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TO

Make provision about education, training and childcare.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

PROVISION FOR NEW LEGAL FRAMEWORKS

CHAPTER 1

POWERS TO FACILITATE INNOVATION

1	Purpose and interpretation of Chapter 1	5
(1)	The purpose of this Chapter is to facilitate the implementation by qualifying bodies of innovative projects that may –	
	(a) in the opinion of the Secretary of State, contribute to the raising of the educational standards achieved by children in England, or	
	(b) in the opinion of the National Assembly for Wales, contribute to the raising of the educational standards achieved by children in Wales.	10
(2)	In subsection (1) “children” means persons under the age of nineteen.	
(3)	In this Chapter –	
	“the Chief Inspector” means –	
	(a) in relation to England, Her Majesty’s Chief Inspector of Schools in England, and	15
	(b) in relation to Wales, Her Majesty’s Chief Inspector of Education and Training in Wales;	
	“education legislation” means –	
	(a) the Education Acts (as defined by section 578 of the Education Act 1996 (c. 56)),	20
	(b) the Learning and Skills Act 2000 (c. 21), and	

- (c) any subordinate legislation made under any of those Acts;
- “qualifying body” means –
- (a) a local education authority,
 - (b) an Education Action Forum,
 - (c) the governing body of a qualifying school, or 5
 - (d) the proprietor of any special school that is not maintained by a local education authority but is for the time being approved by the Secretary of State or the National Assembly for Wales under section 342 of the Education Act 1996 (c. 56);
- “qualifying school” means – 10
- (a) a community, foundation or voluntary school or a community or foundation special school,
 - (b) a maintained nursery school,
 - (c) a city technology college,
 - (d) a city college for the technology of the arts, or 15
 - (e) an Academy;
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

2 Power to suspend statutory requirements etc.

- (1) On the application of one or more qualifying bodies (“the applicant”), the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may for the purpose of this Chapter by order make provision – 20
- (a) conferring on the applicant exemption from any requirement imposed by education legislation; 25
 - (b) relaxing any such requirement in its application to the applicant;
 - (c) enabling the applicant to exercise any function conferred by education legislation on any other qualifying body (either concurrently with or in place of that other body);
 - (d) making such modifications of any provision of education legislation, in its application to the applicant or any other qualifying body, as are in the opinion of the Secretary of State or the Assembly consequential on any provision made by virtue of any of paragraphs (a) to (c). 30
- (2) An order under this section shall have effect during a period specified in the order which, subject to section 3(2), must not exceed three years. 35
- (3) Before making an order under this section, the Secretary of State or the National Assembly shall, if he or it considers it appropriate to do so, consult the Chief Inspector.
- (4) No order under this section which relates to sections 115 to 125 may be made by the National Assembly for Wales without the consent of the Secretary of State. 40
- (5) The Secretary of State or the National Assembly for Wales may from time to time give guidance as to the matters which the Secretary of State or the Assembly will take into account in determining whether to grant applications for orders under this section. 45

- (6) No order under this section, except an amending or revoking order made by virtue of section 3, may be made after the end of the period of four years beginning with the commencement date.
- (7) In subsection (6) “the commencement date” means –
- (a) in relation to an order made by the Secretary of State, the day on which this section comes into force in relation to England, and
 - (b) in relation to an order made by the National Assembly for Wales, the day on which this section comes into force in relation to Wales.
- (8) The effect of an order under this section is to be disregarded in determining for the purposes of section 1 of the Regulatory Reform Act 2001 (c. 6) (power by order to make provision reforming law which imposes burdens) whether any provision of an Act falls within subsection (4)(b) of that section (provisions amended by subordinate legislation within previous two years).

3 Variation or revocation of orders under section 2

- (1) The power conferred on the Secretary of State and the National Assembly for Wales by section 2 includes –
- (a) power by a further order made under that section on an application made for the purposes of that section by one or more qualifying bodies, to amend any order previously made under that section so as to extend –
 - (i) the requirements or functions in relation to which the order applies,
 - (ii) the qualifying bodies to which it applies, or
 - (iii) subject to subsection (2), the period during which it has effect, and
 - (b) power by a further order under that section, which may be made without any application from a qualifying body, to revoke any order previously made under that section.
- (2) An order made under section 2 by virtue of subsection (1)(a)(iii) of this section may, on one occasion only, extend the period for which a previous order under that section has effect by a period of not more than three years from the end of the period originally specified in the previous order.

4 Applications for orders under section 2

- (1) An application for the purposes of section 2 must be in such form, and contain such information, as may be required by the Secretary of State or, as the case may be, the National Assembly for Wales.
- (2) Before making such an application, the qualifying body shall consult such persons as appear to the body to be appropriate, having regard to any guidance given from time to time by the Secretary of State or, as the case may be, the National Assembly for Wales.
- (3) The Secretary or State or the National Assembly for Wales may with the consent of the applicant include in an order under section 2 provisions different from those requested in the application.

CHAPTER 2

EXEMPTIONS RELATED TO SCHOOL PERFORMANCE

5 Interpretation of Chapter 2

- (1) For the purposes of this Chapter a maintained school is a “qualifying school” at any time if it is a school of a prescribed description which satisfies prescribed criteria relating to the performance of, or the quality of leadership in, the school. 5
- (2) The criteria prescribed for the purposes of subsection (1) may include criteria referring to the opinion of the Secretary of State or the National Assembly for Wales. 10
- (3) In this Chapter –
- “curriculum provision” means –
- (a) in relation to a maintained school maintained by a local education authority in England, any provision of the National Curriculum for England, and 15
- (b) in relation to a maintained school maintained by a local education authority in Wales, any provision of the National Curriculum for Wales;
- “maintained school” means a community, foundation or voluntary school or a community or foundation special school; 20
- “pay and conditions provision” means any provision of an order under section 118;
- “school teacher” has the same meaning as in section 118.

6 Exemptions available to qualifying schools

- (1) Regulations may for the purposes of this section – 25
- (a) designate any curriculum provision or pay and conditions provision as attracting exemption as of right,
- (b) designate any curriculum provision or pay and conditions provision as attracting discretionary exemption,
- (c) designate modifications of any curriculum provision or pay and conditions provision as being available as of right, and 30
- (d) designate modifications of any curriculum provision or pay and conditions provision as being available on a discretionary basis.
- (2) On the application of the governing body of a qualifying school, the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may by order – 35
- (a) provide that any pay and conditions provision which is designated under subsection (1)(a) or (b) and specified in the order is not to apply in relation to school teachers employed at the school,
- (b) provide that any pay and conditions provision which is designated under subsection (1)(c) or (d) is to apply in relation to school teachers employed at the school with modifications which are specified in the order and fall within the modifications designated as being available as of right or available on a discretionary basis, 40

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- (c) provide that any curriculum provision which is designated under subsection (1)(a) or (b) and specified in the order is not to apply in relation to the school,
- (d) provide that any curriculum provision which is designated under subsection (1)(c) or (d) is to apply in relation to the school with modifications which are specified in the order and fall within the modifications designated as being available as of right or available on a discretionary basis, or 5
- (e) revoke or vary any order previously made under this subsection.
- (3) Where an application under subsection (2) by a qualifying school – 10
- (a) relates only to exemption from provisions that are designated under subsection (1)(a) as attracting exemption as of right or to modifications that fall within the modifications designated under subsection (1)(c) as being available as of right (or only to such exemption and such modifications), and 15
- (b) does not relate to the revocation or variation of an order previously made under subsection (2),
- the Secretary of State or, as the case may be, the National Assembly for Wales shall make the order requested.
- (4) The Secretary of State or the National Assembly for Wales may from time to time give guidance as to the matters which the Secretary of State or the Assembly will take into account in determining whether to grant applications under subsection (2) which relate to – 20
- (a) provisions which are designated under subsection (1)(b) as attracting discretionary exemption, or 25
- (b) modifications which fall within the modifications designated under subsection (1)(d) as being available on a discretionary basis.
- (5) No regulations under subsection (1) which relate to a pay and conditions provision may be made by the National Assembly for Wales without the consent of the Secretary of State. 30
- 7 Applications for orders under section 6(2)**
- (1) An application for the purposes of section 6(2) must be in such form, and contain such information, as may be required by the Secretary of State or, as the case may be, the National Assembly for Wales.
- (2) Before making such an application, the governing body shall – 35
- (a) where the application relates to a curriculum provision, consult the parents of registered pupils at the school,
- (b) where the application relates to a pay and conditions provision, consult each school teacher employed at the school, and
- (c) in any case, consult such other persons as appear to them to be appropriate, having regard to any guidance given from time to time by the Secretary of State or, as the case may be, the National Assembly for Wales. 40
- (3) The Secretary of State or the National Assembly for Wales may with the consent of the applicant include in an order under section 6(2) provisions different from those requested in the application. 45

8 Removal of exemptions

Where –

- (a) the Secretary of State or the National Assembly for Wales has made an order under subsection (2) of section 6 in relation to a school (“the exemption order”), and
- (b) since the making of the exemption order, the school has ceased to be a qualifying school,

the Secretary of State or the Assembly may, without any application by the governing body, make an order under that subsection which revokes the exemption order or varies the exemption order so as to restrict any exemption conferred by it.

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9 Determination of pay and conditions during and after exemption

- (1) Where an order under section 6 which relates to a pay and conditions provision is in force in relation to a school –
 - (a) the governing body shall determine the remuneration and other conditions of employment of each school teacher employed at the school, to the extent that by virtue of the order the pay and conditions provisions do not apply to him,
 - (b) the local education authority shall do anything necessary to give effect to the governing body’s determination under paragraph (a), and
 - (c) pending a determination under paragraph (a), the terms on which a school teacher is employed at the school shall remain unchanged (irrespective of any new order under section 118 except so far as applying to him despite the effect of the order under section 6).
- (2) The Secretary of State may make regulations about the application of section 118(2) where an order under section 6(2) is revoked or the exemption conferred by it is restricted.

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CHAPTER 3

POWERS TO FORM COMPANIES ETC

10 Powers of governing bodies to form or invest in companies to provide services etc

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- (1) The governing body of a maintained school may form, or participate in forming, companies –
 - (a) to provide services or facilities for any schools,
 - (b) to exercise relevant local education authority functions, or
 - (c) to make, or facilitate the making of, arrangements under which facilities or services are provided for any schools by other persons.
- (2) The governing body of a maintained school may, with a view to securing or facilitating –
 - (a) the provision by a company of services or facilities for any schools,
 - (b) the exercise by a company of relevant local education authority functions, or
 - (c) the making by any person of arrangements of the kind referred to in subsection (1)(c),

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invest in the company which is to provide the services or facilities or exercise the functions or by which the arrangements are to be made or facilitated.

- (3) The governing body of a maintained school may form, or participate in forming, companies to purchase services or facilities for that school and other participating schools. 5
- (4) The governing body of a maintained school may, with a view to securing or facilitating the purchase by a company of services or facilities for that school and other participating schools, become a member of the company.
- (5) The governing body of a maintained school may provide staff to any company in relation to which they have exercised a power conferred by any of subsections (1) to (4). 10
- (6) Subsections (1) to (4) have effect subject to section 11.
- (7) This section is without prejudice to any powers of the governing body of a maintained school exercisable otherwise than by virtue of this section.
- (8) In this section and section 11 – 15
“company” means a company within the meaning of the Companies Act 1985 (c. 6);
“relevant local education authority functions”, in relation to a company, means any such functions of any local education authority as are or may become exercisable by the company in accordance with an authorisation given or direction made by virtue of any enactment, 20
“facilities” includes the provision of (or of the use of) premises, goods, materials, vehicles, plant or apparatus;
“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school; 25
“participating school”, in relation to a company, means a school whose governing body is, or is to be, a member of the company.
- (9) References in this section and section 11 to investing in a company include references to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise. 30

11 Limits on powers conferred by section 10

- (1) The governing body of a maintained school may not exercise any power conferred by any of subsections (1) to (4) of section 10 except – 35
(a) with the consent of the local education authority, and
(b) at a time when the school has a delegated budget (within the meaning of Part 2 of the School Standards and Framework Act 1998 (c. 31)).
- (2) A governing body – 40
(a) may not exercise any of those powers in relation to a company unless the company satisfies the requirements set out in subsection (3), and
(b) may not, by virtue of section 10, remain a member of a company at any time when the company has ceased to satisfy those requirements.
- (3) The company must, if regulations so provide – 45
(a) be prohibited by its constitution from admitting to its membership any person who is not of a prescribed description,

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- (b) be registered under the Companies Act 1985 (c. 6) as a company limited by guarantee, and
 - (c) meet prescribed requirements with respect to—
 - (i) the constitution of the company, and
 - (ii) any other matter connected with the company’s affairs. 5
 - (4) Without prejudice to the generality of paragraph (c) of subsection (3), regulations under that paragraph may require that the company be prohibited by its constitution from borrowing money, except with the consent of a prescribed person.
 - (5) Regulations may – 10
 - (a) provide that where one or more governing bodies have invested in a company by virtue of section 10, a local education authority shall be designated as the supervising authority for the company,
 - (b) specify the persons by whom and the manner in which the power of designation is, or is in specified circumstances, exercisable, 15
 - (c) make provision about the duties of a local education authority who are for the time being designated as the supervising authority for a company,
 - (d) require that where a local education authority are for the time being so designated the company shall provide prescribed information relating to its financial affairs to them at such times and in such manner as may be prescribed, 20
 - (e) provide that in prescribed circumstances a local education authority who are for the time being so designated may direct any participating governing body to cease to be a member of the company or to take any other prescribed action in relation to the company, and 25
 - (f) prescribe the procedure for making such a direction.
 - (6) In subsection (5)(e) “participating governing body”, in relation to a company, means any governing body of a maintained school who are a member of the company. 30
 - (7) Regulations may restrict the circumstances in which a local education authority may refuse to give any consent applied for under subsection (1).

12 General powers of Secretary of State in relation to companies

- (1) The Secretary of State may, if he considers it expedient to do so for purposes connected with any function of his relating to education – 35
 - (a) form, or participate in forming, companies to carry on any activities which he considers likely to secure or facilitate the achievement of those purposes, or
 - (b) *invest in any company which is to carry on such activities.*
- (2) In this section “education” includes – 40
 - (a) vocational training (including the preparation of young people for employment in general), and
 - (b) social and physical training (including the promotion of the development of young children),

but does not include higher education. 45
- (3) In this section “company” means a company within the meaning of the Companies Act 1985.

- (4) The reference in subsection (1) to investing in a company includes a reference to becoming a member of the company and to investing in it by the acquisition of any assets, securities or rights or otherwise.
- (5) This section is without prejudice to any powers of the Secretary of State exercisable otherwise than by virtue of this section.

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PART 2

FINANCIAL ASSISTANCE FOR EDUCATION AND CHILDCARE

13 Power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare

- (1) *The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may give, or make arrangements for the giving of, financial assistance to any person for or in connection with any of the purposes mentioned in subsection (2).* 10
- (2) *Those purposes are –*
- (a) *the provision, or proposed provision, in the United Kingdom or elsewhere, of education or of educational services;* 15
 - (b) *the provision, or proposed provision, in the United Kingdom or elsewhere, of childcare or of services related to childcare;*
 - (c) *enabling any person to undertake any course of education, or any course of higher education provided by an institution within the further education sector,* 20
 - (d) *providing for a person’s maintenance while he undertakes such a course;*
 - (e) *the promotion of learning or research;*
 - (f) *the promotion of the use of educational buildings or facilities for purposes other than those of education;* 25
 - (g) *the provision of any form of training for teachers or for non-teaching staff;*
 - (h) *the promotion of the recruitment or retention of teachers or non-teaching staff;*
 - (i) *the remuneration of, or provision of other benefits to, teachers or non-teaching staff.*
- (3) *In this section –* 30
- “education” includes –
 - (a) vocational training (including the preparation of young people for employment in general), and
 - (b) social and physical training (including the promotion of the development of young children),but does not include higher education, and “educational” shall be construed accordingly;
 - “educational services” includes administrative, advisory, organisational, training or information services related to education;
 - “non-teaching staff” means persons who are not teachers but who – 40
 - (a) are employed at, or otherwise engaged to work at, a school or at an institution within the further education sector,
 - (b) are employed by, or engaged to provide services for, a local education authority, or
 - (c) are employed by any person in connection with the provision of education or childcare; 45

“teacher” does not include a teacher at an institution within the higher education sector.

14 Forms of assistance under section 13

- (1) Financial assistance under section 13 may be given in any form.
- (2) Assistance may, in particular, be given by way of – 5
 - (a) grants,
 - (b) loans,
 - (c) guarantees,
 - (d) incurring expenditure on the provision of equipment for the benefit of the person assisted, or 10
 - (e) incurring other expenditure for the benefit of the person assisted.
- (3) Assistance given under section 13 to a local authority may not be given by way of loan or guarantee.

15 Terms on which assistance under section 13 is given

- (1) Financial assistance under section 13 may be given on such terms as the Secretary of State (or, as the case may be, the National Assembly for Wales) considers appropriate. 15
- (2) The terms may, in particular, include provisions as to –
 - (a) circumstances in which the assistance is to be repaid, or otherwise made good, to the Secretary of State (or the National Assembly for Wales), and the manner in which that is to be done; 20
 - (b) the giving by the person receiving assistance of financial assistance to other persons on such terms as that person or the Secretary of State (or the Assembly) considers appropriate;
 - (c) circumstances in which any payments made by virtue of terms included by virtue of paragraph (b) are to be repaid, or otherwise made good, to the person receiving assistance from the Secretary of State (or the Assembly), and the manner in which that is to be done; 25
 - (d) the keeping, and making available for inspection, of accounts and other records. 30
- (3) The person receiving assistance must comply with the terms on which it is given, and compliance may be enforced by the Secretary of State (or, as the case may be, the National Assembly for Wales).
- (4) Section 14(2) applies to financial assistance required by virtue of subsection (2)(b) as it applies to financial assistance given under section 13. 35

16 Delegation

- (1) Arrangements under section 13 may provide for assistance to be given, or other functions relating to assistance to be exercised, otherwise than by the Secretary of State or the National Assembly for Wales.
- (2) Arrangements under section 13 which so provide may make provision for the functions concerned to be so exercised – 40
 - (a) either wholly or to such extent as may be specified in the arrangements, and

- (b) either generally or in such cases or circumstances as may be so specified,

but shall not prevent the functions concerned from being exercised by the Secretary of State or, as the case may be, the National Assembly for Wales.

17 Repeal of specific grant-making powers 5

- (1) The following enactments (which confer on the Secretary of State or the National Assembly for Wales specific powers that are superseded by the power in section 13) shall cease to have effect –
 - (a) section 4 of the Education Act 1967 (c. 3) (loans for capital expenditure for the purposes of colleges of education), 10
 - (b) section 1(1)(b) of the Education Act 1986 (c. 40) (grants to Further Education Unit),
 - (c) section 50(1)(b) of the Education (No. 2) Act 1986 (c. 61) (grants to facilitate training of persons other than teachers),
 - (d) section 210 of the Education Reform Act 1988 (c. 40) (grants to further education institutions for education of travellers and displaced persons), 15
 - (e) section 211 of that Act (grants in respect of special provision for immigrants),
 - (f) section 1 of the Nursery Education and Grant-Maintained Schools Act 1996 (c. 50) (arrangements for making grants in respect of nursery education), 20
 - (g) sections 486 to 488 and section 490 of the Education Act 1996 (c. 56) (which confer miscellaneous grant-making powers),
 - (h) section 491 of that Act (payment of school fees and expenses), and 25
 - (i) section 3 of the School Standards and Framework Act 1998 (c. 31) (payment of grant in connection with reductions in infant class sizes).
- (2) The power to pay grants under section 484 of the Education Act 1996 (education standards grants) shall be exercisable only in relation to Wales.

PART 3 30

MAINTAINED SCHOOLS

CHAPTER 1

GOVERNMENT OF MAINTAINED SCHOOLS

18 Governing bodies

- (1) Each maintained school shall have a governing body, which shall be a body corporate constituted in accordance with regulations. 35
- (2) Regulations shall provide for a governing body to consist of –
 - (a) persons who, at the time of their election or appointment, are parents of registered pupils at the school,
 - (b) persons employed to work at the school, 40
 - (c) persons appointed as local education authority governors,
 - (d) persons appointed as community governors,

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- (e) in the case of a foundation school, a foundation special school or a voluntary school, persons appointed as foundation governors or partnership governors, and
- (f) such other persons as may be prescribed.
- (3) Regulations may make provision as to – 5
- (a) the number of governors, or of governors falling within any category,
- (b) the person or persons by whom, and the manner in which, governors are to be elected or appointed,
- (c) eligibility for election or appointment as governors of any category, or for voting in an election of such governors, 10
- (d) the term of office of governors,
- (e) resignation or removal from office of governors,
- (f) the payment of allowances to governors,
- (g) meetings and proceedings of governing bodies,
- (h) the election by the governors of a chairman and vice chairman of the governing body, 15
- (i) the establishment by a governing body of committees,
- (j) the appointment of persons other than governors to serve on committees of governing bodies,
- (k) the delegation of functions by governing bodies, and 20
- (l) other matters relating to the constitution or procedure of governing bodies.
- (4) Subsection (3)(k) has effect subject to the provisions of any scheme under section 48 of the School Standards and Framework Act 1998 (c. 31) (local education authorities' financial schemes) which relates to the school. 25
- (5) Schedule 1 (which contains general provisions relating to the governing body as a body corporate) shall have effect.
- (6) In discharging any function conferred by regulations under this section, a local education authority or the governing body of a maintained school shall have regard to any guidance given from time to time – 30
- (a) in relation to England, by the Secretary of State, or
- (b) in relation to Wales, by the National Assembly for Wales.
- (7) Subsection (1) has effect subject to section 23; and regulations under this section may include provision with respect to the governing bodies of federations. 35
- 19 Instruments of government**
- (1) For every maintained school there shall be an instrument (known as the instrument of government) which determines the constitution of the governing body and other matters relating to the school.
- (2) Regulations shall make provision with respect to the making of instruments of government, the matters to be dealt with in such instruments, the form of such instruments, and the review and variation of such instruments. 40
- (3) Regulations under subsection (2) may require any person responsible for the making, review or variation of an instrument of government to have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales. 45

- (4) Subsection (1) has effect subject to section 23; and regulations under subsection (2) may include provision with respect to instruments of government for federations.
- (5) The governing body of a maintained school shall not conduct the school under a name other than the one for the time being set out in the school’s instrument of government. 5

20 General responsibility for conduct of school

- (1) Subject to any other statutory provision, the conduct of a maintained school shall be under the direction of the school’s governing body.
- (2) The governing body shall conduct the school with a view to promoting high standards of educational achievement at the school. 10
- (3) Regulations may –
 - (a) set out terms of reference for governing bodies of maintained schools,
 - (b) define the respective roles and responsibilities in relation to the conduct of a maintained school (whether generally or with respect to particular matters) of –
 - (i) the local education authority,
 - (ii) the governing body, and
 - (iii) the head teacher, and
 - (c) confer functions on governing bodies and head teachers of such schools. 15
- (4) The governing body of a maintained school shall, in discharging their functions, comply with –
 - (a) the instrument of government, and
 - (b) (subject to any other statutory provision) any trust deed relating to the school. 20
- (b) (subject to any other statutory provision) any trust deed relating to the school. 25

21 Training and support of governors

The local education authority shall –

- (a) (to the extent that they are not otherwise required to secure the provision of such information) secure that every governor is provided, free of charge, with such information as they consider appropriate in connection with the discharge of his functions as governor, and 30
- (b) secure that there is made available to every governor, free of charge, such training as they consider necessary for the effective discharge of those functions. 35

22 Clerk to the governing body

Regulations may make provision –

- (a) requiring the appointment of a clerk to the governing body of a maintained school and authorising or requiring the appointment of clerks to committees of the governing body; 40
- (b) prescribing the body by whom any such appointment is to be made and any restrictions or other requirements relating to any such appointment;

- (c) as to the dismissal of any such clerk and the procedure to be followed in connection with his dismissal;
- (d) authorising the governing body or a committee of the governing body, where the clerk fails to attend a meeting of theirs, to appoint one of their number to act as clerk for the purposes of the meeting.

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23 Federations of schools

- (1) In prescribed cases, the governing bodies—
 - (a) of two or more maintained schools,
 - (b) of an existing federation and of one or more maintained schools, or
 - (c) of two or more existing federations,
 may, after complying with prescribed conditions and in accordance with prescribed procedure, provide for their respective schools to be federated for the purposes of this Chapter. 10
- (2) In this Chapter “federation” means a group of schools that are federated by virtue of this section, and “federated school” means a school forming part of a federation. 15
- (3) Where any schools are federated by virtue of this section, they shall—
 - (a) have a single governing body constituted under a single instrument of government, and
 - (b) in prescribed cases, be treated as a single school for the purposes of such enactments as may be prescribed, other than any enactment contained in Chapter 2 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (establishment, alteration or discontinuance of schools) or in Part 3 of that Act (school admissions). 20
- (4) Regulations may make provision— 25
 - (a) as to the dissolution of governing bodies on the formation of a federation,
 - (b) enabling the governing body of a federation to continue in existence as a body corporate when one or more schools join or leave the federation,
 - (c) as to the circumstances in which and manner in which a federation may be dissolved, or one or more schools may leave a federation, 30
 - (d) enabling the governing body of a federation that is dissolved to be replaced either by governing bodies for each of the constituent schools or by governing bodies which include the governing body of a new federation, 35
 - (e) as to the transition from one governing body to another,
 - (f) as to the transfer of property, rights and liabilities between governing bodies, or between local education authorities and governing bodies, and
 - (g) as to such other matters relating to federations, federated schools or the formation or dissolution of federations as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate. 40
- (5) Regulations made by virtue of subsection (4)(f) in relation to the transfer of property, rights and liabilities may— 45
 - (a) provide for prescribed matters to be determined by the Secretary of State or the National Assembly for Wales,

- (b) apply with modifications any provision of Schedule 10 to the Education Reform Act 1988 (c. 40) (supplementary provisions with respect to transfers under that Act), or
 - (c) make provision equivalent to that made by any provision of that Schedule. 5
- (6) In any enactment –
 - (a) any reference to the governing body or governors of a school is to be construed, in relation to a federated school, as a reference to the governing body or governors of the federation, and
 - (b) any reference to the instrument of government of a school is to be construed, in relation to a federated school, as a reference to the instrument of government of the federation. 10

24 Federations: supplementary provisions

- (1) Regulations may make provision modifying any provision contained in –
 - (a) Chapter 4 of Part 1 of the School Standards and Framework Act 1998 (c. 31) (intervention in schools causing concern), or 15
 - (b) sections 49 to 51 of, and Schedule 15 to, that Act (financial delegation), in the application of the provision to federated schools or their governing bodies.
- (2) The modifications that may be made by virtue of subsection (1) include, in particular, modifications – 20
 - (a) enabling powers conferred by the provisions referred to in that subsection to be exercised in relation to all the schools in a federation even though the circumstances by reference to which the powers are exercisable exist only in relation to one or more of those schools, and 25
 - (b) requiring the apportionment of any costs or expenses incurred by the governing body of a federation.
- (3) If regulations made by virtue of section 23 allow the formation of a federation comprising schools within different categories, the regulations may make provision modifying any enactment which relates to schools within a particular category, or to the governing bodies of schools within a particular category, in the application of the enactment to schools forming part of such a federation or to the governing bodies of such federations. 30
- (4) In subsection (3) references to categories of maintained schools are references to the categories set out in section 20(1) of the School Standards and Framework Act 1998. 35

25 Power of governing body to provide community facilities etc.

- (1) The governing body of a maintained school shall have power to provide any facilities or services whose provision furthers any charitable purpose for the benefit of – 40
 - (a) pupils at the school or their families, or
 - (b) people who live or work in the locality in which the school is situated.
- (2) The power under subsection (1) includes, in particular, power for a governing body to –
 - (a) incur expenditure, 45

- (b) enter into arrangements or agreements with any person,
 - (c) co-operate with, or facilitate or co-ordinate the activities of, any person, and
 - (d) provide staff, goods, services and accommodation to any person.
- (3) Subject to the provisions of Chapter 3 of Part 6 of the Education Act 1996 (c. 56) (charges in connection with education), a governing body may charge for any services or facilities provided under this section. 5
- (4) This section has effect subject to section 26.

