to a decision of the school organisation committee under that paragraph.
 - (5) Approval under paragraph 4 by the school organisation committee or the adjudicator of proposals to establish an Academy does not oblige the Secretary of State to enter into, or seek to enter into, an agreement under section 482 of the Education Act 1996.

Provision of information

- 8
- Regulations may, in relation to any proposals published under section 66, require any of the following—
- (a) the authority or promoters who published the proposals,
 - (b) the school organisation committee, and
 - (c) the adjudicator,
- to provide such information relating to the proposals to such persons, and at such times, as may be prescribed.

PART 3

DETERMINATION BY LEA WHETHER TO IMPLEMENT PROPOSALS

- 9
- (1) Where the only proposals published in pursuance of a notice published under section 66 by a local education authority are proposals published by that authority by virtue of subsection (8)(b) of that section and either—
 - (a) no objections were made in accordance with regulations under paragraph 3, or
 - (b) all objections so made were withdrawn in writing within the period prescribed under the regulations as that within which any objections must be made,then (subject to the following provisions of this paragraph) the authority must determine whether the proposals should be implemented.
 - (2) Any determination under sub-paragraph (1) must be made within the period of four months beginning with the date of publication of the proposals (as determined in

accordance with regulations); and the authority must notify the school organisation committee and the Secretary of State of any determination made by the authority under sub-paragraph (1).

- (3) The requirement to make a determination under sub-paragraph (1) in the case of any proposals applies only if, at the time when the authority's determination falls to be made under that sub-paragraph, they are satisfied that the proposals are not related to any of the following, namely—
- (a) any undetermined proposals published by the authority under section 28(1) or 28A(1) of the School Standards and Framework Act 1998 (c. 31) to establish a new community or foundation school in the area of the authority,
 - (b) any undetermined proposals published under section 28(2) or 28A(2) of that Act to establish a new voluntary or foundation school in the area of the authority,
 - (c) any undetermined proposals published under Schedule 7 to the Learning and Skills Act 2000 (c. 21),
 - (d) any undetermined proposals published under section 113A of the Learning and Skills Act 2000, if those proposals are of a description prescribed for the purposes of this paragraph,
 - (e) any undetermined proposals made under section 51 of the Further and Higher Education Act 1992 (c. 13), if those proposals are of a description so prescribed, or
 - (f) any direction under paragraph 3(2) or 4(2) of Schedule 11 to this Act.
- (4) For the purposes of sub-paragraph (3) proposals are “undetermined” if they have not been withdrawn and—
- (a) they have not been approved or rejected under paragraph 4 of this Schedule, under paragraph 9 or 10 of Schedule 11 to this Act, under paragraph 3 of Schedule 6 to the School Standards and Framework Act 1998, or under Schedule 7 or 7A to the Learning and Skills Act 2000, or
 - (b) the authority have not determined under this paragraph whether to implement them, or
 - (c) the Secretary of State has not made a decision as to whether or not to make an order under section 16 or 27 of the Further and Higher Education Act 1992, as the case may be; and when deciding under sub-paragraph (3) whether proposals are related to other proposals the authority must have regard to any guidance given from time to time by the Secretary of State.
- (5) The authority may, if they think it appropriate to do so and subject to regulations, refer to the school organisation committee any proposals which would otherwise fall to be determined by the authority under this paragraph.
- (6) Where, in the case of any proposals within sub-paragraph (1)—
- (a) the authority fail to make a determination under that sub-paragraph within the period mentioned in sub-paragraph (2),
 - (b) the requirement to make such a determination does not apply by virtue of sub-paragraph (3), or
 - (c) the authority refer the proposals to the school organisation committee, the proposals must be considered afresh under paragraph 4.

PART 4

IMPLEMENTATION OF PROPOSALS

Requirement to implement proposal to establish maintained school

- 10 (1) Where—
- (a) any proposals to establish a community, foundation or voluntary school have been approved under paragraph 4, or
 - (b) a local education authority have determined under paragraph 9 to implement any such proposals,
- then (subject to the following provisions of this paragraph) the proposals must be implemented, in the form in which they were so approved or determined, in accordance with this Part of this Schedule.
- (2) At the request of any prescribed person, the school organisation committee—
- (a) may modify the proposals after consulting such persons as may be prescribed, and
 - (b) where any approval was given in accordance with paragraph 4(5), may specify a later date by which the event in question must occur.
- (3) If, after consulting such persons as may be prescribed, the school organisation committee are satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
 - (b) that circumstances have so altered since approval was given under paragraph 4 that implementation of the proposals would be inappropriate,
- the committee may determine that sub-paragraph (1) is to cease to apply to the proposals.
- (4) The committee may only make a determination under sub-paragraph (3) where proposals that they should do so have been published, in accordance with regulations, by the authority or promoters who published the proposals referred to in sub-paragraph (1); and regulations may provide for any of the provisions of Parts 1 and 2 of this Schedule to have effect in relation to any such further proposals with or without modifications.
- (5) The committee—
- (a) may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any matter which would otherwise fall to be determined by the committee under this paragraph, and
 - (b) in prescribed cases, must refer to the adjudicator any such matter.
- (6) Where any matter is referred to the adjudicator under this paragraph—
- (a) he must consider the matter afresh, and
 - (b) such of the provisions of sub-paragraphs (2) to (4) above as are relevant shall apply to him in connection with his decision on that matter as they apply to the committee.

Proposals not falling to be implemented

- 11 (1) Where, by virtue of paragraph 10(3), paragraph 10(1) ceases to apply to any proposals, those proposals are to be treated for the purposes of this Schedule as if they had been rejected under paragraph 4.
- (2) Where—
- (a) any approval under paragraph 4 was given in accordance with paragraph 4(5), and
 - (b) the event specified under paragraph 4(5) does not occur by the date in question (whether as specified under that provision or as specified under paragraph 10(2)(b)),
- paragraph 10(1) ceases to apply to the proposals.
- (3) Where, by virtue of sub-paragraph (2), paragraph 10(1) ceases to apply to any proposals approved by the school organisation committee under paragraph 4, those proposals must be considered afresh by the committee under that paragraph.
- (4) Where, by virtue of sub-paragraph (2), paragraph 10(1) ceases to apply to any proposals approved by the adjudicator under paragraph 4, those proposals must be considered afresh by him under that paragraph (and paragraph 6 applies accordingly).

Requirement to implement proposals relating to community school

- 12 Proposals to establish a community school which fall to be implemented under paragraph 10 must be implemented by the local education authority that made them.

Requirement to implement proposals relating to foundation or voluntary controlled school

- 13 (1) This paragraph applies to proposals to establish a foundation or voluntary controlled school which fall to be implemented under paragraph 10.
- (2) Proposals made by a local education authority must be implemented by the authority.
- (3) In any other case, the proposals must be implemented by the local education authority which published them and the promoters, respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (4) Where a local education authority are required under sub-paragraph (2) or (3) to provide a site for a proposed foundation or voluntary controlled school, paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (provision of site and buildings for a foundation, voluntary controlled or foundation special school) applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

Requirement to implement proposals relating to voluntary aided school

- 14 (1) This paragraph applies to proposals to establish a voluntary aided school which fall to be implemented under paragraph 10.
- (2) The proposals must be implemented—
- (a) so far as relating to the provision of any relevant premises for the school, by the local education authority which published the proposals, and
 - (b) otherwise by the promoters.

- (3) In sub-paragraph (2) “relevant premises” means—
- (a) in a case where it is proposed to establish the school at the site specified in the notice under section 66, that site or playing fields, and
 - (b) in any other case, playing fields.
- (4) Sub-paragraphs (5) to (7) apply where a local education authority are required, by virtue of sub-paragraph (2)(a), to provide for a school the site specified in a notice under section 66.
- (5) The authority must transfer their interest in the site and in any buildings on it which are to form part of the school premises—
- (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
 - (b) if the school has no trustees, to the school’s foundation body, to be held by that body for the purposes of the schools comprising the group for which that body acts.
- (6) If any doubt or dispute arises as to the persons to whom the authority are required to make a transfer under sub-paragraph (5), it is to be made to such persons as the Secretary of State thinks proper.
- (7) The authority must pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
- (8) Paragraph 17 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in sub-paragraph (1)(b) of that paragraph.
- (9) Paragraph 19 of that Schedule (assistance from LEA in respect of voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in that paragraph, and paragraph 20 of that Schedule (duty on LEA to transfer interest in premises provided under paragraph 19) applies accordingly.

Proposals relating to Academy

- 15 Where proposals to establish an Academy published under section 66 are implemented by the Secretary of State making an agreement under section 482 of the Education Act 1996 (c. 56), subsection (3) of that section (requirement to consult certain LEAs about the establishment of the school) does not apply.

SCHEDULE 11

Section 67

RATIONALISATION OF SCHOOL PLACES IN ENGLAND

PART 1

INTRODUCTORY

- 1 In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31).
- 2 In this Schedule—
- (a) “powers to make or invite proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority—
 - (i) to publish proposals under section 28, 28A, 29 or 31 of the 1998 Act, or
 - (ii) to publish a notice under section 66 of this Act and then, if they think fit, proposals of their own under subsection (5)(b) of that section;
 - (b) “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a) of the 1998 Act.

PART 2

DIRECTIONS TO BRING FORWARD PROPOSALS

Directions to bring forward proposals to remedy excessive provision

- 3 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority in England, or
 - (b) in any part of such an area,
- is excessive.
- (2) For the purpose of remedying the excess, the Secretary of State may—
- (a) direct the local education authority to exercise their powers to make or invite proposals for the establishment, alteration or discontinuance of schools, and
 - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (3) A direction under sub-paragraph (2) must—
- (a) require the direction to be complied with not later than such date as may be specified in the direction, and
 - (b) require the body to whom the direction is given to apply such principles in giving effect to the direction as may be specified in the direction.

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

- (4) A direction under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals under the 1998 Act are published in pursuance of a direction under sub-paragraph (2), the body concerned must (in addition to complying with section 28(6), 28A(6), 29(5) or 31(5) of the 1998 Act) send—
 - (a) a copy of the published proposals, and
 - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.
- (6) Where a notice under section 66 is published in pursuance of a direction under sub-paragraph (2), the local education authority concerned must send—
 - (a) a copy of the published notice, and
 - (b) a copy of any proposals published under that section in pursuance of the notice,to the Secretary of State.

Directions to bring forward proposals to remedy insufficient provision

- 4
- (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
 - (a) in the area of any local education authority in England, or
 - (b) in any part of such an area,is, or is likely to become, insufficient.
 - (2) The Secretary of State may—
 - (a) direct the local education authority to exercise their powers to make or invite proposals for the establishment, alteration or discontinuance of schools, and
 - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, direct the governing body to exercise their powers to make proposals for the alteration of their school,with a view (in each case) to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the direction.
 - (3) A direction under sub-paragraph (2) must—
 - (a) require the direction to be complied with not later than such date as may be specified in the direction, and
 - (b) require the body to whom the direction is given to apply such principles in giving effect to the direction as may be specified in the direction.
 - (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
 - (5) Where any proposals under the 1998 Act are published in pursuance of a direction under sub-paragraph (2), the body concerned must (in addition to complying with section 28(6), 28A(6), 29(5) or 31(5) of the 1998 Act) send—
 - (a) a copy of the published proposals, and
 - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.

