

## SCHEDULES

### SCHEDULE 1

Section 18(5)

#### INCORPORATION AND POWERS OF GOVERNING BODY

##### *Introductory*

- 1 In the following paragraphs of this Schedule— 5
- “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31);
  - “the governing body” means the governing body of a maintained school incorporated under section 18(1).

##### *Name and seal of governing body* 10

- 2 (1) The governing body shall be known as “The governing body of...” with the addition of the name of the school for the time being set out in the school’s instrument of government.
- (2) The application of the seal of the governing body must be authenticated by the signature— 15
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,
- together with the signature of any other member.
- (3) Every document purporting to be an instrument made or issued by or on behalf of the governing body and— 20
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and treated, without further proof, as being so made or issued unless the contrary is shown. 25

##### *Powers of governing body*

- 3 (1) The governing body may do anything which appears to them to be necessary or expedient for the purposes of, or in connection with— 30
- (a) the conduct of the school, or
  - (b) the provision of facilities or services under section 25.
- (2) The governing body may provide advice or assistance to—
- (a) the governing body of any other maintained school, whether or not maintained by the same local education authority, or
  - (b) any local education authority. 35

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- (3) The powers conferred by sub-paragraphs (1) and (2) include, in particular, power –
- (a) to borrow such sums as the governing body think fit and, in connection with such borrowing, to grant any mortgage, charge or other security over any land or other property of the governing body, 5
  - (b) to acquire and dispose of land and other property,
  - (c) to enter into contracts,
  - (d) to invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,
  - (e) to accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any of those purposes, and 10
  - (f) to do anything incidental to the conduct of the school, the provision of advice or assistance under sub-paragraph (2), or the provision of facilities and services under section 25.
- (4) The power to borrow money and grant security mentioned in sub-paragraph (3)(a) may only be exercised with the written consent – 15
- (a) of the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), and
  - (b) if an order under sub-paragraph (5) so provides, of the local education authority; 20
- and any such consent may be given for particular borrowing or for borrowing of a particular class.
- (5) The Secretary of State or the National Assembly for Wales may by order make provision for any of his or its functions under sub-paragraph (4) to be instead exercisable – 25
- (a) in the case of all maintained schools, or
  - (b) in the case of any class of such schools specified in the order,
- by the local education authorities by whom those schools are maintained.
- (6) In exercising those functions those authorities shall comply with any directions contained in an order made by the Secretary of State or the National Assembly for Wales. 30
- (7) Where the school is foundation, voluntary aided or foundation special school, the power to enter into contracts mentioned in sub-paragraph (3)(c) includes power to enter into contracts for the employment of teachers and other staff, but no such contracts may be entered into by the governing body of a community, voluntary controlled or community special school or of a maintained nursery school. 35
- (8) Sub-paragraphs (1) to (3) have effect subject to –
- (a) any provisions of the school’s instrument of government, and
  - (b) any provisions of a scheme under section 48 of the 1998 Act (local education authorities’ financial schemes) which relates to the school. 40
- 4 Regulations may make further provision –
- (a) as to the general powers of the governing body, and
  - (b) as to other matters relating to it as a body corporate.
- Dissolution of governing body* 45
- 5 (1) If the school is discontinued, the governing body are dissolved by virtue of this paragraph –

- (a) on the discontinuance date, or
  - (b) on such later date as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may specify by order made before the discontinuance date.
- (2) In this paragraph “the discontinuance date” means –
- (a) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6 to the 1998 Act or under Schedule 7 or 7A to the Learning and Skills Act 2000 (c. 21),
  - (b) the date when the school is discontinued under section 30 of the 1998 Act, or
  - (c) the date specified in a direction given under section 19(1) or 32(1) of the 1998 Act,
- as the case may be.

## SCHEDULE 2

Section 34(7) and 35(7)

### EFFECT ON STAFFING OF SUSPENSION OF DELEGATED BUDGET 15

#### PART 1

##### COMMUNITY, VOLUNTARY CONTROLLED, COMMUNITY SPECIAL AND MAINTAINED NURSERY SCHOOLS

- 1 The arrangements for the staffing of the school shall be determined by the local education authority. 20
- 2 The authority may appoint, suspend and dismiss teachers and other staff at the school as the authority think fit.
- 3 The authority shall, in connection with the exercise of their functions under paragraph 2, consult the governing body to such extent as the authority think fit. 25
- 4 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), paragraph 2 shall have effect subject to the provisions of that section. 30

#### PART 2

##### FOUNDATION, VOLUNTARY AIDED AND FOUNDATION SPECIAL SCHOOLS

- 5 The arrangements for the staffing of the school shall be determined by the local education authority.
- 6 Except with the consent of the authority, the governing body shall not – 35
  - (a) appoint any teacher to work at the school, or
  - (b) dismiss any teacher at the school.
- 7 The authority may give the governing body directions –

- (a) as to the educational qualifications of the teachers to be appointed for giving secular education, or
- (b) requiring them to dismiss any teacher at the school;
- but the authority shall not give any directions under paragraph (a) except after consulting the governing body. 5
- 8 The authority may give directions to the governing body as to the number and conditions of service of persons employed at the school for the purposes of the care and maintenance of the school premises.
- 9 Where the trust deed relating to the school provides for a person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control authorised by regulations under section 30) the use of those premises is or would be under the control of any such person, the reference in paragraph 8 to the governing body shall be read as a reference to that person. 10 15
- 10 Paragraphs 6 and 7 have effect subject to section 58 of the School Standards and Framework Act 1998 (c. 31).

## SCHEDULE 3

Section 38

## AMENDMENTS OF PART 2 OF SCHOOL STANDARDS AND FRAMEWORK ACT 1998

- Introductory* 20
- 1 In this Schedule “the 1998 Act” means the School Standards and Framework Act 1998.
- Expenditure incurred for community purposes*
- 2 (1) Section 48 of the 1998 Act (local education authorities’ financial schemes) is amended as follows. 25
- (2) In subsection (1) after “by the authority” there is inserted “or the exercise by the governing bodies of those schools of the power conferred by section 25 of the Education Act 2002 (power of governing body to provide community facilities etc.)”.
- (3) In subsection (2) after paragraph (d) there is inserted – 30
- “(dd) the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the exercise of the power mentioned in subsection (1), including conditions prescribing financial controls and procedures;”.
- 3 In section 50 of the 1998 Act (effect of financial delegation), in subsection (4) (meaning of “purposes of the school”) before paragraph (a) there is inserted – 35
- “(za) facilities and services under section 25 of the Education Act 2002 (power of governing body to provide community facilities etc.)”.
- 4 After section 51 of the 1998 Act there is inserted – 40

*“Expenditure incurred for community purposes*

**51A Expenditure incurred for community purposes**

- (1) Expenditure incurred by the governing body of a maintained school in the exercise of the power conferred by section 25 of the Education Act 2002 (power of governing body to provide community facilities etc.) shall, as against third parties, be treated as part of the expenses of maintaining the school under section 22, but if met by the local education authority may be recovered by them from the governing body. 5
- (2) Except as provided by regulations under section 50(3)(b), no expenditure incurred by the governing body of a maintained school in the exercise of the power referred to in subsection (1) shall be met from the school’s budget share for any financial year. 10
- (3) Subsection (2) applies at a time when the school does not have a delegated budget by virtue of any suspension under section 17 or Schedule 15, as well as a time when it does have a delegated budget.” 15
- 5 In Schedule 15 to the 1998 Act (suspension of financial delegation), in paragraph 1(1) (cases where local education authority may suspend governing body’s right to a delegated budget) the word “or” at the end of paragraph (a) is omitted and at the end of paragraph (b) there is inserted “or 20
- (c) are not managing in a satisfactory manner any expenditure, or sums received, in the exercise of the power conferred by section 25 of the Education Act 2002 (power to provide community facilities etc.).” 25

*Teachers engaged otherwise than as employees*

- 6 (1) Section 58 of the 1998 Act (appointment and dismissal of certain teachers at a school with a religious character) is amended as follows.
- (2) In subsection (2) – 30
- (a) for “the teaching staff of” there is substituted “teachers at”, and
- (b) for “the teaching staff shall” there is substituted “the teachers shall”.
- (3) In subsection (3), for “the number of the teaching staff”, in both places where it occurs, there is substituted “the total number of teachers”.
- (4) In subsection (4), for “while holding the post of” there is substituted “while he remains”. 35
- (5) In subsection (6), for the words from “may” to the end there is substituted “may –
- (a) in the case of a teacher who is an employee, require the appropriate body to dismiss him from employment as a reserved teacher at the school, and 40
- (b) in the case of a teacher who is engaged otherwise than under a contract of employment, require the governing body to terminate his engagement.”. 45

- (6) In subsection (9), in the definition of “reserved teacher”, after “employed” there is inserted “or engaged”.
- 7 In section 59 of the 1998 Act (staff at community, secular foundation or voluntary, or special school), in subsection (2)(b), after “employed” there is inserted “or engaged”. 5
- 8 (1) Section 60 of the 1998 Act (staff at foundation or voluntary school with religious character) is amended as follows.
- (2) In subsection (5)(b), after “employment” there is inserted “or engagement”.
- (3) In subsection (6), after “employed” there is inserted “or engaged”.

## SCHEDULE 4

Section 48

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## ADMISSION ARRANGEMENTS

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

*Meaning of “appeal panel”*

- 2 In section 84(6) of the 1998 Act (interpretation of Chapter 1 of Part 3), in the definition of “appeal panel”, for “under Schedule 24 or 25” there is substituted “in accordance with regulations under section 94(5) or 95(3)”. 15

*Parental preferences*

- 3 (1) Section 86 of the 1998 Act (parental preferences) is amended as follows.
- (2) In subsection (2), for “subsections (3) and (6)” there is substituted “subsections (3) and (3A)”. 20
- (3) After subsection (2) there is inserted –
- “(2A) Arrangements made under subsection (1) may allow the parent of a child to express preferences for more than one school; but nothing in this section requires the admission authority for a maintained school for which a child’s parent has expressed a preference to offer the child admission to the school if, in accordance with a scheme adopted or made by virtue of section 89B, the child is offered admission to a different school for which the parent has also expressed a preference.” 25
- (4) After subsection (3) there is inserted –
- “(3A) In relation to a preference expressed by a parent as to the school at which he wishes secondary education suitable to the requirements of pupils who are over compulsory school age to be provided for his child, the duty imposed by subsection (2) also does not apply if the relevant selection arrangements are wholly based on selection by reference to ability or aptitude and compliance with the preference would be incompatible with selection under those arrangements. 35
- (3B) In subsection (3A) “the relevant selection arrangements”, in relation to a school, means – 40

- (a) the arrangements for admission to the school for secondary education suitable to the requirements of pupils who are over compulsory school age, or
    - (b) those arrangements and the arrangements for entry to the sixth form of children who have been admitted to the school; and references in this subsection to entry to the sixth form of children who have been admitted to a school shall be construed in accordance with section 94(7).”
  - (5) Subsection (6) shall cease to have effect.
  - (6) In subsection (8), for “subsection (3)” there is substituted “subsections (3) and (3A)”.
  - (7) In subsection (9), for “provide for all pupils admitted to the school” there is substituted “, or arrangements such as are mentioned in subsection (3B), provide for all pupils selected under the arrangements”.
- Children permanently excluded from two or more schools*
- 4 In section 87 of the 1998 Act (no requirement to admit children permanently excluded from two or more schools) for subsection (4) there is substituted –
- “(4) However, a child who has been permanently excluded from a school shall not be treated for the purposes of this section as having been so excluded if –
  - (a) he was reinstated as a pupil at the school following the giving of a direction to that effect by the relevant authority in accordance with regulations under subsection (3)(b) or (c) of section 49 of the Education Act 2002,
    - (b) on a review of his exclusion carried out by the governing body in accordance with regulations under subsection (3)(b) of that section or an appeal made pursuant to regulations under subsection (3)(c) of that section, the relevant authority decided –
    - (i) that it would not be practical to give a direction requiring his reinstatement as a pupil at the school, but
      - (ii) that it would otherwise have been appropriate to give such a direction, or
    - (c) he was so excluded at a time when he had not attained compulsory school age.
  - (4A) In subsection (4) –
  - “the relevant authority” means the governing body or an appeal panel,
    - “appeal panel” means a panel constituted in accordance with regulations under section 49(3)(c) of the Education Act 2002.”

*Procedure for determining admission arrangements*

- 5 (1) Section 89 of the 1998 Act (procedure for determining admission arrangements) is amended as follows.
- (2) For subsection (2) there is substituted –

- “(2) Before determining the admission arrangements which are to apply for a particular school year, the admission authority shall consult the following about the proposed arrangements, namely –
- (a) whichever of the governing body and the local education authority are not the admission authority, 5
  - (b) the admission authorities for all other maintained schools in the relevant area or for such class of such schools as may be prescribed,
  - (c) the governing bodies for all community and voluntary controlled schools in the relevant area (so far as not falling within paragraph (a) or (b)), and 10
  - (d) the admission authorities for maintained schools of any prescribed description.
- (2A) Subsection (2) does not apply in relation to the proposed admission arrangements for a particular school year if – 15
- (a) the admission authority are the school’s governing body, and
  - (b) prescribed conditions are satisfied in relation to that year.”
- (3) In subsections (4), (5) and (6), for “bodies whom they consulted under subsection (2)” there is substituted “appropriate bodies”.
- (4) In subsection (8), after paragraph (f) there is inserted – 20
- “(fa) requiring an admission authority who have made a determination of a prescribed description under this section to publish such information relating to the determination (including information as to the authority’s reasons for making the determination) as may be prescribed;” 25
- (5) After that subsection there is inserted –
- “(8A) The power under paragraph (fa) of subsection (8) to require an admission authority to publish information includes power to require them to publish it –
- (a) by giving a notice containing the information to prescribed persons, or 30
  - (b) in any other prescribed manner.”
- (6) For subsection (9) there is substituted –
- “(9) Where the local education authority are the admission authority for a community or voluntary controlled school, they shall consult the governing body before making any reference under subsection (5).” 35
- (7) After that subsection there is inserted –
- “(10) In this section “the appropriate bodies”, in relation to an admission authority, means the bodies whom they were required to consult under subsection (2), or would but for subsection (2A) have been required so to consult.” 40

*Reference of objections*

- 6 In section 90(1)(b) of the 1998 Act (reference of objections to adjudicator or Secretary of State), for “consulted by the admission authority under section 89(2)” there is substituted “who were, or would but for subsection (2A) of 45



section 89 have been, required to be consulted by the admission authority under subsection (2) of that section”.

*Special arrangements to preserve religious character of foundation or voluntary aided school*

- 7 (1) Section 91 of the 1998 Act (special arrangements to preserve religious character of foundation or voluntary aided school) is amended as follows. 5
- (2) In subsection (2)(b)(i), for “admission authorities consulted under section 89(2)(b) or (c)” there is substituted “bodies, other than the local education authority, who were, or would but for section 89(2A) have been, required to be consulted under section 89(2)”.
- (3) In subsection (3)(b)(iii) for “consulted under section 89(2)” there is substituted “who were, or would but for subsection (2A) of section 89 have been, required to be consulted under subsection (2) of that section”. 10
- (4) In subsection (8) for “consulted under section 89(2)” there is substituted “were, or would but for subsection (2A) of section 89 have been, required to consult under subsection (2) of that section”. 15

*Publication of information*

- 8 For section 92 of the 1998 Act (publication of information about admissions) there is substituted –

**“92 Publication of information about admissions**

- Regulations may – 20
- (a) require the publication by a local education authority of such information relating to admissions as may be prescribed,
- (b) require the publication by the governing body of a foundation or voluntary aided school of such information relating to admissions as may be prescribed, 25
- (c) require or allow the publication by the governing body of any school maintained by a local education authority, or by the local education authority on behalf of the governing body, of such information relating to the school as may be prescribed, and 30
- (d) make provision as to the time by which, and the manner in which, information required to be published by virtue of this section is to be published.”

*Appeal arrangements: general*

- 9 (1) Section 94 of the 1998 Act (appeal arrangements: general) is amended as follows. 35
- (2) After subsection (1) there is inserted –
- “(1A) A local education authority shall make arrangements for enabling the parent of a child who has been admitted to a community or voluntary controlled school maintained by the authority to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school’s sixth form.” 40
- (3) After subsection (2) there is inserted –

- “(2A) The governing body of a foundation or voluntary aided school shall make arrangements for enabling the parent of a child who has been admitted to the school to appeal against any decision made by or on behalf of the governing body refusing permission for the child to enter the school’s sixth form.” 5
- (4) In subsection (3), after “(2)” there is inserted “or (2A)”.
- (5) In subsection (4), in paragraph (a), after “(1)” there is inserted “or (1A)” and in paragraph (b), after “(2)” there is inserted “or (2A)”.
- (6) In subsection (6) for “under Schedule 24” there is substituted “pursuant to arrangements under this section”. 10
- (7) After that subsection there is inserted –
- “(7) References in this section, in relation to a child who has been admitted to a school, to his entering the school’s sixth form are to his being transferred to a class at the school in which secondary education suitable to the requirements of pupils who are over compulsory school age is provided from a class in which such education is not provided.” 15

*Appeals relating to children to whom section 87 applies*

- 10 In section 95 of the 1998 Act (appeals relating to children to whom section 87 applies), for subsection (3) there is substituted – 20
- “(3) An appeal by the governing body pursuant to arrangements made under subsection (2) shall be to an appeal panel constituted in accordance with regulations.
- (3A) Regulations may make provision about the making of appeals pursuant to arrangements under subsection (2), including provision – 25
- (a) requiring prescribed information to be given to governing bodies in prescribed circumstances,
- (b) as to the procedure on such appeals,
- (c) for the payment by the local education authority of allowances to members of an appeal panel, and 30
- (d) as to the matters to which an appeal panel is to have regard in considering an appeal.
- (3B) Regulations made by virtue of subsection (3A)(c) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of an appeal panel.” 35

*Direction to admit child to specified school*

- 11 In section 96(1) of the 1998 Act (direction to admit child to specified school) after “section” there is inserted “to the governing body of a school for which they are not the admission authority”. 40

*Procedure for giving direction under section 96*

12 (1) Section 97 of the 1998 Act (procedure for giving direction under section 96) is amended as follows.

(2) For subsection (4) there is substituted –

“(4) On a reference under subsection (3) the Secretary of State may determine which school is to be required to admit the child, and if he does so – 5

(a) where the local education authority referred to in subsection (1) are the admission authority for that school, they shall –

(i) admit the child to the school, and 10

(ii) give notice in writing to the governing body and head teacher of the school of the Secretary of State’s determination, and

(b) in any other case, that school shall be specified in the direction.” 15

(3) For subsection (6) there is substituted –

“(6) A direction under section 96 shall be given by notice in writing; and a copy of the notice shall be given by the local education authority to the head teacher of the school.”

*Nursery education* 20

13 (1) Section 98 of the 1998 Act (admission for nursery education etc) is amended as follows.

(2) For subsection (2) there is substituted –

“(2) The admission of children to a school for nursery education shall be disregarded – 25

(a) for the purposes of any determination under section 89 of the number of pupils in any relevant age group that it is intended to admit to a primary school in a school year, and

(b) in determining for the purposes of section 89A what is a relevant age group in relation to a primary school.” 30

(3) In subsection (3), after “Chapter” there is inserted “apart from subsections (4A) and (4B)”.

(4) After subsection (4) there is inserted –

“(4A) The person responsible for admitting, or refusing to admit, children to a maintained school for nursery education shall be the person who (by virtue of section 88(1)) is the admission authority for the school. 35

(4B) Regulations may make provision as to the person who is to be responsible for admitting, or refusing to admit, children to maintained nursery schools.”