26 Limits on power to provide community facilities etc.

- (1) Section 25(1) does not enable a governing body to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in— 10
- (a) the school’s instrument of government, or
 - (b) any scheme under section 48 of the School Standards and Framework Act 1998 (c. 31) (local education authorities’ financial schemes) which relates to the school. 15
- (2) Regulations may make provision preventing governing bodies from doing, by virtue of section 25(1), anything which is specified, or is of a description specified, in the regulations.
- (3) A governing body shall exercise the power conferred by section 25(1) only if and to the extent that they are satisfied that anything which they propose to do will not to a significant extent interfere with the performance of any duty imposed on them by section 20(2) or by any other provision of the Education Acts. 20
- (4) Before exercising the power under section 25(1) a governing body shall consult the local education authority; and in the exercise of the power a governing body shall have regard— 25
- (a) to any guidance about the exercise of the power given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales, and 30
 - (b) to any advice given to them from time to time by the local education authority.

27 Additional functions of governing body

- (1) The governing body of a maintained school shall—
- (a) establish procedures for dealing with all complaints relating to the school or to the provision of facilities or services under section 25, other than complaints falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of a statutory provision other than this section, and 35
 - (b) publicise the procedures so established. 40
- (2) In establishing or publicising procedures under subsection (1), the governing body shall have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

- (3) The governing body of a maintained school may require pupils in attendance at the school to attend at any place outside the school premises for the purposes of receiving any instruction or training included in the secular curriculum for the school.
- (4) In subsection (3) “maintained school” does not include a maintained nursery school. 5
- (5) The governing body and head teacher of –
(a) a community or voluntary controlled school,
(b) a community special school, or
(c) a maintained nursery school, 10
shall comply with any direction given to them by the local education authority concerning the health and safety of persons on the school’s premises or taking part in any school activities elsewhere.

28 Governors’ reports and other information

- (1) Once in every school year the governing body of a maintained school shall prepare a report (a “governors’ report”) dealing with such matters, and otherwise complying with such requirements, as may be specified in regulations. 15
- (2) Regulations may –
(a) impose requirements on the governing body of a maintained school with respect to – 20
(i) the giving of copies of a governors’ report to such persons as may be prescribed, and
(ii) making such copies available for inspection at the school;
(b) make provision for – 25
(i) enabling the governing body to determine the language or languages in which a governors’ report is to be produced and the form or forms in which it is to be produced;
(ii) requiring them to comply with any direction given by the local education authority with respect to any additional language to be used or with respect to any additional form in which the report is to be produced; 30
(c) enable the governors’ report to be combined with any other document whose preparation by the governing body is required by or under any enactment. 35
- (3) Regulations may –
(a) require the governing body of a maintained school to provide the local education authority with such reports and other information in connection with the discharge of the functions of the governing body as may be prescribed or as the authority may require (either on a regular basis or from time to time) for the purpose of the exercise of any of their functions, 40
(b) require the head teacher of a maintained school to provide the governing body or the local education authority with such reports and other information in connection with the discharge of his functions as may be prescribed or as the governing body or the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of their functions. 45

29 Arrangements for joint discharge of functions

Regulations may –

- (a) enable the governing bodies of two or more maintained schools to arrange for any of their functions to be discharged jointly or by a joint committee of theirs, 5
- (b) provide for the appointment by two or more governing bodies of a joint committee of those governing bodies for the purposes of discharging any functions in pursuance of any such arrangements, and
- (c) provide that any enactment relating to those functions or the governing bodies by whom they are to be discharged is to have effect subject to all necessary modifications in its application in relation to those functions and the governing bodies by whom they are to be discharged. 10

30 Control of school premises

Regulations may make provision relating to the control by the governing body of a maintained school of the occupation and use of school premises. 15

31 Responsibility for fixing dates of terms and holidays and times of sessions

- (1) In the case of a community, voluntary controlled or community special school or a maintained nursery school –
 - (a) the local education authority shall determine the dates when the school terms and holidays are to begin and end, and 20
 - (b) the governing body shall determine the times of the school sessions.
- (2) In the case of a foundation, voluntary aided or foundation special school the governing body shall determine –
 - (a) the dates and times when the school terms and holidays are to begin and end, and 25
 - (b) the times of the school sessions.
- (3) Regulations may make provision –
 - (a) as to the procedure to be followed where the governing body of a school within subsection (1) propose to make any change in the time of the school sessions; 30
 - (b) as to the implementation of any such proposal;
 - (c) for enabling the local education authority to determine, for any purposes of the regulations, whether any person is to be treated as a parent of a registered pupil at the school;
 - (d) that for all or any prescribed purposes of the regulations references to parents are to be read as excluding those who are not individuals. 35
- (4) In this section “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

32 Annual parents’ meetings 40

- (1) Once in every school year the governing body of a maintained school shall hold a meeting (an “annual parents’ meeting”) which is open to –
 - (a) all parents of registered pupils at the school,
 - (b) the head teacher, and

- (c) such other persons as the governing body may invite.
- (2) Regulations may make provision –
 - (a) as to the purpose of the annual parents’ meeting,
 - (b) as to circumstances in which a governing body are to be exempt from the obligation imposed by subsection (1), 5
 - (c) for the proceedings at an annual parents’ meeting to be under the control of the governing body;
 - (d) as to the procedure to be followed at any such meeting, including provision restricting the right to vote on any question put to the meeting to parents of registered pupils at the school; 10
 - (e) imposing requirements on the governing body, the head teacher and the local education authority in relation to resolutions which have been passed at any such meeting, including requirements framed by reference to any opinion formed by the governing body;
 - (f) for enabling the governing body or (as the case may be) the local education authority to determine, for purposes connected with annual parents’ meetings, whether any person is to be treated as the parent of a registered pupil at the school. 15

33 Arrangements for government of new schools

- (1) Where proposals for the establishment of a maintained school fall to be implemented under any enactment, the local education authority shall make arrangements providing for the constitution of a temporary governing body for the school 20
- (2) Once constituted in accordance with arrangements made under subsection (1) the temporary governing body shall continue in existence until such time as the governing body are constituted for the school under an instrument of government. 25
- (3) The local education authority shall secure that the governing body are so constituted before such date as may be determined in accordance with regulations. 30
- (4) The requirement for there to be an instrument of government for a school (imposed by section 19) shall take effect in relation to a school falling within subsection (1) above as from the date determined under subsection (3).
- (5) Regulations may make provision with respect to –
 - (a) the making and termination of arrangements for the constitution of temporary governing bodies, including such arrangements made in anticipation of proposals falling to be implemented as mentioned in subsection (1), 35
 - (b) the constitution, meetings and proceedings of temporary governing bodies, the payment of allowances to temporary governors, and the appointment of clerks to such bodies, 40
 - (c) the exercise by a temporary governing body before the school opening date of the powers conferred by section 25,
 - (d) the transition from a temporary governing body to a governing body constituted under an instrument of government, and 45
 - (e) such other matters relating to temporary governing bodies as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate.

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- (6) Regulations under subsection (5) may, in connection with any matters falling within that subsection –
- (a) modify any provision made under any of sections 18, 19 or 22 or by Schedule 1;
 - (b) apply any such provision with or without modifications; 5
 - (c) make provision corresponding or similar to any such provision.
- (7) Subject to subsection (8), the temporary governing body of a school shall be treated for the purposes of the Education Acts as if they were the governing body during the period –
- (a) beginning with the school opening date, and 10
 - (b) ending with the time when the governing body are constituted for the school under an instrument of government;
- and for the purposes of section 28(3) of this Act and sections 495 to 498 of the Education Act 1996 (c. 56) (general default powers of the Secretary of State) the temporary governing body of a school shall also be so treated at any time falling before the school opening date. 15
- (8) Despite subsection (7), nothing in any of the following provisions, namely –
- (a) section 19(1),
 - (b) (subject to any regulations made under subsection (5)) Schedule 1, or
 - (c) (subject to any regulations made under subsection (5)) regulations made under section 18, 19 or 22, 20
- applies to any temporary governing body.
- (9) In this section “school opening date”, in relation to a new maintained school, means the date when the school first admits pupils.
- 34 Staffing of community, voluntary controlled, community special and maintained nursery schools 25**
- (1) This section applies to –
- (a) community schools,
 - (b) voluntary controlled schools,
 - (c) community special schools, and 30
 - (d) maintained nursery schools.
- (2) Any teacher or other member of staff who is appointed to work under a contract of employment at a school to which this section applies is to be employed by the local education authority.
- (3) The teaching staff of any school to which this section applies shall include – 35
- (a) a person appointed as head teacher, or
 - (b) a person appointed to carry out the functions of the head teacher of the school –
- (i) pending the appointment of a head teacher, or
 - (ii) in the absence of the head teacher. 40
- (4) Regulations may make further provision with respect to the staffing of schools to which this section applies.
- (5) Regulations under subsection (4) may, in particular –
- (a) make provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff, 45

- (b) make provision with respect to the appointment of teachers and other staff to work at a school otherwise than under a contract of employment,
 - (c) make provision with respect to staff employed, or engaged otherwise than under a contract of employment, wholly or partly for the purposes of—
 - (i) the provision of facilities and services under section 25, or
 - (ii) any other activities which are not school activities but are carried on on the school premises under the management or control of the governing body, and
 - (d) confer functions on local education authorities, governing bodies and head teachers.
- (6) In relation to teachers at a voluntary controlled school who are reserved teachers within the meaning of section 58 of the School Standards and Framework Act 1998 (c. 31) (appointment and dismissal of certain teachers at schools with a religious character), regulations under subsection (4) shall have effect subject to the provisions of that section. 15
- (7) If at any time a school to which this section applies does not have a delegated budget by virtue of any suspension under section 17 of, or Schedule 15 to, the School Standards and Framework Act 1998— 20
- (a) regulations under subsection (4) shall not apply, and
 - (b) the provisions of Part 1 of Schedule 2 shall apply instead.
- (8) In discharging any function conferred by regulations under subsection (4), a local education authority or the governing body or head teacher of a maintained school shall have regard to any guidance given from time to time— 25
- (a) in relation to England, by the Secretary of State, or
 - (b) in relation to Wales, by the National Assembly for Wales.

35 Staffing of foundation, voluntary aided and foundation special schools

- (1) This section applies to— 30
- (a) foundation schools,
 - (b) voluntary aided schools, and
 - (c) foundation special schools.
- (2) Except as provided by regulations under subsection (4), any teacher or other member of staff who is appointed to work under a contract of employment at a school to which this section applies is to be employed by the governing body of the school. 35
- (3) The teaching staff of any school to which this section applies shall include— 40
- (a) a person appointed as head teacher, or
 - (b) a person appointed to carry out the functions of the head teacher of the school—
 - (i) pending the appointment of a head teacher, or
 - (ii) in the absence of the head teacher.
- (4) Regulations may make further provision with respect to the staffing of schools to which this section applies.
- (5) Regulations under subsection (4) may, in particular— 45

-
- (a) make provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff,
- (b) make provision with respect to the appointment of teachers and other staff to work at a school otherwise than under a contract of employment, 5
- (c) make provision with respect to staff employed, or engaged otherwise than under a contract of employment, wholly or partly for the purposes of –
- (i) the provision of facilities and services under section 25, or
- (ii) any other activities which are not school activities but are carried on on the school premises under the management or control of the governing body, 10
- (d) enable teachers and other staff to be employed by the local education authority in prescribed cases, and
- (e) confer functions on local education authorities, governing bodies and head teachers. 15
- (6) Regulations under subsection (4) shall have effect subject to section 58 of the School Standards and Framework Act 1998 (c. 31) (appointment and dismissal of certain teachers at schools with a religious character).
- (7) If at any time a school to which this section applies does not have a delegated budget by virtue of any suspension under section 17 of, or Schedule 15 to, the School Standards and Framework Act 1998, regulations under subsection (4) shall have effect subject to the provisions of Part 2 of Schedule 2. 20
- (8) In discharging any function conferred by regulations under subsection (4), a local education authority or the governing body or head teacher of a maintained school shall have regard to any guidance given from time to time – 25
- (a) in relation to England, by the Secretary of State, or
- (b) in relation to Wales, by the National Assembly for Wales.
- 36 Payments in respect of dismissal, etc.**
- (1) It shall be for the governing body of a maintained school to determine – 30
- (a) whether any payment should be made by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school, and
- (b) the amount of any such payment.
- (2) Subsection (1) does not, however, apply in relation to a payment which the local education authority are required to make – 35
- (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned, or
- (b) under any statutory provision. 40
- (3) The local education authority –
- (a) shall take such steps as may be required for giving effect to any determination of the governing body under subsection (1), and
- (b) shall not make, or agree to make, a payment in relation to which that subsection applies except in accordance with such a determination. 45
- (4) Subject to subsection (7), costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained

school shall be met from the school’s budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met.

- (5) Subject to subsection (7), costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school’s budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share. 5
- (6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996. 10
- (7) Where a local education authority incur costs –
- (a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or 15
 - (b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,
- they shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable. 20
- (8) Any amount payable by virtue of subsection (7) by the governing body of a maintained school to the local education authority shall not be met by the governing body out of the school’s budget share for any financial year. 25
- (9) Where a person is employed partly for community purposes and partly for other purposes, any payment or costs in respect of that person is to be apportioned between the two purposes; and the preceding provisions of this section shall apply separately to each part of the payment or costs. 30
- (10) Regulations may make provision with respect to the recovery from governing bodies of amounts payable by virtue of subsection (7).
- (11) Subsections (1) to (6) do not apply to a maintained school at any time when the school does not have a delegated budget by virtue of any suspension under section 17 of, or Schedule 15 to, the School Standards and Framework Act 1998 (c. 31). 35
- (12) In this section “community purposes” means the purposes of the provision of facilities or services under section 25.

37 Interpretation of Chapter 1

- (1) In this Chapter –
- “contract of employment”, “employee” and “employer” have the same meaning as in the Employment Rights Act 1996; 40
 - “employment” means employment under a contract of employment, and “employed” shall be construed accordingly;
 - “federation” and “federated school” have the meaning given by section 23; 45

-
- “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
- “maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school; 5
- “statutory provision” means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30).
- (2) For the purposes of this Chapter –
- (a) a person employed by a local education authority is to be regarded as employed to work at a school if his employment with the authority for the time being involves work at that school; and 10
- (b) a person employed by a local education authority is to be regarded as employed to work solely at a school if his only employment with the authority (disregarding any employment under a separate contract with the authority) is for the time being at that school. 15
- (3) In this Chapter –
- (a) references to a school having a delegated budget are references to the governing body of the school being entitled to manage the school’s budget share, and 20
- (b) where a school has a delegated budget the governing body are accordingly said to have a right to a delegated budget.
- 38 Amendments of Part 2 of School Standards and Framework Act 1998**
- Schedule 3 (which contains amendments of Part 2 of the School Standards and Framework Act 1998 (c. 31) relating to the power conferred by section 25 and to the engagement of staff otherwise than as employees) shall have effect. 25

CHAPTER 2

FINANCING OF MAINTAINED SCHOOLS

Determination of budgets

- 39 Determination of specified budgets of LEA** 30
- (1) After section 45 of the School Standards and Framework Act 1998 there is inserted –
- “45A Determination of specified budgets of LEA**
- (1) For the purposes of this Part, a local education authority’s “LEA budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection. 35
- (2) For the purposes of this Part, a local education authority’s “schools budget” for a financial year is the amount appropriated by the authority for meeting all expenditure by the authority in that year of a class or description prescribed for the purposes of this subsection 40

- (which may include expenditure incurred otherwise than in respect of schools).
- (3) For the purposes of this Part, a local education authority’s “individual schools budget” is the amount remaining after deducting from the authority’s schools budget for that year such planned expenditure by the authority in respect of that year as they may determine should be so deducted in accordance with regulations. 5
- (4) Regulations under subsection (3) may –
- (a) prescribe classes or descriptions of expenditure which are authorised or required to be deducted from an authority’s schools budget, 10
 - (b) provide, in relation to any prescribed class or description of expenditure specified in the regulations, that such expenditure may only be deducted subject to either or both of the following, namely – 15
 - (i) such limit or limits (however framed) as may be specified by or determined in accordance with the regulations, and
 - (ii) such other conditions as may be so specified or determined, and 20
 - (c) enable any prescribed determination to be made by the Secretary of State or the authority’s schools forum.
- (5) Before the end of January in any financial year, a local education authority shall –
- (a) determine the proposed amount of their schools budget for the following financial year, and 25
 - (b) give notice of their determination to the Secretary of State and to the governing body of every school maintained by the authority.”
- (2) In section 45 of that Act (maintained schools to have budget shares), in subsection (1) for “46” there is substituted “45A”. 30
- (3) Section 46 of that Act (determination of LEA’s local schools budget and individual schools budget) shall cease to have effect.

40 Power of Secretary of State to set minimum schools budget

After section 45A of the School Standards and Framework Act 1998 (c. 31) there is inserted – 35

“45B Power of Secretary of State to set minimum schools budget for LEA

- (1) If it appears to the Secretary of State that, in all the circumstances, the amount proposed in a notice under section 45A(5) as a local education authority’s schools budget for a financial year (in this section and section 45C referred to as “the year under consideration”) is inadequate, the Secretary of State may, within the period of fourteen days beginning with the day on which the notice was given, give the authority a notice under subsection (2) or (3). 40
- (2) A notice under this subsection is a notice determining as the minimum amount of the authority’s schools budget for the year under 45

consideration an amount greater than that specified in the authority's notice.

- (3) A notice under this subsection is a notice which—
- (a) specifies the amount which the Secretary of State would have determined as the minimum amount of the authority's schools budget for the year under consideration if he had acted under subsection (2), and 5
 - (b) states the Secretary of State's intention to determine the minimum amount of the authority's schools budget for the following financial year. 10
- (4) A notice under subsection (2) or (3) must include a statement of the Secretary of State's reasons for giving the notice.
- (5) The Secretary of State may act under different subsections in relation to different authorities.

45C Effect of notice under section 45B(2) 15

- (1) The local education authority may within the period of fourteen days beginning with the date of a notice under section 45B(2), give the Secretary of State notice of their objection to his 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(2) shall cease to have effect, but the Secretary of State may by order prescribe the minimum amount of the authority's schools budget for the year under consideration. 20
- (3) The amount prescribed under subsection (2) must not be greater than the amount specified in the notice under section 45B(2). 25
- (4) An order under subsection (2) may relate to two or more authorities.
- (5) No order under subsection (2) may be made in relation to one or more authorities in England unless a draft of the order has been laid before and approved by a resolution of the House of Commons. 30
- (6) Where—
- (a) a notice under section 45B(2) 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), 35
- the local education authority shall determine a schools budget for the year under consideration which is not less than the amount specified in relation to the authority in the notice or order."

41 Schools forums

After section 47 of the School Standards and Framework Act 1998 (c. 31) there is inserted— 40

“Schools forums

47A Schools forums

- (1) Every local education authority shall in accordance with regulations establish for their area before such date as may be prescribed a body, to be known as a schools forum, representing the governing bodies and head teachers of schools maintained by the authority. 5
- (2) Subsection (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.
- (3) The purpose of a schools forum is to exercise –
 - (a) such functions as may be conferred on a schools forum by regulations under section 45A(3), 10
 - (b) such other functions relating to the relevant authority’s schools budget as may be prescribed by regulations under this section.
- (4) Regulations may make provision as to the constitution, meetings and proceedings of a schools forum. 15
- (5) Regulations may make provision with respect to expenses of a schools forum.
- (6) Except as provided by regulations, the expenses of a schools forum shall be defrayed by the relevant authority.
- (7) The relevant authority shall indemnify the members of a schools forum against any reasonable costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of the forum. 20
- (8) Each of sections 496 and 497 of the Education Act 1996 (default powers of Secretary of State) shall apply in relation to a schools forum as it applies in relation to a body falling within subsection (2) of that section. 25
- (9) In this section “relevant authority”, in relation to a schools forum, means the local education authority by whom the forum is established.”

Accounts and financial statements 30

42 Accounts of maintained schools

- (1) Regulations may require the governing body of a maintained school –
 - (a) to keep prescribed accounts and prescribed records in relation to the accounts,
 - (b) to prepare prescribed financial statements or reports, 35
 - (c) to comply with prescribed conditions with respect to audit, and
 - (d) to send copies of the accounts, together with such financial statements or reports as may be prescribed, to the local education authority or to the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales). 40
- (2) The regulations may –
 - (a) impose on the governing body requirements relating to –

-
- (i) resources held by the governing body, and
 - (ii) other resources whose application is controlled by the governing body, and
 - (b) provide that for the purposes of the regulations any resources which, although not held by the governing body, appear to the local education authority to be available for the purposes of the school or for the purposes of the maintenance of any part of the school premises are to be taken to fall within paragraph (a)(ii) unless the governing body satisfy the local education authority that the governing body do not control the application of those resources. 5
 - (3) For the purposes of subsection (2), any powers exercisable by the head teacher are to be taken to be exercisable by the governing body. 10
 - (4) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may require a local education authority to give him or it copies of accounts or other documents received by the authority from a governing body in accordance with regulations under this section. 15
 - (5) The regulations may prescribe the form or manner in which, the period by reference to which, and the time within which, anything required by the regulations must be done.
 - (6) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may – 20
 - (a) publish information provided in accordance with regulations under this section in such form and manner as he or it considers appropriate,
 - (b) make arrangements for such information to be published in such form and manner, and by such persons, as he or it may specify for the purposes of this section, and 25
 - (c) make regulations requiring local education authorities to publish prescribed categories of such information, together with such supplementary information as may be prescribed, in such form and manner as may be prescribed. 30
 - (7) In this section “maintained school” has the same meaning as in Chapter 1.

43 Financial statements

- (1) Section 52 of the School Standards and Framework Act 1998 (c. 31) (financial statements by local education authority) is amended as follows.
- (2) In subsection (2), the word “and” at the end of paragraph (b) is omitted and after paragraph (c) there is inserted “and 35
 - (d) accountable resources held, received or expended in the year by any person in relation to a school maintained by the authority.”
- (3) After subsection (2) there is inserted –
 - “(2A) In subsection (2)(d), “accountable resources”, in relation to a maintained school, means any resources which are not provided by the local education authority but in respect of which an obligation is imposed on the governing body of the school by virtue of regulations under section 42 of the Education Act 2002 (accounts of maintained schools).” 4045

CHAPTER 3

ADMISSIONS, EXCLUSIONS AND ATTENDANCE

Admission arrangements

44 Admission forums

After section 85 of the School Standards and Framework Act 1998 (c. 31) there is inserted – 5

“85A Admission forums

- (1) A local education authority shall in accordance with regulations establish for their area a body, to be known as an admission forum, for the purpose of – 10
 - (a) advising the authority on such matters connected with the exercise of the authority’s functions under this Chapter as may be prescribed, and
 - (b) advising the admission authorities for maintained schools in the area for which the forum is established on – 15
 - (i) such matters connected with the determination of admission arrangements, and
 - (ii) such other matters connected with the admission of pupils, as may be prescribed. 20
- (2) The authority may establish sub-committees of the forum.
- (3) Regulations may make provision – 25
 - (a) as to the constitution, meetings and proceedings of an admission forum and of any such sub-committee,
 - (b) as to the manner in which advice is to be given by a forum, and
 - (c) as to the establishment by local education authorities of joint admission forums.
- (4) The bodies mentioned in paragraphs (a) and (b) of subsection (1) shall have regard, in carrying out their functions, to any relevant advice given to them by an admission forum under that subsection. 30
- (5) The local education authority shall make arrangements for the forum (and any sub-committee established under subsection (2)) to be provided with accommodation and with such services as the authority consider appropriate”.

45 Admission numbers

- (1) In section 86(5) of the School Standards and Framework Act 1998 (no prejudice for the purposes of subsection (3)(a) to be taken to arise from the admission of a number of pupils not exceeding the relevant standard number or the admission number, whichever is greater), for the words from “exceed” onwards there is substituted “exceed the number determined under section 89 as the number of pupils in that age group that it is intended to admit to the school in that year”. 40

(2) After section 89 of that Act there is inserted –

“89A Determination of admission numbers

- (1) A determination under section 89 by the admission authority for a maintained school of the admission arrangements which are to apply for a school year shall include a determination of the number of pupils in each relevant age group that it is intended to admit to the school in that year. 5
- (2) Subsection (1) does not prevent the admission authority for a maintained school from determining zero as the number of pupils in a particular relevant age group that it is intended to admit to the school in a particular school year. 10
- (3) Regulations may make provision about the making of any determination required by subsection (1), and may in particular require the admission authority for a maintained school to have regard, in making any such determination, to – 15
- (a) any prescribed method of calculation, and
 - (b) any other prescribed matter.”