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

- (6) Where a notice under section 66 is published in pursuance of a direction under sub-paragraph (2), the local education authority concerned must send—
- (a) a copy of the published notice, and
 - (b) a copy of any proposals published under that section in pursuance of the notice,
- to the Secretary of State.

Supplementary provisions

- 5 (1) Where the Secretary of State gives a direction under paragraph 3(2) or 4(2) in relation to the area of any local education authority, he must send a copy of the direction—
- (a) to the school organisation committee for the area, and
 - (b) to any adjudicator who appears to him to be likely to be considering proposals in relation to that area.
- (2) Where the school organisation committee or any adjudicator receive a copy of the direction under sub-paragraph (1), the committee or adjudicator must send to the Secretary of State—
- (a) a copy of all proposals relating to the area which have been received by them or him but have not been determined by the relevant time, and
 - (b) a copy of all proposals relating to the area, other than any made under paragraph 7, which they receive after the relevant time.
- (3) Where sub-paragraph (2) applies, then unless the Secretary of State gives his consent—
- (a) neither the school organisation committee nor the adjudicator may make any determination, and
 - (b) the school organisation committee may not make any reference to the adjudicator under paragraph 3 of Schedule 6 to the 1998 Act, under paragraph 4(2)(d) or 5(1) of Schedule 10, or under paragraph 9 of this Schedule,
- in relation to any proposals within sub-paragraph (2) during the period beginning with the relevant time and ending with the time when the Secretary of State notifies the committee or the adjudicator, as the case may be, that they or he may make any such determination or reference in relation to those proposals without the Secretary of State's consent.
- (4) The duty of the school organisation committee or any adjudicator to send copies of the proposals to the Secretary of State under sub-paragraph (2) terminates at the end of the period mentioned in sub-paragraph (3).
- (5) In sub-paragraphs (2) and (3)—
- (a) references to the relevant time, in relation to the school organisation committee or to any adjudicator, are to the time when they or he receive under sub-paragraph (1) a copy of the direction,
 - (b) references to proposals are to proposals made under section 28, 28A, 29 or 31 of the 1998 Act, Schedule 7 to the Learning and Skills Act 2000 (c. 21), section 66 of this Act or paragraph 7 of this Schedule, and
 - (c) references to the determination of any proposals are to—
 - (i) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6 to the 1998 Act,

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- (ii) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000 (c. 21),
 - (iii) any determination whether or not to approve the proposals under paragraph 4 of Schedule 10, or
 - (iv) any determination whether or not to approve the proposals under paragraph 9 or 11 of this Schedule.
- 6 (1) Where a local education authority publish any proposals under section 28, 28A, 29 or 31 of the 1998 Act in pursuance of a direction under paragraph 3(2) or 4(2), those proposals require approval under paragraph 3 of Schedule 6 to the 1998 Act, despite anything in paragraph 3(1)(a) or 4 of that Schedule.
- (2) Proposals made by any person under section 28, 28A, 29 or 31 of the 1998 Act in pursuance of a direction given to that person under paragraph 3(2) or 4(2) may not be withdrawn without the consent of the Secretary of State and such consent may be given on such conditions (if any) as the Secretary of State considers appropriate.
- (3) Where the governing body of a foundation, voluntary or foundation special school make any proposals in pursuance of a direction given to the governing body under paragraph 3(2)(b) or 4(2)(b), the local education authority must reimburse any expenditure reasonably incurred by the governing body in making the proposals.
- (4) Where—
- (a) proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of any such direction under paragraph 3(2)(b) or 4(2)(b) are approved, or as the case may be, determined to be implemented, or
 - (b) proposals approved under paragraph 9 or 11 have effect as mentioned in paragraph 13(b),
- then, despite anything in Part 3 of Schedule 6 to the 1998 Act, the local education authority must defray the cost of implementing the proposals.

PART 3

PROPOSALS BY SECRETARY OF STATE

- 7 (1) Where—
- (a) in relation to the area of any local education authority or any part of such an area, the Secretary of State—
 - (i) has given the local education authority a direction under paragraph 3(2)(a) or 4(2)(a) to make proposals for the establishment, alteration or discontinuance of schools, or
 - (ii) has given the governing body of a foundation, voluntary or foundation special school a direction under paragraph 3(2)(b) or 4(2)(b) to make proposals for the alteration of their school, and
 - (b) any of the conditions in sub-paragraph (3) is met,
- he may make any such proposals as might have been made in accordance with the direction relating to that area or that part of that area by the person to whom the direction was given.
- (2) In determining for the purposes of sub-paragraph (1) what proposals might have been made by a local education authority under section 28A of the 1998 Act, it is to be

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assumed that no notice under section 66 of this Act has been published and that the Secretary of State consents to the publication of the proposals under section 28A.

- (3) The conditions referred to in sub-paragraph (1)(b) are—
- (a) that the person to whom the direction was given has failed to publish within the time specified in the direction proposals under section 28, 28A, 29 or 31 of the 1998 Act or a notice under section 66,
 - (b) that the person to whom the direction was given has published proposals under section 28, 28A, 29 or 31 of the 1998 Act but it appears to the Secretary of State that the proposals are inadequate,
 - (c) that a notice under section 66 has been published in pursuance of the direction but the period within which proposals must be published under subsection (8)(a) or (b) of that section has passed without any proposals being published, or
 - (d) that proposals have been published under (8)(a) or (b) of section 66 in pursuance of a notice published in pursuance of the direction but either—
 - (i) every set of proposals has been withdrawn, or
 - (ii) every set of proposals, apart from any that has been withdrawn, appears to the Secretary of State to be inadequate.
- (4) Proposals under this paragraph must—
- (a) contain such information, and
 - (b) be published in such manner,
- as may be prescribed.
- (5) The Secretary of State must send a copy of the proposals to the school organisation committee for the area to which the proposals relate.

PART 4

PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 7

Objections

- 8 (1) Any person may make objections to, or comments on, any proposals published under paragraph 7.
- (2) Objections or comments under this paragraph—
- (a) must be sent to the school organisation committee for the area to which those proposals relate, and
 - (b) must be so sent within such period as may be prescribed.

Approval of proposals

- 9 (1) Proposals published under paragraph 7 require the approval of the school organisation committee under this paragraph or of the adjudicator under paragraph 11.
- (2) Where the school organisation committee receive a copy of the proposals published under paragraph 7, they must (subject to sub-paragraph (3) and (8)) either—
- (a) approve them without modification, or

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- (b) approve them with such modifications as the committee thinks desirable and to which the Secretary of State consents, or
 - (c) refer them to the adjudicator under sub-paragraph (6) or (7).
- (3) The committee may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any proposals which would otherwise fall to be dealt with by them under sub-paragraph (2).
- (4) Any approval given under this paragraph may, with the consent of the Secretary of State, be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (5) When deciding whether or not to give any approval under this paragraph the committee must have regard to any guidance given from time to time by the Secretary of State.
- (6) If—
 - (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and
 - (b) the Secretary of State requests the committee to refer his proposals to the adjudicator,the committee must refer the Secretary of State’s proposals to the adjudicator.
- (7) If the committee—
 - (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4 to the 1998 Act) falls to be decided by them under this paragraph by a unanimous decision but have failed to reach such a decision on the matter, or
 - (b) have decided not to give any approval under this paragraph,the committee must refer the Secretary of State’s proposals to the adjudicator.
- (8) The Secretary of State may at any time give a direction to a school organisation committee requiring them to refer to the adjudicator—
 - (a) any proposals which have been submitted to the committee under this paragraph but which, at the time when the direction is given, have not been determined by the committee, and
 - (b) all subsequent proposals submitted to the committee under this paragraph until the direction is revoked.
- (9) Where a school organisation committee refer any proposals to the adjudicator under sub-paragraph (6), (7) or (8), they must also refer to him any comments of the committee on the proposals.
- (10) Sub-paragraph (1) does not prevent the Secretary of State from withdrawing any proposals published under paragraph 7 by notice in writing given to the school organisation committee at any time before the proposals are determined under this paragraph or paragraph 11.

Reference to adjudicator of other proposals

- 10 (1) Where any proposals are referred to the adjudicator under paragraph 9, the school organisation committee must also refer to him—

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- (a) any other proposals published under paragraph 7 in relation to the area of the local education authority (and not withdrawn),
- (b) any proposals made by that authority in the exercise of their powers to make or invite proposals for the establishment, alteration or discontinuance of schools (and not withdrawn),
- (c) any proposals published by that authority under section 66(8)(a) of this Act (and not withdrawn),
- (d) any proposals made by the governing body of any community, foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn), and
- (e) any proposals published under Schedule 7 to the Learning and Skills Act 2000 (c. 21) (and not withdrawn),

where those proposals are not determined before the adjudicator holds an inquiry under paragraph 11(1) and appear to the committee to be related to the proposals referred by them to the adjudicator under paragraph 9.

- (2) Sub-paragraph (1) applies to any proposals within that sub-paragraph whether or not the proposals have been previously referred to the adjudicator by the committee.
- (3) References in this paragraph to the determination of any proposals are to—
 - (a) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6 to the 1998 Act, paragraph 4 of Schedule 10 to this Act, sub-paragraph (2)(a) or (b) of paragraph 9 or paragraph 11(3) of this Schedule, or
 - (b) any determination whether or not to approve the proposals under Schedule 7 to the Learning and Skills Act 2000.

Local inquiry into proposals

- 11 (1) Where any proposals are referred to the adjudicator under paragraph 9, he must hold a local inquiry to consider—
- (a) those proposals,
 - (b) any additional proposals referred to him under paragraph 10(1),
 - (c) any objections or comments made (under paragraph 2 of Schedule 6 to the 1998 Act, paragraph 3 of Schedule 10 to this Act or paragraph 8 of this Schedule) to any proposals within paragraph (a) or (b) unless such objections or comments have been withdrawn, and
 - (d) any views expressed by the school organisation committee on any such proposals.
- (2) It is not open to the inquiry to question the principles specified in the direction under paragraph 3(2) or 4(2).
- (3) After holding the inquiry, the adjudicator must, in the case of any proposals considered at the inquiry, either—
- (a) approve them with or without modifications, or
 - (b) reject them.
- (4) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.

- (5) When deciding whether or not to give any approval under this paragraph, paragraph 9(5) applies to the adjudicator as it does to the committee.

Proposals relating to Academy

- 12 (1) Regulations may provide that, where proposals referred to the adjudicator under paragraph 10(1) consist of or include proposals to establish an Academy, the adjudicator must within the prescribed period consult the Secretary of State in accordance with regulations, before taking any decision under that paragraph.
- (2) The adjudicator may not approve under paragraph 11 proposals to establish an Academy unless the Secretary of State, on being consulted under sub-paragraph (1), has indicated in accordance with regulations that, if the proposals were approved, he would be willing to commence negotiations with a view to entering into an agreement under section 482 of the Education Act 1996 (c. 56) for the establishment of an Academy.
- (3) Approval under paragraph 11 of proposals to establish an Academy does not oblige the Secretary of State to enter into, or seek to enter into, an agreement under section 482 of the Education Act 1996.