(5) In subsection (8) after “this section” there is inserted “, apart from subsections (4A) and (4B),”. 40

(6) For subsection (9)(b) there is substituted –

“(b) any determination under section 89 of the number of pupils in a relevant age group that it is intended to admit to a school in a school year.”

*Education Act 1996*

- 14 In section 439(2) of the Education Act 1996 (c. 56) (specification of school intended to be named in a school attendance order), for “fixed in accordance with section 93 of the School Standards and Framework Act 1998 (fixing admission numbers)” there is substituted “determined in accordance with section 89 of the School Standards and Framework Act 1998 (determination of admission numbers)”. 5  
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## SCHEDULE 5

Section 53(3)

## SCHOOLS CAUSING CONCERN: AMENDMENTS CONSEQUENTIAL ON SECTIONS 52 AND 53

- 1 In section 14 of the School Standards and Framework Act 1998 (c. 31) (powers of intervention exercisable by local education authorities) for subsection (3) there is substituted – 15
- “(3) Those provisions shall not apply to a school to which section 15 applies by virtue of subsection (4) or (6) of that section (school with serious weaknesses or requiring special measures) if, in connection with the same inspection falling within subsection (4)(a) or (6)(a) of that section – 20
- (a) the Secretary of State has exercised in relation to the school his power under section 18 (power to appoint additional governors) and any additional governors appointed in the exercise of that power remain in office; or
- (b) he has exercised in relation to the school his power under section 19 (power to direct closure of school).” 25
- 2 (1) Section 16 of that Act (power of local education authority to appoint additional governors) is amended as follows.
- (2) For subsection (3) there is substituted –
- “(3) 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 – 30
- (a) the Secretary of State has given the local education authority a notice under section 16A(3) of the School Inspections Act 1996, and 35
- (b) a period of not less than ten days has elapsed since the date of the notice.”
- (3) Subsection (4) is omitted. 40
- (4) In subsection (6)(a), for “section 15(6)” there is substituted “section 15(4) or (6)”. 40
- (5) In subsection (8) –

- (a) in paragraph (a), for “section 15(6)” there is substituted “section 15(4) or (6)”, and
- (b) for paragraph (b) there is substituted –
- “(b) paragraph (a) of section 14(3) does not apply in connection with the same inspection falling within subsection (4)(a) or (6)(a) of section 15,”
- (6) For subsection (9) there is substituted –
- “(9) The power conferred by subsection (8) is only exercisable if the following conditions are satisfied, namely –
- (a) the appropriate appointing authority have received a notice in writing from the Secretary of State informing them that he has received from the Chief Inspector a notice under section 16A(2) of the School Inspections Act 1996, and
- (b) a period of not less than ten days has elapsed since the date of the notice from the Secretary of State.”
- (7) After subsection (12) there is inserted –
- “(12A) The Secretary of State may in respect of any particular school determine that subsections (3)(b) and (9)(b) shall have effect as if the reference to ten days were to such shorter period as he may determine.”
- (8) Subsection (13) is omitted.
- 3 (1) Section 17 of that Act (power of local education authority to suspend right to delegated budget) is amended as follows.
- (2) For subsection (3) there is substituted –
- “(3) 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 –
- (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 on which the copy was given.”
- (3) In subsection (4), for “subsection (3)(c)” there is substituted “subsection (3)(b)”.

## SCHEDULE 6

## Section 56

## GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS - SCHEDULE TO BE INSERTED IN SCHOOL STANDARDS AND FRAMEWORK ACT 1998 AS SCHEDULE 1A

*Interpretation of Schedule*

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- 1 (1) In this Schedule –
- “the appropriate authority” means –

- 
- (a) where this Schedule applies by virtue of a notice under section 16A(1), the local education authority who gave the notice, and
- (b) where this Schedule applies by virtue of a notice under section 18A(1), the Secretary of State; 5
- “existing governors”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;
- “the interim period”, in relation to a school in respect of which a notice under section 16A(1) or 18A(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule; 10
- “a normally constituted governing body” means a governing body constituted in accordance with regulations made by virtue of section 18 of the Education Act 2002 (governing bodies). 15
- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

*Governing body to consist of members appointed by appropriate authority*

- 2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 18 of the Education Act 2002. 20
- (2) In the following provisions of this Schedule—
- (a) the governing body as constituted in accordance with this Schedule is referred to as an “the interim executive board”, and 25
- (b) the members of the governing body as so constituted are referred to as “interim executive members”.

*Effect of notice under section 16A(1) or 18A(1)*

- 3 (1) On the date specified in the notice under section 16A(1) or 18A(1), the existing governors shall vacate office. 30
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member
- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school shall have effect, in relation to the school, as a reference to an interim executive member. 35
- (4) During the interim period, section 83 (modification of provisions making governors of foundation or voluntary school ex officio trustees) shall have effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members. 40

*Interim executive members*

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members shall be made so as to take effect on the date specified in the notice under section 16A(1) or 18A(1).

- 
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.
- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.
- (2) An interim executive member – 5
- (a) shall hold office in accordance with the terms of his appointment and subject to paragraph 18, and
- (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice. 10

*Duty of appropriate authority to inform other persons*

- 6 (1) The appropriate authority shall give a copy of the notice under section 16A(1) or 18A(1) and of every instrument of appointment of an interim executive member – 15
- (a) to every interim executive member,
- (b) to every existing governor of the school,
- (c) where the local education authority are the appropriate authority, to the Secretary of State,
- (d) where the Secretary of State is the appropriate authority, to the local education authority, 20
- (e) 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, to the appropriate diocesan authority, and
- (f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed. 25
- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

*Power to specify duration of interim period*

- 7 The appropriate authority may in the notice under section 16A(1) or 18A(1) specify the duration of the interim period. 30

*Chairman*

- 8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

*Remuneration and allowances* 35

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

*Duty of interim executive board*

- 10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school. 40

- 
- (2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

*Proceedings of interim executive board*

- 11 (1) The interim executive board may determine their own procedure.
- (2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person. 5

*Effect on suspension of delegated budget*

- 12 (1) If immediately before the date specified in a notice under section 16A(1) or 18A(1) the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date. 10
- (2) If a notice under paragraph 1 of Schedule 15 (suspension of delegated budget for mismanagement etc.) has been given to the governing body before the date specified in a notice under section 16A(1) or 18A(1) but has not yet taken effect, the notice shall cease to have effect on that date. 15
- (3) During the interim period, the local education authority may not exercise the power conferred by section 17 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7).

*Exclusion of certain statutory provisions* 20

- 13 (1) Regulations made by virtue of subsection (2) or (3) of section 18 of the Education Act 2002 (governing bodies) shall not apply in relation to the interim executive board.
- (2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board. 25
- 14 During the interim period –
- (a) the local education authority may not exercise any power conferred by section 16 (power to appoint additional governors), and
- (b) the Secretary of State may not exercise any power conferred by section 18 (power to appoint additional governors). 30

*Closure of school*

- 15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the Secretary of State recommending that the school be discontinued, and stating the reasons for that recommendation. 35
- (2) The interim executive board may not –
- (a) publish under section 29(2) proposals to discontinue the school, or
- (b) serve notice under section 30(2).
- 16 (1) Where during the interim period – 40
- (a) the Secretary of State gives a direction under section 19(1) or 32(1) in relation to the school, or



- 
- (b) the local education authority determine to discontinue the school, the interim period shall continue until the discontinuance date, even where it would otherwise end before that date.
- (2) In this paragraph “the discontinuance date” means –
- (a) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 6, 5
  - (b) the date on which the school is discontinued under section 30, or
  - (c) the date specified in the direction under section 19(1) or 32(1), as the case may be.
- Notice of resumption of government by normally constituted governing body* 10
- 17 (1) Where –
- (a) the notice under section 16A(1) or 18A(1) did not specify the duration of the interim period, and
  - (b) paragraph 16 does not apply,
- the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body. 15
- (2) The persons referred to in sub-paragraph (1) are –
- (a) every interim executive member,
  - (b) where the local education authority are the appropriate authority, the Secretary of State, 20
  - (c) where the Secretary of State is the appropriate authority, the local education authority,
  - (d) 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 25
  - (e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- Time when interim executive members cease to hold office*
- 18 (1) The interim executive members shall vacate office – 30
- (a) in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
  - (b) in a case where that paragraph does not apply and the notice under section 16A(1) or 18A(1) specified the duration of the interim period, at the end of the specified period, and 35
  - (c) in any other case, on the date specified under sub-paragraph 17 (1).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.
- Establishment of normally constituted governing body* 40
- 19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18 (1)(b) or (c), the local education authority shall make arrangements providing for the constitution of the governing body on and after that date.

- 
- (2) Regulations may make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition –
- (a) modify any provision made under any of sections 18, 19 and 22 of the Education Act 2002 or by Schedule 1 to that Act, 5
  - (b) apply any such provision with or without modifications, and
  - (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period. 10

## SCHEDULE 7

Section 62

## ACADEMIES: SUPPLEMENTARY

## PART 1

## LAND

In the Education Act 1996 (c. 56), the following Schedule is inserted after Schedule 35 – 15

## “SCHEDULE 35A

## ACADEMIES: LAND

*Transfer schemes*

- 1 (1) The Secretary of State may make a scheme in relation to land if these requirements are met – 20
- (a) a local education authority holds a freehold or leasehold interest in the land when the scheme is made;
  - (b) at any time in the period of eight years ending with the day on which the scheme is made the land was used wholly or mainly for the purposes of a county school or community school; 25
  - (c) at the time the scheme is made the land is no longer used as mentioned in paragraph (b) or the Secretary of State thinks it is about to be no longer so used; 30
  - (d) before making the scheme the Secretary of State consulted the authority.
- (2) The Secretary of State may also make a scheme in relation to land if these requirements are met –
- (a) a local education authority holds a freehold or leasehold interest in the land when the scheme is made; 35
  - (b) the land forms the whole or part of a site specified in a notice published under section 66 of the Education Act

- 2002 (new schools to meet increased demand for secondary education) as a possible site for a new school;
- (c) before making the scheme, the Secretary of State consulted the authority.
- (3) These requirements must be met as regards a scheme under sub-paragraph (1) or (2)– 5
- (a) the scheme must provide for a transfer of the authority’s interest in the land or in such part of it as is specified in the scheme;
- (b) the transfer must be to a person (the transferee) who is specified in the scheme and is concerned with the running of an Academy; 10
- (c) the transfer must be made to the transferee for the purposes of the Academy;
- (d) in the case of a scheme under sub-paragraph (2), the Academy must have been the subject of proposals published under section 66 of the Education Act 2002; 15
- (e) the scheme must provide for the transfer to the transferee of any right or liability held by the authority as holder of the interest in the land or specified part concerned. 20
- (4) In sub-paragraph (3) the reference to a right or liability –
- (a) includes a reference to a right or liability as a trustee, but
- (b) excludes a reference to a liability in respect of the principal of or interest on a loan.
- (5) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate. 25
- (6) A scheme must be so expressed that it does not come into force while the land concerned is used as mentioned in sub-paragraph (1)(b). 30
- (7) A scheme comes into force –
- (a) on the day it specifies for it to come into force, or
- (b) on the day it otherwise identifies as the day for it to come into force.
- (8) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interests, rights and liabilities to which it applies. 35
- (9) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person. 40

*Restriction on disposal*

- 2 (1) Sub-paragraph (2) applies if–
- (a) a freehold or leasehold interest in land is held by a local education authority, 45
- (b) the authority proposes to make a disposal in respect of the interest, or to enter into a contract to make a disposal in

- 
- respect of it, or to grant an option to make an acquisition in respect of it, and
- (c) at any time in the period of eight years ending with the day on which the disposal, contract or option is proposed to be made, entered into or granted, the land was used wholly or mainly for the purposes of a county school or community school. 5
- (2) Unless the Secretary of State consents, the authority must not make the disposal or enter into the contract or grant the option.
- (3) Sub-paragraph (2) does not apply to a disposal made in pursuance of a contract made, or option granted, before the coming into force of this paragraph. 10
- (4) Sub-paragraph (2) does not apply to –
- (a) a disposal in favour a person for the purposes of an Academy and for no consideration; 15
- (b) a contract to make such a disposal;
- (c) a grant of an option for a person to make an acquisition for the purposes of an Academy and for no consideration.
- (5) A disposal or contract or grant is not invalid by reason only that it is made in contravention of sub-paragraph (2). 20
- (6) A person acquiring an interest in land or entering into a contract to acquire it is not to be concerned to enquire whether consent required by sub-paragraph (2) has been given.
- 3 (1) This paragraph applies if an authority makes a disposal or enters into a contract or grants an option in contravention of paragraph 2(2). 25
- (2) In the case of a grant of an option, the Secretary of State may by notice served on the option holder repudiate the option at any time before it is exercised.
- (3) In the case of a contract to make a disposal in respect of an interest, the Secretary of State may by notice served on the other party to the contract repudiate it at any time before a conveyance of the interest is executed. 30
- (4) A repudiation under sub-paragraph (2) or (3) has effect –
- (a) when the notice is served, and 35
- (b) as if the repudiation were made by the authority.
- (5) In the case of a disposal in respect of an interest (whether or not in pursuance of an option or contract falling within sub-paragraph (2) or (3)) the Secretary of State may purchase the interest concerned compulsorily. 40
- (6) The Acquisition of Land Act 1981 (c. 67) is to apply in relation to the compulsory purchase of an interest under sub-paragraph (5).
- (7) On completion of a compulsory purchase of an interest under subsection (5) the Secretary of State must transfer it to a person concerned with the running of an Academy. 45
- (8) If the Secretary of State acquires an interest by compulsory purchase under sub-paragraph (5) he is entitled to recover from the authority an amount equal to the aggregate of –

- 
- (a) the compensation agreed or awarded in respect of the purchase,  
(b) any interest payable by him in respect of the compensation, and  
(c) the costs and expenses incurred by him in connection with the making of the compulsory purchase order. 5
- (9) The authority must provide the Secretary of State with such information as he may require it to provide in connection with a compulsory purchase under sub-paragraph (5).
- 4 (1) For the purposes of paragraphs 2 and 3— 10  
(a) references to a disposal in respect of an interest are to a disposal of the whole interest or of a lesser interest;  
(b) references to an acquisition in respect of an interest are to an acquisition of the whole interest or of a lesser interest.
- (2) If the disposal referred to in paragraph 3(3) or (5) is a disposal of a lesser interest, the reference there to the interest concerned is to the lesser interest. 15

*Restriction on appropriation*

- 5 (1) Sub-paragraph (2) applies if—  
(a) a freehold or leasehold interest in land is held by a local education authority, 20  
(b) the authority proposes to make an appropriation of the land under section 122 of the Local Government Act 1972 (c. 70), and  
(c) at any time in the period of eight years ending with the day on which appropriation is proposed to be made the land was used wholly or mainly for the purposes of a county school or community school. 25
- (2) Unless the Secretary of State consents, the authority must not make the appropriation. 30
- 6 (1) This paragraph applies if an authority makes an appropriation in contravention of paragraph 5(2).  
(2) The Secretary of State may purchase the interest concerned compulsorily.  
(3) Paragraph 3(6) to (9) apply to a compulsory purchase of an interest under sub-paragraph (2) above as they apply to a compulsory purchase of an interest under paragraph 3(5). 35

*Duty to inform*

- 7 (1) Sub-paragraph (2) applies if—  
(a) a freehold or leasehold interest in land is held by a local education authority, 40  
(b) the authority proposes to change the use of the land in such a way that (were the change made) the land would cease to be capable of use wholly or mainly for the purposes of a school, and 45

- (c) at any time in the period of eight years ending with the date of the proposed change of use the land was used wholly or mainly for the purposes of a county school or community school.

(2) The authority must inform the Secretary of State of the proposal. 5

*Former Academies*

- 8 (1) This paragraph applies if –
- (a) a freehold or leasehold interest in land is transferred from a local education authority on or after 28th July 2000,
  - (b) the transfer is made to a person for the purposes of an Academy, and 10
  - (c) the first or the second condition set out below is satisfied.
- (2) The first condition is that –
- (a) the school concerned ceases to be an Academy, and
  - (b) immediately before the school ceases to be an Academy the interest is held by a person for the purposes of the Academy. 15
- (3) The second condition is that, although the school concerned continues to be an Academy, the interest ceases to be held for the purposes of the Academy. 20
- (4) This paragraph applies whether or not the transfer is made by virtue of a scheme under paragraph 1.
- (5) Sub-paragraph (2) applies whether or not, on the school ceasing to be an Academy, it simultaneously ceases to function as a school.
- (6) The Secretary of State may make a scheme providing for the transfer of the interest – 25
- (a) from the person holding it;
  - (b) to the authority from which the transfer mentioned in sub-paragraph (1)(a) was made.
- (7) A scheme may include such supplementary, incidental, consequential or transitional provisions as the Secretary of State thinks are appropriate. 30
- (8) A scheme comes into force on the day it specifies for it to come into force.
- (9) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the interest to which it applies. 35
- (10) A transfer made by virtue of a scheme is binding on all persons (as well as on the authority and the transferee) even if, apart from this sub-paragraph, it would have required the consent or concurrence of any person. 40

*Disapplication of rule against perpetuities*

- 9 Where –
- (a) a freehold or leasehold interest in land is transferred for no consideration from a local authority to a person for the

- purposes of an Academy (whether or not by virtue of a scheme under paragraph 1), and
- (b) at any time on or after the day on which this Schedule comes into force the authority is granted an option to make a re-acquisition of the interest (subject to whatever conditions),
- the rule against perpetuities does not apply to the option.

*Other Acts*

- 10 (1) Where a lease is granted by or transferred from a local authority to a person for the purposes of an Academy on or after the day on which this Schedule comes into force, section 153 of the Law of Property Act 1925 (c.20) (enlargement of leases granted for no rent etc) does not apply to permit that person to enlarge the term under the lease. 10
- (2) Section 123(2) of the Local Government Act 1972 (c. 70) (disposal for consideration less than the best reasonably obtainable) does not apply to a disposal to a person for the purposes of an Academy. 15
- (3) Section 123(2A) of that Act (disposal of open space requires certain procedures) does not apply to a disposal which is made— 20
- (a) to a person for the purposes of an Academy, and
- (b) for no consideration.
- (4) Section 77(1) of the School Standards and Framework Act 1998 (c. 31) (restriction on disposal of playing fields) does not apply to a disposal which is made— 25
- (a) by a local authority (within the meaning of that section) to a person for the purposes of an Academy, and
- (b) for no consideration.

*Regulations*

- 11 Regulations under this Schedule may in particular include— 30
- (a) provision requiring a person to be appointed by the Secretary of State in connection with the proposed making of a scheme under paragraph 1;
- (b) provision requiring the appointed person to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1; 35
- (c) provision requiring the authority concerned to provide the appointed person with such documents as he may require in order to identify the interests, rights and liabilities to be the subject of a scheme under paragraph 1; 40
- (d) provision requiring an authority whose interest is (or is to be) transferred by virtue of a scheme under paragraph 1 to execute instruments and deliver certificates for the purposes of the enactments relating to registered land;
- (e) provision treating such an authority as having given acknowledgement in writing of the right to production of documents; 45

- (f) provision that consent under paragraph 2 is to be sought in a specified way;
- (g) provision that information is to be given under paragraph 7 in a specified way.

*Class consents* 5

- 12 For the purposes of paragraphs 2(2) and 5(2), the consent of the Secretary of State –
- (a) may be given in relation to a particular case or class of case, and
  - (b) may be given subject to conditions. 10

*Interpretation*

- 13 A dwelling-house used by an authority for occupation by a person employed to work at a school is to be treated for the purposes of this Schedule as used for the purposes of the school.”