46 Co-ordination of admission arrangements

After section 89A of the School Standards and Framework Act 1998 (c. 31) there is inserted – 20

“89B Co-ordination of admission arrangements

- (1) Regulations may require a local education authority – 25
- (a) to formulate, for any academic year in relation to which prescribed conditions are satisfied, a qualifying scheme for co-ordinating the arrangements for the admission of pupils to maintained schools in their area, and
 - (b) to take prescribed action with a view to securing the adoption of the scheme by themselves and each governing body who are the admission authority for a maintained school in their area.
- (2) Subject to subsection (3), the Secretary of State may make, in relation to the area of a local education authority and an academic year, a scheme for co-ordinating the arrangements, or assisting in the co-ordination of the arrangements, for the admission of pupils to maintained schools in that area. 30
- (3) A scheme may not be made under subsection (2) in relation to a local education authority and an academic year if, before the prescribed date in the year preceding the year in which that academic year commences – 35
- (a) a scheme formulated by the local education authority in accordance with subsection (1) is adopted in the prescribed manner by the persons mentioned in paragraph (b) of that subsection, and 40
 - (b) the authority provide the Secretary of State with a copy of the scheme and inform him that the scheme has been so adopted.

- (4) The Secretary of State may by regulations require local education authorities to provide other local education authorities with such information as may be required by them in connection with the exercise of any of their functions under this Chapter.
- (5) Regulations may provide— 5
- (a) that each local education authority shall secure that, subject to such exceptions as may be prescribed, no decision made by any admission authority for a maintained school in their area to offer or refuse a child admission to the school shall be communicated to the parent of the child except on a single day, designated by the local education authority, in each year, or 10
- (b) that, subject to such exceptions as may be prescribed, a decision made by the admission authority for a maintained school to offer or refuse a child admission to the school shall not be communicated to the parent of the child except on a prescribed day. 15
- (6) In this section —
- “academic year” means a period commencing with 1st August and ending with the next 31st July;
- “qualifying scheme” means a scheme that meets prescribed requirements. 20
- 89C Further provision about schemes adopted or made by virtue of section 89B**
- (1) Regulations may make provision about the contents of schemes under section 89B(2), including provision about the duties that may be imposed by such schemes on— 25
- (a) local education authorities, and
- (b) the admission authorities for maintained schools.
- (2) Regulations may provide that where a local education authority or the governing body of a maintained school have, in such manner as may be prescribed, adopted a scheme formulated by a local education authority for the purpose mentioned in section 89B(1)(a), sections 496 and 497 of the Education Act 1996 shall apply as if any obligations imposed on the local education authority or governing body under the scheme were duties imposed on them by that Act. 30 35
- (3) Regulations may provide that where any decision as to whether a child is to be granted or refused admission to a maintained school falls to be made in prescribed circumstances, the decision shall, if a scheme adopted or made by virtue of this section so provides, be made by the local education authority regardless of whether they are the admission authority for the school. 40
- (4) Before proposing a scheme for adoption under section 89B(1) a local education authority shall comply with such requirements as to consultation as may be prescribed.
- (5) Regulations under subsection (4) may in particular require consultations to be undertaken with a view to securing that the arrangements for the admission of pupils to maintained schools in the 45

areas of different local education authorities are, so far as is reasonably practicable, compatible with each other.

- (6) Before making a scheme under section 89B(2) in relation to the area of any local education authority, the Secretary of State shall consult –
- (a) the local education authority, and 5
 - (b) any governing body who are the admission authority for a school which appears to the Secretary of State to be a school to which the scheme will apply.
- (7) A scheme made under section 89B(2) may be varied or revoked by the Secretary of State.” 10

47 Admission appeals

In section 94 of the School Standards and Framework Act 1998 (c. 31), (appeal arrangements: general) for subsection (5) there is substituted –

- “(5) An appeal pursuant to any arrangements made under this section shall be to an appeal panel constituted in accordance with regulations. 15
- (5A) Regulations may make provision about the making of appeals pursuant to such arrangements, including provision –
- (a) as to the procedure on such appeals,
 - (b) for the payment by the local education authority of allowances to members of an appeal panel, and 20
 - (c) as to the grounds on which an appeal panel may, in the case of an appeal to which subsection (5B) applies, determine that a place is to be offered to the child concerned.
- (5B) This subsection applies to any appeal against a decision made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section.” 25

48 Further amendments relating to admission arrangements

Schedule 4 (which contains further amendments relating to admission arrangements) shall have effect.

Exclusion of pupils 30

49 Exclusion of pupils

- (1) The head teacher of a maintained school may exclude a pupil from the school for a fixed period or permanently.
- (2) The teacher in charge of a pupil referral unit may exclude a pupil from the unit for a fixed period or permanently. 35
- (3) Regulations shall make provision –
- (a) requiring prescribed persons to be given prescribed information relating to any exclusion under subsection (1) or (2),
 - (b) requiring the responsible body, in prescribed cases, to consider whether the pupil should be reinstated, 40

- (c) requiring the local education authority to make arrangements for enabling a prescribed person to appeal, in any prescribed case, to a panel constituted in accordance with the regulations against any decision of the responsible body not to reinstate a pupil, and
- (d) as to the procedure on appeals. 5
- (4) Regulations under this section may also make provision –
- (a) for the payment by the local education authority of allowances to members of a panel constituted in accordance with the regulations,
- (b) requiring a person or body exercising functions under subsection (1) or (2) or under the regulations to have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales, 10
- (c) requiring local education authorities to give prescribed information to the Secretary of State or the Assembly, as the case may be, and
- (d) in relation to any other matter relating to the exercise of the powers conferred by subsections (1) and (2). 15
- (5) In subsection (3), “the responsible body” means –
- (a) in relation to exclusion from a maintained school, the governing body of the school, and
- (b) in relation to exclusion from a pupil referral unit, such person as may be prescribed; 20
- and, in relation to any time when no responsible body is prescribed in relation to permanent exclusion from a pupil referral unit, subsection (3) shall have effect in relation to such an exclusion with the omission of paragraph (b) and as if the decision referred to in paragraph (c) were the decision of the teacher in charge of the unit permanently to exclude the pupil. 25
- (6) Regulations shall make provision enabling a prescribed person, in any prescribed case, to appeal to a panel constituted in accordance with the regulations against any decision made after 31st August 1994 under paragraph 7 of Schedule 1 to the Education Act 1996 (c. 56), or any enactment repealed by that Act, in relation to the permanent exclusion of a pupil from a pupil referral unit; and the provision that may be made by regulations made by virtue of this subsection in relation to any such decision includes any provision that could after the commencement of subsections (2) to (4) be made in relation to a decision falling within subsection (3)(c). 30 35
- (7) Regulations under this section which –
- (a) relate to exclusions from pupil referral units (whether before or after the passing of this Act), and
- (b) are made before the repeal by this Act of the existing enactments is fully in force, 40
- may provide for any provision made by or under the existing enactments to have effect in relation to exclusions from pupil referral units with such modifications as may be prescribed.
- (8) In subsection (7) “the existing enactments” means sections 64(2) and (3) and 65 to 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (c. 31). 45
- (9) In this section “exclude”, in relation to the exclusion of a child from a school or pupil referral unit, means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly).

- (10) In this section “maintained school” has the same meaning as in Chapter 1.

Attendance targets

50 Attendance targets

- (1) Section 63 of the School Standards and Framework Act 1998 (c. 31) (power to make regulations for targets relating to unauthorised absences) is amended as follows. 5
- (2) In subsections (1) and (3), the word “unauthorised” is omitted.
- (3) After subsection (3) there is inserted –
- “(3A) Provision made by regulations under this section may relate to –
- (a) absences which are authorised pursuant to regulations under section 434 of the Education Act 1996, or 10
- (b) absences which are not so authorised, or
- (c) both.”
- (4) In subsection (4), the definition of “unauthorised absence” is omitted.

PART 4

15

POWERS OF INTERVENTION

Schools causing concern

51 Duty to notify where inspection shows school causing concern

After section 16 of the School Inspections Act 1996 (c. 57) there is inserted –

“16A Duty to notify where inspection shows school causing concern 20

- (1) Subsection (2) applies in relation to a school falling within section 11(2) where –
- (a) following an inspection of the school under Part 1 by a member of the Inspectorate, that member has informed the Chief Inspector of his opinion – 25
- (i) that the school has serious weaknesses, or
- (ii) that special measures are required to be taken in relation to the school,
- (b) following an inspection of the school under Part 1 by a registered inspector, the Chief Inspector has been notified in writing by the inspector of the inspector’s opinion that the school has serious weaknesses, or 30
- (c) the Chief Inspector agrees with the opinion of a registered inspector, expressed in a draft report submitted to the Chief Inspector under section 13(2), that special measures are required to be taken in relation to the school. 35
- (2) Where this subsection applies, the Chief Inspector shall without delay give the Secretary of State a notice in writing stating that the case falls within paragraph (a), (b) or (c) of subsection (1).

- (3) On receiving a notice under subsection (2), the Secretary of State shall without delay give the local education authority a notice in writing stating that he has been informed by the Chief Inspector that the case falls within paragraph (a), (b) or (c) of subsection (1).
- (4) For the purposes of this section a school has serious weaknesses if, although giving its pupils in general an acceptable standard of education, it has significant weaknesses in one or more areas of its activities.”

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52 Cases in which powers of intervention exercisable

- (1) In section 15 of the School Standards and Framework Act 1998 (c. 31) (cases in which LEA may exercise powers of intervention) for subsection (4) there is substituted –

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“(4) This section applies to a maintained school by virtue of this subsection if –

- (a) following an inspection of the school under Part 1 of the School Inspections Act 1996, the Chief Inspector has given the Secretary of State a notice under subsection (2) of section 16A of that Act in a case falling within subsection (1)(a) or (b) of that section (schools having serious weaknesses), and
- (b) where any subsequent inspection of the school has been made under 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 has serious weaknesses, or
 - (ii) the Chief Inspector giving the Secretary of State a notice under subsection (2) of section 16A of that Act in a case falling within subsection (1)(c) of that section (schools requiring special measures).”

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- (2) For subsection (6) of that section there is substituted –

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“(6) This section applies to a maintained school by virtue of this subsection if –

- (a) following an inspection of the school under Part 1 of the School Inspections Act 1996, the Chief Inspector has given the Secretary of State a notice under subsection (2) of section 16A of that Act in a case falling within subsection (1)(c) of that section (schools requiring special measures), and
- (b) where any subsequent report of an inspection of the school has been made under 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.”

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53 Power of Secretary of State to appoint additional governors or direct closure

- (1) In section 18 of the School Standards and Framework Act 1998 (power of Secretary of State to appoint additional governors) for subsection (1) there is substituted –

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- “(1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely –
- (a) subsection (4) (school with serious weaknesses), or
 - (b) subsection (6) (school requiring special measures),
- 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.” 5
- (2) In section 19 of that Act (power of Secretary of State to direct closure of school) for subsection (1) there is substituted – 10
- “(1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely –
- (a) subsection (4) (school with serious weaknesses), or
 - (b) subsection (6) (school requiring special measures),
- the Secretary of State may give a direction to the local education authority requiring the school to be discontinued on a date specified in the direction.” 15
- (3) Schedule 5 (which contains amendments consequential on the provisions of section 52 and this section) shall have effect.
- 54 Power of LEA to provide for governing body to consist of interim executive members** 20
- (1) In section 14(2) of the School Standards and Framework Act 1998 (c. 31) (which lists the intervention powers of local education authorities), before the “and” at the end of paragraph (a) there is inserted –
- “(aa) section 16A (power to provide for governing body to consist of interim executive members);”.
- (2) After section 16 of that Act there is inserted –
- “16A Power of LEA to provide for governing body to consist of interim executive members**
- (1) If at any time this section applies to a maintained school in accordance with section 14(1), then (subject to subsections (2) and (3)) the local education authority may, with the consent of the Secretary of State, give the governing body a notice in writing stating that, as from a date specified in the notice, the governing body are to be constituted in accordance with Schedule 1A (governing bodies consisting of interim executive members). 30
- (2) Where this section so applies in the case of a school falling within section 15(4) (school with serious weaknesses) or section 15(6) (school requiring special measures), the power conferred by subsection (1) above is exercisable only if the following conditions are satisfied, namely – 35
- (a) the Secretary of State has given the local education authority a notice under section 16A(3) of the School Inspections Act 1996, and
 - (b) a period of not less than ten days has elapsed since the date of the notice. 45

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- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(b) shall have effect as if the reference to ten days were to such shorter period as he may determine.
- (4) Before exercising the power conferred by subsection (1), the local education authority shall consult – 5
- (a) the governing body of the school,
 - (b) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and 10
 - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.”
- 55 Power of Secretary of State to provide for governing body to consist of interim executive members 15**
- After section 18 of the School Standards and Framework Act 1998 (c. 31) there is inserted –
- “18A Power of Secretary of State to provide for governing body to consist of interim executive members**
- (1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely – 20
- (a) subsection (4) (school with serious weaknesses), or
 - (b) subsection (6) (school requiring special measures),
- 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 1A (governing bodies consisting of interim executive members). 25
- (2) Before exercising the power conferred by subsection (1), the Secretary of State shall consult – 30
- (a) the local education 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, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and 35
 - (d) in the case of any other foundation or voluntary school, the person or person by whom the foundation governors are appointed.
- (3) The Secretary of State is not obliged to consult the persons mentioned in subsection (2)(b), (c) and (d) if the local education authority have consulted them under subsection (5) of section 16A in relation to a proposed notice under subsection (1) of that section.” 40
- 56 Governing bodies consisting of interim executive members**
- (1) After section 19 of the School Standards and Framework Act 1998 there is inserted – 45

*“Governing bodies consisting of interim executive members***19A Governing bodies consisting of interim executive members**

The provisions of Schedule 1A shall have effect in relation to any school in respect of which a notice has been given–

- (a) under section 16A(1), by the local education authority, or 5
 - (b) under section 18A(1), by the Secretary of State.”
- (2) After Schedule 1 to that Act there is inserted, as Schedule 1A, the Schedule set out as Schedule 6 to this Act.

*Local education authorities***57 Powers of Secretary of State to secure proper performance of LEA’s functions 10**

- (1) Section 497A of the Education Act 1996 (c. 56) (power to secure proper performance of functions of local education authority) is amended as follows.
- (2) For subsection (1) there is substituted –
 - “(1) This section applies to a local education authority’s functions under this Act and to other functions (of whatever nature) which are conferred on them in their capacity as a local education authority.” 15
- (3) In subsection (2), for “(3) or (4)” there is substituted “(4), (4A) or (4B)”.
- (4) After subsection (2) there is inserted –
 - “(2A) The Secretary of State may also exercise his powers under subsection (4), (4A) or (4B) where – 20
 - (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a local education authority in respect of any function to which this section applies, and
 - (b) he is satisfied that it is likely that if no further direction were given under subsection (4), (4A) or (4B) on the expiry or revocation of the previous direction the authority would fail in any respect to perform that function to an adequate standard (or at all).” 25
- (5) Subsection (3) is omitted.
- (6) For subsection (4) there is substituted – 30
 - “(4) The Secretary of State may under this subsection give the authority or an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed on behalf of the authority by such person as is specified in the direction; and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified.” 35
- (7) After subsection (4) there is inserted –
 - “(4A) The Secretary of State may under this subsection direct that the function shall be exercised by the Secretary of State or a person nominated by him and that the authority shall comply with any 40

instructions of the Secretary of State or his nominee in relation to the exercise of the function.

- (4B) The Secretary of State may under this subsection (whether or not he exercises the power conferred by subsection (4) or (4A) in relation to any function) give the authority or an officer of the authority such other directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed to an adequate standard.” 5

- (8) For subsection (5) there is substituted –

- “(5) Where the Secretary of State considers it expedient that –
- (a) in the case of directions given under subsection (4), the person specified in the directions, or 10
 - (b) in the case of directions given under subsection (4A), the Secretary of State or a person nominated by him, 15
- should perform other functions to which this section applies in addition to the function to which subsection (2) or (2A) applies, the directions under subsection (4) or (4A) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.” 20

- (9) In subsection (6), for paragraph (b) there is substituted –

- “(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.”.

- (10) In subsection (7), for “(3) or (4)” there is substituted “(4), (4A) or (4B)”.

58 Power to secure proper performance: duty of authority where directions contemplated 25

After section 497A of the Education Act 1996 (c. 56) there is inserted –

“497AA Power to secure proper performance: duty of authority where directions contemplated

Where, in relation to any function to which section 497A applies, the Secretary of State – 30

- (a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and
- (b) has notified the local education authority that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section, 35

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.” 40

59 Power to secure proper performance: further provisions

- (1) Section 497B of the Education Act 1996 is amended as follows.

- (2) In subsection (1), for the words from “section 497A(4) to “those directions” there is substituted “section 497A(4) or (4A) to a local education authority or to an officer of such an authority, the specified person”
- (3) After that subsection there is inserted –
- “(1A) In this section “the specified person” means –
- (a) in relation to directions under section 497A(4), the person specified in the directions, and
 - (b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him.”

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60 Power to require LEA to obtain advisory services

- (1) This section applies where –
- (a) in relation to one or more schools maintained by a local education authority, section 15 of the School Standards and Framework Act 1998 (c. 31) (cases where local education authority may exercise powers of intervention) applies by virtue of either of the following provisions of that section –
 - (i) subsection (4) (school with serious weaknesses), or
 - (ii) subsection (6) (school requiring special measures), and
 - (b) it appears to the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) that the local education authority –
 - (i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,
 - (ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or
 - (iii) maintain a disproportionate number of schools falling within that paragraph.
- (2) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct the local education authority to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class so specified, for the provision to the authority or the governing body of any school maintained by them (or both), of specified services of an advisory nature.
- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
- (4) In this section “school” means a maintained school within the meaning of Chapter 2 of Part 1 of the School Standards and Framework Act 1998.
- (5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State or, as the case may be, of the National Assembly for Wales, by an order of mandamus.

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61 Provisions supplementary to section 60

- (1) Where section 60 applies in relation to a local education authority and the Secretary of State or the National Assembly for Wales has notified the authority that he or it is contemplating the giving of a direction under that section, the authority shall give the Secretary of State or the Assembly, and any person authorised by the Secretary of State or the Assembly for the purposes of this subsection, such assistance, in connection with the proposed contract or other arrangement, as the authority are reasonably able to give. 5
- (2) Where a direction under section 60 is given to a local education authority, the relevant person shall be entitled, for the purposes of providing the advisory services, to exercise the powers conferred by subsections (3) to (6). 10
- (3) The relevant person shall have at all reasonable times –
 - (a) a right of entry to the premises of the authority, and
 - (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the provision of the advisory services. 15
- (4) Section 497B(3) of the Education Act 1996 (c. 56) (right of access to computers etc) applies in relation to the exercise by the relevant person by the right conferred by subsection (3) as it applies to the exercise by the specified person (within the meaning of that section) of the right conferred by section 497B(2) of that Act. 20
- (5) Without prejudice to subsection (3), the authority shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give. 25
- (6) Subsection (3) applies in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies) –
 - (a) the governing body of any such school shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give, and 30
 - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (7) In this section –
 - “the advisory services” means the services to be provided in pursuance of the direction under section 60; 35
 - “documents” and “records” each include information recorded in any form;
 - “the relevant person” means –
 - (a) the person specified under section 60(2), or 40
 - (b) where the direction specifies a class of persons, the person with whom the local education authority enter into the contract or other arrangement required by the direction,and includes any person assisting that person in the provision of the advisory services. 45

PART 5

SCHOOL ORGANISATION

*Academies and city colleges***62 Academies**

- (1) In the Education Act 1996 (c.56), for section 482 (city technology colleges, city colleges for the technology of the arts and city academies) there is substituted— 5

“482 Academies

- (1) The Secretary of State may enter into an agreement with any person under which— 10
- (a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England with the characteristics mentioned in subsection (2) and such other characteristics as are specified in the agreement, and 15
 - (b) the Secretary of State agrees to make payments to that person in consideration of those undertakings.
- (2) The characteristics mentioned above are that the school—
- (a) has a broad curriculum with an emphasis on a particular subject area, or particular subject areas, specified in the agreement, and 20
 - (b) provides education for pupils of different abilities who are wholly or mainly drawn from the area in which the school is situated.
- (3) Before entering into an agreement under this section, the Secretary of State must consult the following about the establishment of the school— 25
- (a) the local education authority in whose area the school is to be situated; and
 - (b) if the Secretary of State thinks a significant proportion of the pupils at the school is likely to be resident within the area of another local education authority, that authority. 30
- (4) An agreement under this section shall make any payments by the Secretary of State dependent on the fulfilment of—
- (a) conditions and requirements imposed for the purpose of securing that no charge is made in respect of admission to (or attendance at) the school or, subject to such exceptions as may be specified in the agreement, in respect of education provided at the school, and 35
 - (b) such other conditions and requirements in relation to the school as are specified in the agreement. 40
- (5) A school to which an agreement under this section relates shall be known as an Academy.
- (6) Schedule 35A (which makes provision about land in relation to Academies) has effect.”

- (2) In section 483 of that Act (financial provisions), in subsection (3) (agreements shall include provision for capital repayment), for “shall” there is substituted “may”.
- (3) Schedule 7 (which inserts a new Schedule into the Education Act 1996 (c. 56) to make provision about land in relation to Academies, and makes other supplementary provision about Academies) shall have effect. 5

63 Conversion of city academies into Academies

Where a school is known immediately before the coming into force of section 62 as a city academy –

- (a) the agreement made in relation to that school under section 482 of the Education Act 1996 as it had effect at the time the agreement was made shall for all purposes be regarded as having been made under that section as substituted by section 62, and 10
- (b) accordingly, the school shall be known as an Academy.

64 Continuation of city colleges

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- (1) A school known immediately before the coming into force of section 62 as a city technology college or city college for the technology of the arts shall continue to be so known.
- (2) The agreement relating to such a school made under section 482 of the Education Act 1996 (as it had effect at the time of the agreement was made) is not affected by anything in section 62 (but nothing in this section prevents the agreement from being terminated and replaced by a new agreement under section 482 of that Act as substituted). 20

65 Uniform statutory trusts

In section 557 of the Education Act 1996 (uniform statutory trusts), in the definition of “relevant school” in subsection (10), after “means a relevant school” there is inserted “, Academy, city technology college or city college for the technology of the arts,”. 25

Proposals to establish, alter or discontinue schools

66 Proposals for additional secondary schools

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- (1) A local education authority in England may, with the approval of the Secretary of State, publish a notice under this section inviting proposals for the establishment of any school falling within subsection (2) as an additional secondary school.
- (2) The following schools fall within this subsection – 35
 - (a) a community school;
 - (b) a foundation school;
 - (c) a voluntary school;
 - (d) an Academy.
- (3) A notice under this section must – 40
 - (a) identify a possible site for the school,

- (b) specify the prescribed information which proposals must contain,
 - (c) specify a date, being a date after the prescribed interval, by which proposals must be submitted, and
 - (d) be published in the prescribed manner.
- (4) Proposals made pursuant to a notice under this section must – 5
- (a) contain the prescribed information, and
 - (b) be submitted to the local education authority before the date specified in the notice.
- (5) After the date specified in a notice published by a local education authority under this section the authority – 10
- (a) shall publish under this section any proposals submitted pursuant to the notice in accordance with subsection (4), and
 - (b) may publish under this section proposals of their own for the establishment of a community or foundation school as an additional secondary school. 15
- (6) Regulations may prescribe –
- (a) the manner in which proposals under this section must be published, and
 - (b) the information which proposals within subsection (5)(b) must contain.
- (7) For the purposes of this section, a school is “additional” if it does not replace a secondary school falling within subsection (2) which has been or is to be discontinued; and in determining for the purposes of this section whether one school replaces another regard shall be had to any guidance given from time to time by the Secretary of State. 20
- (8) For the purposes of this section “secondary school” does not include – 25
- (a) a middle school, or
 - (b) a school which provides education suitable only to the requirements of persons above compulsory school age.
- (9) Schedule 8 (which makes provision in relation to the consideration, approval and implementation of proposals published under this section) shall have effect. 30

67 Duty of LEAs to secure proposals

- (1) The Secretary of State may give a direction to a local education authority in England under this section where he is of the opinion that the provision for primary or secondary education – 35
- (a) in the area of the authority, or
 - (b) in any part of that area,
- is, or is likely to become, insufficient.
- (2) Where a direction is given to a local education authority under this section, the authority shall, within the time specified in the direction, do either or both of the following as the authority think fit – 40
- (a) exercise their powers under section 28, 29 or 31 of the School Standards and Framework Act 1998 (c. 31) to publish proposals for the establishment, alteration or discontinuance of schools;
 - (b) exercise their power under section 66(1) (notice inviting proposals for establishment of additional secondary schools). 45

-
- (3) A local education authority shall comply with a direction under this section –
- (a) with a view 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, and
 - (b) applying such principles as may be specified in the direction. 5
- (4) Where the Secretary of State has given a direction to a local education authority under this section and –
- (a) the authority has not complied with the direction within the time specified in it, or
 - (b) the authority has complied with it, but the Secretary of State is not satisfied that the provision referred to in subsection (3)(a) will be secured, 10
- the Secretary of State may make any such proposals as might have been made by the authority under subsection (2)(a) or, by virtue of subsection (2)(b), under section 66(5)(b). 15
- (5) Proposals made by the Secretary of State under subsection (4) shall –
- (a) contain the prescribed information,
 - (b) be published by the Secretary of State in the prescribed manner, and
 - (c) be sent by the Secretary of State to the school organisation committee for the area to which they relate. 20
- (6) Paragraph 4 of Schedule 7 to the School Standards and Framework Act 1998 applies in relation to this section as follows –
- (a) sub-paragraphs (1) to (5) apply in relation to a direction given under this section, in relation to the whole or part of the area of a local education authority, as they apply in relation to an order made under paragraph 2(2) or 3(2) of that Schedule, in relation to the area of such an authority; 25
 - (b) sub-paragraphs (6) and (7) apply in relation to proposals made by a local education authority in the exercise, pursuant to such a direction, of their powers under section 28, 29 or 30 of that Act, as they apply in relation to the proposals referred to in those sub-paragraphs. 30
- (7) Paragraphs 7 to 10 and 16 of that Schedule apply in relation to proposals made by the Secretary of State under subsection (4) as they apply to proposals published under paragraph 5 of that Schedule, but as if –
- (a) the reference in paragraph 9(2) to the order under paragraph 2(2) or 3(2) were a reference to the direction under subsection (3)(b) of this section, and 35
 - (b) the reference in paragraph 16(2) to paragraph 5(3) were a reference to subsection (5)(c) of this section.
- 68 Proposals relating to sixth forms 40**
- (1) After section 113 of the Learning and Skills Act 2000 (c. 21) there is inserted –
- “113A Restructuring of sixth-form education**
- (1) The Learning and Skills Council for England may make proposals under this section –
- (a) with a view to meeting recommendations made in the report of an area inspection under section 65, or 45

-
- (b) in circumstances prescribed in, or determined in accordance with, regulations.
- (2) The National Council for Education and Training for Wales may make proposals under this section –
- (a) with a view to meeting recommendations made in the report of an area inspection under section 83, or
- (b) in circumstances prescribed in, or determined in accordance with, regulations.
- (3) Proposals under this section are proposals for one or more of the following –
- (a) the establishment by a local education authority of one or more new community, foundation, community special or foundation special schools to provide secondary education suitable to the requirements of persons who are above compulsory school age but below the age of 19 (and no other secondary education);
- (b) an alteration to one or more maintained schools which relates to the provision of secondary education suitable to the requirements of such persons and is of a description prescribed by regulations;
- (c) the discontinuance of one or more maintained schools which provide secondary education suitable to the requirements of such persons (and no other secondary education).
- (4) Proposals under this section are to be published and submitted to the relevant authority, which shall –
- (a) approve them, with or without modification or subject to the occurrence of any event, or
- (b) reject them.
- (5) Schedule 7A (implementation of proposals) has effect.
- (6) In exercising any function conferred by or under this section, the Learning and Skills Council for England and the National Council for Education and Training for Wales must have regard to any guidance given from time to time by the relevant authority.
- (7) Proposals under this section may be made either alone or in addition to proposals under section 51 of the Further and Higher Education Act 1992 (proposals for further education corporations).
- (8) Regulations may make provision about proposals under this section and may in particular make provision about –
- (a) the information to be included in, or provided in relation to, the proposals;
- (b) publication of the proposals;
- (c) consultation on the proposals (before or after publication);
- (d) the making of objections to or comments on the proposals;
- (e) withdrawal or modification of the proposals;
- (f) approval of the proposals by the relevant authority.
- (9) For the purposes of sections 496 and 497 of the Education Act 1996 (powers to prevent unreasonable exercise of functions and general default powers), the provisions of this section and Schedule 7A shall be treated as if they were provisions of that Act.

