

# **Education (Schools) Bill**

[Bill 4 of Session 1997/98]

## **Research Paper 97/70**

**29 May 1997**



This paper sets out the extent and costs of the Assisted Places Scheme and examines the background to, and the provisions of, the Education (Schools) Bill presented in the House of Commons on 22 May 1997. The Bill seeks to end the Assisted Places Scheme in England and Wales and Scotland, while making provision to continue to assist children who already hold such places. It is due to have its Second Reading on 2 June 1997.

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## Summary

The provisions of the Bill seek to end the Assisted Places Scheme (APS) in England and Wales and Scotland. There will be no new intake of pupils on assisted places after the Autumn Term 1997. Pupils who hold assisted places in secondary schools in the 1997-98 school year will be supported until the end of their secondary education. Pupils who hold assisted places in independent schools providing primary education will only hold their place until the end of their primary education unless the Secretary of State decides otherwise in view of any particular individual circumstances.

## I Introduction

The Labour Party manifesto contained a commitment to phase out the assisted places scheme in order to reduce class sizes for five, six and seven-year-olds to 30 or under<sup>1</sup>. The Queen's Speech announced legislation to phase out the scheme<sup>2</sup>.

In the debate on the Address, David Blunkett, the Secretary of State for Education and Employment, stated the Government's intention to legislate "within weeks" to ensure that the agreement made before the election to permit children who had been allocated assisted places to take them up was not abused by offers being made for places in 1998 or later years<sup>3</sup>.

The financial memorandum to the Bill refers to the savings being realised from the 1998-99 financial year onwards "which will be spent on reducing infant class sizes in the maintained sector"<sup>4</sup>. The savings have been put at about £100 million in total by the year 2000<sup>5</sup>. However, there is no provision in the Bill which refers to class sizes. An answer to a recent Parliamentary Question made it clear that the detailed costs of phasing out classes of over 30 for all five, six and seven-year-olds would depend on how LEAs and schools implemented the reduction<sup>6</sup>. It is expected that the summer's White Paper and the autumn Education Bill will contain provisions to facilitate reduction in class sizes. Until the White Paper is published, no detail of the proposals is available although areas which might appear to require legislation include a duty on LEAs or governing bodies to reduce class sizes, the alteration of standard numbers for admissions and the working of the appeals system.

## II Background

### A. England and Wales

The Assisted Places Scheme was established under Sections 17 and 18 of the *Education Act 1980*, and came into operation at the start of the 1981/82 school year. The scheme was designed to replace the opportunities offered by the direct grant schools whose grants had been phased out from 1976 by the previous Labour Government. The direct grant list could not be revived as it had always been idiosyncratic, its composition being the fortuitous

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<sup>1</sup> New Labour because Britain deserves better, *Labour Party*, 1997, p. 7

<sup>2</sup> HC Deb 14 May 1997 c.41

<sup>3</sup> HC Deb 15 May 1997 cc182-183

<sup>4</sup> Education (Schools) Bill, 22 May 1997, Bill 4 of 1997-98, Financial effects of the Bill

<sup>5</sup> HC Deb 22 May 1997 c.123w

<sup>6</sup> HC Deb 21 May 1997 c.80w

outcome of administrative decisions taken by grant-aided secondary schools in the 1920s<sup>7</sup>. Mark Carlisle, the then Education Secretary, explained in the debate on the Address in May 1979 that it was intended to ensure a better geographical spread of opportunity than that offered by the direct grant scheme<sup>8</sup>. The regulations which originally set out the administrative details of the scheme were debated in the House of Commons on 29 October 1980.<sup>9</sup> The Government's stated aim for the scheme was to provide assisted places to bright children from less well off backgrounds at high quality independent schools. Introducing the original regulations which made provision for the scheme, Mark Carlisle said:<sup>10</sup>

"It is, first and foremost, a scheme for the benefit of the children and our aim in establishing it is to extend the education opportunities open to children who could benefit from the academic atmosphere of some of those schools - particularly the independent day grammar schools but whose parents cannot afford to pay the fees."

The Labour Party's opposition to the scheme had been stated by Roy Hattersley in the debate on the Address:

In fact, all the assistance schemes basically help children who would have gone there anyway but who nevertheless, because of the schemes, receive added assistance from the State. That is certainly what happened during the period in which the direct grant system was in operation. I have no doubt that it will happen when the new scheme is instituted.

That is the practical objection. There is a much stronger objection in principle. It is that the very notion of a superior element within the system - and everything that the Secretary of State said this afternoon suggested that there was this superior element to which all should aspire and which a few might attain - encourages the belief that most boys and girls can be forgotten as they go through the generality of the educational process<sup>11</sup>.

