



Education and Inspections Act 2006

2006 CHAPTER 40

PART 4

SCHOOLS CAUSING CONCERN: ENGLAND

Intervention by Secretary of State

[^{F1}66A Power of Secretary of State to require governing body to enter into arrangements

- (1) If at any time a maintained school is eligible for intervention other than by virtue of section 60A, then (subject to subsection (3)) the Secretary of State may, with a view to improving the performance of the school, give the governing body of the school a notice requiring the governing body—
 - (a) to enter into a contract or other arrangement with a specified person (who may be the governing body of another school) for the provision to the governing body of specified services of an advisory nature,
 - (b) to make specified arrangements authorised by section 26 of EA 2002 (collaboration between schools) with the governing body of such other school as may be specified,
 - (c) to make specified arrangements authorised by regulations under section 166 of this Act (collaboration arrangements: maintained schools and further education bodies) with a further education body within the meaning of that section, or
 - (d) to take specified steps for the purpose of creating or joining a federation, as defined by section 24(2) of EA 2002.
- (2) Before exercising the power conferred by subsection (1), the Secretary of State must consult—
 - (a) the governing body of the school,
 - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

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- (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) Where the school is eligible for intervention by virtue of section 60 (school subject to performance standards and safety warning), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(1)(b)).
- (4) A notice under subsection (1)(a) may require the contract or other arrangement to contain specified terms and conditions.]

Textual Amendments

F1 S. 66A inserted (18.4.2016) by [Education and Adoption Act 2016 \(c. 6\)](#), **ss. 4, 19(2)**; [S.I. 2016/466](#), [reg. 2](#)

67 Power of Secretary of State to appoint additional governors

- (1) If at any time a maintained school is eligible for intervention ^{F2}..., the Secretary of State may appoint such number of additional governors as he thinks fit; and he may nominate one of those governors to be the chairman of the governing body in place of any person who has been elected as chairman of that body.
- (2) Before making any such appointment, the Secretary of State must consult—
 - (a) the [^{F3}local authority],
 - (b) the governing body of the school,
 - (c) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) A governor appointed under this section—
 - (a) shall hold office as governor for such term, and
 - (b) if nominated as chairman of the governing body, shall be chairman of that body for such period,
 as the Secretary of State may determine.
- (4) The Secretary of State may pay to any governor appointed under this section such remuneration and allowances as the Secretary of State may determine.
- (5) In relation to any appointment made by the Secretary of State by virtue of subsection (1) to the governing body of a school, the instrument of government for the school shall have effect as if (despite anything in regulations under section 19 of EA 2002) it provided for the Secretary of State to appoint such number of additional governors as he thinks fit.
- (6) Where the Secretary of State has exercised his power under this section in relation to a school, then—
 - (a) in any such case—

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- (i) the [^{F3}local authority] may not exercise their power under section 66(1) or paragraph 1 of Schedule 15 to SSFA 1998 to suspend the governing body's right to a delegated budget, and
 - (ii) if they have already exercised either of those powers, the Secretary of State must, if requested to do so by the governing body, revoke the suspension; and
- (b) in the case of a voluntary aided school, nothing in regulations under section 19 of EA 2002 is to be read as authorising the appointment of foundation governors for the purpose of outnumbering the other governors as augmented by those appointed by the Secretary of State under this section.
- (7) The revocation of a suspension under subsection (6)(a)—
- (a) must be notified to the [^{F3}local authority] in writing, and
 - (b) takes effect from such date as is specified in that notification.