- (10) For the purposes of this section and Schedule 7A –
- “alteration” means an alteration of whatever nature, including the transfer of the school to a new site but excluding any change –
 - (a) in the religious character of the school, or
 - (b) whereby the school would acquire or lose a religious character; 5
 - “maintained school” means a community, foundation or voluntary school or a community or foundation special school;
 - “regulations” means –
 - (a) in relation to proposals by the Learning and Skills Council for England, regulations made by the Secretary of State, and 10
 - (b) in relation to proposals by the National Council for Education and Training for Wales, regulations made by the National Assembly for Wales; 15
 - “relevant authority” means –
 - (a) in relation to the Learning and Skills Council for England, the Secretary of State; and
 - (b) in relation to the National Council for Education and Training for Wales, the National Assembly for Wales; 20
 - “secondary education” has the same meaning as in section 2 of the Education Act 1996.”

(2) Schedule 9 (which inserts a new Schedule 7A into that Act) shall have effect.

69 Proposals by governing bodies of community schools

In section 28 of the School Standards and Framework Act 1998 (c. 31) (proposals for establishment or alteration of schools), in subsection (2)(b) (requirement of publication where the governing body of a foundation or voluntary school propose to make a prescribed alteration to the school), after “foundation or voluntary school” there is inserted “, or of a community school maintained by a local education authority in England,”. 25 30

70 Proposals for establishment of federated school

- (1) Proposals under –
 - (a) section 28 or 31 of the School Standards and Framework Act 1998,
 - (b) paragraph 5 of Schedule 7 to that Act,
 - (c) section 113A of the Learning and Skills Act 2000 (c. 21), or 35
 - (d) section 66 or 187 of this Act,for the establishment of a new school may relate to the establishment of the school as a federated school.
- (2) Regulations may make provision modifying any provision contained in –
 - (a) section 28 or 31 of, or Schedule 6 or 7 to, the School Standards and Framework Act 1998, 40
 - (b) section 113A of, or Schedule 7A to, the Learning and Skills Act 2000, or
 - (c) section 66 of, or Schedule 8 to, this Act,in its application to proposals to establish a school as a federated school, or to the establishment of a school as a federated school. 45

- (3) In this section “federated school” has the meaning given by section 23(2).

71 Changes to existing procedures

Schedule 10 (which makes amendments to the School Standards and Framework Act 1998 (c. 31) and the Learning and Skills Act 2000 (c. 21) in respect of the procedures for the establishment, alteration and discontinuance of certain maintained schools) shall have effect. 5

PART 6

THE CURRICULUM IN ENGLAND

Preliminary

72 Interpretation of Part 6 10

In this Part –

“assess” includes examine and test, and related expressions shall be construed accordingly;

“assessment arrangements” means –

- (a) in relation to the foundation stage, the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the early learning goals; and 15
- (b) in relation to a key stage, the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage, and 20

“attainment targets”, in relation to a key stage, means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of that stage; 25

“early learning goals”, in relation to the foundation stage, has the meaning given by section 79(1);

“the foundation stage” has the meaning given by section 77;

“key stage”, or references to a particular key stage, shall be construed in accordance with section 78; 30

“maintained school” means –

- (a) any community, foundation or voluntary school maintained by a local education authority in England, or
- (b) except where otherwise stated, any community or foundation special school which is maintained by a local education authority in England and is not established in a hospital; 35

“maintained nursery school” means a nursery school which is maintained by a local education authority in England and is not a special school;

“programmes of study”, in relation to a key stage, means matters, skills and processes which are required to be taught to pupils of different abilities and maturities by the end of that stage; 40

“pupil” includes a child for whom funded nursery education is provided;

“school year”, in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first school term to begin after the following July; and has a 45

corresponding meaning in relation to the provision of funded nursery education otherwise than at a school.

73 Meaning of “nursery education” and related expressions

- (1) In this Part “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere). 5
- (2) For the purposes of this Part, nursery education is “funded nursery education” in relation to a child if –
 - (a) it is provided in a maintained school or a maintained nursery school, or
 - (b) it is provided, by a person other than the governing body of any such school, under arrangements made with that person by a local education authority in England in pursuance of the duty imposed on the authority by section 118 of the School Standards and Framework Act 1998 (c. 31) and in consideration of financial assistance provided by the authority under those arrangements. 10
- (3) For the purposes of this Part, funded nursery education provided in relation to a child otherwise than at a maintained school or maintained nursery school is to be taken to be provided by the person with whom the arrangements referred to in subsection (2)(b) are made by the local education authority. 15

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General duties in respect of the curriculum

74 General requirements in relation to curriculum

- (1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which –
 - (a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and
 - (b) prepares pupils at the school for the opportunities, responsibilities and experiences of adult life. 25
- (2) The curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which –
 - (a) promotes the spiritual, moral, cultural, mental and physical development of the pupils for whom the funded nursery education is provided and of society, and 30
 - (b) prepares those pupils for the opportunities, responsibilities and experiences of adult life. 35

75 Duty to implement general requirements

- (1) The Secretary of State shall exercise his functions with a view to securing –
 - (a) that the curriculum for every maintained school or maintained nursery school satisfies the requirements of section 74, and 40

- (b) that the curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of that section.
- (2) Every local education authority in England shall exercise their functions with a view to securing – 5
- (a) that the curriculum for every maintained school or maintained nursery school which they maintain satisfies the requirements of section 74, and
- (b) that the curriculum for any funded nursery education provided, under arrangements made by them, otherwise than at a maintained school or maintained nursery school, satisfies the requirements of section 74. 10
- (3) The governing body and head teacher of every maintained school or maintained nursery school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of section 74.
- (4) The functions referred to in subsections (1) to (3) include in particular – 15
- (a) functions conferred by this Part in relation to the National Curriculum for England, and
- (b) except in relation to maintained nursery schools or the provision of funded nursery education otherwise than at a maintained school or maintained nursery school, functions relating to religious education and religious worship. 20
- (5) Any person providing funded nursery education under the arrangements mentioned in section 73(2)(b) shall secure that the curriculum for that funded nursery education satisfies the requirements of section 74.
- (6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority in England shall have regard to the guidance issued by the Secretary of State under section 403(1A) of the Education Act 1996 (c. 56). 25
- (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education. 30

76 Basic curriculum for every maintained school in England

- (1) The curriculum for every maintained school in England shall comprise a basic curriculum which includes –
- (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school), 35
- (b) a curriculum for all registered pupils at the school who have attained the age of three but are not over compulsory school age (known as “the National Curriculum for England”), 40
- (c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and
- (d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education. 45

- (2) Subsection (1)(a) does not apply in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 342(6) of the Education Act 1996 (c. 56)).
- (3) The Secretary of State may by order –
 - (a) amend subsection (1) so as to add further requirements (otherwise than in relation to religious education or sex education), 5
 - (b) amend subsection (1)(b) by substituting for the reference to the compulsory school age (or to any age specified there by virtue of this paragraph) a reference to such other age as may be specified in the order, and 10
 - (c) amend any provision included in subsection (1) by virtue of paragraph (a) of this subsection.

The National Curriculum for England

77 The foundation stage

- (1) For the purposes of this Part, the foundation stage in relation to a pupil is the period beginning with the relevant time (as defined by subsection (2)) and ending at the same time as the school year in which he attains the age of five. 15
- (2) In subsection (1) “the relevant time” means –
 - (a) in the case of a child who is provided with funded nursery education before he attains the age of three, his third birthday, 20
 - (b) in the case of a child who is provided with funded nursery education after he attains that age, the time when he is first provided with such education, and
 - (c) in the case of a child who is not provided with any funded nursery education, the time when he first receives primary education other than nursery education. 25

78 The key stages

- (1) For the purposes of this Part, the key stages in relation to a pupil are –
 - (a) the period beginning at the same time as the school year in which he attains the age of six and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven (“the first key stage”), 30
 - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven (“the second key stage”), 35
 - (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen (the third key stage”), and 40
 - (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending at the same time as the school year in which the majority of pupils in his class cease to be of compulsory school age (“the fourth key stage”).
- (2) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the 45

school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age.

- (3) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if— 5
- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age, and 10
 - (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of fifteen and ending when he ceases to be of compulsory school age.
- (4) The Secretary of State may by order— 15
- (a) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there specified there were substituted such other ages (less than eleven and twelve respectively) as may be specified in the order, or
 - (b) amend subsections (1) to (3).
- (5) In this section “class”, in relation to a particular pupil and a particular subject, means— 20
- (a) the teaching group in which he is regularly taught in that subject, or
 - (b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school.

79 Curriculum requirements for the foundation stage 25

- (1) For the foundation stage, the National Curriculum for England shall comprise the areas of learning and may specify in relation to them—
- (a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of the foundation stage (referred to in this Part as “the early learning goals”), 30
 - (b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during the foundation stage (referred to in this Part as “educational programmes”), and
 - (c) assessment arrangements.
- (2) The following are the areas of learning for the foundation stage— 35
- (a) personal, social and emotional development,
 - (b) communication, language and literacy,
 - (c) mathematical development,
 - (d) knowledge and understanding of the world,
 - (e) physical development, and 40
 - (f) creative development.
- (3) The Secretary of State may by order amend subsection (2).

80 Curriculum requirements for first, second and third key stages

- (1) For the first, second and third key stages, the National Curriculum for England shall comprise the core and other foundation subjects specified in subsections 45

(2) and (3), and shall specify attainment targets, programmes of study and assessment arrangements in relation to each of those subjects for each of those stages.

- (2) The following are the core subjects for the first, second and third key stages –
- (a) mathematics, 5
 - (b) English, and
 - (c) science.
- (3) The following are the other foundation subjects for the first, second and third key stages –
- (a) technology, 10
 - (b) physical education,
 - (c) history,
 - (d) geography,
 - (e) art and design,
 - (f) music, and 15
 - (g) in relation to the third key stage –
 - (i) citizenship, and
 - (ii) a modern foreign language.
- (4) In this section “modern foreign language” means a modern foreign language specified in an order made by the Secretary of State or, if the order so provides, any modern foreign language. 20
- (5) An order under subsection (4) may –
- (a) specify circumstances in which a language is not to be treated as a foundation subject, and
 - (b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language. 25
- (6) The Secretary of State may by order amend subsections (2) to (5).

81 Curriculum requirements for fourth key stage

- (1) For the fourth key stage, the National Curriculum for England shall comprise the core and other foundation subjects and specify attainment targets, programmes of study and assessment arrangements in relation to each of them. 30
- (2) The following are the core subjects for the fourth key stage –
- (a) mathematics,
 - (b) English, and 35
 - (c) science,
- (3) The following are the other foundation subjects for the fourth key stage –
- (a) technology,
 - (b) physical education,
 - (c) citizenship, and 40
 - (d) a modern foreign language.
- (4) In this section “modern foreign language” means a modern foreign language specified in an order made by the Secretary of State or, if the order so provides, any modern foreign language.

- (5) An order under subsection (4) may –
- (a) specify circumstances in which a language is not to be treated as a foundation subject, and
 - (b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language. 5

82 Power to alter or remove requirements for the fourth key stage

The Secretary of State may by order –

- (a) amend any provision of section 81, or
- (b) provide that, while the order remains in force, that section is not to have effect. 10

83 Establishment of the National Curriculum for England by order

- (1) The Secretary of State shall so exercise the powers conferred by subsections (2) and (3) as to –
- (a) establish a complete National Curriculum for England for the foundation stage as soon as is reasonably practicable, and 15
 - (b) revise the National Curriculum for England for the foundation stage and the key stages whenever he considers it necessary or expedient to do so.
- (2) In respect of the foundation stage, the Secretary of State may by order specify in relation to the areas of learning – 20
- (a) such early learning goals,
 - (b) such educational programmes, and
 - (c) such assessment arrangements,
- as he considers appropriate.
- (3) In respect of the first, second and third key stages and (subject to section 82) the fourth key stage, the Secretary of State may by order specify in relation to each of the foundation subjects – 25
- (a) such attainment targets,
 - (b) such programmes of study, and
 - (c) such assessment arrangements, 30
- as he considers appropriate for that subject.
- (4) An order under subsection (2) or (3) may not require –
- (a) the allocation of any particular period or periods of time during the foundation stage or any key stage to the teaching of any educational programme or programme of study or any matter, skill or process forming part of it, or 35
 - (b) the making in school timetables (or the timetables of any person providing funded nursery education) of provision of any particular kind for the periods to be allocated to such teaching during any such stage. 40
- (5) An order under subsection (2) or (3) may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.
- (6) An order under subsection (2)(c) may confer or impose such functions on – 45

- (a) the governing body and head teacher of a maintained school or a maintained nursery school,
 - (b) a person providing funded nursery education under the arrangements mentioned in section 73(2)(b),
 - (c) an early years development and childcare partnership, and
 - (d) a local education authority,
- as appear to the Secretary of State to be required. 5
- (7) An order under subsection (3)(c) may confer or impose such functions on—
- (a) the governing body and head teacher, and
 - (b) the local education authority,
- as appear to the Secretary of State to be required. 10
- (8) An order under subsection (2)(c) or (3)(c) may specify such assessment arrangements as may for the time being be made by a person specified in the order
- (9) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and any such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves. 15
- (10) The duties that may be imposed by virtue of subsection (6) or (7) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (9), the duty to permit them—
- (a) to enter premises of the school or, as the case may be, premises on which the funded nursery education is being provided,
 - (b) to observe implementation of the arrangements, and
 - (c) to inspect, and take copies of, documents and other articles.
- 25
- (11) An order under subsection (2)(c) or (3)(c) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (6) or (7)) as appear to the Secretary of State to be expedient; and any provisions made under such an order shall, on being published as specified in the order, have effect for the purposes of this Part as if made by the order. 30
- (12) The Secretary of State shall, in exercising his power under subsection (3), ensure that the subject of science does not include—
- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus,
 - (b) any other sexually transmitted disease, or
 - (c) aspects of human sexual behaviour, other than biological aspects.
- 40

84 Implementation of the National Curriculum for England in schools

In relation to any maintained school and any school year—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

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that the National Curriculum for England as subsisting at the beginning of that year is implemented.

85 Implementation in respect of nursery schools etc.

- (1) In relation to any maintained nursery school and any school year –
- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and 5
 - (b) the head teacher shall secure,
- that the National Curriculum for England as subsisting at the beginning of that year (so far as it relates to the foundation stage) is implemented.
- (2) In relation to any school year, any person providing funded nursery education under the arrangements mentioned in section 73(2)(b) shall secure that the National Curriculum for England as subsisting at the beginning of that year is implemented (so far as it relates to the foundation stage) in respect of the pupils for whom the funded nursery education is provided. 10
- (3) The local education authority with whom the arrangements mentioned in section 73(2)(b) are made and the early years development and childcare partnership for the area of the authority shall exercise their respective functions with a view to securing that any person (other than the governing body of a maintained school or maintained nursery school), who provides funded nursery education complies with the obligation imposed by subsection (2). 15 20

The National Curriculum for England: special cases

86 Development work and experiments

- (1) For the purpose of enabling development work or experiments to be carried out, the Secretary of State may direct in respect of a particular maintained school or maintained nursery school that, for such period as may be specified in the direction, the National Curriculum for England –
- (a) shall not apply, or 25
 - (b) shall apply with such modifications as may be specified in the direction. 30
- (2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.
- (3) In the case of a community, voluntary controlled or community special school or a maintained nursery school, a direction shall not be given under subsection (1) except on an application –
- (a) by the governing body with the agreement of the local education authority, 35
 - (b) by the local education authority with the agreement of the governing body, or
 - (c) by the Qualifications and Curriculum Authority with the agreement of both the local education authority and the governing body. 40
- (4) In the case of a foundation, voluntary aided or foundation special school, a direction shall not be given under subsection (1) except on an application by the governing body or by the Qualifications and Curriculum Authority with the agreement of the governing body. 45

- (5) The Secretary of State may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Secretary of State on any matters specified by him.
- (6) The Secretary of State may by a direction under this subsection vary or revoke a direction under subsection (1). 5

87 Exceptions by regulations

Regulations may provide that the National Curriculum for England, or such of the provisions of the National Curriculum for England as may be specified in the regulations – 10

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the regulations,

in such cases or circumstances as may be specified in the regulations. 15

88 Pupils with statements of special educational needs

The special educational provision for any pupil specified in a statement under section 324 of the Education Act 1996 (c. 56) of his special educational needs may include provision –

- (a) excluding the application of the National Curriculum for England, or 20
- (b) applying the National Curriculum for England with such modifications as may be specified in the statement.

89 Temporary exceptions for individual pupils

- (1) Regulations may enable the head teacher of a maintained school or maintained nursery school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the National Curriculum for England – 25
 - (a) shall not apply, or 30
 - (b) shall apply with such modifications as may be specified in the direction.
- (2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations. 35
- (3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either –
 - (a) a fixed period not exceeding six months, or
 - (b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning. 40
- (4) Any maximum period so specified may, without prejudice to the generality of section 204(6) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to

- whether or not the direction in question is given in respect of a period beginning –
- (a) immediately after the end of the operative period of a previous direction, or
 - (b) within such period after the end of the operative period of a previous direction as may be specified in the regulations. 5
- (5) The regulations may enable the head teacher of a maintained school, in such cases or circumstances and subject to such conditions as may be prescribed –
- (a) to revoke any direction given by him under the regulations, and
 - (b) to vary such a direction, except so as to extend its operative period. 10
- (6) Before making any regulations under this section, the Secretary of State shall consult with any persons with whom consultation appears to him to be desirable.
- 90 Information concerning directions under section 89 15**
- (1) Where a head teacher gives or varies a direction under regulations made under 89, he shall, in such manner as may be prescribed, give the information mentioned in subsection(2) –
- (a) to the governing body, and
 - (b) to the local education authority by whom the school is maintained, 20
- and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.
- (2) That information is –
- (a) the fact that he has taken the action in question, its effect and his reasons for taking it; 25
 - (b) the provision that is being or is to be made for the pupil’s education during the operative period of the direction; and
 - (c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum for England in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3). 30
- (3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs which the authority are for the time being required under section 324 of the Education Act 1996 (c. 56) to maintain). 35
- (4) Where –
- (a) the head teacher of a maintained school includes an indication of any such opinion in information given under subsection (1), and 40
 - (b) the local education authority by whom the school is maintained are not the responsible authority in relation to the pupil in question,
- the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (5) Where the responsible authority receive information given to them under subsection (1) or (4) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on 45

their part is required in the case of the pupil concerned under section 323 of the Education Act 1996 (assessment of special educational needs).

- (6) In this section “the responsible authority”, in relation to a pupil, means the local education authority responsible for him for the purposes of Part 4 of the Education Act 1996 (c. 56). 5

91 Appeals against directions under section 89 etc

- (1) Where a head teacher –
- (a) gives, revokes or varies a direction under regulations made under section 89, 10
 - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or
 - (c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request, 15
- the parent of the pupil concerned may appeal to the governing body.
- (2) On such an appeal, the governing body may –
- (a) confirm the head teacher’s action, or
 - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances. 20
- (3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).
- (4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal. 25

Supplementary provisions

92 Procedure for making certain orders and regulations

- (1) This section applies where the Secretary of State proposes to make –
- (a) an order under section 78(4), 79(3), 80(6), 83(2)(a) or (b) or (3)(a) or (b), or 30
 - (b) regulations under section 87.
- (2) The Secretary of State shall refer the proposal to the Qualifications and Curriculum Authority (in this section referred to as “the Authority”) and shall give them directions as to the time within which they are to report to him.
- (3) The Authority shall give notice of the proposal – 35
- (a) to such associations of local education authorities, bodies representing the interests of school governing bodies and organisations representing school teachers as appear to the Authority to be concerned, and
 - (b) to any other persons with whom consultation appears to the Authority to be desirable, 40
- and shall give them a reasonable opportunity of submitting evidence and representations as to the issues arising.
- (4) The report of the Authority to the Secretary of State shall contain –

- (a) a summary of the views expressed during the consultations,
 - (b) the Authority’s recommendations as to the proposal, and
 - (c) such other advice relating to the proposal as the Authority think fit.
- (5) The Authority shall, after submitting their report to the Secretary of State, arrange for the report to be published. 5
- (6) Where the Authority have reported to the Secretary of State, he shall publish in such manner as, in his opinion, is likely to bring them to the notice of persons having a special interest in education –
- (a) a draft of the proposed order or regulations and any associated document, and 10
 - (b) a statement explaining his reasons for any failure to give effect to the recommendations of the Authority,
- and shall send copies of the documents mentioned in paragraphs (a) and (b) to the Authority and to each of the persons consulted by the Authority.
- (7) The Secretary of State shall allow a period of not less than one month for the submission of evidence and representations as to the issues arising. 15
- (8) When the period so allowed has expired, the Secretary of State may make the order or regulations, with or without modifications.

PART 7

THE CURRICULUM IN WALES 20

Preliminary

93 Interpretation of Part 7

In this Part –

- “assess” includes examine and test, and related expressions shall be construed accordingly; 25
- “assessment arrangements” means –
 - (a) in relation to the foundation stage, the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the desirable outcomes; and 30
 - (b) in relation to a key stage, the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage, and
- “attainment targets”, in relation to a key stage, means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of that stage; 35
- “desirable outcomes”, in relation to the foundation stage, has the meaning given by section 100;
- “the foundation stage” has the meaning given by section 98; 40
- “key stage”, or references to a particular key stage, shall be construed in accordance with section 99;
- “maintained school” means –

- (a) any community, foundation or voluntary school maintained by a local education authority in Wales, or
 - (b) except where otherwise stated, any community or foundation special school which is maintained by a local education authority in Wales and is not established in a hospital; 5
- “maintained nursery school” means a nursery school which is maintained by a local education authority in Wales and is not a special school;
- “programmes of study”, in relation to a key stage, means matters, skills and processes which are required to be taught to pupils of different abilities and maturities by the end of that stage; 10
- “pupil” includes a child for whom funded nursery education is provided;
- “school year”, in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first school term to begin after the following July; and has a corresponding meaning in relation to the provision of funded nursery education otherwise than at a school. 15

94 Meaning of “nursery education” and related expressions

- (1) In this Part “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere). 20
- (2) For the purposes of this Part, nursery education is “funded nursery education” in relation to a child if—
 - (a) it is provided in a maintained school or a maintained nursery school, or
 - (b) it is provided, by a person other than the governing body of any such school, under arrangements made with that person by a local education authority in Wales in pursuance of the duty imposed on the authority by section 118 of the School Standards and Framework Act 1998 (c. 31) and in consideration of financial assistance provided by the authority under those arrangements. 25
- (3) For the purposes of this Part, funded nursery education provided in relation to a child otherwise than at a maintained school or maintained nursery school is to be taken to be provided by the person with whom the arrangements referred to in subsection (2)(b) are made by the local education authority. 30

General duties in respect of the curriculum 35

95 General requirements in relation to curriculum

- (1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
 - (a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and 40
 - (b) prepares pupils at the school for the opportunities, responsibilities and experiences of adult life.

- (2) The curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which –
- (a) promotes the spiritual, moral, cultural, mental and physical development of the pupils for whom the funded nursery education is provided and of society, and 5
 - (b) prepares those pupils for the opportunities, responsibilities and experiences of adult life.

96 Duty to implement general requirements

- (1) The National Assembly for Wales shall exercise its functions with a view to securing – 10
- (a) that the curriculum for every maintained school or maintained nursery school satisfies the requirements of section 95, and
 - (b) that the curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of that section. 15
- (2) Every local education authority in Wales shall exercise their functions with a view to securing –
- (a) that the curriculum for every maintained school or maintained nursery school which they maintain satisfies the requirements of section 95, and 20
 - (b) that the curriculum for any funded nursery education provided, under arrangements made by them, otherwise than at a maintained school or maintained nursery school, satisfies the requirements of section 95.
- (3) The governing body and head teacher of every maintained school or maintained nursery school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of section 95. 25
- (4) The functions referred to in subsections (1) to (3) include in particular –
- (a) functions conferred by this Part in relation to the National Curriculum for Wales, and 30
 - (b) except in relation to maintained nursery schools or the provision of funded nursery education otherwise than at a maintained school or maintained nursery school, functions relating to religious education and religious worship.
- (5) Any person providing funded nursery education under the arrangements mentioned in section 94(2)(b) shall secure that the curriculum for that funded nursery education satisfies the requirements of section 95. 35
- (6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority in Wales shall have regard to the guidance issued by the National Assembly for Wales under section 403(1A) of the Education Act 1996 (c. 56). 40
- (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education.
- (8) In exercising any function which may affect the provision in maintained schools of education of a kind required by virtue of an order under section 97(3)(a), a local education authority in Wales or the governing body of a 45

maintained school shall have regard to any guidance from time to time given by the National Assembly for Wales.