The statutory provisions relating to the scheme are now contained in sections 479 to 481 and schedule 35 of the *Education Act 1996*. The rules for the operation of the scheme are laid down in Regulations which have been reviewed and updated annually<sup>12</sup>. The scheme is

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<sup>7</sup> Peter Gosden, *The Education System since 1944*, 1983, p.46

<sup>8</sup> HC Deb 16 May 1979 c.221

<sup>9</sup> cc 625-658

<sup>10</sup> HC Deb 29 November 1980 c6251

<sup>11</sup> HC Deb 16 May 1979 c.237

<sup>12</sup> Education (Assisted Places) Regulations 1995 SI 1995/2016 - the principal Regulations as amended by SI 1996/2113

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means-tested and the amount of assistance with school fees is determined by reference to parents' gross income from all sources<sup>13</sup>. The fees to be charged to assisted pupils in each school are subject to the Secretary of State's approval, and annual increases in these fees are controlled. Schools which are approved for entry into the scheme sign legally binding participation agreements with the Department for Education and Employment. The agreements set out, amongst other things, the numbers and entry ages of pupils who may be selected for assisted places, the tuition and other fees charged and the numbers of assisted pupils who may take up boarding places<sup>14</sup>. Under the scheme, no assistance is available with boarding fees. However, some schools offering places make provision for meeting the boarding element themselves.

Schools may select pupils for assisted places in accordance with their own academic criteria and such methods and procedures as they think fit, subject to the Regulations governing the scheme, and any relevant provisions in their participation agreements. The Regulations require schools to select assisted pupils in such a way so as to ensure that at least 60% of their assisted pupils will be pupils from publicly maintained schools<sup>15</sup>.

The number of assisted places offered by each school varies considerably, ranging from under 2% of the total pupils on roll e.g. at Charterhouse and Stowe School to around 50% at Batley Grammar School and Wisbech Grammar School<sup>16</sup>.

Following John Major's announcement at the 1995 Conservative Party Conference that the scheme would be doubled in size, Gillian Shephard, the then Education Secretary and William Hague, Secretary of State for Wales, announced plans for the expansion of the scheme<sup>17</sup>. Expansion was to be through both new places in independent secondary schools and places for children under 11 in the integral junior departments of independent secondary schools. On 29 February 1996, Gillian Shephard, announced 4,000 new entry places for the 1996-97 school year<sup>18</sup>.

The Education (Assisted Places) (Amendment) Regulations 1996<sup>19</sup> extended the scheme to children below age 11 in integral junior departments of independent secondary schools. The Regulations, which also made other associated updating changes, were debated in the House of Commons on 15 July 1996<sup>20</sup>. Although this extension of the scheme allowed for entry

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<sup>13</sup> Details in Part III of this paper

<sup>14</sup> DfEE PN 29 November 1995

<sup>15</sup> Education (Assisted Places) Regulations 1995 SI 1995/2016: Reg 19

<sup>16</sup> HC Deb 17 February 1997 cc382-388w

<sup>17</sup> HC Deb 29 November 1995, cc711-2w and 754-5w

<sup>18</sup> HC Deb 29 February 1996 cc 667-668w

<sup>19</sup> The Education (Assisted Places) (Amendment) Regulations 1996 SI 1996/2113

<sup>20</sup> HC Deb 15 July 1996 cc 894-912

from the age of 5 and applied to both England and Wales, in Wales entry at preparatory level to all schools in their scheme takes place at seven rather than five.

Section 1 of the *Education Act 1997* amended section 479 of the 1996 Act to allow independent schools which only provide primary education to participate in the scheme. Section 1 (originally Clause 20) of the *Education Act 1997* remained in the Bill after the last Government agreed to drop the clauses relating to selection and the extension of grant-maintained schools' powers to develop new provision. This was part of the negotiation to make progress on their legislative programme following the announcement of the general election<sup>21</sup>. Lord Tope, Labour spokesman, stated that the agreement to keep the clause was based on the understanding that commitments had been made to children starting in schools in the autumn term 1997. This section and the associated repeal in Schedule 8 came into force on 4 April 1997<sup>22</sup>.

1,200 new assisted places, including 600 at preparatory schools were announced on 26 February 1997. Of the 118 preparatory schools joining the scheme, 40, all in England, offer only primary education<sup>23</sup>. Most of the children taking up places in preparatory schools will enter at 7 and in Wales no places at 5 have been offered and no schools offering only primary education have joined the scheme.