PART 2 15

MISCELLANEOUS

*Environmental Protection Act 1990 (c.43)*

- 1 In section 98 of the Environmental Protection Act 1990 (definitions), in subsection (2)(e), for the words from “city academy” to “1996” there is substituted “Academy”. 20

*Further and Higher Education Act 1992 (c.13)*

- 2 In section 54 of the Further and Higher Education Act 1992 (duty to give information), in subsection (1)(b), for “city academy” there is substituted “Academy”.

*Disability Discrimination Act 1996 (c.50)* 25

- 3 (1) The Disability Discrimination Act 1996 has effect subject to the following amendments.
- (2) In section 28E (accessibility strategies) –
- (a) in subsection (5)(b), for “a city academy” there is substituted “an Academy”, 30
  - (b) in subsection (6)(b), after “independent school” there is inserted “(other than an Academy)”, and
  - (c) in subsection (8), for “a city academy” there is substituted “an Academy”.
- (3) In section 28K (admissions), in subsections (2)(b) and (5)(b), for “a city academy” there is substituted “an Academy”. 35
- (4) In section 28L (exclusions), in subsections (2)(b) and (5)(b), for “a city academy” there is substituted “an Academy”.
- (5) In section 28Q (interpretation), subsection (12) shall cease to have effect.



*Education Act 1996 (c.56)*

- 4 (1) The Education Act 1996 has effect subject to the following amendments.
- (2) In section 2 (definition of “secondary education” etc), in subsection (2A)(a), after “local education authority” there is inserted “or is an Academy”.
- (3) In section 316 (children with special educational needs), in subsection (4)(b)(iii), for “a city academy” there is substituted “an Academy”. 5
- (4) In section 483A (special educational needs) –
- (a) in subsection (2)(b), for “a city academy” there is substituted “an Academy”, and
- (b) subsection (7) shall cease to have effect. 10
- (5) In section 537 (power to require information), in subsection (7)(b), for “city academy” there is substituted “Academy”.
- (6) In section 541 (power to require provision of information), in subsection (1)(b), for “city academy” there is substituted “Academy”.
- (7) In section 550B (detention), in subsection (2)(c), for “city academy” there is substituted “Academy”. 15
- (8) In section 580 (index), at the appropriate place in the table there is inserted –
- |          |              |
|----------|--------------|
| “Academy | section 482” |
|----------|--------------|

*School Inspections Act 1996 (c.57)*

20

- 5 (1) The School Inspections Act 1996 has effect subject to the following amendments.
- (2) In section 10 (schools subject to inspection) –
- (a) in subsection (3)(gg), for “city academies” there is substituted “Academies”, and 25
- (b) in subsection (4B)(d), for “city academy” there is substituted “Academy”.
- (3) In section 11 (application of provisions of Chapter 2), in subsection (5)(a), for “or (g)” there is substituted “, (g) or (gg)”.

*Education Act 1997 (c.44)*

30

- 6 In section 43 of the Education Act 1997 (provision of careers education), in subsection (2)(d), for “city academies” there is substituted “Academies”.

*School Standards and Framework Act 1998 (c.31)*

- 7 In section 110 of the School Standards and Framework Act 1998 (home-school agreements), in subsection (1)(b), for “a city academy” there is substituted “an Academy”. 35

*Learning and Skills Act 2000 (c.21)*

- 8 In section 117 of the Learning and Skills Act 2000 (information and access), in subsection (3)(b), for “city academies” there is substituted “Academies”.

## SCHEDULE 8

Section 66

## PROPOSALS FOR ADDITIONAL SECONDARY SCHOOLS: SUPPLEMENTARY

*Introductory*

- 1 (1) This Schedule applies to proposals published under section 66.
- (2) In this Schedule—
- “interested parties”, in relation to a proposal, means the promoters of the proposal and any other person who made a proposal pursuant to the same notice under section 66; 5
  - “promoters”, in relation to a proposal, means the persons who made the proposal (but does not include a local education authority); 10
  - “school organisation committee”, in relation to a proposal, means the school organisation committee (within the meaning of section 24(4) of the School Standards and Framework Act 1998 (c. 31)) for the area of the local education authority which published the proposal.

*Procedure before approval by Secretary of State* 15

- 2 (1) Regulations shall make provision for the submission of a proposal for decision by the Secretary of State after being considered and commented on by the school organisation committee.
- (2) Regulations under this paragraph may in particular make provision—
- (a) for the making of objections or comments to a local education authority in relation to proposals published by them; 20
  - (b) for the submission of proposals to the school organisation committee;
  - (c) for consultation by the school organisation committee;
  - (d) for consideration of proposals by the school organisation committee (which may include provision for the committee to have regard to guidance given from time to time by the Secretary of State); 25
  - (e) for the submission of proposals to the Secretary of State;
  - (f) for the withdrawal of proposals;
  - (g) requiring any of the following to provide such information to such persons at such times as the regulations may prescribe— 30
    - (i) the promoters or, if the proposal was made by a local education authority, that authority;
    - (ii) the school organisation committee.

*Approval of proposals for maintained schools* 35

- 3 (1) Where, under paragraph 2, the Secretary of State receives a proposal to establish a community, foundation or voluntary school, he shall—
- (a) reject the proposal,
  - (b) approve it without modification, or
  - (c) approve it with such modifications as he thinks desirable after consulting such persons as may be prescribed. 40
- (2) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified.

- (3) Where the specified event does not occur by that date (or, where a later date is specified under paragraph 5(2)(b), that later date), the proposal falls to be considered afresh under sub-paragraph (1).
- (4) The Secretary of State shall notify the interested parties and the local education authority which published the proposal of any decision under sub-paragraph (1). 5

*Negotiations to establish an Academy*

- 4 Where the Secretary of State receives under paragraph 2 a proposal to establish an Academy, he shall notify the interested parties and the local education authority which published the proposal if he decides to commence negotiations with a view to entering an agreement under section 482 of the Education Act 1996 (c. 56) for the establishment of the Academy. 10

*Requirement to implement proposal to establish maintained school*

- 5 (1) Where any proposal to establish a community, foundation or voluntary school has been approved under paragraph 3, then (subject to the following provisions of this paragraph) the proposal shall be implemented, in the form in which it was so approved, in accordance with this Schedule. 15
- (2) At the request of any prescribed persons, the Secretary of State—
  - (a) may modify the proposal after consulting such persons as may be prescribed, and 20
  - (b) where any approval was given in accordance with paragraph 3(2), may specify a later date by which the event in question must occur.
- (3) If, after consulting such persons as may be prescribed, the Secretary of State is satisfied—
  - (a) that implementation of the proposal would be unreasonably difficult, or 25
  - (b) that circumstances have so altered since approval was given under paragraph 3 that implementation of the proposal would be inappropriate,he may determine that sub-paragraph (1) shall cease to apply to the proposal. 30

*Proposal relating to community school*

- 6 A proposal to establish a community school which falls to be implemented under paragraph 5 must be implemented by the local education authority that made it. 35

*Proposal relating to foundation or voluntary controlled schools*

- 7 (1) This paragraph applies to a proposal to establish a foundation or voluntary controlled school which falls to be implemented under paragraph 5.
- (2) A proposal made by a local education authority must be implemented by the authority. 40
- (3) In any other case, the proposal must be implemented by the local education authority which published it and the promoters, respectively, to such extent (if any) as the proposal provides for each of them to do so.

- (4) Where a local education authority are required under sub-paragraph (2) or (3) to provide a site for a proposed foundation or voluntary controlled school, paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (provision of site and buildings for foundation, voluntary controlled or foundation special school) applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph. 5

*Proposal relating to voluntary aided schools*

- 8 (1) This paragraph applies to a proposal to establish a voluntary aided school which falls to be implemented under paragraph 5. 10
- (2) It shall be implemented –
- (a) so far as relating to the provision of any relevant premises for the school, by the local education authority which published the proposal, and
- (b) otherwise by the promoters.
- (3) In sub-paragraph (2) “relevant premises” means – 15
- (a) in a case where it is proposed to establish the school at the site specified in the notice under section 66, that site or playing fields, and
- (b) in any other case, playing fields.
- (4) Paragraph 17 of Schedule 6 to the School Standards and Framework Act 1998 (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in sub-paragraph (1)(b) of that paragraph. 20
- (5) Paragraph 19 of that Schedule (assistance from LEA in respect of voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in that paragraph, and paragraph 20 of that Schedule (duty on LEA to transfer interest in premises provided under paragraph 19) applies accordingly. 25 30

*Proposal relating to Academies*

- 9 (1) Where a proposal to establish an Academy published under section 66 is implemented by the Secretary of State making an agreement under section 482 of the Education Act 1996 (c. 56), subsection (3) of that section (requirement to consult certain LEAs about the establishment of the school) does not apply. 35
- (2) In section 530 of the Education Act 1996 (compulsory purchase of land), after subsection (1)(b) there is inserted “, or
- (c) is required for the purposes of any Academy which has been or is to be established as a result of the implementation of proposals made pursuant to a notice published by the local education authority under section 66 of the Education Act 2002, and forms the whole or part of the site identified in that notice in accordance with subsection (3)(a) of that section.” 40 45

SCHEDULE 9

Section 68

PROPOSALS RELATING TO SIXTH FORMS: IMPLEMENTATION

In the Learning and Skills Act 2000 (c. 21), after Schedule 7 there is inserted –

“SCHEDULE 7A 5

IMPLEMENTATION OF PROPOSALS FOR RESTRUCTURING SIXTH-FORM EDUCATION

*Introductory*

- 1 (1) This Schedule applies to proposals under section 113A which have been approved by the relevant authority under that section.
- (2) The proposals shall (subject to the following provisions of this paragraph) be implemented in the form in which they were so approved, in accordance with this Schedule. 10
- (3) At the request of any persons prescribed in regulations, the relevant authority –
  - (a) may modify the proposals after consulting such persons as may be prescribed, and 15
  - (b) where any approval was given subject to the occurrence of a specified event, may specify a later date by which the event in question must occur.
- (4) If the relevant authority is satisfied, after consulting such persons as may be prescribed in regulations –
  - (a) that implementation of the proposals would be unreasonably difficult, or
  - (b) that circumstances have so altered since approval was given under section 113A that implementation of the proposals would be inappropriate, 25it may determine that sub-paragraph (2) shall cease to apply to the proposal.

*Proposals to establish a school*

- 2 To the extent that the proposals are proposals to establish a school, they shall be implemented by the local education authority which it is proposed shall establish the school. 30

*Proposals to make a prescribed alteration*

- 3 (1) To the extent that the proposals are proposals to make a prescribed alteration to a school, they shall be implemented in accordance with this paragraph. 35
- (2) Where the proposals relate to a community school, they shall be implemented by the local education authority which maintains the school.

- 
- (3) Where the proposals relate to a voluntary aided school, they shall be implemented –
- (a) so far as relating to the provision of any relevant premises, by the local education authority which maintains the school, and 5
  - (b) otherwise, by the governing body of the school.
- (4) For this purpose “relevant premises” means –
- (a) in relation to a local education authority in England, playing fields, and
  - (b) in relation to a local education authority in Wales – 10
    - (i) playing fields, or
    - (ii) buildings which are to form part of the school premises but are not to be school buildings (within the meaning of the Education Act 1996).
- (5) Where the proposals relate to any other school, they shall be implemented by the local education authority which maintains the school and the governing body of the school, respectively, to such extent (if any) as the proposals provide for each of them to do so. 15
- Proposals to discontinue a school* 20
- 4 To the extent that the proposals are proposals to discontinue a school they shall be implemented –
- (a) in the case of proposals relating to a community or community special school, by the local education authority which maintains the school, and 25
  - (b) in any other case, by the local education authority which maintains the school and the governing body of the school.
- Supplementary*
- 5 Where a local education authority are required under this Schedule to provide a site for a foundation or voluntary controlled school or foundation special school (or a proposed such school), paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph. 30
- 6 Paragraph 17 of that Schedule (grants in respect of certain expenditure relating to voluntary aided schools) applies in relation to the obligation under paragraph 3(3)(b) of this Schedule as it applies in relation to the obligations referred to in sub-paragraph (1)(a) of that paragraph 17. 35
- 7 Paragraph 18 of that Schedule (assistance from LEA in respect of voluntary aided schools) applies in relation to obligations imposed on the governing body of a voluntary aided school under this Schedule as it applies in relation to the obligations referred to in that paragraph, and paragraph 20 of that Schedule (duty on LEA to transfer interest in premises provided under paragraph 18) applies accordingly.” 40  
45

SCHEDULE 10

Section 71

ESTABLISHMENT ETC OF SCHOOLS: PROCEDURAL CHANGES

*Proposals for establishment, alteration and discontinuance of schools*

- 1 Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (procedure and implementation of statutory proposals) has effect subject to the following amendments. 5
- 2 (1) Paragraph 2 (objections) is amended as follows.  
(2) In sub-paragraph (1), after “objections to” there is inserted “, or comments on,”.  
(3) In sub-paragraph (2) – 10
  - (a) in paragraph (a) –
    - (i) after “objections” there is inserted “or comments”, and
    - (ii) for ““the objection period”” there is substituted ““the representation period””, and
  - (b) in paragraph (b) – 15
    - (i) after “objections” there is inserted “or comments”, and
    - (ii) for “the objection period” there is substituted “the representation period”.
- (4) In sub-paragraph (3), after “objections” there is inserted “or comments”.
- 3 (1) Paragraph 3 (approval of proposals) is amended as follows. 20
  - (2) In sub-paragraph (1)(a)(i), for “objection period” there is substituted “representation period”.
  - (3) In sub-paragraph (2), at the end there is inserted “or
    - (d) if the committee think it appropriate to do so, and subject to regulations, refer them to the adjudicator.” 25
  - (4) After sub-paragraph (6) there is inserted –
    - “(6A) Where the committee reject proposals published by promoters for the establishment of a new foundation or voluntary school, the committee shall, if the promoters so request, refer the proposals to the adjudicator. 30
    - (6B) Sub-paragraph (6A) does not apply in relation to proposals published –
      - (a) by the Diocesan Board of Education for a diocese of the Church of England, or
      - (b) by or on behalf of the Bishop and Trustees of a diocese of the Roman Catholic Church. 35
    - (6C) Where the committee reject proposals to make an alteration to a school which are published by the governing body of the school under section 28, and –
      - (a) the school is of a prescribed description, and
      - (b) the alteration is of a prescribed description, 40the committee shall refer the proposals to the adjudicator if the governing body so request.”
  - (5) In sub-paragraph (7) –

- (a) for “sub-paragraph (5) or (6)” there is substituted “this paragraph”,  
and
- (b) after “sub-paragraphs (2) to (4)” there is inserted “(other than sub-paragraph (2)(d))”.
- 4 (1) Paragraph 4 (determination by LEA whether to implement proposals) is amended as follows. 5
- (2) In sub-paragraph (1)(b), for “objection period” there is substituted “representation period”.
- (3) After sub-paragraph (4) there is inserted –
- “(4A) The authority may, if they think it appropriate to do so and subject to regulations, refer to the relevant committee any proposals which would otherwise fall to be determined by the authority under this paragraph.” 10
- (4) In sub-paragraph (5), after paragraph (b) there is inserted “or
- (c) the authority refer the proposals to the relevant committee,”. 15
- 5 (1) Paragraph 5 (requirement to implement proposals) is amended as follows.
- (2) After sub-paragraph (6) there is inserted –
- “(6A) The committee may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any matter which would otherwise fall to be determined by the committee under this paragraph.” 20
- (3) In sub-paragraph (7), for “sub-paragraph (5) or (6)” there is substituted “this paragraph”.
- (4) In sub-paragraph (9), the words “or (8)” shall cease to have effect. 25
- (5) After that sub-paragraph there is inserted –
- “(10) Where, by virtue of sub-paragraph (8), sub-paragraph (1) ceases to apply to any proposals approved by the relevant committee under paragraph 3, those proposals shall be regarded as requiring fresh approval under that paragraph. 30
- (11) Where, by virtue of sub-paragraph (8), sub-paragraph (1) ceases to apply to any proposals approved by the adjudicator under paragraph 3, those proposals fall to be considered afresh by him under that paragraph (and sub-paragraph (7) of that paragraph shall accordingly apply).” 35
- 6 (1) Paragraph 10 (requirement to implement proposals in Wales) is amended as follows.
- (2) In sub-paragraph (6), the words “or (5)” shall cease to have effect.
- (3) After that sub-paragraph there is inserted –
- “(7) Where, by virtue of sub-paragraph (5), sub-paragraph (1) ceases to apply to any proposals, those proposals shall be regarded as requiring fresh approval under paragraph 8.” 40



*Proposals for rationalisation of school places*

- 7 Schedule 7 to the School Standards and Framework Act 1998 (c. 31) (procedure on proposals for rationalisation of school places) has effect subject to the following amendments.
- 8 In paragraph 7 (objections) – 5
- (a) in sub-paragraph (1), after “objections to” there is inserted “, or comments on,” and
  - (b) in sub-paragraph (2), after “Objections” there is inserted “or comments”.
- 9 (1) Paragraph 8 (approval of proposals) is amended as follows. 10
- (2) In sub-paragraph (2), after “must” there is inserted “(subject to sub-paragraph (2A))”.
- (3) After that sub-paragraph there is inserted –
- “(2A) The committee may, if they think it appropriate to do so and subject to regulations, refer to the adjudicator any proposals which would otherwise fall to be dealt with by them under sub-paragraph (2).” 15
- (4) In sub-paragraph (7), for “sub-paragraph (5) or (6)”, in both places, there is substituted “this paragraph”.
- 10 In paragraph 9 (local inquiry), in sub-paragraph (1) – 20
- (a) for “paragraph 8(5) or (6)” there is substituted “paragraph 8”, and
  - (b) in paragraph (c), after “objections” (in both places) there is inserted “or comments”.

*Proposals in relation to sixth forms*

- 11 Schedule 7 to the Learning and Skills Act 2000 (c. 21) (procedure on proposals in relation to inadequate sixth forms) has effect subject to the following amendments. 25
- 12 In paragraph 34, after “objections to” there is inserted “, or comments on,”.
- 13 (1) Paragraph 35 (consideration of proposals by school organisation committee) is amended as follows. 30
- (2) In sub-paragraph (1), at the end there is inserted “or
- (d) if the committee think it appropriate to do so, and subject to regulations, refer them to the adjudicator.”
- (3) In sub-paragraph (2)(c), after “objections” there is inserted “or comments”.
- (4) In sub-paragraph (4), for “be treated as being rejected at that time” there is substituted “fall to be considered afresh under sub-paragraph (1)”. 35
- (5) In sub-paragraph (7), for “sub-paragraphs (1) to (4)” there is substituted “sub-paragraphs (1)(a) to (c) and (2) to (4)”.
- 14 In paragraph 37 (referral of questions to adjudicator), after sub-paragraph (2) there is inserted – 40
- “(2A) A committee may, where they think it appropriate to do so and subject to regulations, refer to the adjudicator the question mentioned in sub-paragraph (1).”

- 15 In paragraph 42 (consideration of proposals in Wales), in sub-paragraph (4), for “be treated as being rejected at that time” there is substituted “fall to be considered afresh under sub-paragraph (1)”.

## SCHEDULE 11

Section 115

## SCHOOL TEACHERS’ REVIEW BODY 5

*Membership*

- 1 There shall be not less than five or more than nine members of the Body (including the chairman).
- 2 A member shall hold and vacate office in accordance with the terms of his appointment (subject to the following provisions of this Schedule). 10
- 3 A member may resign by notice in writing to the Secretary of State.
- 4 The Secretary of State may by notice in writing dismiss a member if the member –
- (a) is adjudged bankrupt,
  - (b) enters into an arrangement with his creditors, or 15
  - (c) is, in the opinion of the Secretary of State, unable, unfit or unwilling to perform his duties whether by reason of physical or mental illness or otherwise.
- 5 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices) for the entry relating to the body established under the School Teachers’ Pay and Conditions Act 1991 (c. 49) there shall be substituted the following – 20
- “Member, in receipt of remuneration, of the School Teachers’ Review Body.”