Implementation of proposals

- 13 Proposals approved by the school organisation committee under paragraph 9 or by the adjudicator under paragraph 11 have effect as if they—
- (a) had been made by the local education authority under their powers to make or invite proposals for the establishment, alteration or discontinuance of schools, or
- (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school, and had been approved by the school organisation committee or the adjudicator, as the case may be, under paragraph 3 of Schedule 6 to the 1998 Act or, in the case of proposals to establish an Academy, under paragraph 4 of Schedule 10 to this Act.

PART 5

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

- 14 (1) This paragraph applies to proposals for a school in England to cease to be an establishment which admits pupils of one sex only.
- (2) Sub-paragraph (3) applies where such proposals are made under paragraph 7 and, in accordance with sub-paragraph (5) of that paragraph, the Secretary of State sends a copy of the published proposals to the school organisation committee.
- (3) The sending of the published proposals to the school organisation committee by the Secretary of State is to be treated as an application by the responsible body for the making by the school organisation committee of a transitional exemption order, and the committee may make such an order accordingly.
- (4) Where—

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- (a) the school organisation committee have failed to reach a unanimous decision under sub-paragraph (3) on whether to make a transitional exemption order, or
- (b) the school organisation committee refer the proposals to the adjudicator under paragraph 9,

they must refer the question whether to make a transitional exemption order to the adjudicator.

- (5) Where that question is referred to the adjudicator—
 - (a) he must consider the matter afresh, and
 - (b) he may make a transitional exemption order accordingly.

- (6) In this paragraph—
 - “the 1975 Act” means the Sex Discrimination Act 1975 (c. 65);
 - “make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke;
 - “the responsible body” has the same meaning as in section 22 of the 1975 Act;
 - “transitional exemption order” has the same meaning as in section 27 of the 1975 Act;

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration of a school’s admission arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).

SCHEDULE 12

Section 72

SCHOOL ORGANISATION: FURTHER AMENDMENTS

Education Act 1996 (c. 56)

- 1 (1) Section 5 of the Education Act 1996 (primary schools, secondary schools and middle schools) is amended as follows.
- (2) For subsection (3) substitute—
 - “(3) In this Act “middle school” means a school which, in pursuance of proposals published under section 28 or 28A of, or paragraph 5 of Schedule 7 to, the School Standards and Framework Act 1998 or section 66 of, or paragraph 7 of Schedule 11 to, the Education Act 2005, has been established as, or altered so as to become, a school for providing full-time education suitable to the requirements of pupils who—
 - (a) have attained a specified age below 10 years and six months, and
 - (b) are under a specified age above 12 years (referred to in this Act as “the relevant upper age”).”
- (3) In subsection (5) for the words from the beginning to “subsection” substitute “The powers conferred by the enactments mentioned in subsection (3) (so far as relating to the establishment of middle schools) and the powers conferred by subsection”.

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- 2 In section 529 of the Education Act 1996 (power to accept gifts on trust for educational purposes), in subsection (2), for the words from “section 28” to the end substitute “sections 28 and 28A of the School Standards and Framework Act 1998 and section 66 of the Education Act 2005 as an intention to establish a new community school (so that proposals for that purpose shall be published in accordance with those sections); and Schedule 6 to the School Standards and Framework Act 1998 or Schedule 10 to the Education Act 2005 (which relate to statutory proposals) shall apply accordingly”.
- 3 In section 530 of the Education Act 1996 (compulsory purchase of land), in subsection (1)(c), for “section 70 of the Education Act 2002” substitute “section 66 of the Education Act 2005”.
- 4 In section 580 of the Education Act 1996 (index), after the entry beginning “relevant standard number” insert—
-
- “relevant upper age (in relation to a middle school) section 5(3)(b)”
-
- 5 (1) In Schedule 35A to the Education Act 1996 (Academies: land), paragraph 1 is amended as follows.
- (2) In sub-paragraph (2)(b), for “section 70 of the Education Act 2002 (new schools to meet increased demand for secondary education)” substitute “section 66 of the Education Act 2005 (proposals for new secondary schools)”.
- (3) In sub-paragraph (3)(d), for “section 70 of the Education Act 2002” substitute “section 66 of the Education Act 2005”.

School Standards and Framework Act 1998 (c. 31)

- 6 In section 25 of the School Standards and Framework Act 1998 (adjudicators), in subsection (2), after “this Act” insert “or Part 2 of the Education Act 2005”.
- 7 In section 33 of the School Standards and Framework Act 1998 (further provisions relating to establishment, alteration or discontinuance of schools), in subsection (4), after “28,” insert “28A,”.
- 8 In section 34 of the School Standards and Framework Act 1998 (rationalisation of school places)—
- (a) for “Secretary of State” substitute “National Assembly for Wales”,
- (b) for “and governing bodies” substitute “in Wales and governing bodies of maintained schools in Wales”, and
- (c) for “him” substitute “the Assembly”.
- 9 In section 138 of the School Standards and Framework Act 1998 (orders and regulations), in subsection (4), after “20(7),” insert “29(9A),”.
- 10 In section 143 of the School Standards and Framework Act 1998 (index), in the entry beginning “promoters”, after “section 28(2)” insert “or 28A(2)”.
- 11 In Schedule 4 to the School Standards and Framework Act 1998 (school organisation committees) in paragraph 5(4)—
- (a) in paragraph (c), for “or paragraph 16 of Schedule 7” substitute “or under paragraph 14 of Schedule 11 to the Education Act 2005”, and

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- (b) in paragraph (d), for “paragraph 8 of Schedule 7” substitute “paragraph 9 of Schedule 11 to the Education Act 2005”.
- 12 In Schedule 5 to the School Standards and Framework Act 1998 (adjudicators), in paragraph 5(1) (procedure), after “this Act” insert “or under Part 2 of the Education Act 2005”.
- 13 (1) Schedule 6 to the School Standards and Framework Act 1998 (statutory proposals: procedure and implementation) is amended as follows.
- (2) In paragraph 1(1), after “28,” insert “28A”.
- (3) In paragraph 2(1), after “28,” insert “28A,”.
- (4) In paragraph 3—
- (a) in sub-paragraph (1), after “28,” insert “28A,”
- (b) after sub-paragraph (6C) insert—
- “(6D) If by the end of such period as may be specified in regulations, the committee have not determined whether to give any approval under this paragraph, they shall refer the proposals to the adjudicator.”, and
- (c) in sub-paragraph (8), after “28,” insert “28A,”.
- (5) In paragraph 4—
- (a) in sub-paragraph (1), after “28,” insert “28A,”
- (b) in sub-paragraph (3)—
- (i) omit paragraph (d), and
- (ii) for paragraph (h) substitute—
- “(h) a direction under paragraph 3(2) or 4(2) of Schedule 11 to the Education Act 2005.”, and
- (c) in sub-paragraph (4)(a), for “paragraph 8 or 9 of Schedule 7” substitute “paragraph 9 or 11 of Schedule 11 to the Education Act 2005”.
- (6) In paragraph 5—
- (a) in sub-paragraph (1)(a) and (4), after “28,” insert “28A,”
- (b) after sub-paragraph (6A) insert—
- “(6B) If by the end of such period as may be specified in regulations, the committee have not decided any matter falling to be decided by them under this paragraph, they shall refer the proposals to the adjudicator.”, and
- (c) in sub-paragraph (10), for “shall be regarded as requiring a fresh approval” substitute “fall to be considered afresh by the committee”.
- (7) In paragraph 10(7), for “shall be regarded as requiring a fresh approval” substitute “fall to be considered afresh by the Secretary of State”.
- (8) In paragraph 12(2), after “section 28(1)” insert “, 28A(1)”.
- (9) In paragraph 13—
- (a) in sub-paragraph (2), after “section 28(1)” insert “, 28A(1)”.
- (b) for sub-paragraph (3) substitute—
- “(3) Where the proposals were published—

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- (a) under section 28(2) or 28A(2), by promoters, or
 - (b) under section 28(2), by the governing body,they shall be implemented by the local education authority and by the promoters or (as the case may be) the governing body, respectively, to such extent (if any) as the proposals provide for each of them to do so.”
- (10) In paragraph 14(3), after “section 28(2)” insert “or 28A(2)”.
- 14 (1) Schedule 7 to the School Standards and Framework Act 1998 (rationalisation of school places) is amended as follows.
 - (2) For the heading substitute “RATIONALISATION OF SCHOOL PLACES IN WALES”.
 - (3) After paragraph 1 insert—
 - “1A In this Schedule “the Assembly” means the National Assembly for Wales.”
 - (4) In paragraph 2—
 - (a) for “Secretary of State”, wherever occurring, substitute “Assembly”,
 - (b) in sub-paragraph (1)(a), after “local education authority” insert “in Wales”, and
 - (c) omit sub-paragraph (5).
 - (5) In paragraph 3—
 - (a) for “Secretary of State”, wherever occurring, substitute “Assembly”,
 - (b) in sub-paragraph (1)(a), after “local education authority” insert “in Wales”, and
 - (c) omit sub-paragraph (5).
 - (6) In paragraph 4—
 - (a) omit sub-paragraphs (1) to (6),
 - (b) in sub-paragraph (7)—
 - (i) omit “(whether relating to an area in England or in Wales)”, and
 - (ii) for “Secretary of State” (in both places) substitute “Assembly”, and
 - (c) for paragraph (b) of sub-paragraph (9) substitute—
 - “(b) proposals adopted under paragraph 14 have effect as mentioned in paragraph 15(b),”.
 - (7) For the heading to Part 3 substitute “PROPOSALS BY NATIONAL ASSEMBLY FOR WALES”.
 - (8) In paragraph 5—
 - (a) in sub-paragraph (1)—
 - (i) for “Secretary of State” substitute “Assembly”, and
 - (ii) for “he may” substitute “the Assembly may”,
 - (b) omit sub-paragraph (3), and
 - (c) in sub-paragraph (4), for the words from the beginning to “shall” substitute “The Assembly shall”.
 - (9) Omit Part 4.