97 Basic curriculum for every maintained school in Wales

- (1) The curriculum for every maintained school in Wales shall comprise a basic curriculum which includes – 5
- (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),
 - (b) a curriculum for all registered pupils at the school who have attained the age of three but are not over compulsory school age (known as “the National Curriculum for Wales”), 10
 - (c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and
 - (d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education. 15
- (2) Subsection (1)(a) does not apply in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 342(6) of the Education Act 1996 (c. 56)). 20
- (3) The National Assembly for Wales may by order –
- (a) amend subsection (1) so as to add further requirements (otherwise than in relation to religious education or sex education),
 - (b) amend subsection (1)(b) –
 - (i) by substituting for the reference to the age of three (or to any age specified there by virtue of this sub-paragraph) a reference to such other age as may be specified in the order, or 25
 - (ii) by substituting for the reference to the compulsory school age (or to any age specified there by virtue of this sub-paragraph) a reference to such other age as may be specified in the order, and 30
 - (c) amend any provision included in subsection (1) by virtue of paragraph (a) of this subsection.

The National Curriculum for Wales

98 The foundation stage

For the purposes of this Part, the foundation stage in relation to a pupil is such period as may be specified in an order made by the National Assembly for Wales. 35

99 The key stages

- (1) For the purposes of this Part, the key stages in relation to a pupil are –
- (a) the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven (“the first key stage”), 40
 - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the

- same time as the school year in which the majority of pupils in his class attain the age of eleven (“the second key stage”),
- (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen (the third key stage”), and 5
- (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending at the same time as the school year in which the majority of pupils in his class cease to be of compulsory school age (“the fourth key stage”). 10
- (2) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age. 15
- (3) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if –
- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age, and 20
- (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of fifteen and ending when he ceases to be of compulsory school age. 25
- (4) The National Assembly for Wales may by order –
- (a) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there specified there were substituted such other ages (less than eleven and twelve respectively) as may be specified in the order, or 30
- (b) amend subsections (1) to (3).
- (5) In this section “class”, in relation to a particular pupil and a particular subject, means –
- (a) the teaching group in which he is regularly taught in that subject, or
- (b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school. 35

100 Curriculum requirements for the foundation stage

For the foundation stage, the National Curriculum for Wales shall specify areas of learning, and may specify in relation to them –

- (a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of the foundation stage (referred to in this Part as “desirable outcomes”), 40
- (b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during the foundation stage (referred to in this Part as “educational programmes”), and 45
- (c) assessment arrangements.

101 Curriculum requirements for the first, second and third key stages

- (1) For the first, second and third key stages, the National Curriculum for Wales shall comprise the core and other foundation subjects specified in subsections (2) and (3) and shall specify attainment targets, programmes of study and assessment arrangements in relation to each of those subjects for each stage. 5
- (2) The following are the core subjects for the first, second and third key stages –
 - (a) mathematics,
 - (b) English,
 - (c) science, and
 - (d) in relation to Welsh-speaking schools, Welsh. 10
- (3) The following are the other foundation subjects for the first, second and third key stages –
 - (a) technology,
 - (b) physical education,
 - (c) history, 15
 - (d) geography,
 - (e) art,
 - (f) music,
 - (g) Welsh, if the school is not a Welsh-speaking school, and
 - (h) in relation to the third key stage, a modern foreign language. 20
- (4) In this section “modern foreign language” means a modern foreign language specified in an order made by the National Assembly for Wales or, if the order so provides, any modern foreign language.
- (5) An order under subsection (4) may –
 - (a) specify circumstances in which a language is not to be treated as a foundation subject for the third key stage, and 25
 - (b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.
- (6) The National Assembly for Wales may by order amend subsections (2) to (5).
- (7) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh –
 - (a) religious education, and
 - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school. 30
- (8) In this section “school” includes part of a school. 35

102 Curriculum requirements for the fourth key stage

- (1) For the fourth key stage, the National Curriculum for Wales shall comprise the core and other foundation subjects and specify attainment targets, programmes of study and assessment arrangements in relation to each of them. 40
- (2) The following are the core subjects for the fourth stage –
 - (a) mathematics,
 - (b) English,
 - (c) science, and

- (d) in relation to Welsh-speaking schools, Welsh.
- (3) The following are the other foundation subjects for the fourth stage –
 - (a) physical education, and
 - (b) Welsh, if the school is not a Welsh-speaking school.
- (4) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh –
 - (a) religious education, and
 - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.
- (5) In this section “school” includes part of a school.

103 Power to alter or remove requirements for the fourth key stage

- The National Assembly for Wales may by order –
- (a) amend any provision of section 102, or
 - (b) provide that, while the order remains in force, that section is not to have effect.

104 Establishment of the National Curriculum for Wales by order

- (1) The National Assembly for Wales shall so exercise the powers conferred by subsections (2) and (3) as to –
 - (a) establish a complete National Curriculum for Wales for the foundation stage as soon as is reasonably practicable, and
 - (b) revise the National Curriculum for Wales for the foundation stage and the key stages whenever the Assembly considers it necessary or expedient to do so.
- (2) In respect of the foundation stage, the National Assembly for Wales –
 - (a) shall by order specify the areas of learning, and
 - (b) may by order specify in relation to each of those areas –
 - (i) such desirable outcomes,
 - (ii) such educational programmes, and
 - (iii) such assessment arrangements,
 as the Assembly considers appropriate for that area.
- (3) In respect of the first, second and third key stages and (subject to section 103) the fourth key stage, the National Assembly for Wales may by order specify in relation to each of the foundation subjects –
 - (a) such attainment targets,
 - (b) such programmes of study, and
 - (c) such assessment arrangements,
 as the Assembly considers appropriate for that subject.
- (4) An order under subsection (2) or (3) may not require –
 - (a) the allocation of any particular period or periods of time during the foundation stage or any key stage to the teaching of any educational programme or programme of study or any matter, skill or process forming part of it, or

- (b) the making in school timetables (or the timetables of any person providing funded nursery education) of provision of any particular kind for the periods to be allocated to such teaching during any such stage.
- (5) An order under subsection (2) or (3) may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order. 5
- (6) An order under subsection (2)(b)(iii) may confer or impose such functions on—
- (a) the governing body and head teacher of a maintained school or a maintained nursery school, 10
 - (b) a person providing funded nursery education under the arrangements mentioned in section 94(2)(b),
 - (c) an early years development and childcare partnership, and
 - (d) a local education authority, 15
- as appear to the National Assembly for Wales to be required.
- (7) An order under subsection (3)(c) may confer or impose such functions on—
- (a) the governing body and head teacher, and
 - (b) the local education authority,
- as appear to the National Assembly for Wales to be required. 20
- (8) An order under subsection (2)(b)(iii) or (3)(c) may specify such assessment arrangements as may for the time being be made by a person specified in the order
- (9) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and any such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves. 25
- (10) The duties that may be imposed by virtue of subsection (6) or (7) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (9), the duty to permit them—
- (a) to enter premises of the school or, as the case may be, premises on which the funded nursery education is being provided,
 - (b) to observe implementation of the arrangements, and 35
 - (c) to inspect, and take copies of, documents and other articles.
- (11) An order under subsection (2)(b)(iii) or (3)(c) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (6) or (7)) as appear to the National Assembly for Wales to be expedient; and any provisions made under such an order shall, on being published as specified in the order, have effect for the purposes of this Part as if made by the order. 40
- (12) The National Assembly for Wales shall, in exercising its power under subsection (3), ensure that the subject of science does not include—
- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus,
 - (b) any other sexually transmitted disease, or 45

- (c) aspects of human sexual behaviour, other than biological aspects.

105 Implementation of the National Curriculum for Wales in schools

In relation to any maintained school and any school year –

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and 5
- (b) the head teacher shall secure,
- that the National Curriculum for Wales as subsisting at the beginning of that year is implemented.

106 Implementation in respect of nursery schools etc.

- (1) In relation to any maintained nursery school and any school year – 10
- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,
- that the National Curriculum for Wales as subsisting at the beginning of that year (so far as it relates to the foundation stage) is implemented. 15
- (2) In relation to any school year, any person providing funded nursery education under the arrangements mentioned in section 94(2)(b) shall secure that the National Curriculum for Wales as subsisting at the beginning of that year is implemented (so far as it relates to the foundation stage) in respect of the pupils for whom the funded nursery education is provided. 20
- (3) The local education authority with whom the arrangements mentioned in section 94(2)(b) are made and the early years development and childcare partnership for the area of the authority shall exercise their respective functions with a view to securing that any person (other than the governing body of a maintained school or maintained nursery school), who provides funded nursery education complies with the obligation imposed by subsection (2). 25

The National Curriculum for Wales: special cases

107 Development work and experiments

- (1) For the purpose of enabling development work or experiments to be carried out, the National Assembly for Wales may direct in respect of a particular maintained school or maintained nursery school that, for such period as may be specified in the direction, the National Curriculum for Wales – 30
- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the direction. 35
- (2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.
- (3) In the case of a community, voluntary controlled or community special school or a maintained nursery school, a direction shall not be given under subsection (1) except on an application – 40
- (a) by the governing body with the agreement of the local education authority,

-
- (b) by the local education authority with the agreement of the governing body, or
- (c) by the Qualifications, Curriculum and Assessment Authority for Wales with the agreement of both the local education authority and the governing body. 5
- (4) In the case of a foundation, voluntary aided or foundation special school, a direction shall not be given under subsection (1) except on an application by the governing body or by the Qualifications, Curriculum and Assessment Authority for Wales with the agreement of the governing body.
- (5) The National Assembly for Wales may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Assembly on any matters specified by him. 10
- (6) The National Assembly for Wales may by a direction under this subsection vary or revoke a direction under subsection (1). 15
- 108 Exceptions by regulations**
- Regulations may provide that the National Curriculum for Wales, or such of the provisions of the National Curriculum for Wales as may be specified in the regulations –
- (a) shall not apply, or 20
- (b) shall apply with such modifications as may be specified in the regulations,
- in such cases or circumstances as may be specified in the regulations.
- 109 Pupils with statements of special educational needs**
- The special educational provision for any pupil specified in a statement under section 324 of the Education Act 1996 (c. 56) of his special educational needs may include provision – 25
- (a) excluding the application of the National Curriculum for Wales, or
- (b) applying the National Curriculum for Wales with such modifications as may be specified in the statement. 30
- 110 Temporary exceptions for individual pupils**
- (1) Regulations may enable the head teacher of a maintained school or maintained nursery school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the National Curriculum for Wales – 35
- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the direction. 40
- (2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.

- (3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either –
- (a) a fixed period not exceeding six months, or
 - (b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning. 5
- (4) Any maximum period so specified may, without prejudice to the generality of section 204(6) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning –
- (a) immediately after the end of the operative period of a previous direction, or
 - (b) within such period after the end of the operative period of a previous direction as may be specified in the regulations. 10
15
- (5) The regulations may enable the head teacher of a maintained school, in such cases or circumstances and subject to such conditions as may be prescribed –
- (a) to revoke any direction given by him under the regulations, and
 - (b) to vary such a direction, except so as to extend its operative period.
- (6) Before making any regulations under this section, the National Assembly for Wales shall consult with any persons with whom consultation appears to it to be desirable. 20

111 Information concerning directions under section 110

- (1) Where a head teacher gives or varies a direction under regulations made under section 110, he shall, in such manner as may be prescribed, give the information mentioned in subsection(2) –
- (a) to the governing body, and
 - (b) to the local education authority by whom the school is maintained, and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned. 25
30
- (2) That information is –
- (a) the fact that he has taken the action in question, its effect and his reasons for taking it;
 - (b) the provision that is being or is to be made for the pupil’s education during the operative period of the direction; and
 - (c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum for Wales in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3). 35
40
- (3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs which the authority are for the time being required under section 324 of the Education Act 1996 (c. 56) to maintain). 45
- (4) Where –

- (a) the head teacher of a maintained school includes an indication of any such opinion in information given under subsection (1), and
 - (b) the local education authority by whom the school is maintained are not the responsible authority in relation to the pupil in question,
- the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority. 5
- (5) Where the responsible authority receive information given to them under subsection (1) or (4) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on their part is required in the case of the pupil concerned under section 323 of the Education Act 1996 (c. 56) (assessment of special educational needs). 10
- (6) In this section “the responsible authority”, in relation to a pupil, means the local education authority responsible for him for the purposes of Part 4 of the Education Act 1996. 15

112 Appeals against directions under section 110 etc

- (1) Where a head teacher –
- (a) gives, revokes or varies a direction under regulations made under section 110,
 - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or
 - (c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,
- the parent of the pupil concerned may appeal to the governing body. 20
- (2) On such an appeal, the governing body may –
- (a) confirm the head teacher’s action, or
 - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances. 30
- (3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).
- (4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal. 25

Supplementary provisions 35

113 Procedure for making certain orders and regulations

- Where the National Assembly for Wales proposes to make –
- (a) an order under section 99(4), 101(6), 104(2)(a) or (b)(i) or (ii) or (3)(a) or (b), or
 - (b) regulations under section 108,
- the Assembly shall make such arrangements for consultation about the proposals as the Assembly considers appropriate. 40

114 Programmes of research etc in relation to Wales

The National Assembly for Wales may incur expenses in connection with the commissioning by the Assembly of such work, including programmes of research, development and dissemination, as it may require to be carried out for the purpose of facilitating the discharge of any of the Assembly's functions under sections 98 to 104. 5

PART 8**TEACHERS***Teachers' pay and conditions***115 School Teachers' Review Body** 10

- (1) The body established under section 1 of the School Teachers' Pay and Conditions Act 1991 (c. 49) (review body) –
 - (a) shall continue to exist, and
 - (b) shall be known as the School Teachers' Review Body.
- (2) The Prime Minister shall appoint the chairman of the Review Body. 15
- (3) The Secretary of State shall appoint other members of the Review Body.
- (4) Schedule 12 (which makes provision about the Review Body) shall have effect.

116 Review Body: function

- (1) The School Teachers' Review Body shall consider any matter which is referred to them by the Secretary of State and which relates to –
 - (a) the remuneration of school teachers, or
 - (b) other conditions of employment of school teachers which relate to their professional duties or working time. 20
- (2) In subsection (1) "school teacher" means a person who is a school teacher for the purposes of the Secretary of State's power under section 118 to make orders about remuneration and other conditions of employment. 25
- (3) Following consideration of a matter under subsection (1) the Review Body shall report to the Prime Minister and the Secretary of State in accordance with any direction of the Secretary of State about –
 - (a) a consideration to which they are to have particular regard, 30
 - (b) a matter on which they are to make a recommendation, or
 - (c) the time within which they are to report.
- (4) Where the Prime Minister and the Secretary of State receive a report under subsection (3) they shall arrange for it to be published.
- (5) A direction under subsection (3) may be varied or revoked. 35

117 Consultation by Review Body

- (1) Before reporting on a matter referred to them under section 116(1) the School Teachers' Review Body shall –

- (a) notify each relevant body,
 - (b) give each relevant body an opportunity to submit evidence and make representations, and
 - (c) give the Secretary of State an opportunity to submit evidence and make representations. 5
- (2) In relation to a matter referred to the Review Body “relevant body” means such of the following as appear to the Review Body to be appropriate to consult about the matter –
 - (a) associations of local education authorities,
 - (b) local education authorities, 10
 - (c) bodies representing the interests of governing bodies of schools, and
 - (d) bodies representing the interests of teachers.
- (3) The Review Body may –
 - (a) determine the manner in which each relevant body is permitted to submit evidence or make representations, and 15
 - (b) may make different determinations in respect of different relevant bodies.

118 Power to prescribe pay and conditions

- (1) The Secretary of State may by order make provision for the determination of –
 - (a) the remuneration of school teachers; 20
 - (b) other conditions of employment of school teachers which relate to their professional duties or working time.
- (2) Where an order under this section applies to a school teacher –
 - (a) his remuneration shall be determined and paid in accordance with any provision of the order which applies to him, 25
 - (b) a provision of the order which relates to a condition of employment other than remuneration and which applies to him shall have effect as a term of his contract of employment, and
 - (c) a term of that contract shall have no effect in so far as it makes provision which is prohibited by the order or which is otherwise inconsistent with a provision of the order. 30
- (3) A person is a school teacher for the purposes of this section if –
 - (a) he is a qualified teacher,
 - (b) he provides primary or secondary education under a contract of employment or for services, 35
 - (c) the other party to the contract is a local education authority or the governing body of a foundation, voluntary aided or foundation special school, and
 - (d) the contract requires him to carry out work of a kind which is specified by regulations under section 129(1). 40
- (4) A person is also a school teacher for the purposes of this section if his case satisfies paragraphs (b) and (c) of subsection (3) and –
 - (a) he possesses a prescribed qualification,
 - (b) he provides education of a prescribed kind or in prescribed circumstances (or both), 45

- (c) he is undertaking training of a prescribed kind, or obtaining experience of a prescribed kind, with a view to becoming a qualified teacher,
 - (d) he is within a prescribed class of persons awaiting assessment for the purpose of becoming a qualified teacher, or
 - (e) he is within a prescribed class of persons awaiting the award of a qualification. 5
- (5) A person providing education in an establishment maintained by a local authority in the exercise of a social services function is not a school teacher for the purposes of this section.
- (6) In the application of subsection (2) – 10
- (a) it is immaterial whether someone other than the party mentioned in subsection (3)(c) provides or is responsible for providing all or part of a teacher’s remuneration,
 - (b) it is immaterial whether someone other than the party mentioned in subsection (3)(c) is treated wholly or partly as a teacher’s employer for some or all purposes by virtue of an enactment, and 15
 - (c) in relation to a person who provides education under a contract for services, a reference to his contract of employment is a reference to the contract for services.
- (7) In this section “prescribed” means prescribed by an order under this section. 20

119 Order under section 118: scope

- (1) An order under section 118 may, in particular –
- (a) confer discretion on a local education authority or a governing body;
 - (b) confer a function (which may include the administration of a test or assessment, the exercise of a discretion or the exercise of a supervisory or appellate jurisdiction) on the Secretary of State or on a specified person who has agreed with the Secretary of State to perform that function; 25
 - (c) require a discretion or function conferred under paragraph (a) or (b) to be exercised having regard to guidance given by the Secretary of State or another specified person; 30
 - (d) make provision for the determination of a teacher’s remuneration by reference to any matter including, in particular, his qualifications, experience, duties, aptitude or previous salary;
 - (e) make provision for a right of appeal specified by or determined in accordance with the order; 35
 - (f) limit the aggregate amount of an allowance, or of a number of allowances, payable to teachers in a school;
 - (g) set a lower or upper limit on the number or proportion of teachers in a school who are paid on a specified scale; 40
 - (h) set a lower or upper limit on the number or proportion of teachers in a school who are paid a specified allowance;
 - (i) provide for special provisions to apply in relation to a description of school specified by or determined in accordance with the order;
 - (j) provide for the determination of a question of the interpretation or application of a provision of the order. 45
- (2) Provision under subsection (1)(e) or (j) may –
- (a) confer jurisdiction on a court, tribunal, person or body;

- (b) provide for a matter to be settled by agreement between, or in a manner agreed between, teachers and local education authorities or teachers and governing bodies.
- (3) An order under section 118 may make retrospective provision, but not so as to – 5
 - (a) reduce remuneration in respect of a period wholly or partly before the making of the order, or
 - (b) alter a condition of employment to the detriment of a teacher in respect of a period wholly or partly before the making of the order.
- (4) The Secretary of State may by order provide – 10
 - (a) that a payment or entitlement of a specified kind is or is not to be treated as remuneration for the purpose of section 118(1);
 - (b) that a specified matter is or is not to be treated for that purpose as relating to the professional duties of school teachers;
 - (c) that a specified matter is or is not to be treated for that purpose as relating to the working time of school teachers. 15

120 Order under section 118: supplemental

- (1) An order under section 118 may – 20
 - (a) make provision which applies generally or only in a specified case or in specified circumstances;
 - (b) make different provision for different cases or circumstances;
 - (c) make transitional provision.
- (2) An order under section 118 may make provision by reference to the exercise of another power under this Act.
- (3) An order under section 118 may make provision by reference to a document; and – 25
 - (a) an order which makes provision by reference to a document must include provision about publication of the document, and
 - (b) a reference in this section to an order includes a reference to a document referred to by an order. 30

121 Reference to Review Body

- (1) An order under section 118 may make provision about a matter only if the Secretary of State has – 35
 - (a) referred the matter to the School Teachers' Review Body under section 116, and
 - (b) considered their report.
- (2) But subsection (1) shall not apply – 40
 - (a) to subsidiary provision, or
 - (b) in a case where the Secretary of State has consulted the chairman of the Review Body about disapplying that subsection.
- (3) Provision is subsidiary for the purpose of subsection (2)(a) if the Secretary of State thinks that it – 40
 - (a) concerns only the criteria for entry into or exit from a particular class of teachers for purposes of remuneration,

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- (b) concerns only the criteria for moving from one scale of remuneration to another,
 - (c) concerns only the implementation or application of a system or principle on which the Review Body has reported,
 - (d) prescribes a matter for the purpose of section 118(4), 5
 - (e) is made under section 119(4), or
 - (f) is minor, consequential, temporary, transitional or designed to resolve an anomaly.
- (4) The Secretary of State may by order provide that provision of a specified kind (which may be described wholly or partly by reference to an opinion of the Secretary of State or another person) – 10
- (a) shall be subsidiary for the purpose of subsection (2)(a), or
 - (b) shall cease to be subsidiary for that purpose.
- (5) An order under subsection (4) may amend subsection (3).
- 122 Consultation by Secretary of State** 15
- The Secretary of State may not make an order under section 118 unless he has consulted such of the following as appear to him to be appropriate to consult having regard to the content of the order –
- (a) associations of local education authorities,
 - (b) local education authorities, 20
 - (c) bodies representing the interests of governing bodies of schools, and
 - (d) bodies representing the interests of teachers.
- 123 Guidance**
- (1) The Secretary of State may issue guidance about the procedure to be followed in applying provision of an order under section 118. 25
- (2) The following shall have regard to guidance under subsection (1) –
- (a) a local education authority, and
 - (b) the governing body of a school.
- (3) Where an employer fails to follow guidance under subsection (1) –
- (a) the failure shall not give rise to civil liability, but
 - (b) a court or tribunal may take the failure into account in any proceedings. 30
- (4) The Secretary of State may not issue guidance under subsection (1) unless he has consulted such of the following as appear to him to be appropriate to consult having regard to the nature of the guidance –
- (a) associations of local education authorities, 35
 - (b) local education authorities,
 - (c) bodies representing the interests of governing bodies of schools, and
 - (d) bodies representing the interests of teachers.
- 124 Education action zone**
- (1) This section applies to a school which forms part of an education action zone for the purposes of Chapter III of Part I of the School Standards and Framework Act 1998 (c. 31). 40

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- (2) On the application of the governing body of a school, the Secretary of State may by order provide that section 118(2) shall not apply to any school teacher employed to work at the school.
- (3) Where an order under subsection (2) is in force in respect of a school—
- (a) the governing body shall determine the remuneration and other conditions of employment of each school teacher employed to work at the school, 5
 - (b) the local education authority shall do anything necessary to give effect to the governing body’s determination, and
 - (c) pending a determination under paragraph (a), the terms on which a school teacher is employed to work at the school shall remain unchanged (irrespective of any new order under section 118). 10
- (4) A governing body may not make an application under subsection (2) unless it has consulted each school teacher employed to work at the school.
- (5) An application under subsection (2) must specify a date for commencement of the order sought; and 15
- (a) the date specified must not precede the expiry of the period of three months beginning with the date on which the application is made, and
 - (b) an order made on the application must provide that it comes into force on the date specified in the application or on a later date which is agreed between the Secretary of State and the governing body and which is specified in the order. 20
- (6) The Secretary of State may make regulations about the application of section 118(2) where an order under subsection (2) above—
- (a) is revoked, or 25
 - (b) lapses (in whole or in part) because one or more schools to which the order relates cease to form part of an education action zone.
- (7) In this section “school teacher” has the same meaning as in section 118.

125 Transfer of employment

- (1) Section 118(2) shall not apply to a person if— 30
- (a) a maintained school is established in place of an independent school in pursuance of proposals published under section 28 or 31 of the School Standards and Framework Act 1998 (c. 31), and
 - (b) the person becomes a school teacher in the maintained school in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794). 35
- (2) But if the school teacher gives a notice in writing under this subsection to his new employer, section 118(2) shall apply to him in respect of the period beginning with—
- (a) a date specified in the notice, 40
 - (b) if no date is specified under paragraph (a), a date agreed between the teacher and the new employer, or
 - (c) if no date is specified under paragraph (a) or agreed under paragraph (b), the date on which the employer receives the notice.

- (3) Where the governing body of a foundation, voluntary aided or foundation special school receive a notice under subsection (2), they shall inform the local education authority.
- (4) In this section “school teacher” has the same meaning as in section 118.
- (5) In subsection (1) “maintained school” means – 5
- (a) a community school,
 - (b) a foundation school,
 - (c) a voluntary school,
 - (d) a community special school,
 - (e) a foundation special school, or 10
 - (f) a maintained nursery school.

126 Repeal of School Teachers’ Pay and Conditions Act 1991

The School Teachers’ Pay and Conditions Act 1991 (c. 49) shall cease to have effect.

School teachers’ appraisal 15

127 Appraisal

- (1) The Secretary of State may make regulations requiring the appraisal of the performance of teachers – 20
- (a) in a manner specified by the regulations, and
 - (b) at times specified by or determined in accordance with the regulations.
- (2) The regulations may impose a duty on –
- (a) a local education authority;
 - (b) the governing body of a school or institution;
 - (c) the head teacher of a school or the principal of an institution.
- (3) The regulations may – 25
- (a) require or permit an appraisal to be carried out in a manner which confers a discretion on a person specified by or chosen or determined in accordance with the regulations;
 - (b) permit a person on whom a duty is imposed under subsection (2) to delegate that duty in whole or in part. 30
- (4) The regulations may require or permit a person listed in subsection (2) to have regard to the results of an appraisal in the performance of a function specified by the regulations.
- (5) The results of an appraisal may be used in determining a teacher’s remuneration. 35
- (6) Before making regulations under this section the Secretary of State shall consult such of the following as appear to him to be appropriate – 40
- (a) associations of local education authorities,
 - (b) local education authorities,
 - (c) bodies representing the interests of governing bodies,
 - (d) bodies representing the interests of teachers, and
 - (e) the Learning and Skills Council for England.

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- (7) In this section “teacher” means—
- (a) a person who is a school teacher for the purposes of section 118,
 - (b) a person who teaches at an institution within the further education sector, and
 - (c) a person who provides further or higher education at an institution maintained by a local education authority. 5
- (8) In the application of this section to a teacher at an institution in Wales—
- (a) references to the Secretary of State shall be taken as references to the National Assembly for Wales, and
 - (b) a reference to the Learning and Skills Council for England shall be taken as including a reference to the National Council for Education and Training in Wales. 10
- (9) Section 49 of the Education (No. 2) Act 1986 (c. 61) (appraisal) shall cease to have effect.