*Chairman* 25

- 6 The chairman may by notice in writing to the Prime Minister –
- (a) resign as chairman, or
  - (b) resign as chairman and as a member of the Body.
- 7 Paragraph 4 shall apply to the chairman and for that purpose – 30
- (a) a reference to the Secretary of State shall be taken as a reference to the Prime Minister, and
  - (b) the power may be exercised so as to dismiss the chairman only from that office or also from membership of the Body.
- 8 If the chairman ceases to be a member of the Body he also ceases to be chairman. 35

*Deputy chairman*

- 9 The Secretary of State may appoint a member of the Body to act as deputy chairman.

- 10 The deputy chairman may by notice in writing to the Secretary of State—  
(a) resign as deputy chairman, or  
(b) resign as deputy chairman and as a member of the Body.
- 11 If the deputy chairman ceases to be a member of the Body he also ceases to be deputy chairman. 5

*Money*

- 12 (1) This paragraph applies to—  
(a) a member of the Body;  
(b) the chairman;  
(c) the deputy chairman. 10
- (2) The Secretary of State may pay remuneration and allowances to a person to whom this paragraph applies.
- (3) The Secretary of State may make payments to or in respect of a person to whom this paragraph applies by way of or in connection with—  
(a) a pension; 15  
(b) an allowance or gratuity on retirement or death.
- (4) The Secretary of State may pay compensation to a person who ceases to be a member of the Body if the Secretary of State thinks it right by reason of special circumstances.

*Proceedings*

20

- 13 The Body shall determine their own proceedings (including any provision for a quorum).
- 14 The validity of proceedings of the Body shall not be affected by—  
(a) a vacancy in the membership,  
(b) a vacancy in the position of chairman, or 25  
(c) a defect in the appointment of a member.

*Transitional provision*

- 15 An appointment made by the Prime Minister under section 1(1) of the School Teachers’ Pay and Conditions Act 1991 (c. 49) shall continue to have effect, subject to paragraphs 3, 4 and 6 to 11, after the commencement of this Schedule. 30

SCHEDULE 12

Section 143

THE GENERAL TEACHING COUNCILS FOR ENGLAND AND WALES

PART 1

AMENDMENTS OF TEACHING AND HIGHER EDUCATION ACT 1998 35

- 1 The Teaching and Higher Education Act 1998 (c. 30) is amended as follows.

- 
- 2 In section 2 (which relates to the advisory functions of the General Teaching Council for England, and is applied by section 9 in relation to the General Teaching Council for Wales), in subsection (2) before the word “and” immediately following paragraph (e) there is inserted –
- “(ee) the supply of teachers; 5
  - (ef) the retention of teachers within the teaching profession;
  - (eg) the standing of the teaching profession;”.
- 3 (1) Section 3 (which relates to the registration of teachers with the General Teaching Council for England, and is applied by section 9 in relation to the General Teaching Council for Wales) is amended as follows. 10
- (2) In subsection (1) for “a register of teachers” there is substituted “a register for the purposes of this Chapter”.
- (3) In subsection (2), for “registration” there is substituted “full or provisional registration”.
- (4) In subsection (3) for “registration”, where first occurring and in paragraph (b), there is substituted “full registration”. 15
- (5) After subsection (3) there is inserted –
- “(3A) A person is eligible for provisional registration if he satisfies such conditions as may be prescribed.
  - (3B) A person is not eligible for provisional registration or full registration unless at the relevant time the Council are or were satisfied as to his suitability to be a teacher. 20
  - (3C) In subsection (3B) “the relevant time” means –
    - (a) in relation to an applicant for provisional registration or an applicant for full registration who is already registered with provisional registration, the time of provisional registration, or 25
    - (b) in the case of an applicant for full registration who is not already registered with provisional registration, the time of full registration. 30
  - (3D) Regulations may provide that any prescribed description of person is, or is not, to be taken to be suitable to be a teacher.”
- (6) In subsection (4), for “registration” there is substituted “full registration”.
- 4 (1) Section 4 (which relates to regulations about the registration of teachers with the General Teaching Council for England, and is applied by section 9 in relation to the General Teaching Council for Wales) is amended as follows. 35
- (2) In subsection (2), after paragraph (b) there is inserted –
- “(ba) the service on applicants for registration of notice of the Council’s decision to grant or refuse the application and, in the case of a refusal, of the grounds on which the decision was taken and (where applicable) of the applicant’s right to appeal against the decision under section 4A;” 40
- (3) After subsection (4) there is inserted –
- “(4A) The Council, in exercising any power to fix fees authorised by virtue of subsection (4), shall have regard to the expenditure of the Council in exercising – 45

- 
- (a) their functions under this Act relating to registration, and  
(b) all other functions conferred on them under this Act or any other enactment.”
- (4) After subsection (5) there is inserted –
- “(6) In this section “registration” means full registration or provisional registration.” 5
- 5 After section 4 there is inserted –
- “4A Appeals against refusal of registration**
- (1) Regulations shall make provision for conferring on a person aggrieved by a decision made on relevant grounds to refuse an application made by him for registration under section 3 a right to appeal against the decision to the High Court within 28 days from the date on which notice of the decision is served on him. 10
- (2) The reference in subsection (1) to a decision made on relevant grounds is to a decision made on the ground that at the relevant time the Council were not satisfied of the applicant’s suitability to be a teacher. 15
- (3) On such an appeal the Court may make any order which appears appropriate.
- (4) No appeal shall lie from any decision of the Court on such an appeal.” 20
- 6 After section 6 there is inserted –
- “6A Power to promote teaching profession**
- (1) The Council may undertake activities designed to promote the standing of the teaching profession. 25
- (2) Without prejudice to the generality of subsection (1), such activities may include –
- (a) giving advice,  
(b) organising conferences and lectures, and  
(c) arranging for the publication of material in any form.” 30
- 7 In section 9(1) (which lists provisions applying to the General Teaching Council for Wales), for “and section 7” there is substituted –  
“section 6A, and  
section 7,”
- 8 In section 12 (deduction of fees from salaries etc) in subsection (4), after “section –” there is inserted –  
““registration” means full registration or provisional registration;” 35
- 9 In section 42 (orders and regulations), in subsection (2) (a) (orders subject to negative resolution procedure), after “section 7 or 8” there is inserted “or paragraph 18 of Schedule 1”. 40

- 
- 10 In section 43(1) (general interpretation), in the definition of “registered teacher” after “section 3” there is inserted “with full or provisional registration”.
- 11 In Schedule 1 (constitution etc. of General Teaching Council for England), after paragraph 17 there is inserted – 5
- “Power to amend Schedule*
- 18 (1) The Secretary of State may by order amend the preceding provisions of this Schedule for the purpose of removing or relaxing any control exercisable by him by virtue of any of the provisions of this Schedule specified in sub-paragraph (2). 10
- (2) Those provisions are –
- (a) paragraph 2(3),
  - (b) paragraph 4,
  - (c) paragraph 5,
  - (d) paragraph 6, 15
  - (e) paragraph 11
  - (f) paragraph 14(2).”
- 12 (1) Schedule 2 (disciplinary powers of Council) is amended as follows.
- (2) For paragraph 4 (suspension orders) there is substituted –
- “4 (1) Where a suspension order is made in relation to a person – 20
- (a) he shall cease to be eligible for registration under section 3, and
  - (b) if he is a registered person at the time when the order is made, his name shall be removed from the register accordingly, 25
- but, subject to sub-paragraph (2), he shall become so eligible again at the end of such period not exceeding two years as may be specified in the order.
- (2) A suspension order may specify conditions to be complied with by the person to whom the order relates and where it does so – 30
- (a) that person shall become eligible again for registration under section 3 at the end of the period specified under sub-paragraph (1) only if he has then complied with the conditions; and
  - (b) if he has not then complied with the conditions, he shall not become so eligible again until he has complied with the conditions. 35
- (3) Sub-paragraphs (a) and (b) of paragraph 3(2) apply in relation to a suspension order as they apply in relation to a conditional registration order. 40
- (4) A person in relation to whom conditions have been specified in a suspension order may, in accordance with regulations, apply to the Council for them to vary or revoke any of the conditions.”
- (3) In paragraph 8 (interpretation), after sub-paragraph (1) there is inserted –

“(1A) References in this Schedule to registration under section 3 are references to registration under that section with full or provisional registration.”

PART 2

AMENDMENTS OF OTHER ENACTMENTS

5

- 13 The Police Act 1997 (c. 50) is amended as follows.
- 14 In section 113 (criminal record certificates), after subsection (3F) (as inserted by paragraph 7(3) of Schedule 13) there is inserted –
- “(3G) The references in subsections (3A) and (3C) to considering the applicant’s suitability to be employed, supplied to work, found work or given work in a position falling within subsection (3B) or (3D) include references to considering, for the purposes of section 3 of the Teaching and Higher Education Act 1998 (registration of teachers with the General Teaching Council for England or the General Teaching Council for Wales) his suitability to be a teacher.”
- 15 (1) Section 115 (enhanced criminal record certificates) is amended as follows.
- (2) In subsection (5), after paragraph (eb) there is inserted –
- “(ec) registration under section 3 of the Teaching and Higher Education Act 1998 (registration of teachers with the General Teaching Council for England or the General Teaching Council for Wales);”.
- (3) After subsection (6BA) (as inserted by paragraph 8(3) of Schedule 13) there is inserted –
- “(6BB) The references in subsections (6A) and (6B) to considering the applicant’s suitability to be employed, supplied to work, found work or given work in a position falling within section 113(3B) or (3D) include references to considering, for the purposes of section 3 of the Teaching and Higher Education Act 1998 his suitability to be a teacher.”

SCHEDULE 13

Section 147

30

REGULATION OF CHILD MINDING AND DAY CARE

*Consent to checks on suitability*

- 1 In section 79B of the Children Act 1989 (c. 41) (persons qualified for registration for child minding or day care), after subsection (5) there is inserted –
- “(5A) Where, for the purposes of determining a person’s qualification for registration under this Part –
- (a) the registration authority requests any person (“A”) to consent to the disclosure to the authority by another person (“B”) of any information relating to A which is held by B and is of a prescribed description, and

- (b) A does not give his consent (or withdraws it after having given it),  
the registration authority may, if regulations so provide and it thinks it appropriate to do so, regard A as not suitable to look after children under the age of eight, or not suitable to be in regular contact with such children.” 5

*Suspension of registration*

- 2 In section 79H of that Act (suspension of registration), after subsection (2) there is inserted—
- “(3) A person registered under this Part for child minding by the Chief Inspector shall not act as a child minder in England at a time when that registration is suspended in accordance with regulations under this section. 10
- (4) A person registered under this Part for child minding by the Assembly shall not act as a child minder in Wales at a time when that registration is so suspended. 15
- (5) A person registered under this Part for providing day care on any premises shall not provide day care on those premises at any time when that registration is so suspended.
- (6) If any person contravenes subsection (3), (4) or (5) without reasonable excuse, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.” 20

*Rights of appeal in relation to registration*

- 3 (1) Section 79M of that Act (appeals) is amended as follows. 25
- (2) In subsection (1), after paragraph (b) there is inserted “or  
(c) a determination made by the registration authority under this Part (other than one falling within paragraph (a) or (b)) which is of a prescribed description,”.
- (3) In subsection (2)(a), after “order” there is inserted “or determination”. 30

*Inspections by Chief Inspector*

- 4 (1) Section 79Q of that Act (inspection of childminding and day care) is amended as follows.
- (2) In subsection (2), for the words from “secure” to the end there is substituted “at prescribed intervals inspect, or secure the inspection by a registered inspector of, any child minding provided in England by a registered person”. 35
- (3) In subsection (3), for the words from “secure” to the end there is substituted “at prescribed intervals inspect, or secure the inspection by a registered inspector of, any day care provided by a registered person on any premises in England”. 40



*Rights of entry etc*

- 5 (1) Section 79U of that Act (rights of entry etc) is amended as follows.
- (2) In subsection (1), for “An authorised inspector” there is substituted “Any person authorised for the purposes of this subsection by the registration authority”. 5
- (3) In subsection (2), for “an authorised inspector” there is substituted “a person who is authorised for the purposes of this subsection by the registration authority”.
- (4) After that subsection there is inserted –
- “(2A) Authorisation under subsection (1) or (2) – 10
- (a) may be given for a particular occasion or period;
- (b) may be given subject to conditions.”
- (5) In subsection (3), for the words from “An inspector” to “may –” there is substituted “A person entering premises under this section may (subject to any conditions imposed under subsection (2A)(b)) –”. 15
- (6) Subsection (5) shall cease to have effect.
- (7) In subsection (9), the definition of “authorised inspector” shall cease to have effect.

*Disqualification for registration*

- 6 In paragraph 4 of Schedule 9A to that Act (disqualification for registration for child minding and day care), after sub-paragraph (3) there is inserted – 20
- “(3A) Regulations under this paragraph may provide for a person not to be disqualified for registration by reason of any fact which would otherwise cause him to be disqualified if –
- (a) he has disclosed the fact to the registration authority, 25
- and
- (b) the registration authority has consented in writing to his registration and has not withdrawn that consent.”

*Disclosure of criminal record*

- 7 (1) Section 113 of the Police Act 1997 (c. 50) (criminal record certificates) is 30
- amended as follows.
- (2) In subsection (3E)(c) the words “under Part XA of the Children Act 1989” are omitted.
- (3) After that subsection there is inserted –
- “(3F) The references in subsections (3A) and (3C) to considering the 35
- applicant’s suitability to be employed, supplied to work, found work or given work in a position falling within subsection (3B) or (3D) include references to considering, for the purposes of Part 10A of the Children Act 1989 (child minding and day care in England and Wales), his suitability – 40
- (a) to look after or be in regular contact with children under the age of eight, or

- (b) in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, to look after children within the meaning of that section.”
- 8 (1) Section 115 of that Act (enhanced criminal record certificates) is amended as follows. 5
- (2) In subsection (5)(e), after “that Act” there is inserted “, or the holding of a certificate under section 79W of that Act,”.
- (3) After subsection (6B) there is inserted –
- “(6BA) The references in subsections (6A) and (6B) to considering the applicant’s suitability to be employed, supplied to work, found work or given work in a position falling within section 113(3B) or (3D) include references to considering, for the purposes of Part 10A of the Children Act 1989 (child minding and day care in England and Wales) his suitability – 10
- (a) to look after or be in regular contact with children under the age of eight, or 15
- (b) in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, to look after children within the meaning of that section.” 20

## SCHEDULE 14

Section 150

## INSPECTION OF NURSERY EDUCATION

*Conduct of inspections by Inspectorate*

- 1 In paragraph 6 of Schedule 26 to the School Standards and Framework Act 1998 (c. 31) (inspection of nursery education in England and Wales), in subparagraph (1)(a), (b) and (c) (Chief Inspector to secure that nursery education be inspected by registered inspector), after “inspected by” there is inserted “a member of the Inspectorate or”. 25

*Registration of inspectors*

30

- 2 (1) Paragraph 8 of that Schedule (registration of inspectors) is amended as follows.
- (2) In sub-paragraph (3), for “(5)(c)” there is substituted “(5B)”.
- (3) For sub-paragraphs (4) and (5) there is substituted –
- “(4) Subject to that, the Chief Inspector shall register such persons as he considers appropriate. 35
- (5) The factors which the Chief Inspector may take into account for the purposes of sub-paragraph (4) include the extent to which there is a need for registered inspectors in any part of England and Wales. 40
- (5A) The Chief Inspector may require payment of a fee before registering a person under sub-paragraph (4).

- (5B) Registration under sub-paragraph (4) may be subject to such conditions as the Chief Inspector considers it appropriate to impose.”
- (4) In sub-paragraphs (6) and (7), for “(5)(c)” there is substituted “(5B)”.
- (5) Sub-paragraph (9) shall cease to have effect. 5
- 3 In paragraph 9 of that Schedule (removal from register), in sub-paragraphs (2)(c) and (4), for “paragraph 8(5)(c)” there is substituted “paragraph 8(5B)”.

### Appeals

- 4 (1) Paragraph 10 of that Schedule (appeals relating to registration) is amended as follows. 10
- (2) After sub-paragraph (1) there is inserted –
- “(1A) An appeal under sub-paragraph (1) against a decision of Her Majesty’s Chief Inspector of Schools in England shall be made to the Tribunal established under section 9 of the Protection of Children Act 1999”. 15
- (3) In sub-paragraph (2), after “sub-paragraph (1)” there is inserted “against a decision of Her Majesty’s Chief Inspector of Education and Training in Wales”.
- 5 In section 9(2) of the Protection of Children Act 1999 (c. 14) (jurisdiction of the Tribunal), for paragraph (ca) there is substituted – 20
- “(ca) on an appeal under paragraph 10(1A) of Schedule 26 to the School Standards and Framework Act 1998;”.
- 6 Nothing in paragraph 4 or 5 affects appeals made under paragraph 10(1) of the School Standards and Framework Act 1998 (c. 31) before the commencement of this Schedule. 25

## SCHEDULE 15

Section 180

### EDUCATION ACTION ZONES

#### Introductory

- 1 Chapter 3 of Part 1 of the School Standards and Framework Act 1998 is amended as follows. 30

#### Establishment of education action zones

- 2 (1) In section 10, in subsection (1) for “maintained schools” there is substituted “eligible schools”.
- (2) After that subsection there is inserted –
- “(1A) For the purposes of subsection (1) “eligible school” means – 35
- (a) a maintained school;
- (b) a nursery school;
- (c) a pupil referral unit; or

- (d) an independent school.”
- (3) Subsection (3) of that section is omitted.
- (4) In subsection (4) of that section, for “, (2) or (3)” there is substituted “or (2)”.
- (5) In subsection (6) of that section, for paragraphs (a) and (b) there is substituted – 5
- “(a) references to a governing body –
- (i) in relation to an independent school (other than an Academy, city technology college or city college for the technology of the arts), are to the proprietor of the school, and 10
- (ii) in relation to a new school, include the temporary governing body of the school;
- (b) “participating school”, in relation to an education action zone, means one of the schools that –
- (i) for the time being is included in the order under subsection (1), or 15
- (ii) has been added to the zone by virtue of section 11B, other than a school that has been removed from the zone in accordance with section 11C;
- (c) “pupil referral unit” has the same meaning as in section 19 of the Education Act 1996 (c. 56); 20
- (d) “new school” has the meaning given in section 72(3).”
- (6) Subsection (7) of that section is omitted.

#### *Constitution of Education Action Forum*

- 3 In section 11, the following provisions are omitted – 25
- (a) in subsection (2) the words from “and” to the end, and
- (b) subsection (3).
- 4 After that section there is inserted –

#### **“11A Constitution of Education Action Forum**

- (1) The members of an Education Action Forum must include – 30
- (a) one person appointed by the governing body of each of the participating schools, unless the governing body of any such school choose not to make such an appointment, and
- (b) one or two persons appointed by the Secretary of State, unless he chooses not to make such appointments. 35
- (2) Subject to that, an Education Action Forum –
- (a) shall initially be constituted in accordance with the order under section 10(1), and
- (b) may subsequently alter its membership (as set out in that order or as previously altered under this paragraph). 40
- (3) In subsection (2) the references to altering the Forum’s membership include –
- (a) altering the number of members, and

- (b) altering who may appoint members.
- (4) An alteration may be made under subsection (2)(b) only if it is made –
  - (a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and
  - (b) with the consent of the Secretary of State.”