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- (10) In paragraph 12(2)(a), for “Secretary of State” substitute “Assembly”.
- (11) In paragraph 13—
- (a) in sub-paragraph (1), for “the Secretary of State” and “he” substitute “the Assembly”,
 - (b) in sub-paragraph (2), for “the Secretary of State”, “his” and “he” substitute respectively “the Assembly”, “the Assembly's” and “the Assembly”,
 - (c) in sub-paragraph (3), for “Secretary of State” substitute “Assembly”,
 - (d) in sub-paragraph (4)—
 - (i) for “Secretary of State” substitute “Assembly”,
 - (ii) for “he shall refer” substitute “the Assembly shall refer”,
 - (iii) for “he causes” substitute “the Assembly causes”,
 - (iv) for “to him” substitute “to the Assembly”, and
 - (v) for “he is required” substitute “it is required”, and
 - (e) in sub-paragraph (5)—
 - (i) for “Secretary of State” substitute “Assembly”,
 - (ii) for “he forms” substitute “the Assembly forms”,
 - (iii) for “him” substitute “the Assembly”, and
 - (iv) for “he subsequently forms” substitute “the Assembly subsequently forms”.
- (12) In paragraph 14—
- (a) in sub-paragraph (1)—
 - (i) for “Secretary of State” substitute “Assembly”,
 - (ii) for “he” (wherever occurring) substitute “it”, and
 - (iii) in paragraph (a), for “him” substitute “the Assembly”, and
 - (b) in sub-paragraph (2)—
 - (i) for “Secretary of State” substitute “Assembly”, and
 - (ii) for “he” (wherever occurring) substitute “it”.
- (13) In paragraph 15, for “Secretary of State” (in both places) substitute “Assembly”.
- (14) Omit paragraph 16.
- (15) In paragraph 17(2), for “Secretary of State” (in both places) substitute “Assembly”.
- 15 (1) Schedule 22 to the School Standards and Framework Act 1998 (disposals of land in case of certain schools and disposals on discontinuance) is amended as follows.
- (2) In paragraph 2(1)(a), at the end insert “or under paragraph 14(5) of Schedule 10 to the Education Act 2005”.
- (3) In paragraph 3(1)(a), at the end insert “or under paragraph 14(5) of Schedule 10 to the Education Act 2005”.

Education Act 2002 (c. 32)

- 16 In section 129 of the Education Act 2002 (transfer of employment), in subsection (1) (a) after “section 28” insert “, 28A”.

SCHEDULE 13

Section 77

THE TRAINING AND DEVELOPMENT AGENCY FOR SCHOOLS

Supplementary powers

- 1 (1) The power conferred on the Agency by section 83 includes power to do anything which appears to them to be incidental to the furtherance of the objectives in section 75(2) or to the exercise of any other function conferred on them by any enactment, including, in particular, power to—
 - (a) acquire and dispose of land and other property,
 - (b) enter into contracts,
 - (c) invest sums not immediately required for the purposes of the discharge of their functions, and
 - (d) accept gifts of money, land or other property.
- (2) The Agency may not borrow money except with the consent of the Secretary of State.

Chief officer

- 2 (1) One of the members of the Agency is to be the chief officer.
- (2) The chief officer is to be appointed by the Agency with the approval of the Secretary of State on such terms and conditions (including terms with respect to tenure and vacation of office) as the Agency may with the approval of the Secretary of State determine.
- (3) On approval by the Secretary of State of the person to be appointed on any occasion as chief officer of the Agency and the terms and conditions of his appointment, the Secretary of State must—
 - (a) if that person is not already a member of the Agency, appoint him as a member for the same term as the term of his appointment as chief officer, and
 - (b) if he is already such a member but his term of appointment as such ends before the term of his appointment as chief officer ends, extend his term of appointment as a member so that it ends at the same time as the term of his appointment as chief officer.

Tenure of members of the Agency

- 3 (1) A person holds and vacates office as a member or as chairman or chief officer of the Agency in accordance with the terms of his appointment and, on ceasing to be a member, is 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 of the Agency.
- 4 If the Secretary of State is satisfied that a member of the Agency—
 - (a) has been absent from meetings of the Agency for a period longer than six consecutive months without the permission of the Agency, or
 - (b) is unable or unfit to discharge the functions of a member,the Secretary of State may by notice in writing to the member remove him from office and thereupon the office becomes vacant.

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Salaries, allowances and pensions

- 5 (1) The Agency—
- (a) must pay to their members such salaries or fees, and such travelling, subsistence and other allowances, as the Secretary of State may determine, and
 - (b) must, 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 the Agency 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 Agency to make to that person a payment of such amount as the Secretary of State may determine.
- (3) The Agency must pay to the members of any of their committees who are not members of the Agency such travelling, subsistence or other allowances as the Secretary of State may determine.

Staff

- 6 (1) The Agency may appoint such employees as they think fit.
- (2) The Agency may pay to their employees such remuneration and allowances as the Agency may determine.
- (3) The employees are to be appointed on such other terms and conditions as the Agency may determine.
- (4) A determination under sub-paragraph (2) or (3) requires the approval of the Secretary of State.
- 7 (1) Employment with the Agency continues to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.
- (2) The Agency shall pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.
- (3) Where an employee of the Agency is, by reference to that employment, a participant in a scheme under section 1 of that Act and is also a member of the Agency, the Minister for the Civil Service 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 Agency (whether or not any benefits are payable to or in respect of him by virtue of paragraph 5).

Committees

- 8 (1) The Agency may establish a committee for any purpose.
- (2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the Agency.

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- (3) Such a committee may include persons who are not members of the Agency.
- (4) The Agency shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Delegation of functions

- 9 The Agency may authorise the chairman, the chief officer or any committee established under paragraph 8 to exercise such of their functions as they may determine.

Proceedings

- 10 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 the Agency under this Act—
 - (a) a representative of the Secretary of State is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Agency or of any committee of the Agency, and
 - (b) the Agency must provide the Secretary of State with such copies of any documents distributed to members of the Agency or of any such committee as he may require.
- 11 Without prejudice to any other rights the Assembly may require to be accorded to it as a condition of any grants made to the Agency under this Act—
 - (a) a representative of the Assembly is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Agency or of any committee of the Agency, and
 - (b) the Agency must provide the Assembly with such copies of any documents distributed to members of the Agency or of any such committee as the Assembly may require.
- 12 (1) The Chief Inspector for England, or a representative of his, is entitled to attend and take part in deliberations (but not in decisions) at meetings of the Agency or of any committee of the Agency.

(2) The Agency must provide the Chief Inspector for England with such copies of any documents distributed to members of the Agency or of any such committee as he may require.
- 13 The validity of any proceedings of the Agency or of any committee of the Agency is not affected by a vacancy among the members or by any defect in the appointment of a member.
- 14 Subject to the preceding provisions of this Schedule, the Agency may regulate their own procedure and that of any of their committees.

Application of seal and proof of instruments

- 15 The application of the seal of the Agency is authenticated by the signature—
 - (a) of the chairman or of some other person authorised either generally or specially by the Agency to act for that purpose, and
 - (b) of one other member.

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

- 16 Every document purporting to be an instrument made or issued by or on behalf of the Agency and to be duly executed under the seal of the Agency, or to be signed and executed by a person authorised by the Agency to act in that behalf, is to be received in evidence and to be treated, without further proof, as being so made or issued unless the contrary is shown.

Accounts

- 17 (1) It is the duty of the Agency—
- (a) to keep proper accounts and proper records in relation to the accounts,
 - (b) to prepare in respect of each financial year of the Agency a statement of accounts, and
 - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General by such time as the Secretary of State may direct.
- (2) The statement of accounts must comply with any directions given by the Secretary of State 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,
- and must contain such additional information as the Secretary of State may require to be provided for the information of Parliament.
- (3) The Comptroller and Auditor General must 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 each period of twelve months beginning with 1st April.

Annual reports

- 18 The Agency—
- (a) must make an annual report to the Secretary of State, who must lay a copy of it before each House of Parliament, and
 - (b) may arrange for the report to be published in such manner as the Agency consider appropriate.

Status of Agency

- 19 The Agency are not to 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 Agency is not to be regarded as property of, or property held on behalf of, the Crown.

SCHEDULE 14

Section 98

AMENDMENTS RELATING TO THE TRAINING OF THE SCHOOL WORKFORCE

Public Records Act 1958 (c. 51)

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3, at the appropriate place insert—

“Training and Development Agency for Schools”.

Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation), at the appropriate place insert—

“Training and Development Agency for Schools”.

Superannuation Act 1972 (c. 11)

- 3 In Schedule 1 to the Superannuation Act 1972 (which lists the kinds of employment etc. referred to in section 1 of that Act), for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place insert—

“Any member of the Training and Development Agency for Schools in receipt of remuneration.”

Sex Discrimination Act 1975 (c. 65)

- 5 In section 23D of the Sex Discrimination Act 1975 (discrimination by Teacher Training Agency)—

(a) for “Teacher Training Agency” (both in the section and in the heading) substitute “Training and Development Agency for Schools”, and

(b) for “Part 1 of the Education Act 1994” substitute “any enactment”.

- 6 In section 25 of the Sex Discrimination Act 1975 (general duty in public sector of education), in subsection (6) for paragraph (f) substitute—

“(f) the Training and Development Agency for Schools.”

Race Relations Act 1976 (c. 74)

- 7 In section 18D of the Race Relations Act 1976 (discrimination by Teacher Training Agency)—

(a) for “Teacher Training Agency” (both in the section and in the heading) substitute “Training and Development Agency for Schools”, and

(b) for “Part 1 of the Education Act 1994” substitute “any enactment”.

- 8 In Schedule 1A (bodies and other persons subject to general statutory duty) in Part 2, for the entry relating to the Teacher Training Agency substitute—

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

“The Training and Development Agency for Schools.”

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

- 9 In section 1 of the Education (Fees and Awards) Act 1983 (fees at universities and further education establishments), in subsection (3) for paragraph (e) substitute—
- “(e) any training provider, within the meaning of Part 3 of the Education Act 2005 (training the school workforce), who is receiving financial support under section 78 of that Act from the Training and Development Agency for Schools;
 - (ee) any institution eligible for funding by the Higher Education Funding Council for Wales under Part 3 of that Act;”.

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

- 10 In the Education (No. 2) Act 1986, omit section 50 (grants for teacher training, etc.).

Education Act 1994 (c. 30)

- 11 Omit sections 1 to 11 of the Education Act 1994.
- 12 Omit sections 12 to 17 of the Education Act 1994.
- 13 For section 18A of the Education Act 1994 substitute—

“18B Inspection of teacher training

- (1) Her Majesty’s Chief Inspector of Schools in England (“the Chief Inspector”) may inspect and report on—
 - (a) any initial training of teachers, or specialist teaching assistants, for schools, or
 - (b) any in-service training of such teachers or assistants, which is provided by a training provider.
- (2) When asked to do so by the Secretary of State, the Chief Inspector must—
 - (a) give advice to the Secretary of State on such matters connected with training falling within subsection (1)(a) or (b) as may be specified in the Secretary of State’s request;
 - (b) inspect and report on such one or more relevant training providers in England as may be so specified.
- (3) The Chief Inspector may at any time give advice to—
 - (a) the Secretary of State,
 - (b) the Training and Development Agency for Schools, or
 - (c) the General Teaching Council for England,
 on any matter connected with training falling within subsection (1)(a) or (b).
- (4) The Chief Inspector may—
 - (a) make such reports of inspections carried out by him under this section as he considers appropriate, and
 - (b) arrange for any such report to be published in such manner as he considers appropriate,

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and subsections (2) to (4) of section 11 of the 2005 Act (publication of inspection reports) apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.

(5) When inspecting a training provider under this section, the Chief Inspector has at all reasonable times—

- (a) a right of entry to the premises of the training provider, and
- (b) a right to inspect, and take copies of, any records kept by the training provider, and any other documents containing information relating to the training provider, which he considers relevant to the exercise of his functions under this section;

and section 58 of the 2005 Act (inspection of computer records) applies for the purposes of this section as it applies for the purposes of Part 1 of the 2005 Act.

