

ELIZABETH II

c. 59



# Education (Schools) Act 1997

## 1997 CHAPTER 59

An Act to make provision for and in connection with the ending of the assisted places schemes in England and Wales and in Scotland. [31st July 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Assisted places in England and Wales*

#### **1 Abolition of assisted places scheme in England and Wales**

- (1) The following provisions of the Education Act 1996 shall cease to have effect—
  - (a) section 479 (duty of the Secretary of State to operate the assisted places scheme);
  - (b) sections 480 and 481 (supplementary provisions about the scheme); and
  - (c) Schedule 35 (termination of participation agreements).
- (2) Accordingly any participation agreement in force immediately before the commencement of this section shall also cease to have effect.
- (3) Nothing in this Act affects the operation of—
  - (a) any participation agreement,
  - (b) the assisted places scheme, or
  - (c) (without prejudice to paragraph (b)) any regulations made under section 480 or 481 of the Education Act 1996,in relation to the 1996-97 school year or any previous school year.

## **2 Transitional arrangements for existing assisted pupils**

- (1) A former participating school may provide assisted places at the school for the 1997-98 school year or a subsequent school year, but may only do so—
  - (a) for existing assisted pupils at the school; and
  - (b) subject to and in accordance with subsection (2) and regulations under section 3.
- (2) If a pupil is provided with an assisted place under subsection (1) at a time when he is receiving primary education, he shall cease to hold that place—
  - (a) at the end of the school year in which he completes his primary education; or
  - (b) if the Secretary of State, where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to that pupil, determines that he should continue to hold that place for a further period during which he receives secondary education, at the end of that period.
- (3) Where a school providing assisted places under subsection (1)—
  - (a) remits fees that otherwise would be chargeable in respect of pupils holding such places at the school, and
  - (b) does so in accordance with regulations under section 3,the Secretary of State shall reimburse the school for the fees so remitted.
- (4) The fees in relation to which subsection (3) applies are—
  - (a) tuition and other fees the payment of which is a condition of attendance at the school but excluding boarding fees and such other fees as may be excluded by or in accordance with regulations under section 3; and
  - (b) entrance fees for public examinations paid by the school in respect of candidates from the school.
- (5) For the purposes of this section a pupil at a former participating school is an existing assisted pupil if he was selected (or provisionally selected) for an assisted place at the school at any time prior to the beginning of the 1997-98 school year and either—
  - (a) he continues as, or becomes, a registered pupil at the school at the beginning of the first term of that year; or
  - (b) he becomes a registered pupil at the school after the beginning of that term but before the end of that year and the Secretary of State, where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to the pupil, determines that the requirements of paragraph (a) should not apply to him.
- (6) In subsection (5)—
  - (a) “assisted place” means an assisted place provided for the purposes of the assisted places scheme; and
  - (b) the reference to a pupil who was provisionally selected for such a place does not include a pupil who was so selected but from whom the place was subsequently withdrawn by the school.

## **3 Regulations for purposes of transitional arrangements**

- (1) The Secretary of State may by regulations make such provision as appears to him to be expedient in connection with the provisions of section 1 or 2.
- (2) Regulations under this section may in particular—