Textual Amendments

- F2** Words in s. 67(1) repealed (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), Sch. 13 para. 8, Sch. 16 Pt. 6; S.I. 2009/3317, art. 2, Sch.
- F3** Words in Pts. 1-7 substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, Sch. 2 para. 14(2)

Commencement Information

- I1** S. 67 in force at 1.4.2007 by S.I. 2007/935, art. 5(j)

68 Power of Secretary of State to direct closure of school

- (1) If at any time a maintained school is eligible for intervention [^{F4}other than by virtue of section 60A], the Secretary of State may give a direction to the [^{F3}local authority] requiring the school to be discontinued on a date specified in the direction.
- (2) Before giving a direction under subsection (1), the Secretary of State must consult—
- (a) the [^{F3}local authority] and the governing body of the school,
 - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority,
 - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed,
 - ^{F5}(d)
 - (e) such other persons as the Secretary of State considers appropriate.
- (3) On giving a direction under subsection (1) the Secretary of State must give notice in writing of the direction to the governing body of the school and its head teacher.
- (4) Where the [^{F3}local authority] are given a direction under subsection (1), they must discontinue the school in question on the date specified in the direction; and nothing in sections 15 to 17 of this Act or in section 30 of SSFA 1998 applies to their discontinuance of the school under this section.
- (5) In this section any reference to the discontinuance of a maintained school is a reference to the [^{F3}local authority] ceasing to maintain it.

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Textual Amendments

- F3** Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 14(2)**
- F4** Words in s. 68(1) substituted (17.11.2011) by [Education Act 2011 \(c. 21\)](#), **ss. 44(2)**, 82(3); S.I. 2011/2750, art. 2
- F5** S. 68(2)(d) repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), art. 1(2)(a)(b), Sch. 1 para. 60, **Sch. 2 Pt. 1** (with art. 2(3))

Modifications etc. (not altering text)

- C1** S. 68 applied (with modifications) (E.) (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), **Sch. 1 para. 23**

Commencement Information

- I2** S. 68 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

69 Power of Secretary of State to provide for governing body to consist of interim executive members

- (1) If at any time a maintained school is eligible for intervention ^{F6}... ,the Secretary of State may give the governing body a notice in writing stating that, as from the date specified in the notice, the governing body are to be constituted in accordance with Schedule 6 (governing bodies consisting of interim executive members).
- (2) Before exercising the power conferred by subsection (1), the Secretary of State must consult—
- the [^{F3}local authority],
 - the governing body of the school,
 - in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) The Secretary of State need not consult the persons mentioned in subsection (2)(b), (c) and (d) if the [^{F3}local authority] have consulted them under subsection (2) of section 65 in relation to a proposed notice under subsection (1) of that section.
- [^{F7}(4) Subsection (2) does not apply if an Academy order has effect in respect of the school.]

Textual Amendments

- F3** Words in Pts. 1-7 substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, **Sch. 2 para. 14(2)**
- F6** Words in s. 69(1) repealed (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), s. 269(4), Sch. 13 para. 9, **Sch. 16 Pt. 6**; S.I. 2009/3317, art. 2, Sch.
- F7** S. 69(4) inserted (29.7.2010) by [Academies Act 2010 \(c. 32\)](#), s. 19(2), **Sch. 2 para. 21**; S.I. 2010/1937, art. 2, Sch. 1

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Modifications etc. (not altering text)

- C2** S. 69 applied (with modifications) by S.I. 2007/2978 reg. 24(1) (as inserted (1.9.2012) by [The Pupil Referral Units \(Miscellaneous Amendments\) \(England\) Regulations 2012 \(S.I. 2012/1825\)](#), regs. 1(1), **2(10)**)

Commencement Information

- I3** S. 69 in force at 1.4.2007 by [S.I. 2007/935](#), **art. 5(j)**

^{F8}69A Power of Secretary of State to direct local authority to give performance standards and safety warning notice

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Textual Amendments

- F8** S. 69A omitted (18.4.2016) by virtue of [Education and Adoption Act 2016 \(c. 6\)](#), **ss. 2(6)**, 19(2); [S.I. 2016/466](#), **reg. 2** (with [reg. 4\(1\)](#))

^{F9}69B Power of Secretary of State to direct [local authority] to give teachers' pay and conditions warning notice