(6) Without prejudice to subsection (5), a training provider to which an inspection under this section relates—

- (a) must give the Chief Inspector all assistance in connection with the exercise of his functions under this section which he is reasonably able to give, and
- (b) must secure that all such assistance is also given by persons who work for the training provider.

(7) The Chief Inspector may not carry out any inspection under subsection (1) unless—

- (a) at least eight weeks previously, he has given notice of his intention to carry out the inspection—
 - (i) to the training provider concerned, or
 - (ii) where the training is provided by a partnership or association of training providers, to one of those training providers, or
- (b) with the agreement of that training provider or (as the case may be) one of those training providers, he has given it shorter notice of that intention.

(8) Any notice under subsection (7)—

- (a) must be given in writing, and
- (b) may be sent by post;

and any such notice may (without prejudice to any other lawful method of giving it) be addressed to a training provider at any address which the training provider has notified to the Training and Development Agency for Schools as its address.

(9) Nothing in this section confers any right or imposes any duty, whether as regards the carrying out of any inspection or otherwise, in relation to any course which consists of instruction given wholly or mainly for purposes other than training falling within subsection (1)(a) or (b).

(10) Any reference in this section to the Chief Inspector is to be read, in relation to any inspection which he is authorised or required to carry out under this

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

section, as including a reference to any person authorised to act on his behalf under paragraph 5(1) or (2) of Schedule 1 to the 2005 Act.

- (11) Nothing in this section is to be taken as prejudicing the generality of sections 2 to 4 of, or paragraph 5(1) or (2) of Schedule 1 to, the 2005 Act.
- (12) In this section—
- (a) “the 2005 Act” means the Education Act 2005;
 - (b) “training provider” has the same meaning as in Part 3 of the 2005 Act;
 - (c) “relevant training provider” means any training provider who provides training falling within subsection (1)(a) or (b);
 - (d) “in-service training” includes any training provided to a teacher serving an induction period (within the meaning of section 19 of the Teaching and Higher Education Act 1998);
 - (e) “documents” and “records” each include information recorded in any form.

18C Inspection of teacher training in Wales

- (1) Her Majesty’s Chief Inspector of Education and Training in Wales (“the Chief Inspector”) may inspect and report on—
- (a) any initial training of teachers, or specialist teaching assistants, for schools, or
 - (b) any in-service training of such teachers or assistants,
- which is provided by a training provider in Wales.
- (2) When asked to do so by the National Assembly for Wales, the Chief Inspector must—
- (a) give advice to the Assembly on such matters connected with training falling within subsection (1)(a) or (b) as may be specified in the Assembly’s request;
 - (b) inspect and report on such one or more relevant training providers as may be so specified.
- (3) The Chief Inspector may at any time give advice to—
- (a) the Assembly,
 - (b) a funding agency, or
 - (c) the General Teaching Council for Wales,
- on any matter connected with training falling within subsection (1)(a) or (b).
- (4) The Chief Inspector may—
- (a) make such reports of inspections carried out by him under this section as he considers appropriate, and
 - (b) arrange for any such report to be published in such manner as he considers appropriate,

and subsections (2) to (4) of section 29 of the 2005 Act (publication of inspection reports) apply in relation to the publication of any such report as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of that section.

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

- (5) When inspecting a training provider under this section, the Chief Inspector has at all reasonable times—
- (a) a right of entry to the premises of the training provider, and
 - (b) a right to inspect, and take copies of, any records kept by the training provider, and any other documents containing information relating to the training provider, which he considers relevant to the exercise of his functions under this section;
- and section 58 of the 2005 Act (inspection of computer records) applies for the purposes of this section as it applies for the purposes of Part 1 of the 2005 Act.
- (6) Without prejudice to subsection (5), a training provider to which an inspection under this section relates—
- (a) must give the Chief Inspector all assistance in connection with the exercise of his functions under this section which he is reasonably able to give, and
 - (b) must secure that all such assistance is also given by persons who work for the training provider.
- (7) The Chief Inspector may not carry out any inspection under subsection (1) unless—
- (a) at least eight weeks previously, he has given notice of his intention to carry out the inspection—
 - (i) to the training provider concerned, or
 - (ii) where the training is provided by a partnership or association of training providers, to one of those training providers, or
 - (b) with the agreement of that training provider or (as the case may be) one of those training providers, he has given it shorter notice of that intention.
- (8) Any notice under subsection (7)—
- (a) must be given in writing, and
 - (b) may be sent by post;
- and any such notice may (without prejudice to any other lawful method of giving it) be addressed to a training provider at any address which the training provider has notified to a funding agency as its address.
- (9) Nothing in this section confers any right or imposes any duty, whether as regards the carrying out of any inspection or otherwise, in relation to any course which consists of instruction given wholly or mainly for purposes other than training falling within subsection (1)(a) or (b).
- (10) Any reference in this section to the Chief Inspector is to be read, in relation to any inspection which he is authorised or required to carry out under this section, as including a reference to any person authorised to act on his behalf under paragraph 5(1) or (2) of Schedule 2 to the 2005 Act.
- (11) Nothing in this section is to be taken as prejudicing the generality of sections 20 to 23 of, or paragraph 5(1) or (2) of Schedule 2 to, the 2005 Act.
- (12) In this section—

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

- (a) “the 2005 Act” means the Education Act 2005;
 - (b) “funding agency” means the Higher Education Funding Council for Wales or the Training and Development Agency for Schools;
 - (c) “training provider” has the same meaning as in Part 3 of the 2005 Act;
 - (d) “relevant training provider” means any training provider who provides training falling within subsection (1)(a) or (b);
 - (e) “in-service training” includes any training provided to a teacher serving an induction period (within the meaning of section 19 of the Teaching and Higher Education Act 1998);
 - (f) “documents” and “records” each include information recorded in any form.”
- 14 In section 19 of the Education Act 1994 (interpretation)—
- (a) omit subsections (1) to (4), and
 - (b) in subsection (5), for “Other expressions, if” substitute “Expressions”.
- 15 Omit Schedule 1 to the Education Act 1994.

Education Act 1996 (c. 56)

- 16 (1) Section 398 of the Education Act 1996 (no requirements of attendance at Sunday school etc.) is amended as follows.
- (2) In paragraph (b) for “teacher training” substitute “any training for members of the school workforce”.
- (3) Renumber the section as so amended as subsection (1), and at the end insert—
- “(2) In subsection (1)(b), the reference to training for members of the school workforce is to be read in accordance with sections 75(5) and 96(1) of the Education Act 2005.”
- 17 (1) Section 450 of the Education Act 1996 (prohibition of charges for admission) is amended as follows.
- (2) In subsection (2), for paragraph (c) substitute—
- “(c) training for members of the school workforce.”
- (3) After that subsection insert—
- “(3) In subsection (2)(c), the reference to training for members of the school workforce is to be read in accordance with sections 75(5) and 96(1) of the Education Act 2005.”

Audit Commission Act 1998 (c. 18)

- 18 In section 36 of the Audit Commission Act 1998 (studies at request of educational bodies), in the Table in subsection (1), for the entries relating to a funding agency under Part 1 of the Education Act 1994 and the governing body of an institution receiving financial support under that Part substitute—

“The Training and Development Agency for Schools.	The agency.
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A training provider (within the meaning of Part 3 of the Education Act 2005) receiving financial support under section 78 of that Act from the Training and Development Agency for Schools, except where that financial support is wholly derived from grants made to the agency by the National Assembly for Wales. The training provider or the agency.”

Teaching and Higher Education Act 1998 (c. 30)

- 19 (1) Section 26 of the Teaching and Higher Education Act 1998 (which relates to the imposition of conditions as to fees at higher education institutions and is to be repealed by the Higher Education Act 2004 (c. 8)) is amended as follows.
- (2) In subsection (3)—
- (a) for “section 7(1) of the 1994 Act” substitute “section 81(1), 82(1) or 88(1) of the 2005 Act”,
- (b) in paragraph (c), for “Teacher Training Agency” substitute “Training and Development Agency for Schools”, and
- (c) for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.
- (3) In subsection (9)—
- (a) for the definition of “the 1994 Act” substitute—
- ““the 2005 Act” means the Education Act 2005;”,
- (b) after the definition of “course” insert—
- ““governing body”, in relation to a training provider within the meaning of Part 3 of the 2005 Act who would not apart from this subsection be regarded as an institution, means the training provider;
- “institution” includes any training provider within the meaning of Part 3 of the 2005 Act (whether or not the training provider would apart from this subsection be regarded as an institution);”.
- (4) In subsection (11)—
- (a) for “the 1994 Act” substitute “the 2005 Act”, and
- (b) for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.
- 20 (1) In section 28(1) of the Teaching and Higher Education Act 1998 (interpretation of Chapter 1 of Part 2), in the definition of “publicly-funded institution” (which is to be repealed by the Higher Education Act 2004 (c. 8)), for “section 5 of the Education Act 1994” substitute “section 78 or 86 of the Education Act 2005”.
- (2) In section 28(1) of the 1998 Act, references to an institution in that definition and in the definition of “fees” (which is also to be repealed by the Higher Education Act 2004 (c. 8)) are to be read in accordance with section 26(9) of the 1998 Act as amended by paragraph 19(3)(b) of this Schedule.
- (3) In sub-paragraph (2), “the 1998 Act” means the Teaching and Higher Education Act 1998 (c. 30).

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

Government of Wales Act 1998 (c. 38)

- 21 (1) Section 145B of the Government of Wales Act 1998 (studies at request of educational bodies) is amended as follows.
- (2) In the Table in subsection (1) for the entry relating to the governing body of an institution in Wales receiving financial support under Part 1 of the Education Act 1994 substitute—

“The governing body of an institution in Wales receiving financial support under section 86 of the Education Act 2005 from the Higher Education Funding Council for Wales.

The governing body or the Higher Education Funding Council for Wales

A training provider (within the meaning of Part 3 of the Education Act 2005) receiving financial support under section 78 of that Act from the Training and Development Agency for Schools, except where that financial support is wholly derived from grants made to the Agency by the Secretary of State.

The training provider or the Training and Development Agency for Schools.”

- (3) After subsection (1) insert—

“(1A) The Auditor General for Wales may, if requested to do so by the Training and Development Agency for Schools, undertake studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge by the Agency of their functions relating to Wales.”

- (4) In subsection (2), for “Subsection (1) does” substitute “Subsections (1) and (1A) do”.
- (5) In subsection (3), after “(1)” insert “or (1A)”.

Freedom of Information Act 2000 (c. 36)

- 22 In Schedule 1 to the Freedom of Information Act 2000 (public authorities for purposes of that Act), in Part 6 (other public bodies and offices: general) insert at the appropriate place—

“The Training and Development Agency for Schools.”