- (a) prescribe the conditions subject to which, the extent to which, and the arrangements in accordance with which, fees are to be remitted by schools providing assisted places under section 2(1);
  - (b) prescribe—
    - (i) arrangements enabling the Secretary of State to determine from time to time the maximum levels of fees which may be charged by such schools in respect of pupils holding such places, and
    - (ii) conditions to be complied with by such schools with respect to such fees;
  - (c) prescribe the time and manner in which such schools are to claim and receive reimbursements from the Secretary of State;
  - (d) provide for the Secretary of State to discharge by means of lump sum payments to such schools any future liabilities of his to make such reimbursements;
  - (e) prescribe conditions to be complied with by such schools with respect to the keeping and auditing of accounts and the provision of information to the Secretary of State;
  - (f) provide for the Secretary of State, in a case where a former participating school—
    - (i) merges with another school,
    - (ii) closes (whether wholly or in part), or
    - (iii) notifies the Secretary of State that it no longer wishes to provide assisted places under section 2(1),to authorise the new school or (as the case may be) any other former participating school to provide under section 2(1) any assisted places which the first-mentioned school was authorised to provide.
- (3) Regulations under this section may also require or enable schools providing assisted places under section 2(1)—
- (a) to make grants in respect of incidental expenses, and
  - (b) to remit such incidental charges as may be specified in the regulations;
- and for this purpose expenses or charges are “incidental” if they are in respect of matters incidental to or arising out of the attendance at the schools of pupils holding assisted places provided under section 2(1).
- (4) Any regulations made under subsection (3) shall require any amounts granted or remitted by a school in accordance with the regulations to be reimbursed to the school by the Secretary of State; and any such regulations may make, in connection with the making of any such grants or remissions, provision such as is authorised to be made in connection with the remission of fees by paragraphs (a), (c) and (d) of subsection (2).
- (5) Regulations under this section may authorise the Secretary of State to make provision for any purpose specified in the regulations.
- (6) Regulations made under subsection (2)(a) or (b) shall be reviewed by the Secretary of State—
- (a) not later than two years after the date on which the first such regulations are made; and
  - (b) thereafter at intervals of not more than two years.
- (7) The Secretary of State shall—
- (a) before making regulations under subsection (1) or (2), or

- (b) when conducting any review under subsection (6), consult such bodies as appear to him to be appropriate and representative of schools that will be or are providing assisted places under section 2(1).
- (8) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Any such regulations may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

#### **4 Construction of sections 1 to 3**

- (1) In sections 1 to 3—
- “assisted place”, in relation to the 1997-98 school year or any subsequent school year, means an assisted place provided under section 2(1);
- “the assisted places scheme” means the scheme operated by the Secretary of State under section 479 of the Education Act 1996;
- “former participating school” means a school in relation to which a participation agreement was in force immediately before the commencement of section 1 (including such an agreement under which the school had not yet begun to provide any assisted places);
- “participation agreement” means an agreement made by the Secretary of State with a school for the purposes of the assisted places scheme (including such an agreement as subsequently varied by the parties to it).
- (2) Except where the context otherwise requires, references in sections 2 and 3 to a school include the proprietors of the school and persons acting with their authority.
- (3) Sections 1 to 3 shall be construed as one with the Education Act 1996.

#### *Assisted places in Scotland*

#### **5 Phasing out of assisted places scheme in Scotland**

- (1) Section 75A (assisted places) of the Education (Scotland) Act 1980 (“the 1980 Act”) shall be amended as follows—
- (a) in subsection (1), for the words from the beginning to “establish and” there shall be substituted the words “The Secretary of State shall, subject to subsections (1A) and (1B) below,”;
- (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) The Secretary of State shall operate a scheme such as is described in subsection (1) above only in relation to any pupil admitted to an assisted place under such a scheme prior to the beginning of the first term of the 1997-98 school year where the pupil will be in attendance at the school concerned—
- (a) at the beginning of that term; or
- (b) after the beginning of that term but before the end of that school year, and where it appears to the Secretary of State that it is reasonable, in view of any particular circumstances

relating to that pupil, that he should be permitted to take advantage of that place after the beginning of that term, and, for the purposes of this section, “1997-98 school year” means the period of twelve months beginning on 1st August 1997.