## B. Scotland

The Scottish Assisted Places Scheme was established by Section 75A of the *Education (Scotland) Act 1980* (added by the *Education (Scotland) Act 1981* Section 5) and operates in substantially the same manner as the English scheme. Assistance is provided with tuition fees for secondary education ( and primary since August 1996) for pupils from lower income families who wish their children to attend a school in the private sector, but who could not otherwise afford such a school. In Scotland the parental choice aspect of the scheme is stressed rather than the opportunities for academic excellence<sup>24</sup>. The level of assistance with fees measured by parental contribution according to income is the same under both schemes. The Scottish Office has a policy aim of having half the available places going to the children of parents who qualify for full fee remission<sup>25</sup>.

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<sup>21</sup> HL Deb 19 March 1997 c924

<sup>22</sup> The Education Act 1997 (Commencement No.1) Order 1997 SI 1997/1153

<sup>23</sup> Over 200 independent schools to receive new assisted places, *DfEE*, PN 26 February 1997

<sup>24</sup> Scottish Education, Scottish Office Information Directorate, 1984

<sup>25</sup> *Education (Assisted Places) (Scotland) Regulations 1995*. S 1995/1713 as amended by S 1996/1808. Debated in First Standing Committee on Delegated Legislation. 19 December 1995



The major differences from the English scheme are:

- Scottish schools are allocated an annual grant for assisted places so the places are effectively cash limited i.e. a school could have a large number of places with low remission or few places with full remission. The English scheme is based on a set number of places available at each school.
- There is no requirement in the Scottish scheme for schools to select at least 60% of their APS pupils, other than the youngest entrants, from publicly maintained schools. However, there has been a policy aim to have 60% of pupils from publicly maintained schools across the scheme as a whole.
- The English scheme has the academic requirement that an APS pupil should be capable of benefiting from the education provided. The Scottish scheme has no academic conditions although pupils obviously have to pass entrance examinations where they exist.
- The Scottish scheme has not been extended to cover places in independent schools which only provide primary education.

### III Extent and Costs of the Scheme

#### A. Pupil numbers

There are currently almost 37,600 pupils on the scheme in Great Britain. Of these, about 33,140 are in England, 3,580 in Scotland and 870 in Wales<sup>26</sup>. The total represents about 6% of all pupils in independent schools who, in turn, account for a similar proportion of all school pupils in Great Britain. The number of APS pupils is equivalent to around 1% of the secondary school population<sup>27</sup>. Some 10,700 new entry places will be available in England alone in the 1997-98 academic year. Places on the scheme are split more or less evenly between girls and boys.

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<sup>26</sup> HC Deb 22 May 1997 c123w, Scottish Office & Welsh Office Departmental Report 1997 Cm 3615 p49

<sup>27</sup> Education Statistics for the UK 1996 Table 16

## B. Pupils by local authority area

Although details of the local authority from which assisted pupils are drawn are not collected centrally, the table overleaf shows how the number of places available is distributed between regions and local authorities. The table gives the number of schools offering assisted places in each authority along with the number of places offered in England and Wales and the number taken up in Scotland<sup>28</sup>.

## C. Parental contributions

Remission of tuition fees under the APS is dependent on the level of fees at participating schools and the amount parents can afford to contribute. The income scale governing parental contributions for one assisted pupil in 1997-98 is as follows:

Part of relevant income to which the specified % applies:	Parental contribution (%)
That part, if any, which exceeds £9,969 but does not exceed £10,864	9
That part, if any, which exceeds £10,684 but does not exceed £11,725	12
That part, if any, which exceeds £11,725 but does not exceed £13,481	15
That part, if any, which exceeds £13,481 but does not exceed £16,186	21
That part, if any, which exceeds £16,186 but does not exceed £19,712	24
That part, if any, which exceeds £19,712	33

*Relevant* income is basically the gross income before tax of both parents, less child benefit, income support and other social security benefits. An allowance for other dependents is also deducted. It is usually assessed using information from the income tax year preceding the school year in which the pupil is assisted.

There is no formal upper income limit above which assistance cannot be obtained as this is also dependent upon the fees charged. On relevant income above £19,712 parental contributions are calculated at 33% ie. £330 for each additional £1,000 income. As a rough guide, at a school charging average annual fees of around £3,600 parents with a combined relevant income of £25,000 or more would be expected to fund this themselves. If the fees charged were higher than this, the difference would be made up by the scheme.