Education Act 2002 (c. 32)

- 23 (1) Section 14 of the Education Act 2002 (power of Secretary of State and Assembly to give financial assistance for purposes related to education or childcare) is amended as follows.
- (2) After subsection (2) insert—
- “(2ZA) In subsection (2)(g), “training for teachers or for non-teaching staff” includes—
- (a) any training or education (whether or not constituting higher education) with the object of fitting persons to be teachers or non-teaching staff, or better teachers or non-teaching staff, and

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

- (b) any assessment related to the award of a qualification or status to teachers or non-teaching staff, or prospective teachers or non-teaching staff.”
 - (3) In the definition of “education” in subsection (3), after “but” insert “, except in subsection (2ZA)(a),”.
- 24 In section 145 of the Education Act 2002 (specification of qualification or course), in subsections (1)(c) and (3), for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.

Higher Education Act 2004 (c. 8)

- 25 (1) Section 23 of the Higher Education Act 2004 (duty of Secretary of State to impose condition as to student fees, etc.) is amended as follows.
- (2) In subsection (1)—
 - (a) for “section 7 of the 1994 Act” substitute “section 81 of the 2005 Act”, and
 - (b) for “section 5 of the 1994 Act” substitute “section 78 of the 2005 Act”.
 - (3) In subsection (2), in paragraph (b) of the definition of “funding body”, for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.
- 26 In section 24 of the Higher Education Act 2004 (condition to be imposed by English funding bodies), in subsection (4)(c), for “section 5 of the 1994 Act” substitute “section 78 of the 2005 Act”.
- 27 For section 27 of the Higher Education Act 2004 (power of Assembly to impose conditions as to student fees, etc.) substitute—

“27 Power of National Assembly for Wales to impose conditions as to student fees, etc.

- (1) The power of the Assembly to impose conditions under section 68(1) of the 1992 Act or section 82(1) or 88(1) of the 2005 Act in relation to grants paid to a funding body includes power to impose a condition requiring the funding body to impose a condition under section 28 in relation to any grants, loans or other payments made by the funding body under section 65 of the 1992 Act, or (as the case may be) section 78 or 86 of the 2005 Act, to the governing body of a relevant institution.
 - (2) In this section—
 - “funding body” means—
 - (a) the Higher Education Funding Council for Wales, or
 - (b) the Training and Development Agency for Schools;
 - “relevant institution” means an institution specified by the Assembly in a condition under subsection (1), or an institution of a class so specified.”
- 28 (1) Section 28 of the Higher Education Act 2004 (c. 8) (condition that may be required to be imposed by HEFCW) is amended as follows.
- (2) For the heading substitute “Condition that may be required to be imposed by Welsh funding bodies”.

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

- (3) In subsection (3), for “the Higher Education Funding Council for Wales” substitute “the funding body”.
- (4) In subsection (4)(c), for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.
- (5) In subsection (6), after the definition of “the basic amount” insert—
- ““funding body” has the same meaning as in section 27;”.
- 29 In section 29 of the Higher Education Act 2004 (sections 23 to 28: supplementary provisions), in subsection (3)—
- (a) for “the 1994 Act” substitute “the 2005 Act”, and
- (b) for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.
- 30 In section 31 of the Higher Education Act 2004 (Director of Fair Access to Higher Education), in subsection (5), for “from the Teacher Training Agency under section 5 of the 1994 Act” substitute “from the Training and Development Agency for Schools under section 78 of the 2005 Act”.
- 31 In section 34 of the Higher Education Act 2004 (approval of plans), in subsection (1) for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.
- 32 In section 37 of the Higher Education Act 2004 (enforcement of plans: England), in subsection (1)(a) for “Teacher Training Agency” substitute “Training and Development Agency for Schools”.
- 33 In section 38 of the Higher Education Act 2004 (enforcement of plans: Wales), after “the Council” insert “or the Training and Development Agency for Schools”.
- 34 In section 40 of the Higher Education Act 2004 (provision of information), for “Teacher Training Agency” (in both places) substitute “Training and Development Agency for Schools”.
- 35 (1) Section 41 of the Higher Education Act 2004 (interpretation of Part 3) is amended as follows.
- (2) In subsection (1)—
- (a) for the definition of “governing body” substitute—
- ““governing body” is to be read in accordance with subsection (1A);”, and
- (b) after the definition of “general provisions” insert—
- ““institution” includes any training provider (whether or not the training provider would otherwise be regarded as an institution);”.
- (3) After subsection (1) insert—
- “(1A) In this Act any reference to the governing body of an institution—
- (a) in relation to any institution except a training provider falling within paragraph (b), has the meaning given by section 90(1) of the 1992 Act, but subject to any provision made by virtue of section 90(2) of that Act, and
- (b) in the case of a training provider who but for subsection (1) would not be regarded as an institution, means the training provider.”

- (4) In subsection (2)(a), for “section 5 of the 1994 Act” substitute “section 78 or 86 of the 2005 Act”.
- (5) After subsection (2), insert—
- “*(3)* In subsections (1) and (1A), “training provider” has the same meaning as in Part 3 of the 2005 Act.”
- 36 In section 48 of the Higher Education Act 2004 (c. 8) (general interpretation)—
- (a) omit the definition of “the 1994 Act”, and
- (b) after the definition of “the 1998 Act” insert—
- ““the 2005 Act” means the Education Act 2005;”.

SCHEDULE 15

Section 99

TRANSITIONAL AND TRANSITORY PROVISIONS RELATING TO PART 3

Interpretation

- 1 In this Schedule “the 1994 Act” means the Education Act 1994 (c. 30).

Renaming of Agency

- 2 For any reference to the Teacher Training Agency in any subordinate legislation or in any other instrument or document there is substituted, as respects any time after the commencement of section 74, a reference to the Training and Development Agency for Schools.
- 3 Any reference to the Training and Development Agency for Schools in this Act (apart from section 74 and this Schedule) or in any instrument under this Act is to be read, in relation to any time before the commencement of section 74, as a reference to the Teacher Training Agency.

Existing members of Agency

- 4 Any member of the Agency appointed under section 2 of the 1994 Act is to be taken to have been appointed under section 77 of this Act.

Inspection of teacher training

- 5 In sections 18B and 18C of the 1994 Act (as substituted by Schedule 14) any reference to anything done under either of those sections includes a reference to anything done before the commencement of those sections under section 18A of that Act.

Duty to have regard to needs of disabled persons

- 6 (1) In exercising their functions, the Agency must have regard to the requirements of persons who are disabled persons for the purposes of the Disability Discrimination Act 1995 (c. 50).

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

- (2) Sub-paragraph (1) is to cease to have effect on the coming into force in relation to the Agency of section 49A of the Disability Discrimination Act 1995 (which is inserted in that Act by the Disability Discrimination Act 2005 and imposes a similar duty on every public authority).

SCHEDULE 16

Section 101

FUNDING OF MAINTAINED SCHOOLS

- 1 In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31).

Power to provide for budgets to relate to period other than financial year

- 2 (1) Section 45 of the 1998 Act (maintained schools to have budget shares) is amended as follows.
- (2) In subsection (1) for “financial year” substitute “funding period”.
- (3) After subsection (1A) insert—
- “(1B) In this Chapter “funding period” means a financial year or such other period as may be prescribed.”
- (4) In subsection (2)—
- (a) for “45A and” substitute “45A to”, and
- (b) for “financial year” substitute “funding period”.

Determination of budgets

- 3 (1) Section 45A of the 1998 Act (determination of specified budgets of LEA) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “relevant period”, and
- (b) for “that year” substitute “that period”.
- (3) After subsection (1) insert—
- “(1A) In subsection (1) “relevant period” means a financial year or such other period as may be prescribed.”
- (4) In subsection (2)—
- (a) for “financial year” substitute “funding period”, and
- (b) for “that year” substitute “that period”.
- (5) After that subsection insert—
- “(2A) The amount referred to in subsection (2) includes the amount of any grant which is appropriated, for meeting the expenditure mentioned in that subsection, in accordance with a condition which—

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

- (a) is imposed under section 16 of the Education Act 2002 (terms on which assistance under section 14 of that Act is given) or any other enactment, and
- (b) requires that the grant be applied as part of the authority's schools budget for the funding period."

(6) In subsection (3)—

- (a) for "financial year" substitute "funding period", and
- (b) for "that year" (in both places) substitute "that period".

(7) After subsection (4) insert—

"(4A) Regulations under subsection (3) may also make provision—

- (a) enabling any expenditure falling outside any classes or descriptions of expenditure prescribed by virtue of subsection (4)(a) to be deducted from the authority's schools budget if the deduction of such expenditure is authorised, on the application of the authority, by the authority's schools forum or the Secretary of State, and
- (b) enabling any limit or condition that would otherwise apply by virtue of subsection (4)(b)(i) or (ii) to be varied or excluded, on the application of the authority, by the authority's schools forum or the Secretary of State."

(8) Omit subsections (5) and (6).

4 After section 45A insert—

"45AA Power to require LEAs in England to determine schools budget

- (1) Regulations may require a local education authority in England, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
 - (a) authorise or require local education authorities in England to take account of matters arising after the initial determination of their schools budgets for any funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
 - (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the local education authority.

45AB Duty of LEAs in Wales to determine schools budget

- (1) Before the schools budget deadline in any funding period, a local education authority in Wales must—
 - (a) determine the proposed amount of their schools budget for the following funding period, and

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

- (b) give notice of their determination to the National Assembly for Wales and to the governing body of every school maintained by the authority.
- (2) For the purposes of this section “the schools budget deadline”, in relation to an authority in Wales, means the end of January or such other time as may be prescribed.

45AC Power to require LEAs in Wales to determine schools budget

- (1) Regulations may require a local education authority in Wales, not later than the prescribed date, to make an initial determination of their schools budget for a funding period.
- (2) The date prescribed for the purposes of subsection (1) may be a date falling up to 48 months before the beginning of the funding period.
- (3) Regulations under subsection (1) may—
 - (a) authorise or require local education authorities in Wales to take account of matters arising after the initial determination of their schools budgets for the funding period but before the beginning of the funding period, by redetermining their schools budgets for the period in accordance with the regulations, and
 - (b) require notice of any initial determination or revised determination to be given in accordance with the regulations to the Assembly and to the governing bodies of schools maintained by the local education authority.
- (4) Regulations under subsection (1) are not to have effect in relation to an authority’s schools budget for any funding period if section 45AB is in force in relation to that funding period.”

5 For sections 45B and 45C of the 1998 Act substitute—

“45B Power of Assembly to set minimum schools budget for LEA in Wales

- (1) If it appears to the National Assembly for Wales that, in all the circumstances, the proposed amount of a local education authority’s schools budget for a funding period is inadequate, the Assembly may, within the period of fourteen days beginning with the schools budget deadline in the funding period preceding that funding period, give the authority a notice under subsection (6) or (7).
- (2) In subsection (1), the reference to the proposed amount of a local education authority’s schools budget for a funding period is—
 - (a) if section 45AB is in force in relation to that funding period, a reference to the amount specified in a notice under section 45AB(1)(b), or
 - (b) if regulations under section 45AC(1) are in force in relation to that funding period, a reference to such amount, determined by the authority in accordance with those regulations and specified in a notice required by those regulations to be given to the Assembly, as may be prescribed.