- (1B) A pupil holding an assisted place who is receiving primary education during the 1997-98 school year shall cease to hold that place—
- (a) at the end of the school year in which he completes his primary education; or
  - (b) if the Secretary of State, where he is satisfied that it is reasonable to do so in view of any particular circumstances relating to that pupil, decides that he should continue to hold that place for a further period during which he receives secondary education, at the end of that period.”
- (c) for subsection (2) there shall be substituted the following subsection—
- “(2) In this section references to a participating school are references to any grant-aided or independent school providing secondary education which the Secretary of State has determined, prior to the coming into force of this subsection, to be a participating school for the purposes of the scheme.”
- (d) for subsection (4) there shall be substituted the following subsection—
- “(4) The Secretary of State may alter—
- (a) the maximum annual amount referred to in subsection (3)(a) above; or
  - (b) the conditions referred to in subsection (3)(b) above, by written notification to the school concerned.”
- (e) after subsection (9) there shall be inserted the following subsections—
- “(9A) Regulations under this section may—
- (a) provide for the discharge of any future liabilities of the Secretary of State to make reimbursements of fees by way of lump sum payments; and
  - (b) provide for the Secretary of State, in a case where a participating school—
    - (i) merges with another school;
    - (ii) closes (whether wholly or in part); or
    - (iii) notifies the Secretary of State that it no longer wishes to provide assisted places,to authorise the new school or, as the case may be, any other participating school to provide any assisted places which the participating school first mentioned was authorised to provide; and a new school authorised to provide assisted places under regulations made under this section shall be treated for the purposes of this section and section 75B of this Act as if a determination had been made in respect of it under subsection (2) above.
- (9B) Without prejudice to his duty to operate a scheme under subsection (1) above in respect of pupils such as are mentioned in subsection (1A)

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

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above, the Secretary of State may by regulations make such provision as he considers necessary for or in relation to the ending of the scheme.

(9C) Regulations made under this section or section 75B of this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.”

- (2) The following provisions of the 1980 Act shall cease to have effect—
- (a) in section 75A, subsection (6) and, in subsection (9), paragraphs (a) and (b) and, in paragraph (e), the words “the admission of pupils to assisted places.”; and
  - (b) Schedule 1A.

### *Supplemental*

## **6 Consequential amendments and repeals**

- (1) In section 548 of the Education Act 1996 (no right to give corporal punishment), in subsection (4)(a) for the words from “under” to “479” there shall be substituted “provided under section 2(1) of the Education (Schools) Act 1997”.
- (2) In section 578 of that Act (meaning of “the Education Acts”), at the appropriate place there shall be inserted—  
“the Education (Schools) Act 1997”
- (3) The enactments specified in the Schedule to this Act are repealed to the extent specified.

## **7 Short title, commencement and extent**

- (1) This Act may be cited as the Education (Schools) Act 1997.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996.
- (3) In this Act—
  - (a) the following provisions shall come into force on 1st September 1997—  
sections 1 and 2,  
section 6(1), and  
Part I of the Schedule and section 6(3) so far as relating thereto;
  - (b) the following provisions shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument—  
section 5(2), and  
Part II of the Schedule and section 6(3) so far as relating thereto;

and the other provisions of this Act come into force on the day on which it is passed.
- (4) In this Act—
  - (a) the following provisions extend to England and Wales only—  
sections 1 to 4,  
section 6(1) and (2), and  
Part I of the Schedule and section 6(3) so far as relating thereto;

- (b) the following provisions extend to Scotland only—  
section 5, and  
Part II of the Schedule and section 6(3) so far as relating thereto;  
and this section extends to England and Wales and Scotland.

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

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Section 6.

## REPEALS

## PART I

## REPEALS EXTENDING TO ENGLAND AND WALES

| <i>Chapter</i> | <i>Short title</i>  | <i>Extent of repeal</i>  |
|----------------|---------------------|--|
| 1996 c. 56.    | Education Act 1996. | Sections 479 to 481.<br><br>In section 580, the entries relating to “assisted places scheme”, “participating school” and “participation agreement”. Schedule 35. |
| 1997 c. 44.    | Education Act 1997. | Section 1.   |

## PART II

## REPEALS EXTENDING TO SCOTLAND

| <i>Chapter</i> | <i>Short title</i>             | <i>Extent of repeal</i>   |
|----------------|--------------------------------|---|
| 1980 c. 44.    | Education (Scotland) Act 1980. | In section 75A, subsection (6) and, in subsection (9), paragraphs (a) and (b) and, in paragraph (e), the words “the admission of pupils to assisted places,”.<br><br>Schedule 1A. |