School teachers’ qualifications 15

128 Qualified teacher status

- (1) A reference in the Education Acts to a “qualified teacher” is to a person who satisfies requirements specified in regulations made by the Secretary of State.
- (2) A requirement of regulations under this section may relate to—
- (a) the possession of a specified qualification; 20
 - (b) completion of a course of training;
 - (c) compliance with a specified condition;
 - (d) an exercise of discretion by the Secretary of State or another specified person.

129 Requirement to be qualified 25

- (1) The Secretary of State may by regulations provide that specified work may be carried out in a school only by a qualified teacher.
- (2) The Secretary of State may by regulations provide that specified work may be carried out in a school by a person who is not a qualified teacher only if specified conditions are satisfied. 30
- (3) Regulations specifying work for the purpose of subsection (1) or (2) may make provision by reference to—
- (a) one or more specified activities, or
 - (b) the circumstances in which activities are carried out.
- (4) A condition specified under subsection (2) may— 35
- (a) relate to the person carrying out an activity;
 - (b) confer a discretion on a qualified teacher.
- (5) In this section “school” does not include an independent school.

130 Requirement to be registered

- (1) The Secretary of State may by regulations provide that specified work may be carried out in a school by a qualified teacher only if he is registered with full registration under section 3 of the Teaching and Higher Education Act 1998 (c. 30) (register maintained by General Teaching Council). 5
- (2) The Secretary of State may by regulations provide that work may be carried out by a person in reliance on section 129(2) only if he is registered with provisional registration under section 3 of the Teaching and Higher Education Act 1998.
- (3) The Secretary of State may by regulations provide that a person may undertake a specified course of training with a view to becoming a qualified teacher only if he is registered with provisional registration under that section. 10
- (4) Regulations specifying work for the purpose of subsection (1) or (2) may make provision by reference to –
- (a) one or more specified activities, or
 - (b) the circumstances in which activities are carried out. 15
- (5) In this section “school” does not include an independent school.

131 Head teachers

- (1) The Secretary of State may by regulations provide that a person may serve as the head teacher of a school only if he is a qualified teacher.
- (2) The Secretary of State may by regulations provide that a person may serve as the head teacher of a school only if he has a specified qualification (in addition to any qualification required by virtue of subsection (1)). 20
- (3) A provision of regulations under subsection (2) shall not apply to a person who has been appointed as the head teacher of a school before the commencement of the provision. 25
- (4) Regulations under subsection (2) shall not prevent a person from carrying out the functions of the head teacher of a school –
- (a) pending the appointment of a head teacher, or
 - (b) in the absence of the head teacher.
- (5) In this section “school” does not include an independent school. 30

*Further education***132 Provision of education**

The Secretary of State may by regulations –

- (a) prohibit the provision of education at a further education institution by a person who does not have a specified qualification; 35
- (b) prohibit the provision of education at a further education institution by a person unless he is serving or has served a probationary period;
- (c) specify conditions to be complied with by or in respect of persons providing education at a further education institution.

133 Principals of further education institutions

- (1) The Secretary of State may by regulations provide that a person may serve as the principal of a further education institution only if he has a specified qualification.
- (2) Regulations under subsection (1) shall not prevent a person from serving as the principal of an institution while he is following a course or programme which—
 - (a) is of a kind specified in the regulations, and
 - (b) is designed to lead to the award of a qualification specified under subsection (1).
- (3) A provision of regulations under subsection (1) shall not apply to a person who has been appointed as the principal of an institution before the commencement of the provision.
- (4) Regulations under subsection (1) shall not prevent a person from carrying out the functions of the principal of an institution—
 - (a) pending the appointment of a principal, or
 - (b) in the absence of the principal.

134 Training in provision of further education

- (1) This section applies to a course which is designed to lead to the award of a qualification specified under section 132 or 133(1).
- (2) The Secretary of State may by regulations—
 - (a) prohibit the provision by a further or higher education institution of a course to which this section applies without the approval of the Secretary of State;
 - (b) enable the Secretary of State to determine the number of persons who may undertake a specified course to which this section applies at a further or higher education institution;
 - (c) enable the Secretary of State to determine the number of persons in different categories who may undertake a specified course to which this section applies at a further or higher education institution.

135 Wales: provision of higher education

- (1) The National Assembly for Wales may by regulations—
 - (a) prohibit the provision by an institution to which this section applies of a course of higher education without the approval of the National Assembly;
 - (b) enable the National Assembly to determine the number of persons who may undertake a course of higher education at an institution to which this section applies;
 - (c) enable the National Assembly to determine the number of persons in different categories who may undertake a course of higher education at an institution to which this section applies.
- (2) This section applies to an institution which provides further or higher education and—
 - (a) is maintained by a local education authority, or
 - (b) is within the further education sector.

136 Further education: general

- (1) Regulations under any of sections 132 to 135 may provide that a specified provision of the regulations shall not apply where a specified condition (which may refer to the opinion of a specified person) is satisfied.
- (2) Regulations under any of sections 132 to 135 may impose a function on— 5
 (a) a local education authority, or
 (b) the governing body of a further or higher education institution.
- (3) In sections 132 to 135—
 “education” includes vocational, social, physical and recreational training, 10
 “further education institution” means an institution which—
 (a) provides further education and is maintained by a local education authority, or
 (b) is within the further education sector, and
 “higher education institution” means an institution which— 15
 (a) is within the higher education sector, and
 (b) receives financial support under section 65 of the Further and Higher Education Act 1992 (administration of funds by higher education funding councils).

Health and fitness 20

137 Health and fitness

- (1) The Secretary of State may by regulations provide that an activity to which this section applies may be carried out only by a person who satisfies specified conditions as to health or physical capacity.
- (2) This section applies to an activity of a prescribed kind performed in the course of the provision of education at— 25
 (a) a school, or
 (b) a further education institution.
- (3) This section also applies to an activity of a prescribed kind performed in the course of the provision of education by a person— 30
 (a) otherwise than in a school or a further education institution, and
 (b) under a contract of employment or for services where the other party is a local education authority or a person exercising a function relating to the provision of education on behalf of a local education authority.
- (4) This section also applies to an activity of a prescribed kind (other than the provision of education) where— 35
 (a) the activity is carried out by a person under a contract of employment or for services,
 (b) the other party to the contract is a local education authority or the governing body of a school or a further education institution, and 40
 (c) the activity regularly brings the person into contact with children.
- (5) In this section—
 “child” means a person who has not attained the age of 18 years,
 “further education institution” has the meaning given by section 136, and

“school” does not include an independent school.

Misconduct etc.

138 Prohibition from teaching, &c.

- (1) The Secretary of State may direct that a person –
 - (a) may not carry out work to which this section applies; 5
 - (b) may carry out work to which this section applies only in circumstances specified in the direction;
 - (c) may carry out work to which this section applies only if he satisfies conditions specified in the direction.

- (2) This section applies to – 10
 - (a) providing education at a school,
 - (b) providing education at a further education institution,
 - (c) providing education under a local authority contract,
 - (d) taking part in the management of an independent school, and
 - (e) work which brings a person regularly into contact with children and is carried out under a local authority contract or a contract with the proprietor of a school or the governing body of a further education institution. 15

- (3) In subsection (3) – 20
 - “contract” means a contract for employment or for services, and
 - “local authority contract” means a contract to which one party is a local education authority or a person exercising a function relating to the provision of education on behalf of a local education authority.

- (4) The Secretary of State may give a direction under this section in respect of a person only – 25
 - (a) on the grounds that the person is included (otherwise than provisionally) in the list kept under section 1 of the Protection of Children Act 1999 (c. 14) (list of individuals considered unsuitable to work with children),
 - (b) on the grounds that the person is unsuitable to work with children, 30
 - (c) on grounds relating to the person’s misconduct,
 - (d) on grounds relating to the person’s health, or
 - (e) in the case of a direction given by virtue of subsection (2)(d), on grounds relating to the person’s professional incompetence (or on a ground mentioned in any of paragraphs (a) to (d)). 35

- (5) A direction under this section may be varied or revoked.

- (6) The Secretary of State may by regulations prescribe the procedure for giving a direction under this section (including provision about notification of persons to whom directions relate).

- (7) In this section – 40
 - “child” means a person who has not attained the age of 18 years,
 - “further education institution” has the meaning given by section 136, and
 - “school” includes an independent school.

139 Directions under section 138: appeal

- (1) A person in respect of whom the Secretary of State has given a direction under section 138 may appeal to the Tribunal established under section 9 of the Protection of Children Act 1999 (c. 14) –
- (a) against the decision of the Secretary of State to give the direction; 5
 - (b) against a decision of the Secretary of State not to vary or revoke the direction.
- (2) The Secretary of State may by regulations –
- (a) provide that the Tribunal may not entertain an appeal under this section in so far as the appellant’s case is inconsistent with his having been convicted of an offence; 10
 - (b) prescribe circumstances in which the Tribunal shall allow an appeal under this section;
 - (c) prescribe the procedure to be followed in an appeal under this section.

Sections 128 to 137: general 15

140 Specification of qualification or course

- (1) A power under sections 128 to 137 to make provision by reference to a specified qualification, a specified course of education or training or a specified programme includes power to make provision –
- (a) by reference to a class or description of qualification, course or programme; 20
 - (b) by reference to the institution, or class or description of institution, which awards the qualification or provides the course or programme;
 - (c) which confers discretion on the Secretary of State, the Teacher Training Agency, the General Teaching Council for England or another specified person. 25
- (2) A discretion under subsection (1)(c) may, in particular, refer to approval or accreditation of a qualification, course, programme or institution.
- (3) Regulations made by virtue of subsection (1) may impose a duty on the Teacher Training Agency. 30
- (4) The Secretary of State shall consult the General Teaching Council for England before making regulations under section 128 which make provision by reference to –
- (a) the content of a course, or
 - (b) the standard of education provided through a course. 35

141 Wales

- (1) In the application of sections 128 to 137 and 140 to schools and institutions in Wales –
- (a) a reference to the Secretary of State shall be taken as a reference to the National Assembly for Wales, 40
 - (b) a reference to the General Teaching Council for England shall be taken as a reference to the General Teaching Council for Wales, and
 - (c) a reference to the Teacher Training Agency shall be taken as including a reference to the Higher Education Funding Council for Wales.

- (2) In the application of sections 138 and 139 in relation to Wales, a reference to the Secretary of State shall be taken as a reference to the Secretary of State and the National Assembly for Wales concurrently.

142 Repeal of sections 218 and 218A of Education Reform Act 1988

Sections 218 and 218A of the Education Reform Act 1988 (school and further and higher education regulations) shall cease to have effect. 5

1999 Pay Document

143 Application of pay-scale

- (1) This section—
- (a) applies to the construction of paragraph 18 of the document referred to in article 3 of the Education (School Teachers’ Pay and Conditions) (No. 2) Order 1999 (S.I. 1999/2160) (classroom teachers: criteria for position on pay spine) as it had effect from 1st September 1999 to 31st March 2000, and 10
 - (b) shall be treated as having come into force on 1st September 1999 (for all purposes including the calculation of pensions). 15
- (2) Where a person is awarded one or more points, he shall be paid the salary shown for the spine point which equates to the number of points awarded.
- (3) Where a person is not awarded a point, he shall be paid the salary shown for the lowest spine point. 20
- (4) In paragraph 18.1.1 (good honours degree)—
- (a) paragraph (a) shall be ignored,
 - (b) paragraph (b) shall be treated as applying irrespective of the date of a person’s appointment to his first post following qualification as a teacher, and 25
 - (c) in paragraph (c) the words “before 1st September has been employed as a qualified teacher and who” shall be ignored.

General Teaching Councils for England and Wales

144 The General Teaching Councils for England and Wales

Schedule 13 (which contains amendments relating to the General Teaching Council for England and the General Teaching Council for Wales) shall have effect. 30

PART 9

CHILD CARE AND NURSERY EDUCATION

*Childcare***145 Duties of LEA in respect of childcare**

- (1) After section 118 of the School Standards and Framework Act 1998 (c. 31) there is inserted – 5

“118A Duties of LEA in respect of childcare

- (1) A local education authority shall review annually the sufficiency of childcare provision for their area.
- (2) In carrying out a review for the purposes of subsection (1), a local education authority – 10
- (a) may have regard to any facilities which they expect to be available outside their area for providing childcare; and
- (b) shall have regard to any guidance given from time to time by the Secretary of State. 15
- (3) A local education authority shall also establish and maintain a service providing information to the public relating to the provision of childcare and related services in their area.
- (4) In relation to the function, form and content of a service established and maintained under subsection (3), a local education authority shall have regard to any guidance given from time to time by the Secretary of State.” 20
- (2) Section 19(1) and (2) of the Children Act 1989 (c. 41) (duty of local authorities in England and Wales to conduct periodic reviews of child care) shall cease to have effect. 25

146 Early years development and childcare partnerships and plans

- (1) In section 119(5) of the School Standards and Framework Act 1998 (functions of early years development partnerships), after paragraph (a) there is inserted – 30
- “(ab) in reviewing the sufficiency of childcare provision for the authority’s area for the purposes of section 118A, and”.
- (2) In section 120 of that Act (early years development plans), in subsection (2) (content of plan), for paragraph (b) there is substituted – 35
- “(b) a statement which sets out the authority’s proposals for providing or promoting the provision of childcare for their area, and
- (c) background and supporting statements.”
- (3) For subsections (3) and (4) of that section there is substituted –
- “(3) The statement mentioned in subsection (2)(a) must deal with such matters, and relate to such period, as may be determined by or in accordance with regulations. 40

- (4) In relation to the form and content of the statements mentioned in subsection (2)(b) and (c) the authority shall have regard to any guidance given from time to time by the Secretary of State.”
- (4) In section 121 of that Act (approval, modification and review of statement of proposals) – 5
- (a) in subsection (1), the words “the authority’s statement of proposals” shall cease to have effect;
- (b) in subsection (2), for “statement” (in each place it occurs) there is substituted “plan”;
- (c) in subsection (3), for “statement” (where it first occurs) and for “proposals set out in the statement” there is substituted “plan”; 10
- (d) in subsection (4), for “statement” (in both places it occurs) there is substituted “plan”;
- (e) in subsection (5) – 15
- (i) for “statement of proposals” and for “proposals” (in the second place it occurs) there is substituted “plan”;
- (ii) for “their” there is substituted “its”; and
- (iii) in paragraphs (a) and (b), for “statement” (in each place it occurs) there is substituted “plan”;
- (f) in subsection (6) – 20
- (i) for “statement of proposals”, and
- (ii) in paragraph (b), for “statement”, there is substituted “plan”;
- (g) in subsection (7), for “statement” there is substituted “plan”;
- (h) in subsection (8) – 25
- (i) for “statement of proposals” there is substituted “plan”;
- (ii) in paragraph (a), for “statement” there is substituted “plan”; and
- (iii) in paragraph (c), for “statement” and for “proposals” there is substituted “plan”; and
- (i) in subsection (9), for “statement of proposals” (in both places it occurs) there is substituted “plan”. 30
- (5) Early years development partnerships are renamed “early years development and childcare partnerships” and early years development plans are renamed “early years development and childcare plans”; accordingly in Part 5 of that Act after “early years development” (in each place it occurs) there is inserted “and childcare”. 35
- 147 Childcare functions of Her Majesty’s Chief Inspector and National Assembly for Wales**
- (1) The Secretary of State may by order confer on Her Majesty’s Chief Inspector of Schools in England such additional functions specified in the order as the Secretary of State considers necessary or expedient to enable Her Majesty’s Chief Inspector to approve persons in accordance with criteria determined by or under a scheme made under the Tax Credits Act 2002 for the approval of persons who are to be regarded as providing child care for the purposes of working tax credit. 40
- (2) The National Assembly for Wales shall have any additional function specified in an order made by it which it considers necessary or expedient to enable it to approve persons as mentioned in subsection (1); but the order may only specify 45

a function corresponding to a function which, by virtue of that subsection, is exercisable by Her Majesty’s Chief Inspector of Schools in England.

148 Regulation of child minding and day care

Schedule 14 (which makes provision about the regulation of child minding and day care) shall have effect. 5

Nursery education

149 Powers of LEA in respect of funded nursery education

- (1) This section applies where a local education authority, in pursuance of the duty imposed on them by section 118 of the School Standards and Framework Act 1998 (c. 31) (duty of LEA as respects availability of nursery education), makes arrangements with a person (other than the governing body of a maintained school) for the provision by that person of nursery education in consideration of financial assistance provided by the authority under the arrangements. 10
- (2) The local education authority –
 - (a) must, in making the arrangements, have regard to any guidance given from time to time by the Secretary of State, or (as respects local education authorities in Wales) the National Assembly for Wales, as to provision to be made in such arrangements in respect of the requirements to be met by the provider of the nursery education, and 15
 - (b) must exercise their functions with a view to securing that the provider meets any requirements imposed on him by the arrangements. 20
- (3) Subject to any guidance given under subsection (2)(a), the requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the local education authority under the arrangements. 25
- (4) In this section –
 - “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
 - “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere). 30

150 Establishment or alteration of maintained nursery schools

- (1) Section 28 of the School Standards and Framework Act 1998 (procedure on proposals to establish, alter or discontinue schools) is amended as follows. 35
- (2) In subsection (1) (local education authority to publish proposals to establish or alter certain schools), after paragraph (a) there is inserted –
 - “(aa) to establish a new maintained nursery school, or”.
- (3) In that subsection, after paragraph (c) there is inserted “or
 - (c) in the case of a local education authority in Wales, to make any prescribed alteration to a maintained nursery school”. 40

151 Inspection of nursery education

Schedule 15 (which makes provision about the inspection of nursery education) shall have effect.

152 Meaning of “nursery school”

- (1) In section 6(1) of the Education Act 1996 (c. 56) (meaning of “nursery school”), after “used” there is inserted “wholly or”. 5
- (2) For section 2(1) of that Act there is substituted –
 - “(1) In this Act “primary education” means –
 - (a) full-time or part-time education suitable to the requirements of children who have attained the age of two but are under compulsory school age; 10
 - (b) full-time education suitable to the requirements of junior pupils of compulsory school age who have not attained the age of 10 years and six months; and
 - (c) full-time education suitable to the requirements of junior pupils who have attained the age of 10 years and six months and whom it is expedient to educate together with junior pupils within paragraph (b).” 15

PART 10

INDEPENDENT SCHOOLS 20

CHAPTER 1

REGULATION OF INDEPENDENT SCHOOLS

Standards

153 Independent school standards

- (1) For the purposes of this Chapter, regulations shall prescribe standards about the following matters – 25
 - (a) the quality of education provided at independent schools;
 - (b) the welfare, health and safety of pupils at independent schools;
 - (c) the suitability of proprietors of and staff at independent schools;
 - (d) the premises of and accommodation at independent schools; 30
 - (e) the provision of information by independent schools;
 - (f) the manner in which independent schools handle complaints.
- (2) In this Chapter, “independent school standards” means the standards for the time being prescribed under this section.

Requirement of registration 35

154 The registers

- (1) There shall continue to be –

- (a) a register of independent schools in England, and
 - (b) a register of independent schools in Wales.
- (2) The register of independent schools in England shall be kept by the Secretary of State.
- (3) The register of independent schools in Wales shall be kept by the National Assembly for Wales. 5

155 Unregistered schools

- (1) A person who conducts an independent school which is not a registered school is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to – 10
- (a) a fine not exceeding level 5 on the standard scale, or
 - (b) imprisonment for a term not exceeding six months, or to both.
- (3) No proceedings shall be instituted for an offence under subsection (1) except with the consent of the registration authority. 15
- (4) Where the Chief Inspector has reasonable cause to believe that an offence under subsection (1) is being committed on any premises, he may at any reasonable time – 20
- (a) enter and inspect the premises, and
 - (b) inspect and take copies of any records or other documents which he has reasonable cause to believe may be required for the purposes of proceedings in relation to such an offence.
- (5) Section 42 of the School Inspections Act 1996 (computer records) applies in relation to the inspection of records or other documents under subsection (4)(b). 25
- (6) It is an offence wilfully to obstruct the Chief Inspector in the exercise of his functions under subsection (4).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 4 on the standard scale. 30

Registration procedure

156 Applications for registration

- (1) An application to enter an independent school in the register must – 35
- (a) contain the prescribed information, and
 - (b) be made to the registration authority by the proprietor of the school in the prescribed manner.
- (2) The information prescribed under subsection (1)(a) shall include information as to the following matters relating to the school – 40
- (a) the age range of pupils;
 - (b) the maximum number of pupils;
 - (c) whether the school is for male or female pupils or both;

- (d) whether the school provides accommodation for pupils;
 - (e) whether the school admits pupils with special educational needs.
- (3) Where the proprietor of an independent school makes an application to the registration authority under this section, the authority shall notify the Chief Inspector. 5
- (4) The Chief Inspector shall then inspect the school and report to the registration authority on the extent to which the independent school standards are met, and are likely to continue to be met, in relation to the school.

157 Determination of applications for registration

- (1) Where a school has been inspected under section 156, the registration authority shall, taking into account – 10
- (a) the report of the Chief Inspector under that section, and
 - (b) any other evidence relating to the independent school standards,
- determine whether those standards are met, and are likely to continue to be met, in relation to the school. 15
- (2) The registration authority shall notify the proprietor of a school of any determination made by the authority under this section in relation to the school.
- (3) If the registration authority determines under this section that the independent school standards are met, and are likely to continue to be met, in relation to a school, the authority shall enter the school in the register. 20
- (4) An entry in the register for a school shall include –
- (a) the name and address of the school,
 - (b) the name of the proprietor of the school, and
 - (c) the information supplied pursuant to section 156(2)(a) to (e). 25

Enforcement of standards after registration

158 Changes to registered details

- (1) The registration authority may remove a school from the register if –
- (a) there is a material change in relation to the school, and
 - (b) the change has not been approved under this section or section 163. 30
- (2) For the purposes of subsection (1), “material change”, in relation to a school, means –
- (a) a change of proprietor,
 - (b) a change of address, or
 - (c) a change to the school in respect of any of the matters referred to in section 156(2)(a) to (e). 35
- (3) Applications for approval under this section must be made in writing and, in the case of approval of a change of proprietor, must be made by the proposed new proprietor.
- (4) Where an application for approval is made under this section, the registration authority may require the Chief Inspector to – 40
- (a) inspect the school, and

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- (b) report to the authority on the extent to which, if the change is made, any relevant standard is likely to continue to be met in relation to the school.
- (5) In subsection (4), “relevant standard” means any of the independent schools standards specified by the authority for the purposes of that subsection.
- (6) The registration authority shall, where an application for approval is made under this section – 5
- (a) approve the change, if the condition in subsection (7) is satisfied, and
- (b) in any other case, refuse to approve it.
- (7) The condition in this subsection is that the authority is satisfied that, taking into account – 10
- (a) any report under subsection (4), and
- (b) any other evidence relating to the independent school standards, those standards will continue to be met in relation to the school.
- 159 Power to inspect registered schools**
- (1) The registration authority may at any time – 15
- (a) require the Chief Inspector to inspect any registered school, 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 – 20
- (a) such of the independent school standards as are, at the time of the inspection, specified by the authority for the purposes of this section in relation to any category of school into which that school falls, or
- (b) if the authority so determines, such of the independent school standards as the authority may specify in relation to that school. 25
- (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. 30
- (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).
- 160 Inspections: supplementary** 35
- (1) This section applies to the inspection of a school which is conducted by the Chief Inspector or a registered inspector under section 159(1)(a).
- (2) The person conducting the inspection may be assisted by such one or more other persons enrolled in the list kept under paragraph 3A of Schedule 3 to the School Inspections Act 1996 as he may determine, subject to paragraph 3(5) of that Schedule. 40
- (3) If the Chief Inspector so requires in relation to the inspection, at least one of the persons assisting under subsection (2) shall be a person –

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- (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. 5
- (4) If the inspection is conducted by a registered inspector, it may be monitored by the Chief Inspector.
- (5) The person conducting the inspection, and any person monitoring it, shall have at all reasonable times – 10
- (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 42 of the School Inspections Act 1996 (c. 57) (computer records) applies in relation to the inspection of records or other documents under subsection (5)(b). 15
- (7) It is an offence wilfully 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. 20
- (9) *The proprietor of the school shall pay the Chief Inspector, 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. 25
- (11) *The Chief Inspector shall pay the amount of any fee received under subsection (9) into the Consolidated Fund.*

161 Failure to meet standards

- (1) This section applies where, taking into account – 30
- (a) a report under section 159 in respect of a registered school, or
- (b) any other evidence in respect of a registered school,
- the registration authority is satisfied that any one or more of the independent school standards is or are not being met in relation to the school.
- (2) If the registration authority considers that there is a risk of serious harm to the welfare of pupils at the school, the authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine. 35
- (3) Where the registration authority does not make a determination under subsection (2), it shall serve a notice on the proprietor of the school – 40
- (a) identifying the standard or standards in question, and
- (b) requiring the proprietor to submit an action plan to the authority within the time specified in the notice.
- (4) For the purposes of this section, an action plan is a plan specifying –

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- (a) the steps that will be taken to meet a standard or standards, and
 (b) the time by which each step will be taken.
- (5) Where an action plan is submitted in accordance with subsection (3) the registration authority may –
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- (a) reject it, or
 (b) approve it, with or without modifications.
- (6) Where an action plan is required under subsection (3) but is not submitted in accordance with that subsection, or is so submitted but rejected, the registration authority may –
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- (a) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine, or
 (b) make an order under subsection (8).
- (7) Where an action plan has been approved under subsection (5), but any step specified in the plan is not taken by the date specified in the plan (whether as originally approved or as varied under paragraph (a)), the registration authority may –
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- (a) substitute a later date for the taking of that step,
 (b) make an order under subsection (8), or
 (c) determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
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- (8) An order under this subsection is an order requiring the proprietor of the school to do one or more of the following no later than such date after the appeal period as may be specified in the order –
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- (a) to cease using any part of the school premises for all purposes or purposes specified in the order;
 (b) to close any part of the school’s operation;
 (c) to cease to admit any new pupils, or new pupils of a description specified in the order.
- (9) If the proprietor of a school fails to comply with an order under subsection (8) –
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- (a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and
 (b) the registration authority may determine that the school is to be removed from the register on such date after the appeal period as the authority may determine.
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- (10) Where the proprietor of a school in respect of which an order is made under subsection (8) applies to the registration authority for the order to be revoked, the authority shall –
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- (a) revoke the order, if it is satisfied that it is appropriate to do so because of any change of circumstance;
 (b) in any other case, refuse to revoke it.
- (11) The revocation of an order under subsection (10) shall take effect as from the date on which the proprietor of the school is notified of the revocation.
- (12) Where the registration authority has made a determination under this section to remove a school from the register on a particular date and no appeal is made
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against the determination under section 162, the authority shall remove the school from the register on that date.