*Expansion or reduction of zone*

5 After section 11A (inserted by paragraph 4) there is inserted –

**“11B Expansion of zone** 10

- (1) An Education Action Forum established for an education action zone may add –
  - (a) any eligible school (within the meaning of section 10(1A)), or
  - (b) any new school which has a temporary governing body, to the zone. 15
- (2) But a school may be added under this section only if it is added –
  - (a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and
  - (b) with the consent of the governing body of the school and of the Secretary of State. 20
- (3) For the purposes of this section references to a school being added to an education action zone are to it becoming one of the schools which constitute collectively the zone.

**11C Removal from zone** 25

- (1) An Education Action Forum established for an education action zone may remove a participating school from the zone.
- (2) But a school may be removed under this section only if it is removed –
  - (a) in accordance with any procedural requirements specified for the purposes of this section in regulations under Schedule 1, and 30
  - (b) with the consent of the Secretary of State.
- (3) For the purposes of this section references to a school being removed from an education action zone are to it ceasing to be one of the schools which constitute collectively the zone.” 35

*Information relating to changes to zone or Forum*

6 After section 11C (inserted by paragraph 5) there is inserted –

**“11D Information relating to a Forum and its zone**

- (1) An Education Action Forum established for an education action zone must provide the Secretary of State with details of –
- (a) any alteration made to its constitution under section 11A(2)(b), 5
  - (b) any addition of a school to the zone under section 11B, and
  - (c) any removal of a school from the zone under section 11C.
- (2) The Forum must also, on a request being made by any person, provide him with –
- (a) the name of each member of the Forum and of the person or body that appointed him, 10
  - (b) the name of any other person or body entitled to appoint a member, and
  - (c) the name of each participating school in relation to the zone.
- (3) But the duty under subsection (2) is subject, in such circumstances as the Forum may determine, to the payment by the person concerned of a reasonable fee determined by the Forum.” 15

*Functions of Education Action Forum*

- 7 After section 12(1) there is inserted –
- “(1A) With the consent of the Secretary of State, a Forum may also carry on any other activities which it considers will promote the provision of, or access to, education whether in a participating school or otherwise.” 20

*Transitional provision*

- 8 (1) Any provision of an order under section 10 of the School Standards and Framework Act 1998 (c. 31) having effect immediately before the commencement of this Schedule which requires the Forum to include one or two persons appointed by the Secretary of State shall be read as if it were a provision having the same effect as section 11A(1)(b) of that Act. 25
- (2) Any order under subsection (3) of section 10 of that Act which has effect immediately before the commencement of this Schedule shall continue to have effect on or after that time notwithstanding the repeal by this Act of that subsection. 30
- (3) Until such time as section 63 of this Act comes into force, the reference in section 10(6)(a)(i) of the School Standards and Framework Act 1998 to an Academy shall be read as a reference to a city academy. 35
- (4) Where before the commencement of this section –
- (a) an education action zone has been established by an order under section 10(1) of that Act, and
  - (b) the membership of the Forum set out in that order has been altered by virtue of section 14 of the Interpretation Act 1978 (c. 30), 40
- the powers to alter the Forum’s membership conferred by section 11A of the School Standards and Framework Act 1998 are powers to alter the membership as so amended.

SCHEDULE 16

Section 181

AMENDMENTS OF SCHOOL INSPECTIONS ACT 1996

*Duty to report on quality of management etc*

- |   |  |          |
|---|--|----------|
| 1 | In section 2(1) of the School Inspections Act 1996 (c. 57) (matters of which the Chief Inspector for England is required to keep the Secretary of State informed) for paragraph (c) there is substituted –<br>“(c) the quality of the leadership in and management of those schools, including whether the financial resources made available to those schools are managed efficiently;” | 5        |
| 2 | In section 5(1) of that Act (matters of which the Chief Inspector for Wales is required to keep the National Assembly informed) for paragraph (c) there is substituted –<br>“(c) the quality of the leadership in and management of those schools, including whether the financial resources made available to those schools are managed efficiently;”                                   | 10<br>15 |
| 3 | In section 10(5) of that Act (matters on which a registered inspector conducting an inspection under that section must report) for paragraph (c) there is substituted –<br>“(c) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed efficiently;”  | 20       |

*Inspections by members of the Inspectorate etc*

- |   |   |          |
|---|---|----------|
| 4 | In section 12 of that Act (inspections by members of the Inspectorate) for subsection (1) there is substituted –<br>“(1) In any case where, by virtue of section 10, an inspection of a school is required to be carried out by a registered inspector, the Chief Inspector may, if he considers it expedient to do so, secure that the school is instead inspected by a member of the Inspectorate.”   | 25       |
| 5 | In paragraph 3 of Schedule 3 to that Act (teams for assisting with inspections under section 10) for sub-paragraph (1) there is substituted –<br>“(1) Every inspection shall be conducted by a registered inspector with the assistance of a team (an “inspection team”); and no person shall act as a member of an inspection team unless –<br>(a) he is enrolled in the list kept by the Chief Inspector under paragraph 3A; or<br>(b) he is a member of the Inspectorate and (if he is not the Chief Inspector) is authorised so to act by the Chief Inspector.” | 30<br>35 |
| 6 | In paragraph 3A of that Schedule (enrolment of persons to act as team members) for sub-paragraph (1) there is substituted –<br>“(1) The Chief Inspector shall keep a list of persons who may act as members of an inspection team by virtue of paragraph 3(1)(a) (“the list”).”   | 40       |

*Destination of reports on inspections of maintained schools*

- 7 In section 16(3) of that Act (persons to whom reports must invariably be sent), after sub-paragraph (d) there is inserted “and  
(da) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.” 5

*Action plans*

- 8 In section 17 of that Act (special measures by appropriate authority) –  
(a) in subsection (3) (persons to whom action plan must be sent), at the beginning there is inserted “Subject to subsection (3A),”; and  
(b) after that subsection there is inserted – 10
- “(3A) Where the report in question is a report of a section 10 inspection of the school, subsection (3)(a) does not require a copy of the statement to be sent to the Chief Inspector unless the report states that the person making it is of the opinion –  
(a) that special measures are required to be taken in relation to the school; or 15  
(b) that the school had serious weaknesses (within the meaning of section 15(4) of the School Standards and Framework Act 1998).”

*Approvals for appointment of staff* 20

- 9 (1) Schedule 1 to that Act (Her Majesty’s Chief Inspectors) is amended as follows.  
(2) In paragraph 1 (power of Chief Inspector to appoint staff with approval of Treasury or National Assembly), for “the Treasury” there is substituted “the Minister for the Civil Service or (in the case of the Chief Inspector for Wales) the National Assembly for Wales”. 25  
(3) In paragraph 2(3) (arrangements for persons other than staff to assist Chief Inspector require agreement of Treasury or National Assembly), for “the Treasury” there is substituted “the Minister for the Civil Service or (in the case of the Chief Inspector for Wales) the National Assembly for Wales”. 30

## SCHEDULE 17

Section 182

## AMENDMENTS OF PART 5 OF EDUCATION ACT 1997

*The Qualifications and Curriculum Authority*

- 1 In section 24 of the Education Act 1997 (c. 44) (functions of Qualifications and Curriculum Authority in relation to external vocational and academic qualifications), after subsection (2) there is inserted – 35
- “(2A) In paragraph (f) of subsection (2) “criteria” includes criteria that are to be applied for the purpose of ensuring that the number of different accredited qualifications in similar subject areas or serving similar



- functions is not excessive; and paragraph (g) of that subsection is to be construed accordingly.”
- 2 (1) Section 26 of the Education Act 1997 (c. 44) (supplementary provisions relating to discharge by Authority of their functions) is amended as follows.
- (2) In subsection (3), the words “or approve” and the words “and subject to such conditions” are omitted. 5
- (3) After that subsection there is inserted –
- “(3A) Where in carrying out those functions the Authority accredit any qualification, they may, at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as they may determine.” 10
- (4) In subsection (4), for paragraph (b) there is substituted –
- “(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority –
- (i) to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation, or 15
- (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.” 20

*The Qualifications, Curriculum and Assessment Authority for Wales*

- 3 In any order made before the commencement of this paragraph under section 30(1) of the Education Act 1997 (power to confer functions on Qualifications, Curriculum and Assessment Authority for Wales) any reference to functions falling within paragraph (f) of section 24(2) of that Act is to be taken to be a reference to those functions as extended by virtue of paragraph 1 of this Schedule. 25
- 4 (1) Section 32 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications, Curriculum and Assessment Authority for Wales of their functions) is amended as follows. 30
- (2) In subsection (3), the words “or approve” and the words “and subject to such conditions” are omitted.
- (3) After that subsection there is inserted –
- “(3A) Where in carrying out those functions the Authority accredit any qualification, they may, at the time of accreditation or later, impose such conditions on accreditation or continued accreditation as they may determine.” 35
- (4) In subsection (4), for paragraph (b) there is substituted –
- “(b) requiring rights of entry to premises and to inspect and copy documents so far as necessary for the Authority –
- (i) to satisfy themselves that the appropriate standards are being maintained, in relation to the award or authentication of the qualification in question, by the persons receiving the accreditation, or 40
- 45

- (ii) to determine whether to impose a condition falling within paragraph (a) and if so what that condition should be.”

## SCHEDULE 18

Section 188

## SPECIAL EDUCATIONAL NEEDS TRIBUNAL FOR WALES

5

*Special Educational Needs*

- 1 The Education Act 1996 (c. 56) is amended as follows.
- 2 In section 313 (code of practice), for subsection (5) there is substituted –
- “(5) In this Part (except sections 333 to 336), “the Tribunal”, in relation to an appeal, means –
- (a) where the local education authority concerned is in England, the Special Educational Needs and Disability Tribunal,
- (b) where the local education authority concerned is in Wales, the Special Educational Needs Tribunal for Wales.”
- 3 In section 326A (unopposed appeals), for subsection (6) there is substituted –
- “(6) In this section, “prescribed” means prescribed by regulations made –
- (a) in relation to an appeal to the Special Educational Needs and Disability Tribunal, by the Secretary of State,
- (b) in relation to an appeal to the Special Educational Needs Tribunal for Wales, by the National Assembly for Wales.”
- 4 In section 333 (constitution of Tribunal), before subsection (1) there is inserted –
- “(1Z) In this section and sections 334 to 336, “the Tribunal” means the Special Educational Needs and Disability Tribunal.”
- 5 After section 336 there is inserted –
- “336ZA Special Educational Needs Tribunal for Wales**
- (1) There shall be a tribunal to be known as Tribiwnlys Anghenion Addysgol Arbennig Cymru or the Special Educational Needs Tribunal for Wales.
- (2) Sections 333 to 336 shall apply in relation to that tribunal as they apply in relation to the Special Educational Needs and Disability Tribunal, but as if –
- (a) functions of the Secretary of State were functions of the National Assembly for Wales,
- (b) references to the Secretary of State were references to the National Assembly for Wales,
- (c) requirements for the Treasury’s consent were omitted.

- (3) The powers of the National Assembly for Wales under sections 333(4) and (5) and 334(2) are exercisable only with the agreement of the Secretary of State.”
- 6 In section 336A, for subsection (2) there is substituted –
- “(2) In subsection (1), “prescribed” means prescribed by regulations made –
- (a) as to orders of the Special Educational Needs and Disability Tribunal, by the Secretary of State,
- (b) as to orders of the Special Educational Needs Tribunal for Wales, by the National Assembly for Wales with the agreement of the Secretary of State.”

### *Disability Discrimination*

- 7 The Disability Discrimination Act 1995 (c. 50) is amended as follows.
- 8 (1) In section 28H (Special Educational Needs and Disability Tribunal), for subsections (2) and (3) there is substituted –
- “(2) In this Chapter –
- “the Tribunal” means the Special Educational Needs and Disability Tribunal, and
- “the Welsh Tribunal” means the Special Educational Needs Tribunal for Wales.
- (3) In addition to the jurisdiction of those tribunals under Part 4 of the Education Act 1996, each of them is to exercise the jurisdiction conferred on it by this Chapter.”
- (2) For the heading of that section there is substituted “Tribunals”.
- 9 (1) Section 28I (jurisdiction and powers of the Tribunal) is amended as follows.
- (2) In subsections (1) and (3), for “Tribunal” there is substituted “appropriate tribunal”.
- (3) After subsection (4) there is inserted –
- “(5) Subject to regulations under section 28J(8), the appropriate tribunal –
- (a) for a claim against the responsible body for a school in England, is the Tribunal,
- (b) for a claim against the responsible body for a school in Wales, is the Welsh Tribunal.”
- 10 (1) Section 28J (procedure) is amended as follows.
- (2) After subsection (2) there is inserted –
- “(2A) If made with the agreement of the National Assembly, the regulations apply to the Welsh Tribunal as they apply to the Tribunal, subject to such modifications as may be specified in the regulations.”
- (3) In subsection (3) after “Tribunal” there is inserted “or the Welsh Tribunal”.
- (4) Subsection (4) is omitted.
- (5) In subsection (5), after “Tribunal” there is inserted “or the Welsh Tribunal”.

- (6) In subsection (6), for “Wales” there is substituted “the Welsh Tribunal”.
- (7) In subsection (7), after “Tribunal” there is inserted “or the Welsh Tribunal”.
- (8) In subsection (8), at the end there is inserted “, including provision –
- (a) for determining the appropriate tribunal for the purposes of section 28I for such a claim, and 5
  - (b) for the transfer of proceedings between the Tribunal and the Welsh Tribunal.”
- 11 In section 28M (roles of the Secretary of State and the National Assembly), in subsection (5), after “Tribunal” there is inserted “or the Welsh Tribunal”.
- 12 In Part 3 of Schedule 3 (enforcement and procedure: discrimination in schools), in paragraph 10 after “Tribunal” in each place there is inserted “or the Welsh Tribunal”. 10
- 13 Section 10 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33) (consultation on appointments) is not to apply to appointments to the lay panel appointed for the Special Educational Needs Tribunal for Wales under section 333(2) of the Education Act 1996 (c. 56). 15

*Consequential amendments*

- 14 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices) there is inserted in the appropriate place – 20
- “President of the Special Educational Needs Tribunal for Wales, or member of a panel of persons appointed to act as chairman or other member of that Tribunal.”
- 15 In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (bodies subject to the supervision of the Council), in paragraph 40B – 25
- (a) the existing entry becomes sub-paragraph (a), and
  - (b) after that sub-paragraph there is inserted –
- “(b) the Special Educational Needs  
Tribunal for Wales.” 30
- 16 In section 42 of the Special Educational Needs and Disability Act 2001 (c. 10), subsection (2) (National Assembly for Wales and functions under section 336 of the Education Act 1996) is omitted.

*Saving and transitional provision*

- 17 The amendments made by any provision of this Schedule do not affect – 35
- (a) appeals instituted under Part 4 of the Education Act 1996, or
  - (b) claims made under section 28I of the Special Educational Needs and Disability Act 2001,
- before the coming into force of that provision.
- 18 Regulations made, or having effect as if made, under any of sections 326A and 333 to 336A of the Education Act 1996 in relation to the Special Educational Needs and Disability Tribunal have effect in relation to the 40

Special Educational Needs Tribunal for Wales until superseded by regulations made in relation to that Tribunal, but as if references to the Secretary of State were references to the National Assembly for Wales.

SCHEDULE 19

Section 192

TRANSPORT FOR PERSONS OVER COMPULSORY SCHOOL AGE 5

- 1 The Education Act 1996 (c. 56) is amended as follows.
- 2 In section 509 (provision of transport etc.)—
- (a) in subsections (1) and (1A) after “persons” there is inserted “not of sixth form age”,
  - (b) in subsection (3) after “person” there is inserted “not of sixth form age”, 10
  - (c) for subsection (5)(c) there is substituted—
    - “(c) make provision for persons receiving full-time education or training at institutions mentioned in subsection (1A) which is no less favourable than the provision made in pursuance of the arrangements for persons of the same age with learning difficulties (within the meaning of section 13 of the Learning and Skills Act 2000) for whom the authority secures the provision of education at any other institution.” 15
  - (d) at the end there is inserted—
    - “(7) References in this section to persons not of sixth form age shall be construed in accordance with subsection (1) of section 509AC.” 20
- 3 After section 509 there is inserted— 25

**“509AA Provision of transport etc for persons of sixth form age**

- (1) A local education authority shall prepare for each academic year a transport policy statement complying with the requirements of this section.
- (2) The statement shall specify the arrangements for the provision of transport or otherwise that the authority consider it necessary to make for facilitating the attendance of persons of sixth form age receiving education or training—
  - (a) at schools,
  - (b) at any institution maintained or assisted by the authority which provides further education or higher education (or both), 35
  - (c) at any institution within the further education sector, or
  - (d) at any establishment (not falling within paragraph (b) or (c)) which is supported by the Learning and Skills Council for England or the National Council for Education and Training for Wales. 40

- (3) The statement shall specify the arrangements that the authority consider it necessary to make for the provision of financial assistance in respect of the reasonable travelling expenses of persons of sixth form age receiving education or training at any establishment such as is mentioned in subsection (2). 5
- (4) The statement shall specify the arrangements proposed to be made by the governing bodies of—
- (a) schools maintained by the authority at which education suitable to the requirements of persons over compulsory school age is provided, and 10
  - (b) institutions within the further education sector in the authority's area,
- for the provision of transport for facilitating the attendance of persons of sixth form age receiving education or training at the schools and institutions and for the provision of financial assistance in respect of the travelling expenses of such persons. 15
- (5) Those governing bodies shall co-operate in giving the local education authority any information and other assistance that is reasonably required by the authority for the performance of their functions under this section and section 509AB. 20
- (6) The statement shall specify any travel concessions (within the meaning of Part 5 of the Transport Act 1985 (c. 67)) which are to be provided under any scheme established under section 93 of that Act to persons of sixth form age receiving education at any establishment such as is mentioned in subsection (2) above in the authority's area. 25
- (7) The authority shall—
- (a) publish the statement, in a manner which they consider appropriate, on or before 31st May in the year in which the academic year in question begins, and
  - (b) make, and secure that effect is given to, any arrangements specified under subsections (2) and (3). 30
- (8) Nothing in this section prevents a local education authority from making, at any time in an academic year, arrangements—
- (a) which are not specified in the transport policy statement published by the authority for that year, but 35
  - (b) which they have come to consider necessary for the purposes mentioned in subsections (2) and (3).
- (9) The Secretary of State may, if he considers it expedient to do so, direct a local education authority to make for any academic year—
- (a) arrangements for the provision of transport or otherwise for facilitating the attendance of persons of sixth form age receiving education or training at establishments such as are mentioned in subsection (2), or 40
  - (b) arrangements for providing financial assistance in respect of the reasonable travelling expenses of such persons, 45
- which have not been specified in the transport policy statement published by the authority for that academic year.

- (10) The Secretary of State may by order amend subsection (7)(a) by substituting a different date for 31st May.”