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<sup>28</sup> the total number of places available under the scheme exceeds the number of pupils actually taking part and, hence, differs from the total given above

**Distribution of assisted places/pupils (a) and schools by local authority**  
1996-97

Region	Local Authority	Places/pupils	Schools	Region	Local Authority	Places/pupils	Schools
North		1,769	18	South East		14,316	156
	Cumbria	257	5		Barnet	100	2
	Durham	173	3		Bedfordshire	546	4
	Newcastle upon Tyne	1,117	6		Berkshire	521	10
	North Tyneside	79	1		Bromley	328	3
	Northumberland	15	1		Buckinghamshire	9	1
	Stockton-On-Tees	112	1		Camden	165	2
	Sunderland	16	1		City of Westminster	204	3
					Corporation of London	297	2
Yorkshire & Humberside		2,380	24		Croydon	828	5
	Bradford	342	2		Ealing	256	3
	Calderdale	31	1		East Sussex	455	5
	City of York	248	3		Essex	443	5
	East Riding of Yorkshire	183	2		Greenwich	242	1
	Kingston upon Hull	214	1		Hammersmith and Fulham	579	3
	Leeds	542	4		Hampshire	1,575	12
	North Yorkshire	247	5		Haringey	53	2
	Sheffield	152	2		Harrow	284	3
	Wakefield	421	4		Hertfordshire	1,103	14
East Midlands		1,835	19		Hillingdon	58	1
	Derbyshire	332	4		Hounslow	9	1
	Leicestershire	477	7		Isle of Wight	47	1
	Lincolnshire	249	2		Kensington and Chelsea	26	2
	Northamptonshire	313	3		Kent	657	12
	Nottinghamshire	464	3		Kingston upon Thames	222	2
East Anglia		1,927	20		Lambeth	190	1
	Cambridgeshire	842	8		Lewisham	504	3
	Norfolk	404	4		Merton	146	2
	Suffolk	681	8		Oxfordshire	751	10
South West		4,577	44		Redbridge	245	2
	Bath and North East Somerset	438	5		Richmond upon Thames	403	3
	City of Bristol	1,457	9		Southwark	736	3
	Cornwall	248	2		Surrey	1,264	22
	Devon	1,011	8		Sutton	112	1
	Dorset	309	4		Waltham Forest	172	1
	Gloucestershire	176	5		Wandsworth	490	2
	Somerset	801	8		West Sussex	296	7
	Wiltshire	137	3	Wales		887	14
West Midlands		4,036	34		Bridgend	14	1
	Birmingham	664	6		Cardiff	208	3
	Coventry	336	2		Carmarthenshire	69	1
	Hereford and Worcester	1,205	9		Conwy	142	1
	Shropshire	185	5		Denbighshire	83	1
	Solihull	82	2		Gwynedd	20	2
	Staffordshire	774	6		Monmouthshire	228	2
	Warwickshire	450	3		Newport	15	1
	Wolverhampton	340	1		Powys	101	1
North West		7,617	39		Swansea	7	1
	Bolton	581	2	Scotland		3,579	53
	Bury	495	2		Aberdeen	130	3
	Cheshire	546	6		Angus	6	1
	Kirklees	310	1		Argyll & Bute	70	2
	Lancashire	1,242	8		Clackmannanshire	90	1
	Liverpool	837	3		Dumfries & Galloway	16	2
	Manchester	1,114	5		Dundee	224	1
	Oldham	460	2		East Lothian	48	2
	Sefton	766	3		East Renfrewshire	51	1
	Stockport	449	2		Edinburgh	1,348	12
	Trafford	244	3		Fife	49	2
	Wirral	573	2		Glasgow	890	9
					Moray	40	2
					Perth & Kinross	409	10
					Scottish Borders	7	1
					South Ayrshire	63	1
					South Lanarkshire	41	1
					Stirling	27	1
					West Dunbartonshire	70	1

(a) places available in England and Wales, pupils in schools in Scotland

Sources: HC Dep 3/4498, HC Deb 3 February 1997 c520, Scottish Office

Approximately 45% of assisted pupils receive a free place because their parents' income falls below the threshold for full fee remission<sup>29</sup>.

## D. Expenditure

The table below shows the level of public expenditure on the scheme in each year since it began along with planned expenditure in 1997/98. The average cost of an assisted place in England in the current year is estimated to be around £3,915<sup>30</sup>. Although directly comparable figures for the maintained sector are not available, the education standard spending assessment for secondary and post 16 education in the 1996/97 financial year was equivalent to some £2,810 per pupil<sup>31</sup>.