- (13) For the purposes of this Chapter, the “appeal period” in relation to a determination or order is the period within which an appeal against it may be made under section 162.

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162 Appeals

- (1) The proprietor of a registered school may appeal to the tribunal established under section 9 of the Protection of Children Act 1999 (c. 14) against –
- (a) a refusal under section 158 to approve a material change,
 - (b) a determination under section 161 to remove the school from the register,
 - (c) an order under section 161(8) requiring the taking of specified action, or
 - (d) a refusal under section 161(10) to revoke such an order.
- (2) An appeal under subsection (1) must be made within the period of 28 days beginning with the day on which notice of the refusal, determination or order is served on the proprietor.
- (3) Where an appeal is made under subsection (1)(b) against a determination under section 161 –
- (a) if the appeal is withdrawn or otherwise disposed of before it is determined by the tribunal under section 163, the registration authority may remove the school from the register on such date after the appeal period as it may determine, and
 - (b) in any other case the registration authority may only remove the school pursuant to the determination in accordance with section 163.
- (4) Where an appeal is made under subsection (1)(c) against an order under section 161(8), the order shall not have effect in relation to any time before the appeal is determined by the tribunal under section 163 or withdrawn or otherwise disposed of.
- (5) In the case of an appeal against a determination under section 161(2), if at any time the tribunal considers that there is a risk of serious harm occurring to the welfare of pupils before the determination of the appeal, it may by order provide that the school is to be regarded as not registered for the purposes of section 155 until the tribunal determines the appeal under section 163 (or revokes the order before so determining the appeal).

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163 Determination of appeals

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- (1) This section applies where an appeal is made under section 162 to the tribunal established under section 9 of the Protection of Children Act 1999.
- (2) In the case of an appeal against a refusal under section 158 to approve a material change, the tribunal may –
- (a) uphold the refusal to approve, or
 - (b) itself approve the change.
- (3) In the case of an appeal against a determination under section 161 to remove the school from the register, the tribunal may –
- (a) uphold the determination, or

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- (b) revoke the determination.
- (4) Where under subsection (3)(a) the tribunal upholds a determination, the registration authority shall remove the school from the register on such date as the tribunal may specify or, if it does not specify a date, on such date as the registration authority may determine. 5
- (5) Where under subsection (3)(b) the tribunal revokes a determination, it may order the proprietor of the school to do one or more of the following by such time as may be specified in the order –
- (a) to cease using any part of the school premises for all purposes or purposes specified in the order; 10
- (b) to close any part of the school’s operation;
- (c) to cease to admit any new pupils, or new pupils of a description specified in the order.
- (6) In the case of an appeal against an order under section 161(8) requiring the taking of specified action, the tribunal may – 15
- (a) uphold the order,
- (b) vary the order, or
- (c) strike down the order.
- (7) In the case of an appeal against a refusal under section 161(10) to revoke an order under section 161(8), the tribunal may – 20
- (a) uphold the refusal to revoke, or
- (b) if it is satisfied that it is appropriate to do so because of any change of circumstance after the making of the order –
- (i) vary the order, or
- (ii) revoke the order. 25
- (8) The tribunal may, on the application of the proprietor of a registered school, vary or revoke any order made by it under subsection (5) in relation to the school where it is satisfied that it is appropriate to do so because of any change of circumstance.
- (9) If the proprietor of a school fails to comply with an order of the tribunal under subsection (5) – 30
- (a) he is guilty of an offence and liable on summary conviction to a term of imprisonment not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both, and
- (b) the tribunal may, on the application of the registration authority, authorise the registration authority to remove the school from the register on such date as the tribunal may determine. 35

Supplementary

164 Provision of information

- (1) Regulations may make provision for requiring the proprietor of a registered school to provide the registration authority, when the authority so requests, with such particulars relating to the school as may be prescribed. 40
- (2) Regulations under this section may in particular –
- (a) require the provision of such information as is required by the local authority for the purposes of determining whether the school is a 45

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- children’s home (within the meaning of the Care Standards Act 2000 (c. 14));
- (b) provide for the registration authority to remove from the register any school in respect of which any requirement imposed by or under the regulations is not complied with; 5
- (c) provide that a person who fails to comply with any specified provision of the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 165 Unsuitable proprietors and employees**
- The registration authority may remove a registered school from the register where it is satisfied that the proprietor of the school, or any person employed in the school – 10
- (a) is carrying out work to which section 138 applies in relation to the school in contravention of a direction under that section, or
- (b) is subject to an order under section 28 or 29 of the Criminal Justice and Court Services Act 2000 (c. 43) (disqualification from working with children). 15
- 166 Service of notice etc**
- (1) The registration authority must serve on the proprietor of a registered school notice of – 20
- (a) any decision made by the authority under section 158 in relation to the school;
- (b) any determination or order made by the authority under section 161 in relation to the school;
- (c) any decision made by the authority under subsection (10) of that section in relation to the school. 25
- (2) For the purposes of this Chapter, any notice, order or other document required to be given to or served on the proprietor of a registered school may be given to or served on him by delivering it to the registered address of the school.
- 167 Interpretation of Chapter 1** 30
- In this Chapter –
- “appeal period” has the meaning given by section 161;
- “Chief Inspector” means –
- (a) in relation to a school in England, Her Majesty’s Chief Inspector of Schools in England, and 35
- (b) in relation to a school in Wales, Her Majesty’s Chief Inspector of Education and Training in Wales;
- “independent school standards” has the meaning given by section 153;
- “the register” means –
- (a) in relation to a school in England, the register of independent schools in England, 40
- (b) in relation to a school in Wales, the register of independent schools in Wales;
- “registered” means entered in the register;

“registered inspector” means a person registered under section 7(1) or (2) of the School Inspections Act 1996 (c. 57);

“registration authority” means –

- (a) in relation to a school in England, the Secretary of State, and
- (b) in relation to a school in Wales, the National Assembly for Wales.

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CHAPTER 2

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

168 Alteration to definition of “independent school”

For section 463 of the Education Act 1996 (c.56) (meaning of “independent school”) there is substituted –

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“463 Meaning of “independent school”

- (1) In this Act “independent school” means any school at which full-time education is provided for –

- (a) five or more pupils of compulsory school age, or
- (b) at least one pupil of that age for whom a statement is maintained under section 324, or who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989),

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and which is not a school maintained by a local education authority or a special school not so maintained.

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- (2) For the purposes of subsection (1)(a) and (b) it is immaterial if full-time education is also provided at the school for pupils under or over compulsory school age.”

169 Right of access of LEA

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In section 327 of the Education Act 1996 (c. 56) (local education authority to have access to certain schools to monitor provision made for child with special educational needs), in subsection (1)(b) (schools to which section applies), at the end there is inserted “or at an independent school”.

170 Consent to placement

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In section 347 of the Education Act 1996 (approval of independent schools as suitable to provide special education), in subsection (5)(b) (no child to be placed at an unapproved school unless the Secretary of State consents), after “Secretary of State” there is inserted “is satisfied that there is a place available for the child at the school and”.

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PART 11

MISCELLANEOUS AND GENERAL

Education and training outside schools

171 Meaning of “secondary education”

- (1) Section 2 of the Education Act 1996 (c. 56) (definition of primary, secondary and further education) is amended as follows. 5
- (2) In subsection (2B) (which extends “secondary education” to include education received partly at a school and partly at another institution) –
 - (a) in paragraph (b), after “another institution” there is inserted “or any other establishment”, and 10
 - (b) after “other institution” there is inserted “or establishment”.
- (3) After subsection (6) there is inserted –

“(6A) In the context of the definitions of secondary education and further education, references in this section to education include vocational, social, physical and recreational training.” 15
- (4) The Education Acts shall have effect in their application to persons receiving secondary education within section 2(2B) of the Education Act 1996 with such modifications as may be specified in an order under this subsection.
- (5) The power to make an order under subsection (4) is exercisable –
 - (a) in relation to England, by the Secretary of State, and 20
 - (b) in relation to Wales, by the National Assembly for Wales.

172 Training and education provided in the workplace for 14 to 16 year olds

- (1) The Learning and Skills Act 2000 (c. 21) is amended as follows.
- (2) In section 5 (provision of financial resources) –
 - (a) after subsection (1)(e) there is inserted – 25

“(ea) persons providing or proposing to provide, wholly or partly at the premises of an employer, education or training that is suitable to the requirements of pupils who –
 - (i) have attained the age of 15 or will attain that age in the current school year, but 30
 - (ii) have not ceased to be of compulsory school age;”, and
 - (b) after subsection (3) there is inserted –

“(4) For the purposes of subsection (1)(ea) “compulsory school age”, “pupil” and “school year” have the same meaning as in the Education Act 1996.” 35
- (3) In section 65 (area inspections in England) –
 - (a) in subsection (1)(a) for “16” there is substituted “15”, and
 - (b) after subsection (9) there is inserted – 40

- “(10) In subsection (1)(a) “persons who are aged 15” includes persons for whom education is being provided at a school who will attain that age in the current school year; and for this purpose “school” and “school year” have the same meaning as in the Education Act 1996.” 5
- (4) In section 83 (area inspections in Wales) –
- (a) in subsection (1)(a) for “16” there is substituted “15”, and
- (b) after subsection (10) there is inserted –
- “(11) In subsection (1)(a) “persons who are aged 15” includes persons for whom education is being provided at a school who will attain that age in the current school year; and for this purpose “school” and “school year” have the same meaning as in the Education Act 1996.” 10
- 173 Rights of entry in relation to inspections**
- (1) The School Inspections Act 1996 (c. 57) is amended as follows. 15
- (2) In section 2 (functions of the Chief Inspector for England) –
- (a) after subsection (8) (rights of entry etc.) there is inserted –
- “(8A) For the purposes of the exercise of any function conferred by or under this section the Chief Inspector for England shall have at all reasonable times – 20
- (a) a right of entry to any premises (other than school premises) on which, by virtue of arrangements made by a school in England, 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, 25
- are provided with part of their education by 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 30
- (c) a right to inspect and take copies of –
- (i) any records kept by the provider relating to the provision of that education, and 35
- (ii) any other documents containing information so relating,
- which the Chief Inspector requires for those purposes.”,
- and
- (b) in subsection (9)(b) (which makes it an offence to obstruct the exercise by the Chief Inspector of his rights of entry), after “subsection (8)” there is inserted “or (8A)”. 40
- (3) In section 3 (power of Chief Inspector for England to arrange for inspections), in subsection (3) (rights of entry etc.) –
- (a) after paragraph (a) there is inserted – 45

- “(aa) a right of entry to any other 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”);
- (ab) a right of entry to any premises of the provider used in connection with the provision by him of that education;” and
- (b) after paragraph (b) there is inserted “and
- (c) a right to inspect and take copies of –
 - (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
 - (ii) any other documents containing information relating to the provision of such education by the provider,which the Inspector considers relevant to the discharge of his functions.”
- (4) In section 5 (functions of the Chief Inspector for Wales) –
- (a) after subsection (8) (rights of entry etc.) there is inserted –

“(8A) For the purposes of the exercise of any function conferred by or under this section the Chief Inspector for Wales shall 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 a school in Wales, 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 provided with part of their education by 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 Chief Inspector requires for those purposes.”,and
 - (b) in subsection (9)(b) (which makes it an offence to obstruct the exercise by the Chief Inspector of his rights of entry), after “subsection (8)” there is inserted “or (8A)”.

- (5) In section 6 (power of Chief Inspector for Wales to arrange for inspections), in subsection (3) (rights of entry etc.) –
- (a) after paragraph (a) there is inserted –
- “(aa) a right of entry to any other 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”);
- (ab) a right of entry to any premises of the provider used in connection with the provision by him of that education;”, and
- (b) after paragraph (b) there is inserted “and
- (c) a right to inspect and take copies of –
- (i) any records kept by the provider relating to the provision of education for pupils registered at the school, and
- (ii) any other documents containing information relating to the provision of such education by the provider,
- which the Inspector considers relevant to the discharge of his functions.”
- (6) In Schedule 3 (inspections by registered inspectors under section 10), in paragraph 7 (rights of entry etc.), after sub-paragraph (2) there is inserted –
- “(3) A registered inspector conducting an inspection of a school, and the members of his inspection team, shall 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.”

174 Inspections of LEAs: rights of entry etc

For section 40 of the Education Act 1997 (c. 44) (inspector’s rights of entry etc) there is substituted –

“40 Inspector’s rights of entry etc

- (1) This section applies where a local education authority are inspected under section 38. 5
- (2) The inspector, and any person assisting him, shall have at all reasonable times a right of entry to –
 - (a) the premises of the local education authority,
 - (b) the premises of any school maintained by the authority, and 10
 - (c) any other premises at which relevant section 19 education is provided, other than premises which are or form part of a private dwelling house but are not a school.
- (3) The inspector, and any person assisting him, shall also have at all reasonable times a right to inspect and take copies of – 15
 - (a) any records kept by, and any other documents containing information relating to, the local education authority or any school maintained by the authority, and
 - (b) any records kept by a person who provides relevant section 19 education that relate to the provision of that education, and any other documents containing information that so relates; 20which he considers relevant to the exercise of his functions.
- (4) Section 42 of the School Inspections Act 1996 (inspection of computer records) shall apply for the purposes of subsection (3) as it applies for the purposes of Part 1 of that Act 25
- (5) Without prejudice to subsections (2) and (3), the local education authority and the governing body of any school maintained by the authority –
 - (a) shall give the inspector and any person assisting him, all assistance in connection with the exercise of his functions which they are reasonably able to give, and 30
 - (b) shall secure that all such assistance is also given by persons who work at the school.
- (6) It shall be an offence wilfully to obstruct the inspector or any person assisting him in the exercise of his functions in relation to the inspection. 35
- (7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) In this section – 40
 - “document” and “records” each include information recorded in any form; and
 - “relevant section 19 education” means education provided to a child by virtue of arrangements made by the local education authority under section 19 of the Education Act 1996 (exceptional provision of education at schools or otherwise).” 45

*Allowances in respect of education or training***175 Allowances in respect of education or training**

- (1) *Regulations may make provision authorising or requiring the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) to pay an allowance to or in respect of any eligible person who is over compulsory school age, in connection with his undertaking education or training of a prescribed description.* 5
- (2) The relevant education or training must not be higher education.
- (3) Regulations may, in particular, make provision –
- (a) for determining whether a person is an eligible person in relation to any allowance, 10
 - (b) prescribing information that must be supplied by or on behalf of any person before any allowance can be paid or continue to be paid to or in respect of him,
 - (c) prescribing the period by reference to which any allowance of a periodic nature is to be paid, 15
 - (d) prescribing the maximum allowance payable to or in respect of any person in respect of any period,
 - (e) prescribing the maximum period during which an allowance may be payable to or in respect of any person,
 - (f) where the amount of an allowance may vary to any extent according to a person’s circumstances, for determining, or providing for the determination by the Secretary of State or the National Assembly for Wales of, the amount required or authorised to be paid to or in respect of him, 20
 - (g) specifying whether any allowance in respect of any person is to be paid to him, to a parent of his or to any other person, 25
 - (h) for any allowance under this section to be made available on such terms and conditions as may be prescribed, or determined under the regulations by the Secretary of State or the National Assembly for Wales, including terms and conditions requiring repayments to be made in circumstances so prescribed or determined, 30
 - (i) requiring the payment of an allowance to be suspended or terminated in any such circumstances,
 - (j) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of, the procedure to be followed in connection with appeals), 35
 - (k) imposing obligations on the governing body of any maintained school or institution within the further education sector in relation to cases where the school or institution is providing the education or training referred to in subsection (1). 40
- (4) In this section and section 176 –
- “governing body” –
 - (a) in relation to a pupil referral unit, means the local education authority who maintain the unit, and
 - (b) in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13); 45

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a pupil referral unit.

176 Learning agreements

- (1) For the purposes of this section, a “learning agreement” is a document which – 5
 - (a) specifies conditions which –
 - (i) relate to the attendance or conduct of, or completion of assigned tasks by, a person to whom an allowance is or may become payable (in this section referred to as “the student”), and
 - (ii) are either prescribed by regulations or, if regulations so provide, determined in accordance with any prescribed requirements by the person providing the relevant education or training, 10
 - (b) contains a declaration by the student relating to compliance with those conditions, and 15
 - (c) deals with such other matters as may be prescribed.
- (2) Regulations may require a learning agreement –
 - (a) to be in the prescribed form, and
 - (b) to be signed by the student and by or on behalf of such other persons as may be prescribed. 20
- (3) Without prejudice to the generality of section 175(3)(h), regulations may provide –
 - (a) that a person is not eligible to receive an allowance unless the person providing the relevant education or training holds a learning agreement signed by him, and 25
 - (b) that payment of an allowance is conditional on the person providing the relevant education or training from time to time determining that the student has complied with the learning agreement or has done so to a prescribed extent or in prescribed respects.
- (4) Regulations may – 30
 - (a) enable or require a learning agreement to specify targets relating to the attendance, conduct or attainments of the student, and
 - (b) enable or require the Secretary of State or the National Assembly for Wales, in any case where the person providing the relevant education or training determines that targets have been met, to make additional payments of allowance to or in respect of the student. 35
- (5) Without prejudice to the generality of section 175(3)(k), regulations may impose obligations relating to learning agreements on –
 - (a) the governing body of a maintained school, or
 - (b) the governing body of an institution within the further education sector. 40
- (6) Regulations may contain provision for determining the person by whom any relevant education or training is to be treated for the purposes of this section as being provided.
- (7) A learning agreement shall not be capable of creating any obligation in respect of whose breach any liability arises in contract or in tort. 45

- (8) In this section –
 “allowance” means an allowance under section 175;
 “relevant education or training” means the education or training referred to in that section.

177 Transfer of functions relating to allowances under section 175 5

- (1) If the Secretary of State so determines, any function exercisable by him by virtue of regulations made by virtue of section 175 shall, to such extent as is specified in his determination, be exercisable instead by –
 (a) the Learning and Skills Council for England, or
 (b) a local education authority for the purposes of the Education Act 1996 (c. 56). 10
- (2) If the National Assembly for Wales so determines, any function exercisable by the Assembly by virtue of regulations made by virtue of section 175 shall, to such extent as is specified in the Assembly’s determination, be exercisable instead by – 15
 (a) the National Council for Education and Training for Wales, or
 (b) a local education authority for the purposes of the Education Act 1996.
- (3) A body by whom any function is for the time being exercisable by virtue of subsection (1) or (2) shall comply with any directions given by the Secretary of State, or as the case may be the National Assembly for Wales, as to the exercise of that function. 20
- (4) Where any function is so exercisable by a local education authority, the function shall be taken to be a function of that authority – 25
 (a) for the purposes of section 70 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of local authorities),
 (b) for the purposes of Part 2 of the 2000 Act (arrangements with respect to executives etc.), and
 (c) subject to the provisions of section 13 of the 2000 Act, for the purposes of section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities). 30
- (5) In this section “the 2000 Act” means the Local Government Act 2000 (c. 22).

178 Delegation of functions relating to allowances

- (1) The Secretary of State or the National Assembly for Wales may make arrangements for any person or body specified in the arrangements to exercise on his or its behalf, to such extent as is so specified, any function exercisable by him or the Assembly by virtue of regulations made by virtue of section 175 (including any such function in relation to appeals). 35
- (2) Any arrangements made under subsection (1) shall not prevent the Secretary of State, or as the case may be the National Assembly for Wales, from exercising the function in question himself or itself. 40

179 Supplementary provisions relating to transfer or delegation of functions

- (1) The Secretary of State or the National Assembly for Wales may make provision for enabling appeals –

- (a) to be made with respect to such matters arising out of the exercise by virtue of section 177(1) or (2) or 178(1) by any person or body of any function of the Secretary of State or the Assembly as he or it may determine, and
 - (b) to be so made to a person or body appointed for the purpose by the Secretary of State or the Assembly. 5
- (2) *The Secretary of State or the National Assembly for Wales may pay to any body or person by whom any function of his, or as the case may be of the Assembly, is exercisable by virtue of section 177(1) or (2) or 178(1) –*
 - (a) *such amounts as the Secretary of State or the Assembly considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that body or person –*
 - (i) *in paying allowances under section 175, or*
 - (ii) *by way of administrative expenses,**in, or in connection with, the exercise of that function;* 15
 - (b) *in a case where the function is exercisable by virtue of section 178(1), such remuneration as the Secretary of State or the Assembly may determine.*
- (3) Any payment under subsection (2)(a) may be made subject to such terms and conditions as the Secretary of State or the National Assembly for Wales may determine; and any such conditions may in particular – 20
 - (a) require the provision of returns or other information before any such payment is made;
 - (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.
- (4) The Secretary of State or the National Assembly for Wales may pay to any person or body appointed by him or it under subsection (1) such remuneration or administrative expenses (or both) as he or it may determine. 25
- (5) In relation to any function which, by virtue of section 177(1) or (2) or 178(1) is exercisable to a specified extent, references in section 177(3) and (4) and this section to the exercise of that function are accordingly to its exercise to that extent. 30

Student loans

180 Student loans

- (1) *Regulations may make provision for –*
 - (a) *the repayment by the Secretary of State of loans mentioned in paragraph (a), (b) or (c) of subsection (2);* 35
 - (b) *reducing or extinguishing the amounts payable in respect of loans mentioned in paragraph (a) or (b) of subsection (2).*
- (2) The loans are –
 - (a) loans received under arrangements made under section 1 of the Education (Student Loans) Act 1990 (c. 6) by eligible persons who fulfil prescribed conditions; 40
 - (b) loans received under arrangements made under section 22 of the Teaching and Higher Education Act 1998 (c. 30) by eligible persons who fulfil prescribed conditions; 45

- (c) loans received for educational purposes under such other arrangements as may be prescribed by the regulations, including arrangements made outside England and Wales, by eligible persons who fulfil prescribed conditions.
- (3) The regulations may, in particular, make provision – 5
- (a) for determining whether a person is eligible for the purposes of the regulations;
- (b) prescribing the circumstances and manner in which, and the times at which, payments are to be made, or amounts are to be reduced or extinguished; 10
- (c) allowing retrospective adjustments for the purposes of the regulations, including provision allowing the Secretary of State to require reimbursement of repayments, or to alter the amounts reduced or extinguished;
- (d) for imposing on employers, or such other persons or bodies as may be prescribed, requirements with respect to information to be given to the Secretary of State; 15
- (e) for the reimbursement by the Secretary of State of costs incurred by persons or bodies in complying with any such requirements;
- (f) for appeals with respect to matters arising under the regulations (including provision for determining, or enabling the determination of the procedure to be followed in connection with the appeals). 20
- (4) The Secretary of State may make arrangements for any person or body specified in the arrangements to exercise on his behalf, to such extent as is so specified, any function exercisable by him by virtue of the regulations (including any such function in relation to appeals). 25
- (5) Any arrangements made under subsection (4) shall not prevent the Secretary of State from exercising the function in question himself.
- (6) *The Secretary of State may pay to any person or body by whom any function is exercisable by virtue of subsection (4) such amounts as he considers appropriate for the purpose of meeting expenditure incurred or to be incurred by that person or body in, or in connection with, the exercise of that function.* 30
- (7) Any payment under subsection (6) may be made subject to such terms and conditions as the Secretary of State may determine.
- (8) Such conditions may in particular – 35
- (a) require the provision of returns or other information before any such payment is made;
- (b) relate to the use of the amount paid or require the repayment in specified circumstances of all or part of the amount paid.
- (9) In this section – 40
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made under this section by the Secretary of State.

Education action zones

181 Education action zones

Schedule 16 (which makes provision in relation to education action zones and Education Action Forum) shall have effect.

School inspections

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182 School inspections

Schedule 17 (which contains amendments of the School Inspections Act 1996 (c. 57)) shall have effect.

Qualifications

183 Amendments of Part 5 of Education Act 1997

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Schedule 18 (which contains amendments of Part 5 of the Education Act 1997 (c. 44) relating to the Qualifications and Curriculum Authority and the Qualifications, Curriculum and Assessment Authority for Wales) shall have effect.

184 LEA functions: qualifications

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- (1) A local education authority may award or authenticate academic and vocational qualifications, and may in particular –
 - (a) devise and administer a qualification or a course leading to a qualification,
 - (b) register candidates,
 - (c) set, administer and moderate examinations or other assessments, and
 - (d) require the payment of fees in respect of the exercise of the power.
- (2) A local education authority may secure the exercise by any other person of such of the authority's powers under subsection (1) as the authority may specify.
- (3) A local education authority may exercise its powers under this section by forming, or participating in forming, or being a member of, a body corporate.
- (4) The powers under this section shall be regarded as always having been within the powers of a local education authority; and this section is without prejudice to the generality of the powers of a local education authority.

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Special educational needs: Wales

185 Regional provision for special educational needs in Wales

- (1) When directed to do so by the National Assembly for Wales, the local education authorities in Wales (or such of them as may be specified in the direction) must consider whether they (or any of them) would be able to carry out their special education functions, in respect of children with the special

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educational needs specified in the direction, more efficiently or effectively if regional provision were made.

- (2) In this section –
- “regional provision” means –
- (a) provision of education for children from the areas of different local education authorities in Wales, at a school maintained by one of those authorities, or 5
 - (b) provision made by two or more local education authorities in Wales for goods or services to be supplied by one of the authorities – 10
 - (i) to the other or others, or
 - (ii) to one or more governing bodies of schools maintained by the other authority or authorities;
- “special education functions” means functions under Part 4 of the Education Act 1996 (c. 56) (special educational needs). 15
- (3) The authorities to whom a direction is given must report their conclusions to the Assembly not later than the time specified in the direction.
- (4) In discharging their duties under this section, local education authorities must have regard to any guidance given from time to time by the Assembly.