4 After section 509AA there is inserted –

**“509AB Further provision about transport policy statements**

- (1) A statement prepared under section 509AA shall state to what extent arrangements specified in accordance with subsection (2) of that section include arrangements for facilitating the attendance at establishments such as are mentioned in that subsection of disabled persons and persons with learning difficulties. 5
- (2) A statement prepared under that section shall – 10
- (a) specify arrangements for persons receiving full-time education or training at establishments other than schools maintained by the local education authority which are no less favourable than the arrangements specified for pupils of the same age attending such schools, and 15
  - (b) specify arrangements for persons with learning difficulties receiving education or training at establishments other than schools maintained by the authority which are no less favourable than the arrangements specified for pupils of the same age with learning difficulties attending such schools. 20
- (3) In considering what arrangements it is necessary to make for the purposes mentioned in subsections (2) and (3) of section 509AA the local education authority shall have regard (amongst other things) to –
- (a) the needs of those for whom it would not be reasonably practicable to attend a particular establishment to receive education or training if no arrangements were made, 25
  - (b) the need to secure that persons in their area have reasonable opportunities to choose between different establishments at which education or training is provided, 30
  - (c) the distance from the homes of persons of sixth form age in their area of establishments such as are mentioned in section 509AA(2) at which education or training suitable to their needs is provided, and
  - (d) the cost of transport to the establishments in question and of any alternative means of facilitating the attendance of persons receiving education or training there. 35
- (4) In considering whether or not it is necessary to make arrangements for those purposes in relation to a particular person, a local education authority shall have regard (amongst other things) – 40
- (a) to the nature of the route, or alternative routes, which he could reasonably be expected to take; and
  - (b) to any wish of his parent for him to be provided with education or training at a school, institution or other establishment in which the religious education provided is that of the religion or denomination to which his parent adheres. 45

- (5) In preparing a statement under section 509AA a local education authority shall have regard to any guidance issued by the Secretary of State under this section.
- (6) In preparing a statement under that section a local education authority shall consult – 5
- (a) any other local education authority that they consider it appropriate to consult,
  - (b) the governing bodies mentioned in subsection (4) of that section,
  - (c) the Learning and Skills Council for England (in the case of a local education authority in England) or the National Council for Education and Training for Wales (in the case of a local education authority in Wales), and 10
  - (d) any other person specified by the Secretary of State for the purposes of this section. 15
- (7) In preparing a statement under that section a local education authority shall also consult –
- (a) where they are the local education authority for a district in a metropolitan county, the Passenger Transport Authority for that county, and 20
  - (b) where they are the local education authority for a London borough or the City of London, Transport for London.”
- 5 After section 509AB there is inserted –

**“509AC Interpretation of sections 509AA and 509AB**

- (1) For the purposes of sections 509AA and 509AB a person receiving education or training at an establishment is of sixth form age if he is over compulsory school age but – 25
- (a) is under the age of 19, or
  - (b) has begun a particular course of education or training at the establishment before attaining the age of 19 and continues to attend that course. 30
- (2) References in section 509AA to an establishment supported by the Learning and Skills Council for England are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 5(2) of the Learning and Skills Act 2000. 35
- (3) References in section 509AA to an establishment supported by the National Council for Education and Training for Wales are to any establishment at which education or training is provided by a person to whom that Council secures the provision of financial resources in any of the ways mentioned in section 34(2) of the Learning and Skills Act 2000. 40
- (4) References in section 509AB to persons with learning difficulties are to be construed in accordance with section 13(5) and (6) of the Learning and Skills Act 2000. 45
- (5) In sections 509AA and 509AB and this section –



- “academic year” means any period commencing with 1st August and ending with the next 31st July;
- “disabled person” has the same meaning as in the Disability Discrimination Act 1995;
- “establishment” means an establishment of any kind, including a school or institution; 5
- “governing body”, in relation to an institution within the further education sector, has the same meaning as in the Further and Higher Education Act 1992.
- (6) The Secretary of State may by order amend the definition of “academic year” in subsection (5).” 10
- 6 In section 509A (travel arrangements for children receiving nursery education otherwise than at school), after subsection (4) there is inserted –
- “(4A) Regulations may require a local education authority to publish, at such times and in such manner as may be prescribed, such information as may be prescribed with respect to the authority’s policy and arrangements relating to the making of provision under this section.” 15

SCHEDULE 20

Section 198

- NUISANCE OR DISTURBANCE ON EDUCATIONAL PREMISES 20
- 1 (1) Section 547 of the Education Act 1996 (c. 56) (nuisance or disturbance on premises of a school maintained by a local education authority) is amended in accordance with sub-paragraphs (2) to (6).
- (2) In subsection (2), after paragraph (a) there is inserted –
- “(aa) any special school not so maintained, and 25  
(ab) any independent school.”
- (3) After that subsection there is inserted –
- “(2A) This section also applies to any premises which are –
- (a) provided by a local education authority under section 508, and 30  
(b) used wholly or mainly in connection with the provision of instruction or leadership in sporting, recreational or outdoor activities.”
- (4) In subsection (3)(b) for “a local education authority have” there is substituted “the appropriate authority has”. 35
- (5) For subsection (4) there is substituted –
- “(4) In subsection (3) “the appropriate authority” means –
- (a) in relation to premises of a foundation, voluntary aided or foundation special school, a local education authority or the governing body, 40  
(b) in relation to –
- (i) premises of any other school maintained by a local education authority, and

- (ii) premises provided by a local education authority as mentioned in subsection (2A),  
a local education authority, and
- (c) in relation to premises of a special school which is not so maintained or of an independent school, the proprietor of the school.” 5
- (6) For subsections (6) and (7) there is substituted –
- “(6) No proceedings for an offence under this section shall be brought by any person other than –
- (a) a police constable, or 10
- (b) an authorised person.
- (7) In subsection (6) “authorised person” means –
- (a) in relation to an offence committed on premises of a foundation, voluntary aided or foundation special school, a local education authority or a person whom the governing body have authorised to bring such proceedings, 15
- (b) in relation to an offence committed –
- (i) on premises of any other school maintained by a local education authority, or
- (ii) on premises provided by a local education authority as mentioned in subsection (2A), 20  
a local education authority, and
- (c) in relation to an offence committed on premises of a special school which is not so maintained or of an independent school, a person whom the proprietor of the school has authorised to bring such proceedings.” 25
- 2 After section 85 of the Further and Higher Education Act 1992 (c. 13) there is inserted –

**“85A Nuisance or disturbance on educational premises**

- (1) Any person who without lawful authority is present on premises to which this section applies and causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises (whether or not any such persons are present at the time) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale. 30 35
- (2) This section applies to premises, including playing fields and other premises for outdoor recreation, of –
- (a) any institution (other than a school) which is maintained by a local education authority and provides further education or higher education (or both), and 40
- (b) any institution within the further education sector.
- (3) If –
- (a) a police constable, or
- (b) a person whom the appropriate authority have authorised to exercise the power conferred by this subsection, 45

- has reasonable cause to suspect that any person is committing or has committed an offence under this section, he may remove him from the premises in question.
- (4) In subsection (3) “the appropriate authority” means –
- (a) in relation to premises of an institution such as is mentioned in subsection (2)(a), a local education authority, and
  - (b) in relation to premises of an institution within the further education sector, the governing body.
- (5) No proceedings under this section shall be brought by any person other than –
- (a) a police constable, or
  - (b) an authorised person.
- (6) In subsection (5) “authorised person” means –
- (a) in relation to an offence committed on premises of an institution such as is mentioned in subsection (2)(a), a local education authority, and
  - (b) in relation to an offence committed on premises of an institution within the further education sector, a person whom the governing body have authorised to bring such proceedings.”

## SCHEDULE 21

Section 207(1)

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Local Government Act 1972 (c. 70)*

- 1 In section 177 of the Local Government Act 1972 (provisions supplementary to sections 173 to 176 of that Act) for subsection (1A) there is substituted –
- “(1A) Subsection (1) has effect without prejudice to the operation of –
- (a) regulations made by virtue of section 94(5C) or 95(3B) of the School Standards and Framework Act 1998 (allowances for admission appeal panels);
  - (b) paragraph 3 of Schedule 4 to that Act (allowances for school organisation committees); and
  - (c) regulations made by virtue of section 49(6) of the Education Act 2002 (allowances for exclusion appeal panels).”

#### *Local Government Act 1974 (c. 7)*

- 2 In section 25(5) of the Local Government Act 1974 (certain bodies to which Part 3 of that Act applies) –
- (a) for paragraph (c) there is substituted –
    - “(c) an admission appeal panel constituted in accordance with regulations under section 94(5) or 95(3) of that Act,”, and
  - (b) at the end of paragraph (d) there is inserted “and

- (e) an exclusion appeal panel constituted in accordance with regulations under section 49 of the Education Act 2002.”

*Sex Discrimination Act 1975 (c.65)*

- 3 In Schedule 2 to the Sex Discrimination Act 1975 (transitional exemption orders for educational admissions), after paragraph 4 there is inserted – 5
- “4A Where, under section 113A of the Learning and Skills Act 2000, the Learning and Skills Council for England submit proposals to the Secretary of State for an alteration in the admission arrangements of a school such as is mentioned in section 27(1) of this Act, the submission of the proposals shall be treated as an application for the making by the Secretary of State of a transitional exemption order, and if he thinks fit the Secretary of State may make the order accordingly.” 10

*Public Passenger Vehicles Act 1981 (c. 14)*

- 4 In section 46(3) of the Public Passenger Vehicles Act 1981 (fare-paying passengers on school buses), for the definition of “free school transport” there is substituted – 15
- ““free school transport” means transport provided by a local education authority free of charge – 20
- (a) in pursuance of arrangements under section 509(1) or (1A) or section 509AA(7)(b) or (9)(a) of the Education Act 1996, or
- (b) otherwise, in the exercise of any function of the authority, for the purpose of facilitating the attendance of persons receiving education or training at any premises;” 25

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

- 5 In section 1 of the Education (Fees and Awards) Act 1983 (fees at further and higher education institutions), subsection (6) is omitted.

*Building Act 1984 (c.55)*

- 6 In section 4 of the Building Act 1984 (exemption of educational buildings from building regulations), for subsection (1)(a)(ii) there is substituted – 30
- “(ii) particulars submitted and approved under regulations made under section 544 of the Education Act 1996,”.

*Education Act 1986 (c. 40)*

- 7 In section 1(1) of the Education Act 1986 (payment of grant) for “either of them” there is substituted “that body”. 35

*Education Reform Act 1988 (c. 40)*

- 8 In section 124(1)(ba) of the Education Reform Act 1988 (power of higher education corporation to provide secondary education) for “to persons who 40

would, if they were pupils at a school, be in the fourth key stage” there is substituted “suitable to the requirements of persons who have attained the age of fourteen years”.

*Children Act 1989 (c.14)*

- 9 In Schedule 9A to the Children Act 1989 (child minding and day care for young children), for paragraph 4(2)(b) there is substituted – 5  
“(b) he is subject to a direction under section 138 of the Education Act 2002, given on the grounds that he is unsuitable to work with children;”.

*Environmental Protection Act 1990 (c.43)* 10

- 10 In section 98(2) of the Environmental Protection Act 1990 (definition of “educational institution”), paragraph (c)(ii) is omitted.

*Further and Higher Education Act 1992 (c. 13)*

- 11 In section 18(1)(aa) of the Further and Higher Education Act 1992 (power of further education corporation to provide secondary education) for “to persons who would, if they were pupils at a school, be in the fourth key stage” there is substituted “suitable to the requirements of persons who have attained the age of fourteen years”. 15
- 12 In section 21 of the Further and Higher Education Act 1992 (initial instruments and articles), in subsection (3), for “Chapter III of Part II of the School Standards and Framework Act 1998” there is substituted “section 18 of the Education Act 2002”. 20
- 13 Section 23(4)(b) of the Further and Higher Education Act 1992 (institutions maintained by LEAs: Secretary of State must approve exclusion of any property etc. from initial transfer to FE corporation) shall cease to have effect. 25
- 14 In section 26 of the Further and Higher Education Act 1992 (transfer of staff to further education corporation), subsection (9) is omitted.
- 15 In section 37 of the Further and Higher Education Act 1992 (net expenditure of institution about to join further education sector), the following provisions are omitted – 30  
(a) subsection (1)(b) and the word “or” immediately preceding it,  
(b) subsection (8)(a), and  
(c) subsection (9).
- 16 Sections 39 to 42 of the Further and Higher Education Act 1992 (restrictions on powers of local authorities to dispose of land etc. in period before institution becomes institution within the further education sector) shall cease to have effect. 35
- 17 In section 43 of the Further and Higher Education Act 1992 (remuneration of employees in educational institutions), for subsection (3) there is substituted – 40

	“(3) This section does not apply to remuneration determined in accordance with an order under section 118 of the Education Act 2002 (determination of school teachers’ pay and conditions).”	
18	Section 48 of the Further and Higher Education Act 1992 (transfer of institution to further education sector) shall cease to have effect.	5
19	(1) Section 52A of the Further and Higher Education Act 1992 (duty to safeguard pupils receiving secondary education) is amended as follows.	
	(2) In subsection (1) –	
	(a) for “persons who would, if they were pupils at a school, be in the fourth key stage” there is substituted “persons of compulsory school age”, and	10
	(b) in paragraph (a), for “in pursuance of arrangements falling within section 18(1)(aa) of this Act” there is substituted “by virtue of section 18(1)(aa) or (ab) of this Act”.	
	(3) In subsection (2) for “such pupils” there is substituted “persons of compulsory school age”.	15
20	In section 54(1) of the Further and Higher Education Act 1992 (duty of certain bodies to give to the Learning and Skills Council for England or National Council for Education and Training for Wales information required for the purposes of the exercise of their functions under Part 1 of that Act), for “this Part of this Act” there is substituted “any enactment”.	20
21	Section 60 of Further and Higher Education Act 1992 (saving as to persons detained by order of a court) shall cease to have effect.	
<i>Tribunals and Inquiries Act 1992 (c. 53)</i>		
22	In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under general supervision of Council on Tribunals) for paragraphs (b) and (c) there is substituted –	25
	“(b) exclusion appeal panels constituted in accordance with regulations under section 49 of the Education Act 2002;	30
	(c) admission appeal panels constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998;”.	
<i>Education Act 1994 (c. 30)</i>		
23	In section 4 of the Education Act 1994 (qualifying activities and eligible institutions), subsection (4) shall cease to have effect.	35
24	In section 14 of the Education Act 1994 (qualification of teachers, &c.), subsections (1), (3) and (4) are omitted.	
25	In section 19(1) of the Education Act 1994 (interpretation), for the definition of “governing body” there is substituted –	40
	““governing body”, in relation to an institution conducted by a company, shall be construed in accordance with any order under section 4(3);”.	

*Disability Discrimination Act 1995 (c. 50)*

- 26 In section 28D of the Disability Discrimination Act 1995 (accessibility strategies and plans), in subsection (14) after “maintained school” there is inserted “or maintained nursery school”.
- 27 (1) Section 28L of the Disability Discrimination Act 1995 (exclusions) is amended as follows. 5
- (2) In subsections (2)(a) and (5)(a) for “section 67(1) of the School Standards and Framework Act 1998” there is substituted “section 49(3)(c) of the Education Act 2002”.
- (3) In subsection (6), for “paragraph 4 of Schedule 11 to the School Standards and Framework Act 1998” there is substituted “section 18 of the Education Act 2002”. 10
- 28 In section 28Q of the Disability Discrimination Act 1995 (interpretation of Chapter 1), in subsection (7) –
- (a) for “Schedule 9 to the School Standards and Framework Act 1998” there is substituted “regulations under section 18 of the Education Act 2002”, and 15
- (b) for “section 36 of that Act” there is substituted “that section”.
- 29 In Schedule 4A to the Disability Discrimination Act 1995, in the Table in paragraph 1 – 20
- (a) in paragraph 1, in the first column, after “Maintained school” there is inserted “or maintained nursery school”, and
- (b) paragraph 3 is omitted.

*Employment Rights Act 1996 (c. 18)*

- 30 In section 134(1) of the Employment Rights Act 1996 (teachers in aided schools) for “section 55(5) of the School Standards and Framework Act 1998” there is substituted “paragraph 7 of Schedule 2 to the Education Act 2002”. 25
- 31 In section 139 of the Employment Rights Act 1996 (redundancy), in subsection (3), for “governors” there is substituted “governing bodies”.
- 32 In section 218 of the Employment Rights Act 1996 (change of employer), in subsection (7) for “governors” (in both places) there is substituted “governing body”. 30

*Education Act 1996 (c. 56)*

- 33 In section 2 of the Education Act 1996 (definition of primary, secondary and further education), in subsection (4), after “subsection (2)(b)” there is inserted “or (2A)”. 35
- 34 (1) Section 3 of the Education Act 1996 (definition of pupil etc) is amended as follows.
- (2) After subsection (1) there is inserted –
- “(1A) A person is not for the purposes of this Act to be treated as a pupil at a school merely because any education is provided for him at the school in the exercise of the powers conferred by section 25 of the 40

	Education Act 2002 (power of governing body of maintained school to provide community facilities etc.).”	
	(3) In subsection (3) for “Subsection (1) also applies” there is substituted “Subsections (1) and (1A) also apply”.	
35	In section 29 of the Education Act 1996 (provision of information by local education authorities), subsection (6) is omitted.	5
36	In section 313 of the Education Act 1996 (Code of Practice), in subsection (1), after “maintained schools” there is inserted “and maintained nursery schools”.	
37	In section 315 of the Education Act 1996 (review of arrangements), in subsection (2) after “special schools” there is inserted “and maintained nursery schools”.	10
38	In section 316A of the Education Act 1996 (duty to educate children with special educational needs in mainstream school), in subsection (11) –	
	(a) in paragraph (a), after “maintained school” there is inserted “or maintained nursery school”, and	15
	(b) in paragraph (b), the words “a maintained nursery school or” are omitted.	
39	(1) Section 317 of the Education Act 1996 (duties in relation to pupils with special educational needs) is amended as follows.	20
	(2) In subsection (1), for the words from the beginning to “shall” there is substituted “The governing body of a community, foundation or voluntary school or a maintained nursery school shall”.	
	(3) For subsection (2) there is substituted –	
	“(2) In subsection (1)(b) “the responsible person” means the head teacher or the appropriate governor (that is, the chairman of the governing body or, where the governing body have designated another governor for the purposes of this subsection, that other governor).”	25
	(4) In subsection (3) –	
	(a) in paragraph (a), after “voluntary schools” there is inserted “and maintained nursery schools”, and	30
	(b) paragraph (b) and the word “and” preceding it are omitted.	
	(5) In subsection (7) for “section 42(1) of the School Standards and Framework Act 1998” there is substituted “section 28(1) of the Education Act 2002”.	
40	In section 317A(1) of the Education Act 1996 (duty to inform parent where special educational provision made), in paragraph (a)(i) after “school” there is inserted “or a maintained nursery school”.	35
41	(1) Section 318 of the Education Act 1996 (provision of goods and services in connection with special educational needs) is amended as follows.	
	(2) In subsection (1), after “voluntary schools” there is inserted “or maintained nursery schools”.	40
	(3) In subsection (2), after “voluntary schools” there is inserted “, maintained nursery schools”.	
42	In section 321 of the Education Act 1996 (general duty of local education authority towards children for whom they are responsible), in subsection	45



- (3), in paragraphs (a) and (b), after “maintained school” there is inserted “or maintained nursery school”.
- 43 In section 324 of the Education Act 1996 (statement of special educational needs), in subsection (5)(b) after “maintained school” there is inserted “or maintained nursery school”. 5
- 44 In section 329A of the Education Act 1996 (review or assessment of educational needs at request of responsible body), in subsection (13)(a), the words “a maintained nursery school or” are omitted.
- 45 In section 402 of the Education Act 1996 (obligation to enter pupils for public examinations) in subsection (6), for “and” at the end of paragraph (a) there is substituted— 10
- “(aa) “assessment arrangements” and “fourth key stage”—
- (i) in relation to a school maintained by a local education authority in England, have the same meaning as in Part 6 of the Education Act 2002 (the curriculum in England), and 15
- (ii) in relation to a school maintained by a local education authority in Wales, have the same meaning as in Part 7 of that Act (the curriculum in Wales); and”.
- 46 (1) Section 408 of the Education Act 1996 (provision of information) is amended as follows. 20
- (2) In subsection (1)(a) after “the Learning and Skills Act 2000” there is inserted “or the relevant provisions of the Education Act 2002”.
- (3) Subsection (4)(a) is omitted.
- (4) After subsection (4) there is inserted— 25
- “(4A) For the purposes of subsection (1) the relevant provisions of the Education Act 2002 are—
- (a) Part 6 (the curriculum in England), and
- (b) sections 93 to 113 (the curriculum in Wales).”
- (5) In subsection (6) for “this Part” there is substituted “Part 6 or 7 of the Education Act 2002”. 30
- (6) After subsection (8) there is inserted—
- “(9) In this section “maintained school” includes a maintained nursery school.”
- 47 (1) Section 409 of the Education Act 1996 (complaints and enforcement: maintained schools) is amended as follows. 35
- (2) In subsection (1), the words “with the approval of the Secretary of State and” are omitted.
- (3) In subsection (2), after “by the authority” there is inserted “, any maintained nursery school so maintained”. 40
- (4) In subsection (3), before the “and” at the end of paragraph (a) there is inserted—
- “(aa) any provision which by virtue of section 408(4A) is a relevant provision of the Education Act 2002 for the purposes of section 408(1),”. 45