### Expenditure on the Assisted Places Scheme

£ million

	England	Scotland	Wales	Total
1981/82	3.0	0.8	0.2	4.0
1982/83	8.7	1.7	0.3	10.7
1983/84	15.0	2.5	0.5	17.9
1984/85	22.2	3.3	0.6	26.1
1985/86	29.6	4.2	0.8	34.7
1986/87	37.9	4.9	1.5	44.3
1987/88	46.0	5.3	1.4	52.7
1988/89	50.9	5.8	1.4	58.0
1989/90	56.5	6.7	1.6	64.8
1990/91	63.4	7.6	1.8	72.8
1991/92	75.8	8.7	2.1	86.6
1992/93	92.9	9.8	2.5	105.1
1993/94	92.3	10.1	2.6	105.0
1994/95	101.5	10.4	2.8	114.7
1995/96	104.8	10.9	2.9	118.7
1996/97 estimate	117.0	12.5	3.8	133.3
1997/98 plan	140.0	15.4	4.5	159.9
Total to 1997/98	1,058	121	31	1,209

Sources: *DfEE Departmental Report (Cm 3610) p.77, HC Deb 16 Oct 1996 c986w & 24 Oct 1995 c623w*  
*HC Deb 29 January 1997 c242w & 244w, 28 February 1996 c623w*  
*HC Deb 12 March 1997 c243w*

<sup>29</sup> HC Deb 10 March 1997 c4-5w, 5 March 1997 c654w, 28 January 1997 c157w

<sup>30</sup> HC Deb 22 May 1996 c124w

<sup>31</sup> DoE

### E. Savings and the cost of infant class reduction

The Government's assessment of the savings arising from phasing out the assisted places scheme was given in answer to a written question in May.

Mr. Townend: To ask the Secretary of State for Education and Employment if he will make a statement on the number of additional places in the state sector that will be required as a result of the ending of the assisted places scheme.

Mr. Byers: There are over 800,000 empty places within existing LEA provision so there is ample scope available to accommodate the 10,000 or so pupils who would otherwise have entered the assisted places scheme each year. Phasing out the scheme will lead to savings of about £100 million in total by the year 2000 which will be used to reduce class sizes for 5, 6 and 7-year-olds.

HC Deb 22 May 1997 c123w

The main assumption underlying savings of £100 million by the year 2000 is that the relatively small number of pupils who would otherwise have entered the scheme can be accommodated in the maintained sector without additional funding since, as the Minister points out, there are more than 800,000 surplus places within existing provision. It might also be argued that the independent sector will try to maintain existing pupil numbers, and income, in the absence of the scheme by adjusting entry requirements. Such a move could attract pupils who would otherwise have been educated in the maintained sector offsetting the effect of the scheme's abolition.

Between 1995 and 1996, the number of secondary pupils in maintained schools in England rose by over 18,000. If the 10,000 or so pupils who took up an assisted place in the 1996-97 school year had, instead, been added to this rise without any increase in teaching staff, the pupil teacher ratio in England would have risen from 16.5 to 16.7 rather than 16.6<sup>32</sup>.

Prior to the Election, the Labour Party asked the National Foundation for Educational Research to estimate the cost of reducing class sizes to 30<sup>33</sup>. Extrapolating from a study of 400 primary schools in a single local authority, the NFER suggested that it would require an additional 5,000 teachers to cut all primary classes to 30, but that 2,300 would be sufficient to do so for classes for five to seven-year-olds. Assuming that each additional teacher would cost around £25,000 this would suggest that the cost of limiting class sizes to 30 would be

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<sup>32</sup> DfEE news release 205/96 Statistics of Schools in England

<sup>33</sup> Reported in the *Times Education Supplement* 6 October 1995

around £125 million for all primary classes, or under £60 million for those containing five to seven-year-olds. It subsequently revised this estimate upwards to £68 million<sup>34</sup>.

Alternative costings were published in February by the Institute of Public Finance (IPF)<sup>35</sup> in research commissioned by the Independent Schools Information Service (ISIS), a body representing the leading associations of independent schools. The IPF were asked to assess the cost of reducing infant class sizes to no more than 30 pupils and to compare this with the resources released by the abolition of the APS.

The IPF concluded that there is a significant discrepancy between the savings from the assisted places scheme and the cost of class size reduction amounting to £250 million by the time the full assisted places savings are realised. There are two main reasons why the IPF estimates differ from the Government's view.

Firstly, the IPF assumes that additional funding will be needed in the maintained sector, the bulk of which will reflect the cost of employing more teachers, in order to absorb the pupils who would otherwise have taken assisted places. Simply put, only the difference between the cost of an assisted place and a maintained place would be saved for each pupil on the scheme. As a result, their estimate of cumulative savings by the end of 1999/00 is around £34 million. The Government's estimate of £100 million by the calendar year 2000, on the other hand, assumes that pupils can be absorbed into the maintained sector largely without a corresponding increase in resources.

The second major difference arises from the IPF's assumption that local authorities would not be able to accommodate reduced infant class sizes without additional capital expenditure of some £100 million to increase classroom availability. This conclusion is based on discussion with one LEA already planning to reduce class sizes and less detailed correspondence with two others.