- (1) This section applies if the Secretary of State thinks that the conditions in subsections (2) and (3) are met.
- (2) The condition is that there are reasonable grounds for a [local authority] to give a warning notice to the governing body of a maintained school under section 60A (teachers' pay and conditions warning notice).
- (3) The condition is that one of the following applies—
 - (a) the authority have not given a warning notice to the governing body under section 60A on those grounds;
 - (b) the authority have done so, but in inadequate terms;
 - ^{F10}(c)
 - (d) the school has become eligible for intervention on those grounds by virtue of section 60A, but the period of two months following the end of the compliance period (as defined by section [^{F11}60A(1)(b)]) has ended.
- (4) The Secretary of State may direct the [local authority] to consider giving a warning notice to the governing body under section 60A in the terms specified in the direction.
- (5) If the Secretary of State gives a direction under subsection (4) to a [local authority] in respect of a governing body, the authority must—
 - (a) give a copy of the direction to the governing body before the end of the period of 2 working days beginning with the day on which the direction is given,
 - (b) when it does so, invite the governing body to give the authority a written response before the end of the period of 7 working days beginning with the day on which the direction is given, and
 - (c) give the Secretary of State the authority's written response, and any response received from the governing body in accordance with paragraph (b), before the end of the period of 10 working days beginning with the day on which the direction is given.

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- (6) The [local authority]'s response to the direction must do one of the following—
- (a) state that the authority have decided to give a warning notice to the governing body in the specified terms;
 - (b) state that the authority have decided not to give a warning notice to the governing body in those terms.
- (7) If the response states that the authority have decided to give a warning notice to the governing body in the specified terms, the authority must—
- (a) give the warning notice to the governing body in those terms before the end of the period of 5 working days beginning with the day on which the response is given (and withdraw any previous warning notice given to the governing body under section 60A), and
 - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (8) If the response states that the authority have decided not to give a warning notice to the governing body in the specified terms—
- (a) the response must set out the authority's reasons for the decision, and
 - (b) the Secretary of State may direct the authority to give the warning notice to the governing body in those terms (and to withdraw any previous warning notice given to the governing body under section 60A).
- (9) If the Secretary of State directs the authority under subsection (8)(b) to give a warning notice to the governing body in the specified terms, the authority must—
- (a) comply with the direction under subsection (8)(b) before the end of the period of 5 working days beginning with the day on which that direction is given, and
 - (b) on the same day as they do so, give the Secretary of State a copy of the notice.
- (10) Subsections (7)(b) and (9)(b) apply in addition to section 60A(6).
- (11) A direction under this section must be in writing.]

Textual Amendments

- F9** Ss. 69A, 69B inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 10**; S.I. 2009/3317, art. 2, Sch.
- F10** S. 69B(3)(c) omitted (18.4.2016) by virtue of Education and Adoption Act 2016 (c. 6), **ss. 3(5)(a)**, 19(2); S.I. 2016/466, reg. 2 (with reg. 4(2))
- F11** Word in s. 69B(3)(d) substituted (18.4.2016) by Education and Adoption Act 2016 (c. 6), **ss. 3(5)(b)**, 19(2); S.I. 2016/466, reg. 2 (with reg. 4(2))

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2006/2990 art. 4 by [S.I. 2008/54 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2007/935 art. 7(n) by [S.I. 2007/1271 art. 4](#)
- specified provision(s) transitional provisions for earlier commencing SI 2007/935 by [S.I. 2007/1271 art. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A inserted by [2010 c. 26 s. 7](#)
- s. 88(A1) inserted by [2015 c. 20 Sch. 16 para. 1\(2\)](#)
- s. 93A inserted by [2009 c. 22 s. 246](#)
- s. 93A(7) words inserted by [S.I. 2016/413 reg. 235](#) (This amendment comes into force on the day that section 93A of the Education and Inspections Act 2006 (c. 40) comes into force. That provision is still prospective)
- s. 162(5A)(aa) inserted by [2010 nawm 1 Sch. 1 para. 20\(a\)](#)