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

- (3) If at the schools budget deadline in any funding period, a local education authority in Wales have failed to give the Assembly a notice under section 45AB(1)(b) or a notice required as mentioned in subsection (2)(b), the Assembly may, at any time after that deadline, give the authority a notice under subsection (6) or (7).
- (4) In this section “the schools budget deadline”—
 - (a) in a case falling within subsection (2)(a), has the same meaning as in section 45AB, and
 - (b) in a case falling within subsection (2)(b), means the time in the funding period preceding the funding period to which the schools budget relates by which regulations under section 45AC(1) require notice of a revised determination of the schools budget to be given to the Assembly.
- (5) In this section and section 45C “the period under consideration” means the funding period to which the notice mentioned in subsection (2)(a) or (b) relates or, in a case falling within subsection (3), the funding period in relation to which such a notice ought to have been given.
- (6) A notice under this subsection is a notice determining the minimum amount of the authority’s schools budget for the period under consideration.
- (7) A notice under this subsection is a notice which—
 - (a) specifies the amount which the Assembly would have determined as the minimum amount of the authority’s schools budget for the period under consideration if the Assembly had acted under subsection (4), and
 - (b) states the Assembly’s intention to determine the minimum amount of the authority’s schools budget for the following funding period.
- (8) A notice under subsection (6) or (7) must include a statement of the Assembly’s reasons for giving the notice.
- (9) The Assembly may act under different subsections in relation to different authorities.

45C Effect of notice under section 45B(6)

- (1) The local education authority may, within the period of fourteen days beginning with the date of a notice under section 45B(6), give the National Assembly for Wales notice of their objection to the Assembly’s determination, giving reasons for their objection.
- (2) Where the local education authority have given notice of their objection under subsection (1), the notice under section 45B(6) shall cease to have effect, but the Assembly may by order prescribe the minimum amount of the authority’s schools budget for the period under consideration.
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(6).
- (4) An order under subsection (2) may relate to two or more authorities.
- (5) Where—

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- (a) a notice under section 45B(6) has been given to a local education authority and no notice of objection has been given during the period specified in subsection (1), or
 - (b) an order has been made under subsection (2),
- the local education authority shall determine a schools budget for the period under consideration which is not less than the amount specified in relation to the authority in the notice or order.

45D Power of Assembly to repeal Wales-only school funding provisions

The Assembly may by order—

- (a) repeal any of the following provisions—
 - section 45AB,
 - section 45AC(4), and
 - sections 45B and 45C, and
- (b) make any amendments of the other provisions of this Chapter which appear to the Assembly to be necessary or expedient in consequence of any repeal made by virtue of paragraph (a).”

Determination of schools' budget shares

- 6 (1) Section 47 of the 1998 Act (determination of school's budget share) is amended as follows.
- (2) In subsection (1)—
- (a) for “financial year” substitute “funding period”, and
 - (b) for “that year” substitute “that period”.
- (3) In subsection (2)—
- (a) after paragraph (d) insert—
 - “(dd) authorising or requiring such authorities to take account of matters arising after the initial determination of budget shares for a funding period but before the beginning of the funding period, by redetermining budget shares for that period in accordance with the regulations, and requiring them in that connection to disregard such matters as may be specified in the regulations;”
 - (b) in paragraph (e) for “financial year” substitute “funding period” and for “year” in sub-paragraphs (i) and (ii) substitute “funding period”,
 - (c) after paragraph (f) insert—
 - “(ff) requiring notice of any initial determination or revised determination to be given in accordance with the regulations to the governing bodies of schools maintained by the authority in question;”, and
 - (d) for paragraph (g) substitute—
 - “(g) authorising local education authorities in prescribed cases to determine (or redetermine) budget shares, to such extent as may be prescribed, in accordance with arrangements approved by the authority's schools forum or the Secretary of State in accordance with the regulations (in place of the arrangements provided for by the regulations);”.

(4) After subsection (2) insert—

“(2A) The time by which regulations made in pursuance of subsection (2)(a) require an initial determination of schools' budget shares for a funding period to be made may be up to 48 months before the beginning of the funding period.”

Functions of schools forum

7 In section 47A of the 1998 Act (schools forums) for subsection (3) substitute—

“(3) The purpose of a schools forum is—

- (a) to advise the relevant authority on such matters relating to the authority's schools budget as may be prescribed by regulations under section 45A(3) or by regulations under this subsection, and
- (b) to exercise any function that may be imposed on the schools forum by virtue of section 45A(4A) or 47(2)(g).”

Certain regulations to be subject to affirmative procedure

8 In section 138 of the 1998 Act (orders and regulations), in subsection (5) (orders and regulations that are subject to affirmative procedure) after paragraph (b) insert “or

- (c) the first regulations to be made under section 45AA, or
- (d) the first regulations to be made under section 47 in relation to England after the coming into force of paragraph 6 of Schedule 16 to the Education Act 2005.”.

SCHEDULE 17

Section 107

FOUNDATION, VOLUNTARY AND FOUNDATION SPECIAL SCHOOLS: DISPOSAL OF LAND

1 Schedule 22 to the School Standards and Framework Act 1998 (c. 31) (disposal of land in case of certain schools and disposals on discontinuance) is amended as follows.

2 (1) Paragraph 1 (disposal of land by governing body of foundation, voluntary or foundation special school) is amended as follows.

(2) In sub-paragraph (1)—

- (a) at the beginning insert “Subject to sub-paragraph (1A),” and
- (b) in paragraph (a), after “paragraph 5(4)(c)” insert “or 5(4B)(d)”.

(3) After sub-paragraph (1) insert—

“(1A) This paragraph does not apply to any disposal which—

- (a) is made by the governing body of a foundation or foundation special school after the commencement of this sub-paragraph, and
- (b) is a disposal to the trustees of the school made on the school becoming a school with a foundation falling within section 21(1)(a).”

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

- (4) In sub-paragraph (2), for “any such disposal” substitute “any disposal to which this paragraph applies”.
- (5) In sub-paragraph (3), after “any such disposal” insert “and he decides to give that consent”.
- 3 In paragraph 2 (disposal of land by foundation body), in sub-paragraph (3) after “any such disposal” insert “and he decides to give that consent”.
- 4 After paragraph 2 insert—

“Disposal of land by trustees of foundation school or foundation special school

- 2A (1) This paragraph applies to any disposal by the trustees of a foundation or foundation special school of—
- (a) any land acquired under paragraph 2 of Schedule 3, under paragraph 16 of Schedule 6 (including that provision as applied by any enactment), under paragraph 5(4B)(d) of this Schedule or under any regulations made under paragraph 5 of Schedule 8,
 - (b) any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (a), or
 - (c) any land falling within sub-paragraph (2) which was acquired by the trustees from the governing body of the school or of another foundation or foundation special school.
- (2) Land falls within this sub-paragraph if—
- (a) it had been acquired by the governing body—
 - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or
 - (ii) under any of the provisions mentioned in sub-paragraph (1)(a), or
 - (b) it had been acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in paragraph (a).
- (3) The trustees shall not make any disposal to which this paragraph applies without the written consent of the Secretary of State.
- (4) Where the trustees apply to the Secretary of State for his consent to any such disposal and he decides to give that consent, he may do one or more of the following, namely—
- (a) require the land or any part of the land to be transferred to such local authority as he may specify, subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate; and
 - (b) give the trustees, when the land or any part of the land is disposed of—
 - (i) a direction to pay to such local authority as he may specify the whole or any part of the proceeds of the disposal; and
 - (ii) a direction as to the use to which the whole or any part of the proceeds of disposal should be put.

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

- (5) More than one direction may be given under sub-paragraph (4)(b)(i) in relation to a disposal of land within sub-paragraph (1) where it is just to do so, in particular where the disposal involves the creation of a lease.
 - (6) Where the trustees of a foundation or foundation special school wish, in the case of any land held by them for the purposes of the school, to use the land for purposes not connected with the provision of education in maintained schools—
 - (a) the preceding provisions of this paragraph shall apply as if any such change of use of the land were a disposal of the land; and
 - (b) the value of the land as at the date of any direction under sub-paragraph (4)(b)(i) or (ii) shall be treated as proceeds of the disposal of the land.”
- 5
 - (1) Paragraph 3 (disposal of land by trustees of foundation, voluntary or foundation special school) is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) at the beginning insert “Subject to sub-paragraph (2A),” and
 - (b) in paragraph (a), after “enactment)” insert “, under paragraph 5(4B)(d) of this Schedule”.
 - (3) After sub-paragraph (2) insert—

“(2A) Nothing in sub-paragraph (1) applies in relation to any disposal to the extent that it is a disposal to which paragraph 2A applies.”
- 6
 - (1) Paragraph 5 (discontinuance of foundation, voluntary and foundation special schools: land) is amended as follows.
 - (2) After sub-paragraph (4) insert—

“(4A) Where the school is a foundation or foundation special school which has a foundation, the trustees of the school shall apply to the Secretary of State for him to exercise his powers under sub-paragraph (4B) in relation to any land falling within paragraph 2A(1)(a), (b) or (c) which is held by the trustees for the purposes of the school.

(4B) On an application under sub-paragraph (4A), the Secretary of State may do one or more of the following, namely—

 - (a) make any such requirement as is mentioned in paragraph 2A(4)(a);
 - (b) where the trustees have power to use the land for the purposes of another foundation or foundation special school or for the purposes of a voluntary school, direct the trustees to exercise that power in such manner as he may specify;
 - (c) direct the trustees to pay to such local authority as he may specify the whole or any part of the value, as at the date of the direction, of the whole or any part of the land referred to in sub-paragraph (4A); and
 - (d) in a case where the discontinuance of the school is connected with proposals under any enactment to establish, or to make a prescribed alteration to, any other school or schools, require the land or any part of the land to be transferred—

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

- (i) to the trustees, foundation body or governing body of such maintained school as he may specify, or
 - (ii) to the trustees, foundation body or temporary governing body of such new school as he may specify.”
- (3) In sub-paragraph (5)—
- (a) for “or foundation body” substitute “, foundation body or trustees”,
 - (b) for “(2) or (3)” substitute “(2), (3) or (4A)”, and
 - (c) for “(4)” substitute “(4) or (4B), as the case may be”.
- (4) In sub-paragraph (6)(a), after “falling within paragraph 3(1) or (2)” insert “but not within paragraph 2A(1)(a), (b) or (c)”.

SCHEDULE 18

Section 117

FURTHER AMENDMENTS RELATED TO PROVISIONS OF PART 4

Children Act 1989 (c. 41)

- 1 In section 36 of the Children Act 1989 (education supervision orders), in subsection (5) for paragraph (b) substitute—
- “(b) is not attending regularly within the meaning of section 444 of that Act—
 - (i) a school at which he is a registered pupil,
 - (ii) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA of that Act, or
 - (iii) any place which he is required to attend in the circumstances mentioned in subsection (2) of that section.”.