In addition to these two factors, the IPF study suggests a build up of costs over savings as the scheme is phased out over seven years and class sizes are reduced to 30 in three years.

The IPF's assessment of the cost of reducing class sizes for 5-7-year-olds is based on correspondence with four LEAs and at around £65 million per annum is very similar to the NFER's figure.

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<sup>34</sup> Reported in the *Times Education Supplement* 12 July 1996

<sup>35</sup> IPF: The Cost of Reducing Infants' Class Sizes

## IV Effects of the Scheme: a summary of research

Much of the research on the operation of the scheme has concentrated on whether or not the scheme has reached its intended target group. This question has become complicated by different interpretations of what the scheme was and is meant to be doing. Critics of the scheme have emphasised that the scheme has failed to help children from "working class backgrounds", whereas advocates of the scheme argue that it is helping children from low income backgrounds. The scheme has also developed over time and earlier evaluations may no longer be valid. Given these caveats, some of the key findings are noted below:

*The Background of Assisted Places Scheme Students* by Mike Douse.<sup>36</sup> The main findings were that (a) relatively few APS students were drawn from working class backgrounds; (b) substantial numbers came from one-parent families and from homes where the main wage-earner was unemployed; and (c) many APS students are from families already within the 'Independent School frame of reference'.

*The Assisted Places Scheme: a policy evaluation* by Ted Tapper and Brian Salter.<sup>37</sup> The authors argued that the scheme was founded upon inconsistent objectives and that it had at best only partially fulfilled certain of its more critical aims. The paper included a section on the social backgrounds of the APS selected pupils and concluded that the scheme had helped children from lower middle class families. Tapper and Salter have also published a study of the decision making process which led to the APS<sup>38</sup>.

*The State and Private Education : An Evaluation of the Assisted Places Scheme* by Tony Edwards, John Fitz and Geoff Whitty.<sup>39</sup> This reported on a four-year ESRC funded project which studied the origins, implementation and initial effects of APS. The authors pointed out that the available evidence (considered in chapters 5 and 6) did not show that the beneficiaries had been the target groups originally envisaged: 'the scheme seems to have been yet another example of an educational reform targeted towards the working class but mainly benefiting children from middle-class backgrounds .... Neither, in terms of the objectives that were originally defined for it or our own findings to date, does there seem to be much scope or justification for extending it in its present form'.<sup>40</sup>

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<sup>36</sup> *Educational Studies*, Vol. 11, No. 3, 1985

<sup>37</sup> *Journal of Education Policy*, 1986, Vol. 1, No. 4, pp315-330

<sup>38</sup> *Power and Policy in Education: the case of independent schooling*, Brian Salter and Ted Tapper, 1985 Chapter 8, Phoenix or Damp Squib: The Assisted Places Scheme

<sup>39</sup> 1989

<sup>40</sup> pp 218-220

*Opportunities for Excellence: an appraisal of the Assisted Places Scheme* by John Marks, ISIS, 1992. John Marks looked again at the ESRC research (above) and attacked their sample, 157 pupils and 90 parents using about half a dozen assisted places schools, as very small. He considered their comments on social class neglected "the well-known and fairly high correlation between academic ability and social class", pointing out that they had found a marked over-representation of middle class pupils in their sample of able pupils in comprehensive schools. Marks cited the 1991 MORI survey of APS pupils, sample size 3,475 pupils, which found over twice the percentage of APS children with working class fathers (about 35%). John Marks concluded by calling for a serious study of the academic results achieved by APS pupils in comparison with comparable pupils in maintained schools.

*A Comparison of GCE A/AS Level Examination Results of Assisted Places and State School Pupils* by Anne and Robert West, Centre for Educational Research, LSE, June 1996. This study, commissioned by the Independent Schools Joint Council and the DfEE, compared the academic results of APS pupils with those of pupils of similar ability at maintained schools. The statistical analysis indicated that APS pupils achieved significantly higher total point score and average point score per examination entry than state pupils. Translated into grades, the overall advantage for an APS student amounted to between one and a half and three A Level grades aggregated over all subjects taken. The APS pupils were entered for more A/AS levels and did better overall. The higher number of A/AS levels reflected the independent schools' practice of entering all pupils for general studies. The Wests found that the overall benefit to an APS pupil if general studies was excluded was of the order of one to two A level grades over all subjects. Since the sample was small, the Wests comment that further research would be desirable to confirm whether these findings are generalisable to the whole population of APS pupils and add:

"There is also the possibility that the advantage for AP pupils arises from factors other than their education in the independent sector (e.g. family background, parental involvement)"<sup>41</sup>.