- 48 (1) Section 484 of the Education Act 1996 (education standards grants) is amended as follows.
- (2) For any reference to the Secretary of State there is substituted a reference to the National Assembly for Wales.
- (3) In subsection (1), after “local education authorities” there is inserted “in Wales”.
- (4) In subsection (2) the words “England and” are omitted.
- (5) Subsection (6) is omitted.
- 49 In section 499 of the Education Act 1996 (power to direct appointment of members of education committees) for subsection (9) there is substituted –
- “(9) In subsections (6) and (8) –
- (a) “maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school, and
- (b) “parent governor” means a governor elected or appointed as a parent governor under regulations made under section 18 of the Education Act 2002 (governing bodies).”
- 50 In section 509 of the Education Act 1996 (provision of transport etc), in subsection (4)(b), for the words from “with” to “provided” there is substituted “with education or training at a school or institution in which the religious education provided”.
- 51 In section 512A of the Education Act 1996 (transfer of functions under section 512 to governing bodies) in subsection (7) for the definitions of “delegated budget” and “maintained school” there is substituted –
- ““delegated budget” has the same meaning as in the School Standards and Framework Act 1998;
- “maintained school” means a maintained school as defined by section 20(7) of the School Standards and Framework Act 1998 or a maintained nursery school;”.
- 52 In section 530 of the Education Act 1996 (compulsory purchase of land), in subsection (3), at the end there is inserted “(including that provision as applied by any enactment)”.
- 53 In section 533 of the Education Act 1996 (c. 56) (duties of governing bodies with respect to provision of school meals etc), for subsection (3)(b) and (c) there is substituted “and
- (b) charge every person the same price for the same quantity of the same item.”
- 54 In section 545 of the Education Act 1996 (exemption of educational buildings from building byelaws), in subsection (2)(a) the words “or section 218(7) of the Education Reform Act 1988” are omitted.
- 55 In section 578 of the Education Act 1996 (meaning of “the Education Acts”), the reference to the School Teachers’ Pay and Conditions Act 1991 is omitted.
- 56 In section 579(1) of the Education Act 1996 (general interpretation) –

- (a) after the definition of “local government elector” there is inserted –  
    ““maintained nursery school” has the meaning given by section  
    22(9) of the School Standards and Framework Act 1998;”,  
    and
  - (b) after the definition of “regulations” there is inserted – 5  
    ““sex education” includes education about –  
    (a) Acquired Immune Deficiency Syndrome and Human  
    Immunodeficiency Virus, and  
    (b) any other sexually transmitted disease;”.
- 57 In Schedule 27 to the Education Act 1996 – 10
- (a) in paragraph 3A(1), after the words “maintained school”, in each  
    place where they occur, there is inserted “or maintained nursery  
    school”, and
  - (b) in paragraph 8(1)(a), after “maintained school” there is inserted “or  
    maintained nursery school”. 15

*School Inspections Act 1996 (c.57)*

- 58 In section 10 of the School Inspections Act 1996 (inspection of certain  
schools), in subsection (4B)(a),
- (a) after “foundation special school” there is inserted “ or maintained  
nursery school”, and 20
  - (b) for the words from “Schedule 6” to the end there is substituted “any  
enactment”.
- 59 (1) Section 11 of the School Inspections Act 1996 (application of provisions of  
Chapter 2 of Part 1 of that Act) is amended as follows.
- (2) In subsection (2), after “foundation special schools” there is inserted “or 25  
maintained nursery schools”.
  - (3) In subsection (4), in the definition of “appropriate authority”, after  
“foundation special school” there is inserted “or a maintained nursery  
school”.
  - (4) In subsection (5) – 30
    - (a) at the end of paragraph (a), there is inserted “and”, and
    - (b) paragraph (b) is omitted.
- 60 In section 15 of the School Inspections Act 1996 (timing of section 10  
inspections by registered inspectors) –
- (a) in subsection (3)(b), after “foundation special school” there is 35  
inserted “or maintained nursery school”, and
  - (b) in subsection (4)(c), the words “except where the school is a  
maintained nursery school” are omitted.
- 61 In section 16 of the School Inspections Act 1996 (destination of reports), in  
subsections (1)(b) and (3)(c), after “foundation special school” there is 40  
inserted “or maintained nursery school”.
- 62 In section 17 of the School Inspections Act 1996 (special measures by  
appropriate authority) –
- (a) in subsections (3)(b) and (4), after “foundation special school” there 45  
is inserted “or maintained nursery school”,

- (b) in subsection (7), for “under section 42 of the School Standards and Framework Act 1998 (governors’ reports)” there is substituted “under section 28 of the Education Act 2002 (governors’ reports)”.
- 63 In section 18(1)(a) of the School Inspections Act 1996 (additional special measures by local education authority), after “community or foundation special school” there is inserted “or maintained nursery school”. 5
- 64 In section 21(3)(b) of the School Inspections Act 1996 (duty to send Secretary of State copies of statement prepared under section 21(1) of that Act), the words “except in the case of a maintained nursery school” are omitted.
- 65 In Schedule 3 to the School Inspections Act 1996 (inspections under section 10), in the definition of “appropriate authority” in paragraph 1 – 10
- (a) in paragraph (a), after “foundation special school” there is inserted “or a maintained nursery school”, and
- (b) paragraph (b) is omitted.
- 66 In Schedule 4 to the School Inspections Act 1996 (inspections of denominational education), in paragraph 3(5), for “means the governors’ report under section 42 of the School Standards and Framework Act 1998” there is substituted “means the governors’ report under section 28 of the Education Act 2002”. 15
- Education Act 1997 (c. 44)* 20
- 67 In section 26 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications and Curriculum Authority of their functions), in subsection (1)(c)(i) for “section 351 of the Education Act 1996” there is substituted “section 74 of the Education Act 2002”.
- 68 In section 32 of the Education Act 1997 (supplementary provisions relating to discharge by Qualifications, Curriculum and Assessment Authority for Wales of their functions) in subsection (1)(c)(i) for “section 351 of the Education Act 1996” there is substituted “section 95 of the Education Act 2002”.
- 69 Section 49 of the Education Act 1997 (regulations about access to children) shall cease to have effect. 30
- Police Act 1997 (c.50)*
- 70 (1) Section 113 of the Police Act 1997 (criminal record certificates) is amended as follows.
- (2) In subsection (3A) – 35
- (a) in paragraph (a), sub-paragraphs (ii) and (iii) are omitted,
- (b) for paragraph (b) there is substituted –
- “(b) if he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14), such details of his inclusion as may be prescribed;”, and 40
- (c) after paragraph (b) there is inserted –
- “(c) whether he is subject to a direction under section 138 of the Education Act 2002; and

- (d) if he is subject to a direction under that section, such details of the circumstances in which it was given as may be prescribed, including the grounds on which it was given.”.
- (3) In subsection (3B) – 5
- (a) for paragraph (b) there is substituted –
- “(b) a position which involves work to which section 138 of the Education Act 2002 applies;”,
- (b) paragraph (c) is omitted, and
- (c) the words from “and the reference” to the end are omitted. 10
- 71 In section 115 of the Police Act 1997 (enhanced criminal record certificates), in subsection (6A) –
- (a) in paragraph (a), sub-paragraphs (ii) and (iii) are omitted,
- (b) for paragraph (b) there is substituted – 15
- “(b) if he is included in the list kept under section 1 of the Protection of Children Act 1999 (c. 14), such details of his inclusion as may be prescribed;”, and
- (c) after paragraph (b) there is inserted –
- “(c) whether he is subject to a direction under section 138 of the Education Act 2002; and 20
- (d) if he is subject to a direction under that section, such details of the circumstances in which it was given as may be prescribed, including the grounds on which it was given.”.
- Teaching and Higher Education Act 1998 (c. 30)* 25
- 72 In section 1 of the Teaching and Higher Education Act 1998 (establishment and functions of General Teaching Council), subsection (8) is omitted.
- 73 In section 2 of the Teaching and Higher Education Act 1998 (advisory functions of General Teaching Council), in subsection (4), for “by virtue of section 218(6) of the Education Reform Act 1988 (prohibition or restriction on employment of teachers)” there is substituted “under section 138 of the Education Act 2002 (prohibition from teaching, &c.)”. 30
- 74 In section 3 of the Teaching and Higher Education Act 1998 (registration of teachers), in subsection (3) –
- (a) the words “within the meaning of section 218(2) of the Education Reform Act 1988” are omitted, and 35
- (b) for paragraph (a) there is substituted –
- “(a) subject to a direction under section 138(1)(a) of the Education Act 2002 (prohibition from teaching, &c.)”,.
- 75 In section 4 of the Teaching and Higher Education Act 1998 (regulations relating to registration with General Teaching Council), for subsection (3)(a) there is substituted – 40
- “(a) a direction given under section 138 of the Education Act 2002 (prohibition from teaching, &c.)”,.
- 76 In section 7 of the Teaching and Higher Education Act 1998 (additional functions of General Teaching Council), in subsection (3), for the words from 45

- “the exercise” to the end there is substituted “the specification of requirements of regulations under section 128 of the Education Act 2002 (qualified teacher status)”.
- 77 Section 10 of the Teaching and Higher Education Act 1998 (further functions of General Teaching Council for Wales in relation to teachers) shall cease to have effect. 5
- 78 Section 11 of the Teaching and Higher Education Act 1998 (registration requirement for school teachers) shall cease to have effect.
- 79 In section 12 of the Teaching and Higher Education Act 1998 (deduction from teachers’ salaries of fees for registration with General Teaching Council) – 10
- (a) for subsection (2)(b) there is substituted –
- “(b) required to be registered in the register by virtue of section 130 of the Education Act 2002”, and
- (b) in subsection (4), for the definition of “schools” there is substituted – 15
- “ “school” means a school maintained by a local education authority or a special school not so maintained”.
- 80 Section 13 of the Teaching and Higher Education Act 1998 (consultation about qualified teacher status) shall cease to have effect.
- 81 Section 18 of the Teaching and Higher Education Act 1998 (qualifications of head teachers) shall cease to have effect. 20
- 82 In section 19 of the Teaching and Higher Education Act 1998 (requirement for school teacher to serve induction period) –
- (a) in subsection (7), for “section 49 of the Education (No. 2) Act 1986” there is substituted “section 127 of the Education Act 2002”, 25
- (b) in subsection (8), after “local education authorities” there is inserted “in Wales”, and
- (c) for subsection (10)(b) there is substituted –
- “(b) “relevant school” means a school maintained by a local education authority or a special school not so maintained”. 30
- 83 (1) Schedule 2 to the Teaching and Higher Education Act 1998 (disciplinary powers of the General Teaching Council) is amended as follows.
- (2) In paragraph 1(4) for the words from “of any powers” to the end there is substituted “of the powers exercisable by him, in cases which he considers concern the safety and welfare of persons aged under 18, under section 138 of the Education Act 2002 – 35
- (a) on the grounds that a person is unsuitable to work with children, or
- (b) on grounds relating to a person’s misconduct or health.
- (3) Paragraph 1(5) is omitted. 40

*School Standards and Framework Act 1998 (c. 31)*

- 84 In section 1 of the School Standards and Framework Act 1998 (duty to set limit on infant class sizes), for “qualified teacher” there is substituted “school teacher”.

- 85 In section 4 of the School Standards and Framework Act 1998 (interpretation) for the definition of “qualified teacher” there is substituted –
- ““school teacher” means a person who is a school teacher for the purposes of section 118 of the Education Act 2002 (determination of school teachers’ pay and conditions)”.
- 86 In section 7 of the School Standards and Framework Act 1998 (approval, modification and review of statement of proposals) subsection (10) is omitted.
- 87 In section 12 of the School Standards and Framework Act 1998 (functions of Education Action Forum), in subsection (4) for the words from “under sections” to “Schedule 17,” there is substituted “under sections 34 to 36 of, or Schedule 2 to, the Education Act 2002 or under regulations made under those sections,”.
- 88 Section 13 of the School Standards and Framework Act 1998 (disapplication of school teachers’ pay and conditions order) shall cease to have effect.
- 89 In section 14 of the School Standards and Framework Act 1998 (powers of intervention exercisable by LEAs), after subsection (1) there is inserted –
- “(1A) In this Chapter “maintained school” includes a maintained nursery school.”
- 90 (1) Section 16 of the School Standards and Framework Act 1998 (power of local education authority to appoint additional governors) is amended as follows.
- (2) In subsection (5) for “(despite anything in Part II of Schedule 9)” there is substituted “(despite anything in regulations under section 18 of the Education Act 2002).”
- (3) In subsection (10) for “(despite paragraph 14 of Schedule 9)” there is substituted “(despite anything in regulations under section 18 of the Education Act 2002).”
- 91 (1) Section 18 of the School Standards and Framework Act 1998 (power of Secretary of State to appoint additional governors) is amended as follows.
- (2) In subsection (5) for “(despite anything in Part II of Schedule 9)” there is substituted “(despite anything in regulations under section 18 of the Education Act 2002).”
- (3) In subsection (6)(b) for “paragraph 14 of Schedule 9” there is substituted “regulations under section 18 of the Education Act 2002.”
- 92 In section 20 of the School Standards and Framework Act 1998 (new categories of maintained schools), in subsection (2)(b), for “section 28 or 31” there is substituted “any enactment”.
- 93 (1) Section 22 of the School Standards and Framework Act 1998 (maintenance of schools) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (b), the words “under section 28 or 31” are omitted, and
- (b) in paragraph (c), the words “under section 28” are omitted.

- (3) In subsection (4)(b), for the words from “under paragraph 2” to the end there is substituted “under any enactment of providing new premises for the school”.
- (4) In subsection (5)(b), for the words from “under paragraph 4” to the end there is substituted “under any enactment of providing new premises for the school”.
- 94 (1) Section 28 of the School Standards and Framework Act 1998 (proposals for establishment or alteration of community, foundation or voluntary school) is amended as follows.
- (2) After subsection (1) there is inserted –
- “(1A) Subsection (1)(a) does not apply to any proposal of a local education authority in England to establish a community or foundation school which is an additional secondary school within the meaning of section 66 of the Education Act 2002.”
- (3) In subsection (2)(a) (promoters to publish proposals to establish new foundation or voluntary school), after “voluntary school” there is inserted “(otherwise than pursuant to a notice under section 66 of the Education Act 2002)”.
- 95 (1) Section 33 of the School Standards and Framework Act 1998 (provisions relating to establishment etc of schools) is amended as follows.
- (2) In subsection (1) –
- (a) for the words from “paragraph 5” to “2000” there is substituted “any enactment”,
- (b) in paragraph (c), after “shall be” there is inserted “established or”, and
- (c) after that paragraph there is inserted “; and
- (d) no prescribed alteration shall be made to any maintained nursery school which is maintained by a local education authority in Wales.”
- (3) After subsection (4) there is inserted –
- “(5) For the purposes of this Part proposals for the establishment of a maintained school shall be taken to be implemented on the school opening date.
- (6) In this Part “school opening date”, in relation to a new maintained school, means the date when the school first admits pupils.”
- 96 (1) Section 45 of the School Standards and Framework Act 1998 (budget shares of maintained schools) is amended as follows.
- (2) After subsection (1) there is inserted –
- “(1A) In this Chapter “maintained school” means –
- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school, or
- (c) a maintained nursery school.”
- (3) In subsection (3) –
- (a) in paragraph (a), for the words from “schools which” to “section 20(7)” there is substituted “pupil referral units”, and



- (b) in paragraph (b)(i), for the words “section 28 or 31 or paragraph 5 of Schedule 7” there is substituted “any enactment”.
- 97 (1) Section 49 of the School Standards and Framework Act 1998 (maintained schools to have budget shares) is amended as follows.
- (2) In subsection (4) for “local schools budget” there is substituted “LEA budget or schools budget” 5
- (3) In subsection (6)(b), for “or paragraph 14(2) of Schedule 6” there is substituted “, paragraph 14(2) of Schedule 6, paragraph 3(3) of Schedule 7A to the Learning and Skills Act 2000 or paragraph 8 of Schedule 8 to the Education Act 2002”. 10
- 98 In section 61 of the School Standards and Framework Act 1998 (responsibility of governing body and head teacher for discipline) after subsection (7) there is inserted –
- “(8) In this section “maintained school” includes a maintained nursery school.” 15
- 99 In section 62 of the School Standards and Framework Act 1998 (reserve power of local education authority to prevent a breakdown of discipline) after subsection (4) there is inserted –
- “(5) In this section “maintained school” includes a maintained nursery school.” 20
- 100 In section 81 of the School Standards and Framework Act 1998 (application of employment law during financial delegation), in subsection (1) for the words from “sections” to the end there is substituted “sections 34 to 36 of the Education Act 2002 or of regulations under those sections”.
- 101 In section 82 of the School Standards and Framework Act 1998 (modification of trust deeds), in subsection (1), after “provision of this Act” there is substituted “, the Learning and Skills Act 2000 or the Education Act 2002”. 25
- 102 In section 101 of the School Standards and Framework Act 1998 (permitted selection), in subsection (4), for the words from “under” to the end there is substituted “, and fallen to be implemented, under any enactment”. 30
- 103 (1) Section 127 of the School Standards and Framework Act 1998 (code of practice for securing effective relationships between local education authorities and maintained schools) is amended as follows
- (2) In subsection (2), after “maintained school” there is inserted “or maintained nursery school”. 35
- (3) In subsection (6) –
- (a) after paragraph (c) there is inserted –
- “(cc) section 16A(1),”,
- (b) paragraphs (e), (f), (h), (i) and (k) are omitted, and
- (c) after paragraph (l) there is inserted – 40
- “(m) regulations under section 18 of the Education Act 2002, so far as relating to the appointment of persons as local education authority governors,
- (n) regulations under section 28(3) of that Act (governors’ reports), 45

