

**2004 No. 657**

**EDUCATION, ENGLAND**

**The Blackburn with Darwen (Maintained Nursery School  
Governance) Order 2004**

<i>Made</i> - - - -	<i>10th March 2004</i>
<i>Laid before Parliament</i>	<i>10th March 2004</i>
<i>Coming into force</i> - -	<i>31st March 2004</i>

Whereas the Council of the Borough of Blackburn with Darwen acting in its capacity as a local education authority (“the authority”) has, in accordance with section 4(2) of the Education Act 2002(a) (“the Act”), consulted such persons as appear to them to be appropriate;

Whereas it is the opinion of the Secretary of State, having regard to the matters set out in section 1(2) of the Act, that the implementation by the authority of the provisions of this Order may contribute to the raising of educational standards achieved by children in England;

Now, therefore, in exercise of the powers conferred upon the Secretary of State by section 2(1) of the Act, the Secretary of State for Education and Skills, on the application of the authority, makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 and shall come into force on 31st March 2004.

(2) In this Order —

“the 1996 Act” means the Education Act 1996 (b);

“the 1998 Act” means the School Standards and Framework Act 1998 (c);

“the Act” means the Education Act 2002;

“the nursery schools” means the seven maintained nursery schools listed in the Schedule.

**Exemption**

2. The following provisions shall not, in respect of the nursery schools, apply to the authority:

- (a) section 19(1) of the Act (requirement for maintained schools to have a governing body),  
and

- (b) section 20(1) of the Act (requirement for maintained schools to have an instrument of government).

### **Modification**

**3.** The following provisions shall, in respect of the authority and their responsibilities towards the nursery schools, be modified to the extent provided:

- (a) sections 317(1), 317A(1) and 329A(13)(a) of the 1996 Act (**a**) (special educational needs) as if the amendments made by paragraphs 39(2), 40 and 44 of Schedule 21 to the Act were not made;
- (b) sections 11, 15, 16, 17, 18, and 21 of, and paragraph 1 of Schedule 3 to, the School Inspections Act 1996 (**b**) (school inspections) as if the amendments made by paragraphs 60, 61, 62, 63(a), 64, 65 and 67 of Schedule 21 to the Act were not made;
- (c) section 45(1A) (**c**) of the 1998 Act (definition of “maintained school” for purposes of budget share), as if paragraph (c) of that subsection were omitted;
- (d) sections 61 and 62 of the 1998 Act (school discipline) as if the amendments made by paragraphs 102 and 103 of Schedule 21 to the Act were not made;
- (e) section 21(1) of the Act (general conduct of the school) as if the reference to the “school’s governing body” were a reference to the authority;
- (f) section 21(2) of the Act (conduct of the school with view to promoting high standards) as if the reference to the “governing body” were a reference to the authority;
- (g) section 32(1)(b) of the Act (times of school sessions), as if the reference to the “governing body” were a reference to the authority;
- (h) section 52(5)(a) of the Act (pupil exclusion), as if the words “such person or body as may be appointed for that purpose by the authority” were substituted for the words “governing body of the school”;
- (i) section 90(3) of the Act (development work and experiments) —
  - (i) as if the words “with the agreement of the governing body” were omitted from paragraph (b), and
  - (ii) as if the words “both” and “and the governing body” were omitted from paragraph (c);
- (j) section 95 of the Act (appeals against direction for temporary exceptions for individual pupils) as if references to the “governing body” in each place where they occur were references to the authority;
- (k) the Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 (**d**), as if the words “such person or body as may be appointed for that purpose by the local education authority” were substituted for the words “governing body” in each place where they occur;
- (l) the LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations 2003 (**e**):
  - (i) as if paragraph 2(2) of Schedule 2 was omitted, and
  - (ii) as if the words “which will cease to be maintained on or before 31st August 2004” were omitted from paragraph 25 of Schedule 3; and
- (m) the Financing of Maintained Schools (England) (No. 2) Regulations 2003 (**f**), to omit the words “or a maintained nursery school” from regulation 1(3)(p).

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**(a)** Part IV of the 1996 Act was amended by the 1998 Act and the Special Educational Needs and Disability Act 2001.

**(b)** 1996 c.57

**(c)** Section 45(1A) of the 1998 Act was inserted by paragraph 99 of Schedule 21 to the 2002 Act.

**(d)** S.I. 2002/3178

**(e)** S.I. 2003/3170

**(f)** S.I. 2003/3247

4.—(1) The arrangements for the staffing of the nursery schools shall be determined by the authority.

(2) The authority may appoint, suspend and dismiss teachers and other staff at the nursery schools as the authority think fit. (a)

**Time period**

5. This order shall have effect until 30th March 2007.

10th March 2004

*David Miliband*  
Minister of State  
Department for Education and Skills

**SCHEDULE**

Article 1

**MAINTAINED NURSERY SCHOOLS IN RESPECT OF WHICH THE  
EXEMPTIONS AND MODIFICATIONS ARE MADE**

<b>SCHOOL</b>	<b>DfES NUMBER</b>
Ashworth Nursery School Addison Close Blackburn BB2 1QU	1029
Audley Nursery School Queens Road Blackburn BB1 1QG	1032
Brunel Nursery School Cambridge Street Blackburn BB1 1HN	1030
Chapels Nursery School Winterton Road Darwen BB3 0ER	1038
John Smethurst Nursery School St James's Road Blackburn BB1 8ES	1025

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(a) This article is a modification of paragraphs 1 and 2 of Schedule 2 to the 2002 Act.

Kelsall Avenue Nursery School Kelsall Avenue Blackburn BB1 5RU	1023
Seven Trees Nursery School Whalley Street Blackburn BB1 6ER	1048

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under section 2 of the Education Act 2002, and in Article 2 exempts the Council of Borough of Blackburn with Darwen from the requirement in Part 3 of that Act to constitute a governing body for seven of its nine maintained nursery schools. Articles 3 and 4 make various modifications of education law consequential on that exemption. Article 5 provides that the Order has effect for a period of three years.

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