Ongoing analysis of APS results by Tony Edwards was reported in the press as showing that APS pupils often come from areas where comprehensives are achieving above average results<sup>42</sup>. A paper deposited by the DfEE in the Library gives the percentage of 15-year-olds at schools offering places achieving 5 or more grades A-C at GCSE<sup>43</sup>. While there is a high percentage routinely achieving excellent results, there are a number of schools scoring 70% or below on this measure i.e. below the level of the top achieving comprehensive schools<sup>44</sup>.

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<sup>41</sup> Op cit p.ii

<sup>42</sup> Fight to preserve assisted places, *TES*, 16 May 1997, p.4

<sup>43</sup> Dep/3 4168, 25 November 1996

<sup>44</sup> Schools report, *Times*, 20 November 1996



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A 1996 MORI poll commissioned by ISIS showed 46% of APS pupils coming from a working class background (social groups C2 and DE); two out of five households receiving assistance having incomes below £9,874 and thus receiving full remission but an increase in the proportion of professional and managerial families receiving financial support of 8% since 1991<sup>45</sup>.

The DfEE analysis of the scheme in its annual report found:

- Over 42% of assisted pupils come from families with annual incomes below £10,000 and over 80% from those below the national average household income.
- Pass rates in 1996 at GCSE (grades A\* to C) and GCE A/AS level (grades A to E) exceeded 95% - better than the average for other independent and maintained school pupils<sup>46</sup>.

### Scotland

In a survey carried out for the Scottish Council of Independent Schools and the Scottish Office Education Department in 1992, the consultants found that the APS met its main stated objective in enabling almost 3,000 children whose families could not otherwise afford fees to attend independent schools. A little less than half of the families received full fee remission and sixty per cent of the children had previously attended an education authority school<sup>47</sup>.

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<sup>45</sup> Assisted Places Pupils: Summary, *MORI*, November-December 1996

<sup>46</sup> Cm 3610 para. 6.31

<sup>47</sup> Assisted Places Scheme Survey, The MVA Consultancy Report, *Scottish Office*, 1992

## V The Bill

*Clause 1* repeals the legislation relating to the assisted places scheme in England and Wales<sup>48</sup>. Participation agreements with schools will cease to have effect from 1st September 1997<sup>49</sup>. The Act does not affect anything in the scheme, regulations or participation agreements relating to the current school year, 1996-97, or any earlier year.

*Clause 2* makes transitional arrangements which will allow pupils holding assisted places at the beginning of the 1997-98 school year [*Clause 2 (5)*] to continue to hold such places. Secondary pupils will hold places until the end of their secondary education. Primary pupils who hold places will hold places (save in particular circumstances) until the end of their primary education i.e. normally 11 years of age [*Clause 2 (2)*]<sup>50</sup>. It is understood that the particular circumstances to be taken into account by the Secretary of State would relate to the ease of transfer into the maintained system e.g. a child living in a local education authority where secondary education started at 12 might be granted another year on an assisted place if that would save two changes of school in two years.

Fees will be reimbursed for these transitional assisted places under new regulations to be made under this Act [*Clause 2 (3) and (4)*]. *Clause 2 (3)* restates the definition of fees in the original legislation<sup>51</sup> but leaves the possible exclusion of "other fees" to the new regulations.

*Clause 3* enables the Secretary of State to make regulations in connection with the provisions in *Clause 1* and *2*. The regulations may cover the arrangements for: means testing; the remittance and claiming of fees; the maximum level of those fees; incidental expenses e.g. travel and school uniform grant; and for the transfer of assisted places in the event of a school closing or merging with another school. The regulations may also provide for the Secretary of State to pay lump sums to cover any future liabilities to make reimbursements and are to be reviewed every two years.

Most of these arrangements including the biennial review were covered in the previous primary legislation<sup>52</sup> and regulations<sup>53</sup>. Although there has always been a statutory requirement for a review every two years, in practice the Regulations and the income scales have been reviewed annually. The major changes appear to be the arrangements to cover school closures or amalgamations and the arrangements to enable the Secretary of State to

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<sup>48</sup> *Education Act 1996* ss479-481 and schedule 35

<sup>49</sup> The date of commencement given in *Clause 7 (3) (a)*

<sup>50</sup> *Education Act 1996* s.2 (1) Definition of primary education

<sup>51</sup> *Education Act 1996*, S 479(3)

<sup>52</sup> *The Education Act 1996*, SS 480 and 481

<sup>53</sup> The Education (Assisted Places) Regulations 1995 SI 1995/2016 as amended

determine the maximum level of fees [*Clause 3 (2) (b) (i)*] as opposed to the regulatory power for the Secretary of State, when notified, to direct a school to refrain from making or postpone or reduce an increase in fees<sup>54</sup>. Both of these points were previously covered in individual participation agreements. The possibility of a lump sum payment to cover future liabilities is new and underlines the finite nature of the arrangements. It might be more convenient towards the end of the phasing out period to settle future liabilities in one payment.