Education Act 1996 (c. 56)

- 2 In section 317 of the Education Act 1996 (duties of governing body or LEA in relation to pupils with special educational needs), for subsections (5) to (7A) substitute—
- “(5) The governing body of a community, foundation or voluntary school, a maintained nursery school, or a community or foundation special school shall—
 - (a) in the case of a school in England, prepare a report containing special needs information, and
 - (b) in the case of a school in Wales, include special needs information in the report prepared under section 30(1) of the Education Act 2002 (governors' report).
- (6) In subsection (5) “special needs information” means—
- (a) such information as may be prescribed about the implementation of the governing body’s policy for pupils with special educational needs, and
 - (b) information as to—

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

- (i) the arrangements for the admission of disabled persons as pupils at the school,
- (ii) the steps taken to prevent disabled pupils from being treated less favourably than other pupils,
- (iii) the facilities provided to assist access to the school by disabled pupils, and
- (iv) the plan prepared by the governing body under section 28D of the Disability Discrimination Act 1995 (“the 1995 Act”).

(6A) In subsection (6)(b) “disabled person” means a person who is a disabled person for the purposes of the 1995 Act; and section 28Q of the 1995 Act (interpretation) applies for the purposes of subsection (6)(b) as it applies for the purposes of Chapter 1 of Part 4 of that Act.”

3 In section 444A of the Education Act 1996 (penalty notice in respect of failure to secure attendance at school of registered pupil), in subsection (1), for paragraph (b) substitute—

- “(b) that the offence relates—
- (i) to a relevant school in England,
 - (ii) in a case falling within subsection (1) of section 444ZA, to a place at which education is provided by a local education authority in England, or
 - (iii) in a case falling within subsection (2) of that section, to a place at which a child is required to attend by the appropriate authority (within the meaning of that section) for a relevant school in England.”

4 The references in section 23(9) and (10) of the Anti-social Behaviour Act 2003 (c. 38) to section 444A of the Education Act 1996 are to be read as references to that section as amended by paragraph 3 of this Schedule.

5 (1) Section 494 of the Education Act 1996 (recoupment: excluded pupils) is amended as follows.

(2) In subsections (1), (2) and (3), for “financial year” substitute “funding period”.

(3) After subsection (5) insert—

“(6) In this section “funding period” has the meaning given by section 45(1B) of the School Standards and Framework Act 1998.”

6 In section 566 of the Education Act 1996 (evidence: documents), after subsection (2) insert—

- “(3) Where a child of compulsory school age is required to attend at—
- (a) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA, or
 - (b) any place in the circumstances mentioned in subsection (2) of that section,

subsection (1)(c) has effect as if the place in question were a school and the person in charge of the provision of education or training at that place were its head teacher (and subsection (2) has effect accordingly).”

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

School Standards and Framework Act 1998 (c. 31)

- 7 In section 48 of the School Standards and Framework Act 1998 (LEAs' financial schemes) in subsection (2)(a) for “financial year” substitute “funding period”.
- 8 In section 50 of the School Standards and Framework Act 1998 (effect of financial delegation) in subsection (1)—
- (a) for “financial year” substitute “funding period”,
 - (b) for “that year” substitute “that period”, and
 - (c) in paragraphs (a) and (b) for “year”, wherever occurring, substitute “period”.
- 9 In section 51A of the School Standards and Framework Act 1998 (expenditure incurred for community purposes) in subsection (2) for “financial year” substitute “funding period”.
- 10 (1) Section 52 of the School Standards and Framework Act 1998 (financial statements) is amended as follows.
- (2) In subsection (1)—
 - (a) for “financial year” substitute “prescribed period”, and
 - (b) for “that year” substitute “that period”.
 - (3) After subsection (1) insert—

“(1A) The periods prescribed for the purposes of subsection (1)—

 - (a) must consist of one or more funding periods, and
 - (b) may include funding periods in respect of which (by virtue of their inclusion in one or more earlier periods prescribed for the purposes of that subsection) information relating to planned expenditure has previously been required under that subsection.”
 - (4) In subsection (2)—
 - (a) for “financial year” substitute “prescribed period”, and
 - (b) in paragraphs (a) to (d), for “year” substitute “period”.
 - (5) After subsection (2A) insert—

“(2B) The periods prescribed for the purposes of subsection (2) must consist of one or more funding periods.”
- 11 (1) In Schedule 15 to the School Standards and Framework Act 1998 (suspension of financial delegation), paragraph 2 is amended as follows.
- (2) In sub-paragraph (1)(a)—
 - (a) for “financial year” substitute “funding period”, and
 - (b) for “that year” substitute “that period”.
 - (3) In sub-paragraph (3), for “financial year”, in both places where it occurs, substitute “funding period”.

Learning and Skills Act 2000 (c. 21)

- 12 (1) Section 7 of the Learning and Skills Act 2000 (funding of school sixth-forms: England) is amended as follows.

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

(2) In subsection (1)(a), for “financial year” substitute “funding period”.

(3) For subsection (3) substitute—

“(3) In this section—

“funding period” means a financial year or, if some other period is prescribed in relation to England under subsection (1B) of section 45 of the School Standards and Framework Act 1998 (maintained schools to have budget shares), that other period;

“schools budget” has the same meaning as in Part 2 of that Act (framework for maintained schools).”

13 (1) Section 36 of the Learning and Skills Act 2000 (funding of school sixth-forms: Wales) is amended as follows.

(2) In subsection (1)(a), for “financial year” substitute “funding period”.

(3) For subsection (3) substitute—

“(3) In this section—

“funding period” means a financial year or, if some other period is prescribed in relation to Wales under subsection (1B) of section 45 of the School Standards and Framework Act 1998 (maintained schools to have budget shares), that other period;

“schools budget” has the same meaning as in Part 2 of that Act (framework for maintained schools).”

Education Act 2002 (c. 32)

14 (1) Section 37 of the 2002 Act (payments in respect of dismissal etc.) is amended as follows.

(2) In subsection (4), for “financial years” substitute “funding periods”.

(3) In subsections (5) and (8), for “financial year” substitute “funding period”.

(4) For subsection (12) substitute—

“(12) In this section—

“community purposes” means the purposes of the provision of facilities or services under section 27;

“funding period” has the meaning given by section 45(1B) of the School Standards and Framework Act 1998.”

Anti-social Behaviour Act 2003 (c. 38)

15 In section 19 of the Anti-social Behaviour Act 2003 (parenting contracts in cases of exclusion from school or truancy), in subsection (2), for the words from “a relevant” to the end substitute—

“(a) a relevant school at which he is a registered pupil,

(b) any place at which education is provided for him in the circumstances mentioned in subsection (1) of section 444ZA of the Education Act 1996, and

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- (c) any place at which he is required to attend in the circumstances mentioned in subsection (2) of that section.”

SCHEDULE 19

Section 123

REPEALS

PART 1

SCHOOL INSPECTIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 4, the entry beginning “Registered Inspectors of Schools Appeal Tribunals”.
Children Act 1989 (c. 41)	Section 79P. In section 79Q— in subsection (2), the words “or secure the inspection by a registered inspector of”, in subsection (3), the words “or secure the inspection by a registered inspector of”, subsection (4), and subsection (7). Section 79R(1) and (2). In section 79T(2)(a), the words “the quality and standards of”.
Education Act 1996 (c. 56)	In section 578(1), the words “the School Inspections Act 1996”.
School Inspections Act 1996 (c. 57)	The whole Act.
Education Act 1997 (c. 44)	Section 42. Schedule 6.
Teaching and Higher Education Act 1998 (c. 30)	Sections 35 and 35A.
School Standards and Framework Act 1998 (c. 31)	Section 15(5). Section 127(6)(l). Section 134(1). Section 135. In Schedule 26— paragraph 2(4),

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	in paragraph 8, in sub-paragraph (1), the words from the beginning to “England, and” and in sub-paragraph (5) the words “England and”, paragraph 9(5), paragraph 10(1A).
	Part 1 of Schedule 28.
	In Schedule 30, paragraphs 190 to 206.
Protection of Children Act 1999 (c. 14)	Section 9(2)(ca).
Learning and Skills Act 2000 (c. 21)	Section 81.
	In Schedule 7, paragraphs 9 and 14.
	In Schedule 9, paragraphs 65 to 68.
Education Act 2002 (c. 32)	Section 54.
	Section 56(2).
	In section 171, the definition of “registered inspector”.
	Section 179.
	Section 188.
	In Schedule 7, paragraph 7.
	In Schedule 14, paragraphs 1 and 5 to 7.
	Schedule 16.
	In Schedule 21, paragraph 59 to 68.

PART 2

SCHOOL ORGANISATION

<i>Short title and chapter</i>	<i>Extent of repeal</i>
School Standards and Framework Act 1998	In section 28, subsection (1A), in subsection (2) the words “(otherwise than pursuant to a notice under section 70 of the Education Act 2002)”, and subsection (4).
	In Schedule 6, paragraph 4(3)(d).
	In Schedule 7— paragraph 2(5), paragraph 3(5), in paragraph 4, sub-paragraphs (1) to (6) and, in sub-paragraph (7), the words “(whether relating to an area in England or in Wales)”, paragraph 5(3),

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	paragraphs 6 to 10, and paragraph 16.
Education Act 2002 (c. 32)	In Schedule 30, paragraphs 59 and 145(a). Sections 70 and 71. Section 74. In Schedule 8, paragraphs 1 to 8 and 9(1). In Schedule 21, paragraph 97.

PART 3

TRAINING THE SCHOOL WORKFORCE

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Public Records Act 1958 (c. 51)	In Schedule 1, in Part 2 of the Table at the end of paragraph 3, the entry relating to the Teacher Training Agency.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entry relating to the Teacher Training Agency.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entry “Any member of the Teacher Training Agency in receipt of remuneration”.
Education (No. 2) Act 1986 (c. 61)	Section 50.
Education Act 1994 (c. 30)	Sections 1 to 11. Sections 12 to 17. Section 19(1) to (4). In section 23, in subsections (1) and (2), the words “Part I or” and subsection (3). Schedule 1. In Schedule 2, paragraphs 1, 3 and 4.
Education Act 1996 (c. 56)	In Schedule 37, paragraph 65.
Teaching and Higher Education Act 1998 (c. 30)	Section 20.
School Standards and Framework Act 1998 (c. 31)	In Schedule 30, paragraph 54.
Learning and Skills Act 2000 (c. 21)	In Schedule 9, paragraph 48.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, the entry relating to the Teacher Training Agency.
Special Educational Needs and Disability Act 2001 (c. 10)	Section 40(2).

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Education Act 2002 (c. 32)	In Schedule 21, paragraph 25.
Higher Education Act 2004 (c. 8)	In section 48, the definition of “the 1994 Act”.

PART 4

REPEALS RELATING TO PART 4

<i>Short title and chapter</i>	<i>Extent of repeal</i>
School Standards and Framework Act 1998 (c. 31)	Section 45A(5) and (6).
Special Educational Needs and Disability Act 2001 (c. 10)	Section 14(2). In Schedule 8, paragraph 5.
Education Act 2002 (c. 32)	Section 41(2). Section 42. In Schedule 21, paragraphs 39(5), 124(3) and 125(3).
Local Government Act 2003 (c. 26)	In Schedule 7, paragraph 66.