- (o) regulations under section 30 of that Act (control of school premises),
- (p) sections 34 and 35 of that Act (staffing) and regulations under those sections, and
- (q) Schedule 2 to that Act (effect on staffing of suspension of delegated budget),”.
- 104 In section 138 of the School Standards and Framework Act 1998 (orders and regulations) in subsection (4)(a), after “20(7)”, there is inserted “45C(2),”.
- 105 In section 142 of the School Standards and Framework Act 1998 (general interpretation) in subsection (1) after the definition of “employment” there is inserted –
- ““exclude”, in relation to the exclusion of a child from a school, means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly);
- “foundation governor”, in relation to a foundation school, a foundation special school or a voluntary school, means a person appointed as a foundation governor in accordance with regulations under section 18 of the Education Act 2002;”.
- 106 In section 143 of the School Standards and Framework Act 1998 (index) –
- (a) in the entry beginning “exclude, exclusion (in relation to the exclusion of a child from a school)” for “section 64(4)” there is substituted “section 142(1)”,
- (b) in the entry beginning “foundation governor”, for “paragraph 2 of Schedule 9” there is substituted “section 142(1)”,
- (c) in the entry beginning “individual schools budget”, for “section 46(2)” there is substituted “section 45A(3)”,
- (d) after the entry beginning “land” there is inserted –
- “LEA budget (in Part 2) | section 45A(1)”,
- (e) in the entry beginning “qualified teacher” for “qualified teacher” there is substituted “school teacher”,
- (f) in the entry beginning “school opening date” for “section 44(9)” there is substituted “section 33(6)”, and
- (g) after the entry beginning “school which has selective admission arrangements” there is inserted –
- “schools budget (in Part 2) | section 45A(2)”.
- 107 In Schedule 3 to the School Standards and Framework Act 1998 (funding of foundation, voluntary and foundation special schools), in paragraph 4(2)(a), for the words from “Part III” to “proposals)” there is substituted “any enactment”.
- 108 (1) Schedule 6 to the School Standards and Framework Act 1998 (establishment etc of schools) is amended as follows.
- (2) In paragraph 3, after sub-paragraph (2) there is inserted –

- “(2A) The requirement to make a decision under sub-paragraph (2) in the case of proposals of a prescribed description only applies if, at the time when the decision falls to be made under that sub-paragraph, the committee are satisfied that the proposals do not relate to any relevant proposals. 5
- (2B) In sub-paragraph (2A), “relevant proposals” means proposals of a description prescribed for the purposes of this sub-paragraph.
- (2C) In deciding for the purposes of sub-paragraph (2A) whether any proposals are related the relevant committee shall have regard to any guidance given from time to time by the Secretary of State.” 10
- (3) In paragraph 4(3) –
- (a) in paragraph (b), after “body of a” there is inserted “community,”,  
and
- (b) after paragraph (e) there is inserted – 15
- “(f) any undetermined proposals published under section 113A of the Learning and Skills Act 2000, if those proposals are relevant proposals for the purposes of paragraph 3(2A);
- (g) any undetermined proposals made under section 51 of the Further and Higher Education Act 1992, if those proposals are relevant proposals for those purposes; or 20
- (h) any direction under section 67 of the Education Act 2002”.
- (4) In paragraph 4(4) – 25
- (a) in paragraph (a), after “or under Schedule 7” there is inserted “or 7A”, and
- (b) after paragraph (b) there is inserted “or
- (c) the Secretary of State has not made a decision as to whether or not to make an order under section 16 or 27 of the Further and Higher Education Act 1992,”. 30
- (5) In paragraph 12 (implementation of proposals relating to community or maintained nursery schools) –
- (a) in sub-paragraph (1), for the words from “proposed” to the end there is substituted “maintained nursery school or a proposed such school”, and 35
- (b) in sub-paragraph (2) there is inserted at the end “or, in the case of proposals published by the governing body of a community school under section 28(2)(b), by the local education authority who maintain the school”. 40
- 109 In Schedule 7 to the School Standards and Framework Act 1998 (rationalisation of school places), in paragraph 8(7)(c) (approval of proposals), after “body of any” there is inserted “community”.
- 110 (1) Schedule 22 to the School Standards and Framework Act 1998 (disposal of land) is amended as follows. 45
- (2) In paragraphs 1(1)(a) and 2(1)(a) (disposals), after “Schedule 6” there is inserted “(including that provision as applied by any enactment)”.

- (3) In paragraph 3 (disposal of land by trustees) –
- (a) in sub-paragraph (1)(a), after “Schedule 6” there is inserted “(including that provision as applied by any enactment)”, and
  - (b) in sub-paragraph (8)(b)(ii), for “section 28 or 31” there is substituted “any enactment”. 5
- (4) In paragraph 5 (discontinuance of schools) –
- (a) for sub-paragraph (1)(a) there is substituted –
    - “(a) proposals to discontinue a foundation, voluntary or foundation special school have been approved, adopted or determined to be implemented under any enactment, or”, and 10
  - (b) in sub-paragraph (4)(c) for “section 28 or 31 or paragraph 5 of Schedule 7” there is substituted “any enactment”.
- (5) In paragraph 7 (disposal of property held by governing body of maintained school on their dissolution), in sub-paragraph (1) for “paragraph 4 of Schedule 10” there is substituted “paragraph 5 of Schedule 1 to the Education Act 2002”. 15
- 111 In Schedule 32 to the School Standards and Framework Act 1998 (transitional provisions), paragraph 7 is omitted.
- Protection of Children Act 1999 (c.14)* 20
- 112 Section 5 of the Protection of Children Act 1999 (prohibiting or restricting employment of teachers, &c.) shall cease to have effect.
- 113 (1) Section 7 of the Protection of Children Act 1999 (effect of inclusion in lists of individuals unsuitable to work with children) is amended as follows.
- (2) In subsection (1) – 25
- (a) in paragraph (a), sub-paragraphs (ii) and (iii) are omitted,
  - (b) in paragraph (b), for “any of those lists” there is substituted “that list”, and
  - (c) after paragraph (b) there is inserted –
    - “(c) shall ascertain whether he is subject to a direction under section 138 of the Education Act 2002, given on the grounds that he is unsuitable to work with children; and 30
    - (d) if he is subject to a direction under that section given on those grounds, shall not offer him employment in a child care position”. 35
- (3) In subsection (2) –
- (a) in paragraph (a), for “any of the lists mentioned in subsection (1) above” there is substituted “the list kept under section 1 above or subject to a direction under section 138 of the Education Act 2002, given on the grounds that he is unsuitable to work with children”, 40
  - (b) the word “and” immediately preceding paragraph (c) is omitted,
  - (c) in paragraph (c), for “any of those lists” there is substituted “the list kept under section 1 above”, and
  - (d) after paragraph (c) there is inserted “; and 45
    - (d) if the individual was subject to a direction under section 138 of the Education Act 2002, given on the

grounds that he is unsuitable to work with children, does not offer him employment in a child care position”.

(4) Subsection (4) is omitted.

- 114 In section 9(2) of the Protection of Children Act 1999 (proceedings of the Tribunal) – 5
- (a) for paragraph (b) there is substituted –  
“(b)on an appeal, application for leave or review under section 139 of the Education Act 2002;”, and
- (b) at the end there is inserted “or 10  
(f)on an appeal under section 161 of the Education Act 2002;”.
- 115 (1) Section 12 of the Protection of Children Act 1999 (interpretation) is amended as follows.
- (2) In subsection (1), the definition of “the 1988 Act” is omitted.
- (3) In subsection (3), for paragraph (a) there is substituted – 15  
“(a) it involves work to which section 138 of the Education Act 2002 applies;”.

*Learning and Skills Act 2000 (c.21)*

- 116 (1) Section 7 of the Learning and Skills Act 2000 (funding of school sixth-forms by Learning and Skills Council for England) is amended as follows. 20
- (2) In subsection (1)(a) for “local schools budget” there is substituted “schools budget”.
- (3) In subsection (3) for “Local schools budget” there is substituted “Schools budget”.
- 117 (1) Section 36 of the Learning and Skills Act 2000 (funding of school sixth-forms by National Council for Education and Training for Wales) is amended as follows. 25
- (2) In subsection (1)(a) for “local schools budget” there is substituted “schools budget”.
- (3) In subsection (3) for “Local schools budget” there is substituted “Schools budget”. 30
- 118 (1) Schedule 7 to the Learning and Skills Act 2000 (inadequate sixth forms) is amended as follows.
- (2) In each of paragraphs 17, 21, 25 and 29 (procedure on proposals for closure of sixth form), in sub-paragraph (2), for “copy and information mentioned in sub-paragraph (1)(a) and (b)” there is substituted “copy mentioned in sub-paragraph (1)(a)”. 35
- (3) In paragraphs 32 and 39 (implementation of proposals relating to schools in England or Wales), in sub-paragraph (1), after “schools” there is inserted “maintained by a local education authority”. 40

*Freedom of Information Act 2000 (c. 36)*

- 119 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), for paragraph 52 there is substituted –

- “52. The governing body of—
- (a) a maintained school, as defined by section 20(7) of the School Standards and Framework Act 1998, or
  - (b) a maintained nursery school, as defined by section 22(9) of that Act.”

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*Criminal Justice and Court Services Act 2000 (c.43)*

- 120 (1) Section 35 of the Criminal Justice and Court Services Act 2000 (persons disqualified from working with children: offences) is amended as follows.
- (2) For subsection (4)(b) there is substituted—
- “(b) he is subject to a direction under section 138 of the Education Act 2002 (prohibition from teaching, &c.), given on the grounds that he is unsuitable to work with children,”.
- (3) Subsection (5) is omitted.

10

SCHEDULE 22

Section 207(2)

REPEALS

PART 1

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 208(2)

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
School Teachers' Pay and Conditions Act 1991 (c.49).	The whole Act.	5
Further and Higher Education Act 1992 (c. 13)	Section 26(9). Section 48.	
Education Act 1996 (c. 56)	In section 578, the reference to the School Teachers' Pay and Conditions Act 1991. In Schedule 37, paragraph 101.	10
Education Act 1997 (c. 44)	In section 26(3), the words "or approve" and the words "and subject to such conditions".	
School Standards and Framework Act 1998 (c. 31)	Section 13.  In Schedule 30, paragraphs 24 to 28 and 44. In Schedule 32, paragraph 7.	15

PART 2

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 208(3)

20

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Disability Discrimination Act 1995 (c. 50)	Section 28J(4).	
Education Act 1997	In section 32(3), the words "or approve" and the words "and subject to such conditions".	25
Special Educational Needs and Disability Act 2001 (c. 10)	Section 42(2). In Schedule 8, paragraph 2.	

PART 3

REPEALS COMING INTO FORCE IN ACCORDANCE WITH SECTION 208(4)

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Education Act 1967 (c. 3).	The whole Act, so far as unrepealed.	30
Local Government Act 1974 (c. 7)	Section 25(5)(b).	
Local Government (Miscellaneous Provisions) Act 1982 (c. 30).	Section 40.	35

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Education (Fees and Awards) Act 1983 (c. 40)	Section 1(6).	
Education Act 1986 (c. 40).	Section 1(1)(b) and the word “and” immediately preceding it. Sections 2 to 4.	5
Education (No. 2) Act 1986 (c. 61).	Section 49. In section 50— (a) in subsection (1), paragraph (b) and the word “and” immediately preceding it, and (b) in subsection (3A), the words from “by the Secretary of State” to “teachers”.	10
Education Reform Act 1988 (c. 40).	Section 160. Sections 210 and 211. Sections 218 and 218A.	15
Children Act 1989 (c. 14).	In section 19, subsections (1) and (2) and in subsection (4) the words “the two authorities or, in Scotland,”. In section 79M(1), the word “or” at the end of paragraph (a). Section 79P(4)(d) and the preceding “and”. In section 79U, subsection (5) and, in subsection (9), the definition of “authorised inspector”.	20
Environmental Protection Act 1990 (c. 43)	Section 9(2)(c)(ii).	25
Further and Higher Education Act 1992 (c. 13).	In section 23(4), paragraph (b) and the word “and” immediately preceding it. In section 37, subsection (1)(b) and the word “or” immediately preceding it and subsections (8)(a) and (9). Sections 39 to 42. Section 60. In Schedule 8, paragraphs 46, 47, 49 and 90.	30
Judicial Pensions and Retirement Act 1993 (c.8).	In Schedule 5, the reference to “Chairman of an Independent Schools Tribunal”. In Schedule 7, paragraph 5(5)(xxvii).	35
Education Act 1994 (c. 30)	Section 4(4). In section 14, subsections (1), (3) and (4). In Schedule 2, paragraph 8(4).	
Disability Discrimination Act 1995 (c.50).	Section 28Q(12). In Schedule 4A, in the Table in paragraph 1, paragraph 3.	40
Nursery Education and Grant-Maintained Schools Act 1996 (c. 50).	The whole Act so far as unrepealed.	45
Education Act 1996 (c. 56).	In section 2(3)(a) the words “(including vocational, social, physical and recreational training)”.	



<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Education Act 1996 (c. 56).— <i>cont.</i>	In section 4(1) the words “part-time education suitable to the requirements of junior pupils or”.	
	In section 5(1) the words “part-time education suitable to the requirements of junior pupils or”.	5
	Section 29(6).	
	In section 316A(11)(b) the words “a maintained nursery school or”.	10
	In section 317 subsection (3)(b) and the word “and” preceding it.	
	In section 318, in subsection (3A) paragraph (b) and the word “or” immediately preceding it.	
	In section 329A(13)(a), the words “a maintained nursery school or”.	15
	Sections 350 to 369.	
	Section 408(4)(a).	
	In section 409(1), the words “with the approval of the Secretary of State and”.	20
	Section 410.	
	Sections 464 to 478.	
	Section 483(3A).	
	Section 483A(7).	
	In section 484, in subsection (2) the words “England and” and subsection (6).	25
	Sections 486 to 488.	
	Sections 490 to 492	
Section 497A(3).		
Section 509(6).	30	
In section 509A(5)(b), sub-paragraph (ii) and the word “or” immediately preceding it.		
Section 537(9) and (10).		
In section 545(2)(a), the words “or section 218(7) of the Education Reform Act 1988”.	35	
In section 548(8), in paragraph (b), sub-paragraph (ii) and the word “or” preceding that sub-paragraph, and paragraph (c).		
In section 568, in subsection (2) the words “sections 468, 471(1) and 474”, in subsection (3) the words from “section 354(6)” to “401”, and subsection (4).	40	
In section 578, the entries relating to the Education Act 1967 and the Nursery Education and Grant-Maintained Schools Act 1996.	45	
In section 580, the entries relating to—		
city academy;		
city college for the technology of the arts;	50	
city technology college;		
register, registration;		
registered school;		
Registrar of Independent Schools.		

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
– cont.	In Schedule 1, paragraph 7. Schedule 34.	
School Inspections Act 1996 (c.57).	In Schedule 37, paragraphs 13 and 55, in paragraph 65(2), paragraph (b) and the word “and” immediately preceding it, paragraph 76 and paragraph 131.	5
	In section 3(3), the word “and” at the end of paragraph (a).	
	In section 6(3), the word “and” at the end of paragraph (a).	10
	In section 10, subsection (3)(e) and, in subsection (4B), paragraph (f) and the preceding “or”.	
	In section 11(5), in paragraph (a), “(e)” and paragraph (b).	15
	In section 15(4)(c) the words “except where the school is a maintained nursery school”.	
	In section 16(3), the word “and” preceding paragraph (d).	20
	In section 20(3), paragraph (b) and the preceding “or”.	
	In section 21 –	
	in subsection (3)(b) the words “except in the case of a maintained nursery school, and	25
	in subsection (4), paragraph (b) and the preceding “or”.	
	In Schedule 3, in the definition of “appropriate authority” in paragraph 1, paragraph (b), and in paragraph (c), “(e)”.	30
Education Act 1997 (c.44).	Chapter 1 of Part 4.	
	Section 23(4). Section 29(4).	
	Section 49.	
	In Schedule 7, paragraphs 8, 9(3), 14, 27, 28 and 36.	35
Police Act 1997 (c.50)	In section 113 –	
Teaching and Higher Education Act 1998 (c.30).	(a) in subsection (3A), paragraph (a)(ii) and (iii), and	40
	(b) in subsection (3B), paragraph (c) and the words from “and the reference” to the end.	
	Section 115(6A)(a)(ii) and (iii).	
	Section 1(8).	
	In section 3 –	
	(a) the words “within the meaning of section 218(2) of the Education Reform Act 1988”, and	45
	(b) subsection (3)(c).	
	Section 10.	50
	Section 11.	
	Section 13.	
	Section 18.	

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Police Act 1997 (c.50) Teaching and Higher Education Act 1998 (c.30). – <i>cont.</i>	In Schedule 2, paragraph 1(5). In Schedule 3, paragraph 5.
School Standards and Framework Act 1998 (c. 31)	Section 3. 5 Section 7(10). Section 10(3) and (7). In section 11, in subsection (2) the words from “and” to the end, and subsection (3). Section 16(4) and (13). 10 In section 22(1), in paragraph (b) the words “under section 28 or 31” and in paragraph (c) the words “under section 28”. In section 33(1), the word “and” at the end of paragraph (b). 15 Sections 36 to 44. Section 46. In section 52(2), the word “and” at the end of paragraph (b). Sections 54 to 57. 20 In section 63, in subsections (1) and (3) the word “unauthorised” and, in subsection (4), the definition of “unauthorised absence”. Sections 64 to 68. In section 84(6), the definition of “the relevant standard number”. 25 Section 86(6). Section 93. Section 115. In section 119(5), the word “and” at the end of paragraph (a). 30 In section 120(2)(a), the words “of proposals” and “and”. In section 121, in subsection (1), the words “the authority’s statement of proposals” and in subsection (9) the words “early years development”. 35 Section 127(6)(e), (f), (h), (i) and (k). In section 138 – (a) in subsection (2)(b), the words “paragraph 3(5) or 4 of Schedule 10”, 40 (b) in subsection (4)(b), the words “paragraph 4 or 8 of Schedule 23 or”, and (c) in subsection (5), paragraph (a) (ii) and (iii) and, in paragraph (b)(ii), the word “46”. 45 In section 143, the entries relating to local schools budget and relevant standard number. In Schedule 4, paragraph 5(4)(e). In Schedule 6 – 50 in paragraph 3(2), the word “or” at the end of paragraph (b); in paragraph 4(3), the word “or” at the end of paragraph (d);

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
School Standards and Framework Act 1998 (c. 31) – <i>cont.</i>	<p>in paragraph 4(5), the word “or” at the end of paragraph (a);  in paragraph 5(9), the words “or (8)”;  in paragraph 10(6), the words “or (5)”.</p> <p>Schedules 9 to 13.  Schedules 16 to 18.  Schedules 23 to 25.  In Schedule 26, in paragraph 1, sub-paragraph (1)(c) and the word “or” preceding it, and paragraphs 6(4), 8(9) and 15.  In Schedule 28, paragraph 4(1) and Part 2.  In Schedule 30 –  paragraph 3(3),  paragraph 14,  paragraph 17,  paragraph 47(a),  paragraph 56,  in paragraph 74 sub-paragraphs (2) and (3) and in sub-paragraph (4) paragraph (b) and the word “and” preceding it,  paragraphs 85 to 90,  paragraph 133(b),  paragraph 194(3)(a)(ii),  paragraph 204(b).</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p>
Protection of Children Act 1999 (c.14).	<p>Section 5.</p> <p>In section 7 –  (a) subsection (1)(a)(ii) and (iii),  (b) the word “and” immediately preceding subsection (2)(c), and  (c) subsection (4).</p> <p>In section 9(2), the word “or” at the end of paragraph (d).</p> <p>In section 12(2), the definition of “the 1988 Act”.</p>	<p>30</p> <p>35</p>
Employment Relations Act 1999 (c.26).	Section 40.	
Immigration and Asylum Act 1999 (c. 33)	In Schedule 14, paragraph 117.	
Care Standards Act 2000 (c.14).	Section 100. In Schedule 4, paragraph 24.	40
Learning and Skills Act 2000 (c.21).	Sections 130 to 132. Section 148(2). In Schedule 7, in paragraph 35(1), the word “or” at the end of paragraph (b). Schedule 8. In Schedule 9, paragraphs 18, 26, 30, 35 and 58, in paragraph 59, sub-paragraphs (6)(b), (7)(b) and (c) and (8), and paragraph 91.	45
Criminal Justice and Court Services Act 2000 (c.43)	Section 35(5).	50

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Criminal Justice and Court Services Act 2000 (c.43) – <i>cont.</i>	In Schedule 7, paragraph 83.

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