The regulations will be subject to the negative procedure [*Clause 3 (8)*]; the previous regulations were subject to the affirmative procedure<sup>55</sup>.

*Clause 4* defines the terms used in *Clause 1* to *3*.

*Clause 5* phases out the assisted places scheme in Scotland by amending the previous legislation<sup>56</sup> so that it ceases to apply to new pupils after the 1997-98 school year, but continues for existing pupils. As in England and Wales, secondary pupils are supported to the end of their school education and primary pupils normally only to the end of their primary education.

The *Clause* also provides for consequential changes to the Secretary of State's powers to make regulations. The new regulations may include arrangements for discharge of the Secretary of State's liabilities by lump sum and for the procedure to be followed in the case of a school closing or amalgamating are included [*Clause 5 (1) (e)*].

*Clauses 6* and *7* and *Schedule 1* contain supplementary provisions concerning consequential amendments and appeals, the short title, commencement and extent. The provisions relating to England and Wales come into force on 1 September 1997; the provisions for Scotland on a day to be appointed [*Clause 7 (3) (a) and (b)*].

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<sup>54</sup> SI 1995/2016 Reg. 21

<sup>55</sup> *Education Act 1996*, S 569 (3)

<sup>56</sup> *Education (Scotland) Act 1980* s.75A

## VI Reactions to the phasing out of the Scheme

Views on the Assisted Places Scheme are divided between those who see it as an extension of parental choice and an opportunity for able children to profit from an academic education<sup>57</sup> and those who see it as reflecting a message that children of high academic ability are better educated in the independent sector<sup>58</sup>.

The National Commission on Education suggested the phasing out of the scheme as its recommended improvements in maintained schools are implemented<sup>59</sup>.

The **Conservative Party** has made clear its continuing support for the scheme. The 1997 manifesto included proposals to develop it further into a wider scholarship scheme covering additional educational opportunities<sup>60</sup>.

The **Liberal Democrats** are committed to the phasing out of the scheme but would use the money to enable LEAs, if they wished, to enter into local partnership schemes. These could include the funding of pupils at independent schools<sup>61</sup>.

Independent school head teachers and bodies representing independent schools oppose the phasing out of the scheme. The main objection to the provisions of the Bill is the ending of support to preparatory school pupils at 11. The Independent Schools Information Service (ISIS) maintains that a letter from Peter Kilfoyle MP, then Labour's schools spokesman, to the chairman of the Incorporated Association of Preparatory Schools (IAPS) stated that places would be honoured until 13<sup>62</sup>. An extension of that concern has been raised by Chris Parker, head teacher of Nottingham High School and chairman of the Head Masters' Conference. He is reported as regarding the removal of assistance from pupils in a linked preparatory school at 11 rather than allowing them to continue into the secondary school as a denial of reasonable expectation and open to legal challenge<sup>63</sup>.

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<sup>57</sup> Anthony Flew, *All the Right Places*, 1996

<sup>58</sup> Geoffrey Walford, *Privatization and Privilege in Education*, 1990

<sup>59</sup> Learning to Succeed, *Report of the National Commission on Education*, 1993, Summary of Recommendations p.403

<sup>60</sup> You can only be sure with the Conservatives, *Conservative Manifesto*, 1997, p.23

<sup>61</sup> Make the Difference, *Liberal Democrat Manifesto*, 1997, p.13

<sup>62</sup> Ministers break pledge to assisted prep school pupils, *ISIS*, PN 23 May 1997

<sup>63</sup> Hand in hand with the State?, *TES*, 16 May 1997, p.18

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Another potential legal challenge floated in the press was what Dr Arthur Hearden, general secretary of the Independent Schools Joint Council, has described as the constitutional impropriety of bringing in retrospective legislation overturning a prior agreement<sup>64</sup>.

An article in the Daily Telegraph reports individual schools' reactions to the ending of the scheme. Manchester Grammar School, the 25 schools of the Girls' Public Day School Trust (GPDST) and the King Edward's Schools in Birmingham hope to offer bursaries to the same number of pupils who previously held assisted places. Dulwich College hopes to persuade local councils to pay reduced fees for deserving boys, equivalent to the cost of educating them in the state sector. Other schools see themselves as becoming inevitably more socially exclusive<sup>65</sup>.

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<sup>64</sup> Fight to preserve assisted places, *TES*, 16 May 1997, p.4

<sup>65</sup> Why the right social mix is a must, *Daily Telegraph*, 14 May 1997

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