186 Directions to bring forward proposals to secure regional provision 20

- (1) Where the National Assembly for Wales is of the opinion that two or more local education authorities in Wales (“Welsh authorities”) would be able to carry out their special education functions, in respect of a particular class of children, more effectively or efficiently if regional provision were made, the Assembly may exercise its powers under this section and section 187 with a view to securing that such provision is made. 25
- (2) The Assembly may, by order, do one or more of the following –
- (a) direct a Welsh authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools;
 - (b) direct the governing body of a foundation, voluntary or foundation special school maintained by a Welsh authority (a “relevant school”) to exercise their powers to make proposals for the alteration of their school; 30
 - (c) direct two or more Welsh authorities to make proposals for arrangements under which – 35
 - (i) provision for education is made by one of the authorities in respect of persons from the area (or areas) of the other authority (or authorities), and
 - (ii) provision is made for determining the payments to be made under the arrangements in respect of the provision of that education; 40
 - (d) direct two or more Welsh authorities to make proposals for arrangements that provide for one of those authorities to make to the other (or others) such supplies of goods or services as may be specified in the proposals on such terms (including terms as to payment) as may be so specified; 45
 - (e) direct a Welsh authority and the governing bodies of one or more relevant schools to make proposals for arrangements that provide for

- the authority to make to the governing bodies such supplies of goods or services as may be specified in the proposals, on such terms (including terms as to payment) as may be so specified;
to secure that regional provision is made in relation to such class of children, from such areas, as may be specified in the order. 5
- (3) Where an order contains a direction under paragraph (c) of subsection (2) and also a direction under paragraph (a) or (b) of that subsection, the payments to which paragraph (c) refers may include an amount in respect of such costs connected with the establishment, alteration or discontinuance of the school in question as may be specified in the order. 10
- (4) An order under this section shall –
(a) require the proposals to be published not later than such date as is specified in the order, and
(b) require the body publishing the proposals to send a copy of the published proposals and such information in connection with those proposals as may be prescribed by the order, to the Assembly. 15
- (5) Proposals made in pursuance of an order containing a direction under subsection (2)(c) to (e) must contain such information and be published in such manner as is prescribed by regulations.
- (6) Regulations may, in respect of proposals made in pursuance of such an order, make provision for – 20
(a) consultation on the proposals;
(b) the making of comments on or objections to the proposals;
(c) withdrawal of the proposals;
(d) modification of the proposals; 25
(e) approval of the proposals by the Assembly;
(f) implementation of the proposals by the body or bodies that made them.
- (7) Without prejudice to the generality of subsection (6), regulations under that subsection may include provision equivalent to that made by or under Part 2 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) in relation to proposals of the kind mentioned in subsection (2)(a) or (b). 30
- (8) Where proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of an order containing a direction under subsection (2)(b) are approved or, as the case may be, determined to be implemented under that Schedule, then, despite anything in Part 3 of that Schedule, the local education authority shall defray the cost of implementing the proposals. 35
- (9) In this section –
“powers to make proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority to publish proposals under section 28, 29 or 31 of the School Standards and Framework Act 1998; 40
“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 that Act; 45
“regional provision” has the same meaning as in section 185;
“special education functions” has the same meaning as in that section.

187 Powers of Assembly to make proposals to secure regional provision

- (1) Where—
- (a) the National Assembly for Wales has made an order containing directions under section 186(2), and
 - (b) either— 5
 - (i) any proposals have been published in pursuance of the order, or
 - (ii) the time allowed under the order for the publication of the proposals has expired,
- the Assembly may make any such proposals as might have been made, in accordance with any direction contained in the order, by the body or bodies to which it was addressed. 10
- (2) Proposals under this section shall contain such information and be published in such manner as the Assembly thinks fit.
- (3) The Assembly shall send a copy of any proposals under this section to— 15
- (a) each local education authority in Wales, and
 - (b) to the governing body of each school to which the proposals relate.
- (4) Regulations may make provision about proposals under this section and, in particular, may make provision for— 20
- (a) consultation on the proposals;
 - (b) the making of comments on or objections to the proposals;
 - (c) modification of the proposals;
 - (d) implementation of the proposals by the bodies to which they relate.
- (5) Without prejudice to the generality of subsection (4), regulations under that subsection may include provision which applies or reproduces (with or without modification) any provisions of Part 5 or paragraph 17 of Schedule 7 to the School Standards and Framework Act 1998 (c. 31) (procedure for dealing with proposals by the Assembly under that Schedule). 25
- (6) Where proposals made and adopted by the Assembly under this section have effect (by virtue of subsection (5)) as if they were proposals made by the governing body of a foundation, voluntary or foundation special school under their powers to make proposals for the alteration of their school, and approved by the Assembly, then, despite anything in Part 3 of Schedule 6 to that Act, the local education authority shall defray the cost of implementing the proposals. 30

188 Welsh LEAs' powers to make regional provision

35

- (1) In section 14 of the Education Act 1996 (c. 56) (functions in respect of provision of primary and secondary schools), after subsection (4) there is inserted—
- “(4A) A local education authority for an area in Wales may secure that regional schools for providing— 40
- (a) primary education, and
 - (b) education that is secondary education by virtue of section 2(2)(a),
- are available for Wales or any part of Wales that includes the area of the authority.

- (4B) For this purpose a “regional school”, in relation to a local education authority, is a school maintained by that authority which provides education to meet both –
- (a) the needs of pupils with particular special educational needs in their area, and 5
 - (b) the needs of such pupils in the rest, or any other part, of Wales, whether or not the institution also provides education suitable to the requirements of other pupils.”
- (2) In section 318 of that Act (provision of goods and services in connection with special educational needs) – 10
- (a) in subsection (3) after “authority” there is inserted “in England”, and
 - (b) after subsection (3A) there is inserted –
- “(3B) A local education authority in Wales may supply goods and services to any authority in Wales or other person (other than a governing body within subsection (1)) for the purpose of assisting them in making for a child any special educational provision which any learning difficulty of the child calls for.” 15

189 The Special Educational Needs Tribunal for Wales

Schedule 11 (the Special Educational Needs Tribunal for Wales) shall have effect. 20

Other provisions relating only to Wales

190 Publication and provision of material

- (1) A local education authority in Wales shall publish any qualifying material which the National Assembly for Wales provides to the authority for the purposes of this subsection. 25
- (2) A local education authority in Wales shall provide to such persons as the Assembly may specify any qualifying material which the Assembly provides to the authority for the purposes of this subsection.
- (3) The governing body of any school maintained by a local education authority in Wales shall provide to such persons as the Assembly may specify any qualifying material which the Assembly provides to the body for the purposes of this subsection. 30
- (4) For the purposes of this section, “qualifying material” is material the Assembly considers likely to –
- (a) assist parents in choosing schools for their children, 35
 - (b) increase public awareness of the quality of education provided at schools, or a school, and of the educational standards achieved there, or
 - (c) assist in assessing the degree of efficiency with which the financial resources of schools, or a school, are managed.
- (5) No material published or provided under this section may name any individual to whom it relates. 40

- (6) The publication or provision of material by a local education authority or governing body under this section shall be in such form and manner as may be prescribed.

191 Partnership agreements and statements

- (1) The National Assembly for Wales may by regulations require any local education authority in Wales to enter into a partnership agreement with the governing body of each school maintained by that authority, or each such school of a prescribed class. 5
- (2) For the purposes of this section, a partnership agreement is an agreement about how a local education authority and the governing body of a school are to discharge their respective functions in relation to the school as regards – 10
- (a) such matters as may be prescribed, and
 - (b) such other matters as the authority and the governing body may agree.
- (3) Where a local education authority fail to reach agreement with the governing body of a school for the purposes of subsection (1), the authority may draw up a statement setting out how they and the governing body are to discharge their respective functions in relation to the school as regards the matters prescribed under subsection (2)(a). 15
- (4) Regulations under this section may –
- (a) require the parties to a partnership agreement to review the agreement, and 20
 - (b) require a local education authority that has drawn up a statement under this section and the governing body to which that statement relates to review the statement,
- at such intervals, or in such circumstances, as may be prescribed. 25
- (5) Following a review of a partnership agreement, the parties may agree –
- (a) not to change the agreement,
 - (b) to amend the agreement in such a manner that it remains a partnership agreement, or
 - (c) to replace the agreement with a new partnership agreement, 30
- but, where they fail to do so, subsection (3) applies as it applies where a local education authority and governing body fail to reach agreement for the purposes of subsection (1).
- (6) Following a review of a statement under subsection (3), the local education authority and governing body in question may agree to replace the statement with a partnership agreement, but, where they fail to do so, the authority may amend the statement or draw up a new one (provided the amended or replacement statement is one that could have been drawn up under subsection (3)). 35
- (7) Regulations under this section may make provision for the time by which a local education authority or governing body must comply with any requirement imposed on them by or under the preceding provisions of this section. 40
- (8) In the discharge of their functions in relation to a school maintained by a local education authority in Wales – 45
- (a) the authority, and

(b) the governing body and head teacher of the school, must have regard to any partnership agreement or statement under this section which for the time being has effect in relation to the school.

192 Transition from primary to secondary school

- (1) The National Assembly for Wales may require— 5
- (a) the governing body of each secondary school maintained by a local education authority in Wales, or of each such secondary school belonging to a class specified in the requirement, and
 - (b) the governing body of each of its feeder primary schools maintained by such an authority, 10
- jointly, to draw up plans to facilitate the transition from primary school to secondary school of pupils at those primary schools who are admitted to the secondary school.
- (2) In determining whether, for the purposes of this section, a particular school is to be regarded as a feeder primary school, in relation to a particular secondary school, regard is to be had to any guidance given, from time to time, by the Assembly. 15
- (3) Regulations may—
- (a) provide for the Assembly to determine any disputes as to whether a particular school is a feeder primary school of a particular secondary school for the purposes of this section; and 20
 - (b) make provision about plans under this section, including provision which specifies the period within which such plans are to be drawn up and provision about the content, review and amendment of such plans.
- (4) In carrying out any functions conferred on them by or under this section, governing bodies must have regard to any guidance given, from time to time, by the Assembly. 25
- (5) In the discharge of their functions under any enactment, the governing body of a school maintained by a local education authority in Wales, and the head teacher of that school, must have regard to any plans drawn up by the governing body under this section which for the time being have effect. 30

Provision of services

193 Transport for persons over compulsory school age

Schedule 19 (transport for persons over compulsory school age) shall have effect. 35

194 Remission of charges relating to residential trips

In section 457 of the Education Act 1996 (c. 56) (charges and remissions policies), in subsection (4) (entitlement to complete remission of charges in respect of board and lodging on a residential trip), for paragraph (b) there is substituted— 40

- “(b) the pupil’s parent is—
- (i) in receipt of income support,

- (ii) in receipt of an income-based jobseeker's allowance (payable under the Jobseekers Act 1995), or
 - (iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed, 5
- in respect of any period wholly or partly comprised in the time spent on the trip.” 10

195 LEA functions concerning school lunches, milk etc

- (1) For section 512 of the Education Act 1996 (c. 56) (provision of meals etc. at schools maintained by local education authorities) there is substituted –

“512 LEA functions concerning provision of meals, etc

- (1) A local education authority may provide – 15
- (a) registered pupils at any school maintained by the authority,
 - (b) other persons who receive education at such a school, and
 - (c) children who receive relevant funded nursery education, with milk, meals and other refreshments.
- (2) Where provision is made under subsection (1), it shall be made – 20
- (a) in a case within paragraph (a) or (b) of that subsection, either on the school premises or at any other place where education is being provided, and
 - (b) in a case within paragraph (c) of that subsection, at any place where education is being provided. 25
- (3) A local education authority shall exercise their power under subsection (1) to provide school lunches for any person within paragraph (a) or (c) of that subsection if –
- (a) any prescribed requirements are met,
 - (b) a request for the provision of school lunches has been made by or on behalf that person to the authority, and 30
 - (c) either –
 - (i) that person is eligible for free lunches (within the meaning of section 512ZB(2)), or
 - (ii) in the case of a person within subsection (1)(a), it would not be unreasonable for the authority to provide the lunches. 35
- (4) Subject to section 114(2) of the School Standards and Framework Act 1998 (c. 31) (lunches provided by LEAs to meet nutritional standards), any school lunches provided by a local education authority pursuant to subsection (3) may take such form as the authority think fit. 40
- (5) A local education authority shall provide at any school maintained by them such facilities as they consider appropriate for the consumption of any meals or other refreshment brought to the school by registered pupils. 45

- (6) In this section –
- “prescribed” means prescribed by the Secretary of State by order;
 - “relevant funded nursery education”, in relation to a local education authority, means education provided by a person other than the governing body of a maintained school (within the meaning of section 20(7) of the School Standards and Framework Act 1998) or a maintained nursery school –
 - (a) under arrangements made with that person by the authority in pursuance of the duty imposed on the authority by section 118 of that Act (duty of LEA to secure sufficient nursery education), and
 - (b) in consideration of financial assistance provided by the authority under those arrangements;
 - “school lunch” –
 - (a) in relation to a pupil, means food made available for consumption by the pupil as his midday meal on a school day, and
 - (b) in relation to a child receiving relevant funded nursery education at an establishment other than a school, means food made available for consumption by the child as his midday meal on a day on which he receives that education,
 - whether involving a set meal or the selection of items by him or otherwise;
- and references, in relation to a local education authority, to a school maintained by the authority are to a community, foundation or voluntary school, a community or foundation special school, a maintained nursery school or a pupil referral unit maintained by the authority.
- 512ZA Duty to charge for meals etc**
- (1) A local education authority shall charge for anything provided by them under subsection (1) or (3) of section 512.
 - (2) A local education authority shall charge every person the same price for the same quantity of the same item.
 - (3) This section is subject to section 512ZB.
- 512ZB Provision of free school lunches and milk**
- (1) Where the local education authority provide a school lunch in accordance with section 512(3) to a person who is eligible for free lunches, the authority shall provide the meal free of charge.
 - (2) For this purpose a person is eligible for free lunches if –
 - (a) he is within subsection (4), and
 - (b) a request that the school lunches be provided free of charge has been made by him or on his behalf to the authority.
 - (3) Where a local education authority exercise their power under subsection (1) of section 512 to provide a person within paragraph (a)

- or (c) of that subsection with milk, the authority shall provide the milk free of charge if –
- (a) the person is within subsection (4), and
 - (b) a request that the milk be provided free of charge has been made by him or on his behalf to the authority. 5
- (4) A person is within this subsection if –
- (a) his parent is –
 - (i) in receipt of income support,
 - (ii) in receipt of an income-based jobseeker’s allowance (payable under the Jobseekers Act 1995 (c. 18)), 10
 - (iii) in receipt of support provided under Part 6 of the Immigration and Asylum Act 1999 (c. 33), or
 - (iv) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed, or 15
 - (b) he, himself, is –
 - (i) in receipt of income support,
 - (ii) in receipt of an income-based jobseeker’s allowance, or 20
 - (iii) in receipt of any other benefit or allowance, or entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit, prescribed for the purposes of this paragraph, in such circumstances as may be so prescribed. 25
- (5) In this section “prescribed” and “school lunch” have the same meaning as in section 512.”
- (2) In section 512A of that Act (transfer of functions under section 512 to governing bodies) –
- (a) in subsection (2) – 30
 - (i) in paragraph (a) for “section 512(1A) and (1B)” there is substituted “section 512(3) and (4)”,
 - (ii) in paragraph (b) for “section 512(3)(a)” there is substituted “section 512ZB(1)”, and
 - (iii) in paragraph (c) for “section 512(3)(b)” there is substituted “section 512ZB(3)”, and 35
 - (b) in subsection (6) for “section 512(2)(b)” there is substituted “section 512ZA(2)”.
- (3) In section 114 of the School Standards and Framework Act 1998 (c. 31) (nutritional standards for school lunches for pupils at schools maintained by local education authorities) – 40
- (a) in subsection (1), after “lunches for” there is inserted “(a)” and after “authorities” there is inserted “, or
 - (b) other persons who are provided with school lunches free of charge in accordance with section 512ZB of the Education Act 1996;”, 45
 - (b) in subsection (2), after “a school” there is inserted “or for such other persons who are provided with school lunches free of charge”, and

- (c) in subsection (3)(b), at the beginning there is inserted “in the case of lunches provided to registered pupils at schools maintained by local education authorities,”.

Miscellaneous

- 196 Further education institutions: fees** 5
- (1) The Secretary of State may by regulations –
- (a) prohibit the charging of a fee for a specified course of further education provided at a further or higher education institution;
 - (b) impose a limit on the amount which may be charged by way of fees for a specified course of further education provided at a further or higher education institution. 10
- (2) In this section “further education institution” has the same meaning as in section 136.
- 197 Further education institutions: records**
- (1) The Secretary of State may by regulations make provision about the compilation, retention and disclosure of educational records of further education institutions. 15
- (2) The regulations may, in particular, make a duty to provide a copy of a record conditional on the payment of a charge which does not exceed the cost of providing the copy. 20
- (3) In this section “further education institution” has the same meaning as in section 136.
- 198 Baseline assessments**
- Chapter 1 of Part 4 of the Education Act 1997 (c. 44) (baseline assessments) shall cease to have effect. 25
- 199 Application of Part 5 of Education Act 1996 to nursery education**
- Section 410 of the Education Act 1996 (c. 56) (which excludes the application of Part 5 of that Act in relation to a nursery school or in relation to a nursery class at a primary school) shall cease to have effect.
- 200 Nuisance or disturbance on educational premises** 30
- Schedule 20 (nuisance or disturbance on educational premises) shall have effect.
- 201 Recoupment: adjustment between local education authorities**
- (1) Regulations may provide, in relation to cases where any provision for education to which this section applies is made by a local education authority (in this section referred to as “the providing authority”) in respect of a person who belongs to the area of another local education authority, for requiring or 35

- authorising the other authority (in this section referred to as the “home authority”) to pay to the providing authority –
- (a) such amount as the authorities may agree, or
 - (b) failing agreement, such amount as may be determined by or under the regulations. 5
- (2) This section applies to primary education and secondary education.
- (3) The regulations may provide for the amounts payable by one authority to another –
- (a) to reflect the whole or any part of the average costs incurred by local education authorities in the provision of education (whether in England and Wales as a whole or in any particular area or areas), and 10
 - (b) to be based on figures for average costs determined by such body or bodies representing local education authorities, or on such other figures relating to costs so incurred, as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate. 15
- (4) Regulations made under this section in relation to Wales by the National Assembly for Wales may provide for the amounts so payable, in such cases as may be specified in or determined in accordance with the regulations, to be such amounts as may be determined –
- (a) where the providing authority and the home authority are both in Wales, by the National Assembly for Wales, or 20
 - (b) where the providing authority is in Wales and the home authority is in England, by the Assembly with the consent of the Secretary of State.
- (5) Any dispute between local education authorities in Wales as to whether one of them is entitled to be paid any amount by another under the regulations shall be determined by the National Assembly for Wales. 25
- (6) Any dispute between a providing authority in Wales and a home authority in England as to whether the providing authority is entitled to be paid any amount by the home authority under the regulations shall be determined by the National Assembly for Wales with the consent of the Secretary of State. 30
- (7) In this section –
- (a) references to provision for education include provision of any benefits or services for which provision is made by or under this Act or any other enactment relating to education, and
 - (b) “further education” does not include education of a kind such that expenditure on its provision would fall within paragraph 6 of Schedule 10 to the Local Government, Planning and Land Act 1980 (c. 65). 35
- 202 Recoupment: special cases**
- (1) In section 493 of the Education Act 1996 (c. 56) (recoupment: cross-border provisions) for subsection (2) there is substituted – 40
- “(2) Subsection (3) of section 201 of the Education Act 2002 (recoupment: adjustment between local education authorities) shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the reference to the National Assembly for Wales.
- (2A) The regulations may provide for the amounts payable by one authority to another, in such cases as may be specified by or under the 45

regulations, to be such amounts as may be determined by the Secretary of State.”

- (2) The function of making regulations under section 494 of the Education Act 1996 (c. 56) (recoupment: excluded pupils), so far as exercisable in relation to Wales, is hereby transferred to the National Assembly for Wales. 5
- (3) For the purposes of any Order in Council varying or revoking the National Assembly for Wales (Transfer of Functions) Order 1999, the function mentioned in subsection (2) is to be taken to have been transferred to the Assembly by that Order.

203 Paid chairmen for local learning and skills councils 10

In Schedule 2 to the Learning and Skills Act 2000 (c. 21) (local learning and skills councils) for paragraph 4 there is substituted –

“Salaries, allowances etc.

4. The Council must pay –
- (a) in respect of the chairman of a local council such salary and such travelling, subsistence and other allowances as the Secretary of State may determine, and 15
- (b) in respect of the other members of a local council such travelling, subsistence and other allowances as the Secretary of State may determine.” 20

General

204 Orders and regulations

- (1) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act, except the power to make an order under section 161 or 186, is exercisable by statutory instrument. 25
- (2) No order shall be made by the Secretary of State under –
- (a) section 76(3),
- (b) section 78(4)(b),
- (c) section 80(6),
- (d) section 82, 30
- (e) section 83(3)(a), or
- (f) section 121(4),
- unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Subject to subsections (4) and (5), a statutory instrument which contains any order or regulations made under this Act by the Secretary of State and is not subject to the requirement in subsection (2) that a draft of the instrument be laid before and approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament. 40
- (4) Subsection (3) does not apply to an order under –
- (a) section 6(2)

- (b) section 83(2)(c) or (3)(c), or
 - (c) section 210.
- (5) If an order under section 118 contains only provisions which in the opinion of the Secretary of State give effect without significant modification to recommendations of the School Teachers' Review Body – 5
- (a) the order shall contain a statement to that effect, and
 - (b) subsection (3) shall not apply.
- (6) Any power of the Secretary of State or the National Assembly for Wales to make an order or regulations under this Act includes power – 10
- (a) to make different provisions for different cases or areas,
 - (b) to make provision generally or only in relation to specific cases, and
 - (c) to make such incidental, supplemental, saving or transitional provisions as the Secretary of State or the Assembly thinks fit.
- (7) Nothing in this Act shall be regarded as affecting the generality of subsection (6). 15

205 Wales

- (1) Where this Act confers a function on the Secretary of State by amendment of another Act – 20
- (a) the function is exercisable in relation to Wales by the National Assembly for Wales, and
 - (b) for that purpose, any reference to the Secretary of State is to be taken to be a reference to the National Assembly.
- (2) Where – 25
- (a) this Act confers a function on the Secretary of State by amendment of another Act, and
 - (b) any functions under that Act have before the passing of this Act been transferred to the National Assembly by Order in Council under section 22 of the Government of Wales Act 1998 (c. 38) (transfer of functions),
- the Order is to be treated for the purposes of any varying or revoking Order as having transferred to the National Assembly the function mentioned in paragraph (a). 30
- (3) Subsection (1)(a) has effect subject to any Order in Council made by virtue of subsection (2).
- (4) Subsections (1) and (2) do not apply to section 202(1). 35

206 General interpretation

- (1) In this Act, unless the context otherwise requires, – 40
- “the local education authority”, in relation to a school maintained (or proposed to be maintained) by a local education authority, means that authority;
 - “prescribed” means prescribed by regulations;
 - “regulations” means regulations made under this Act by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales).

- (2) Subject to subsection (4), the Education Act 1996 (c. 56) and the provisions of this Act specified in subsection (3) are to be construed as if those provisions were contained in that Act.
- (3) The provisions of this Act referred to in subsection (2) are –
- (a) Part 1 (provision for new legal frameworks), 5
 - (b) Part 2 (financial assistance for education and childcare),
 - (c) Part 3 (government of maintained schools),
 - (d) Part 5 (school organisation), except section 68 and Schedule 9,
 - (e) Parts 6 and 7 (the curriculum),
 - (f) in Part 8, sections 115 to 142, 10
 - (g) in Part 9, section 149,
 - (h) Part 10 (independent schools), and
 - (i) in this Part, sections 175 to 179, sections 184 to 192, section 196 and section 201.
- (4) Where an expression is given for the purposes of any provision falling within subsection (3) a meaning different from that given to it for the purposes of the Education Act 1996, the meaning given for the purposes of that provision is to apply instead of the one given for the purposes of that Act. 15
- (5) Unless the context otherwise requires, any reference in this Act or in any Act amended by this Act to a community, foundation or voluntary school or a community or foundation special school is to such a school within the meaning of the School Standards and Framework Act 1998 (c. 31). 20

207 Financial provisions

- (1) *There shall be paid out of money provided by Parliament –*
- (a) *any expenditure incurred by the Secretary of State by virtue of this Act, and* 25
 - (b) *any increase attributable to this Act in the sums which by virtue of any other Act are payable out of money provided by Parliament.*
- (2) *Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.*

208 Transitional provisions etc. 30

- (1) Regulations may at any time make such incidental, consequential, transitional or supplementary provision as appears to the Secretary of State, or as the case may be the National Assembly for Wales, to be necessary or expedient for the general purposes, or any particular purposes, of this Act or in consequence of any of its provisions or for giving full effect to it. 35
- (2) Regulations under subsection (1) may, in particular, make provision –
- (a) for any provision of this Act which comes into force before –
 - (i) another such provision has come into force, or
 - (ii) anything falling to be done under another such provision has been done, 40to have effect, until that other provision has come into force or (as the case may be) that thing has been done, with such modifications as are specified in the regulations;
 - (b) for amending, repealing or revoking (with or without savings) any statutory provision passed or made before the passing of this Act for 45

applying any such provision (with or without modification) and for making savings or additional savings from the effect of any amendment or repeal made by this Act.

- (3) The amendments that may be made under (2)(b) shall be in addition (and without prejudice) to those made by any other provision of this Act. 5
- (4) Nothing in this Act shall be read as prejudicing the generality of subsection (1).

209 Minor and consequential amendments and repeals

- (1) Schedule 21 (which contains minor and consequential amendments) shall have effect. 10
- (2) The enactments specified in the first column of Schedule 22 (which include spent provisions) are repealed to the extent specified in the second column.

210 Commencement

- (1) The following provisions shall come into force on the day on which this Act is passed – 15
- section 12,
 - section 49(6) to (9),
 - section 143,
 - section 180,
 - section 184, 20
 - sections 204 to 208, and
 - this section and section 211.
- (2) The following provisions shall come into force in accordance with provision made by the Secretary of State by order – 25
- sections 62 and 63,
 - section 66 and Schedule 8,
 - section 67,
 - section 69,
 - sections 115 to 126,
 - section 203, 30
 - Part 6,
 - paragraphs 1 and 2 of Schedule 18, and section 183 so far as relating to those paragraphs, and
 - Part 1 of Schedule 22, and section 209(2) so far as relating to that Part.
- (3) The following provisions shall come into force in accordance with provision made by the National Assembly for Wales by order – 35
- Part 7,
 - section 135,
 - sections 185 to 192 and Schedule 11,
 - paragraphs 3 and 4 of Schedule 18, and section 183 so far as relating to those paragraphs, and 40
 - Part 2 of Schedule 22, and section 209(2) so far as relating to that Part.
- (4) Subject to subsections (1) to (3), this Act shall come into force –

- (a) except in relation to Wales, in accordance with provision made by the Secretary of State by order, and
 - (b) in relation to Wales, in accordance with provision made by the National Assembly for Wales by order.
- (5) An order under this section may – 5
 - (a) make provision generally or for specified purposes only,
 - (b) make different provision for different purposes, and
 - (c) contain such transitional provisions and savings as the person making the order thinks fit.
- 211 Short title and extent** *10*
- (1) This Act may be cited as the Education Act 2002.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).
- (3) Any amendment or repeal in this Act has the same extent as the provision amended or repealed. *15*
- (4) Except as provided by subsection (3), this Act extends to England and Wales only.